

A Regressive Step

Dissolution of separate children's tribunals is a severe blow for children's rights



NAHELA NOWSHIN

LAST week a certain development seemed to have gone largely unnoticed amongst the flurry of news about political rallies, the drama

unfolding on the world stage over the killing of Jamal Khashoggi, and Bangladesh-Zimbabwe ODI cricket. The Children (Amendment) Act, 2018 was passed in Parliament on October 22 provoking barely any response from the media. Amongst the slew of new bills passed recently, the Children (Amendment) Act may almost seem innocuous in comparison—but some observers believe there is a good reason to be worried.

One of the objectives of the amendment of the Children Act 2013 was to widen the scope of the law so that the trial process would not be delayed. The new Act has provisions to set up one or more children tribunals in each district. But here is where experts have raised alarm bells: under the amended Act, Women and Children Repression Prevention tribunals will now act as Children Tribunals, which means children will be tried for their offences in the same court as adults charged with crimes against women and children.

The new law—which was perhaps more well-intentioned than well-thought-out—could have repercussions on many fronts. The crux of the problem is the merging of the two types of tribunals. By thrusting children's tribunals into existing Women and Children Repression Prevention tribunals, the law reflects a poor understanding of the distinct purpose and functions of the two courts.

There is a reason why trials under the Children Act 2013—the principal Act in the country's juvenile justice system—were to be conducted in

children's tribunals. The law is such that it is child-centred and *restorative* in nature, i.e. "a system of criminal justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large." This means that the child offender is given an opportunity to understand the consequences of his actions and redeem himself before being mainstreamed into society. Almost like being granted a second chance. The Women and Children Repression Prevention Act, on the other hand, is offence-centred and *punitive* in nature. The offenders, if found

being protection of the child from further criminalisation.

The amended Act, unfortunately, seems to have ignored all these nuanced differences by lumping together children's tribunals with those under the Women and Children Repression Prevention Act. Not only does it defy common logic—that a child accused of committing an offence mustn't be treated the same way as an adult—it also runs contrary to established international standards. Empowering the Women and Children Repression Prevention tribunals to take on the role



guilty, are given harsh punishments. The emphasis is on society rather than on the individual. Preventing crimes against women and children—rather than rehabilitation of the offender—is the ultimate goal.

The courtroom matters too. The settings in which children are to be tried are markedly different from those in a traditional courtroom. The latter with its witness stand, podium and overall authoritarian ambience is replaced with an ordinary room for a warmer child-friendly environment. The core reason

of children's tribunals also does not align with Article 28(4) of the Constitution which states: "Nothing in this article shall prevent the State from making special provision in favour of women or children or for the advancement of any backward section of citizens." The constitution makes it clear, in no ambiguous terms, that nothing can keep the state from making special provisions for the welfare of children. By dissolving the once-separate tribunals for children, we seem to have done the opposite.

This also goes against a landmark High Court judgement on the role of the juvenile court in children-related cases. In the case of State vs Md Roushan Mondal Alias Hashem, the High Court Division held: "juveniles charged with offences falling under special law will have to be dealt with by the juvenile court in accordance with provisions of the Children Act, which, in our view, is of universal application and approach, irrespective of the offence alleged."

The incongruities do not end there. The Act was amended reportedly with the aim to speed up the trial process. But this logic barely holds any water. As of February 2018, the number of cases which were under trial in the Children's Court throughout the country was 17,992. Whereas at the end of last year, the total number of cases which were still under trial in the Women and Children Repression Prevention Tribunals was 1,65,550—almost nine times the number of cases pending under the Children's Court. The Women and Children Repression Prevention Tribunals clearly have more cases than they can handle. So how exactly would burdening the already over-burdened tribunals speed up the trial process? And aren't we well aware of the snail's pace at which the legal system in the country works?

The dissolution of separate children's courts is a severe blow for children's rights in the country. We seem to have forgotten that it is largely children from marginalised groups who have to wage legal battles and deal with innumerable hurdles along the way such as exorbitant legal costs, discrimination, harassment, etc. Whereas countries around the world are doing everything they can to strengthen the juvenile justice system and setting their sight on resolving issues of lack of manpower and infrastructure to speed up trials, we seem to have opted for an absurd remedy altogether. A big regressive step.

Nahela Nowshin is a member of the editorial team at *The Daily Star*.

For whom the bridge tolls?

Address transport workers' legitimate concerns

IT is most unfortunate that an unrealistic hike in toll collection from a bridge should end in violent clashes between transport workers and the police resulting in the death of a truck helper and injuries to around a hundred people. The tragedy was instigated by an unusually sharp hike in tolls by the R&H Department for the First Bangladesh-China Friendship Bridge (1st Buriganga bridge).

Since 2016, transport workers have been demanding that the toll be eliminated altogether. While that may not be entirely justifiable, neither is the sudden manifold increase in the rates putting an extra burden of cost on buses, trucks, covered vans, and other vehicles. The toll for a six-wheeled district truck has increased four times while for a 10-wheeler covered van, the toll has increased more than 12 times the previous rate. This seems illogical and is an unnecessarily heavy burden on such vehicles that translates to lower wages for transport workers. The vehicles on which these tolls have been imposed mainly carry construction materials such as sand or bricks for construction projects and transport workers are paid according to the number of jobs they get. When tolls are increased so drastically, it raises the cost of transport leading to fewer trips and hence fewer jobs for the transport workers.

While we do not support blockades of roads or bridges or vandalising of property, we cannot deny that the demonstrations by transport workers have been provoked because their incomes have been affected. Using excessive force on these workers leading to death and injury is not justified, especially without addressing their legitimate concerns. We hope that the authorities will prioritise the needs of the workers over the outsourced toll collectors. A review of the toll rates is in order.

Victims of injustice

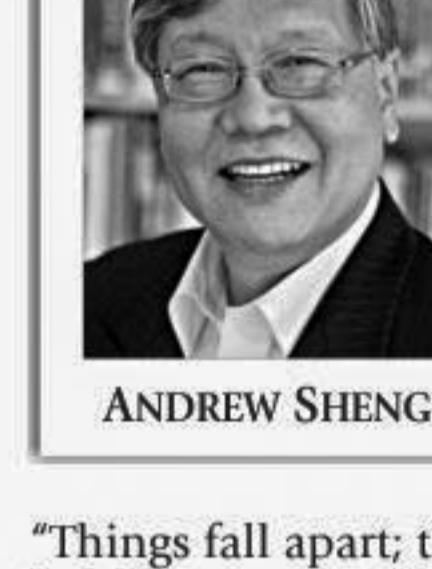
Help them recover

THIS newspaper reported on Friday about an extraordinary case of a man who served 16 years in prison without having ever been convicted, simply because he was unable to contact his family and did not have the funds to file an appeal. After the Supreme Court Legal Aid (SCLA) intervened, he was found not guilty of a charge he was wrongly accused of and subsequently released.

The SCLA currently deals with 69 such accused, four of whom have already been acquitted, while 18 others granted bail. Some of them are having a difficult time to reintegrate themselves into society, with some struggling to recover from deep mental trauma even after their release. It's quite unthinkable that had it not been for SCLA, the plight of these people might never have come to light, and they might have been languishing in jail until no one knows when.

As recognised in a High Court ruling, the fact that so many people served—and some still serving—so much time of their life in jail without any trial is "shameful for the State as well as [for] the judiciary." It's just unacceptable that one would be subjected to such gross injustice simply for not having enough money or because of the negligence of authorities concerned.

While there's nothing that can compensate these men for what they lost, we can at least help them overcome their mental trauma and reintegrate into society by facilitating necessary funds, logistics and other support. Furthermore, the government should allocate more resources to the judiciary in order to expedite the disposal of existing cases.



ANDREW SHENG

2018 is the 100th anniversary of the end of the First World War. In 1919, the poet WB Yeats wrote these famous lines in his poem *The Second Coming*:

"Things fall apart; the centre cannot hold; / Mere anarchy is loosed upon the world, / The blood-dimmed tide is loosed, and everywhere / The ceremony of innocence is drowned; / The best lack all conviction, while the worst / Are full of passionate intensity."

These words echo the present state of shambolic chaos, as the US-China trade war seems to escalate towards confrontation at multiple levels. The high tide of financial markets is now in retreat, and murder in the oriental consulate unfolds in internet speed. Everywhere, the centre in politics and creed cannot hold, whilst polarisation is increasing by the day.

Yeats was shell-shocked by the First Great War, whereas we seem to be poised at the exit of a golden era of maximum prosperity marked by maximum disparity and social inequality. The US Fed Flow of Funds data unveiled that household debt has increased to USD 106.9 trillion by mid-2018, double that a decade ago. US total debt, on the other hand, has grown to USD 50.7 trillion or 248.5 percent of GDP, of which the fastest growing component is federal debt of USD 17.5 trillion or 85.7 percent of GDP.

At the same time, wealth disparity has widened, with latest data showing that the top 0.1 percent of US households owning as much as the share of national wealth of the bottom 90 percent. This trend was global, fuelling the populist uprising. In the words of former UK Chancellor of the Exchequer and current editor of the *Evening Standard* George Osborne, "The elites have failed you, the establishment have failed you, we need to tear up all the country's political and economic arrangements."

As a result, the consensus that formed the moderate middle in the last three decades has been polarised into a right wing that wants more protectionism and a left wing that argues for more welfare spending to improve inclusivity. The populist desire for change has brought new "strongmen" leaders who do not hesitate to disturb the status quo.

It is this falling apart of the middle ground that is creating very shaky coalitions or fragmented governments that cover interests from greenies to extreme right. The ongoing elections in

Germany reflect this trend, as the two ruling parties see losses of votes to the Green Party and Alternative for Germany, an extreme right party.

Stanford philosopher Francis Fukuyama calls this in his new book the rise of Identity Politics, as tribalism emerges to reject the idea that globalisation is good for all. There is a clear loss of trust in the establishment and experts. In a February 2018 survey by the Pew Research Center, only 25 percent of US adults trusted elected officials to act in the interest of the public, whereas the numbers for news media were 40 percent, business leaders 45 percent, and military 80 percent.

This loss of trust came from the fact that the authorities, including the government bureaucracy that was

enquiries concluded that both crises were manmade and could have been avoided. But somehow, both the industry and their regulators fell down on their jobs. Why?

After studying many cases of corporate and regulatory failure, Perrow concluded that large organisations or bureaucracies fail because they became too complex and interconnected but fragmented in silos where no one had a picture of what was going on, no one was accountable with a common factor that he called "tight coupling".

Organisations become more and more complex because they have to continually adapt to new situations. Every time something happens, new rules, staff and procedures are added, making structures, processes and jobs

"coupling" coming out of the European Commission bureaucracy in Brussels. The promotion of an idealised "rule-based Europe" meant that there was less and less discretion (degree of freedom) at the national level.

The British were uncomfortable with no control over immigration, but wanted the benefits of free trade. By not joining the Eurozone, Britain avoided the deflation pains of the debt crises of countries such as Portugal, Italy, Ireland, Greece and Spain. The EU has to make even harder and tighter coupling on Brexit, because a soft Brexit would encourage more defections and break-up of Europe.

From this perspective, it makes sense that Trump is rolling back the complex Dodd-Frank legislation, lowering taxes,



Nigel Farage, then the leader of UKIP, poses for photographers holding a British passport at the launch of the party's open-top bus that toured the UK for the campaign to leave the European Union, ahead of the referendum, in London on May 20, 2016.

supposed to protect the less privileged, have been politically captured. Even though the banks lost billions during the last financial crisis, no banker went to jail. Multinational companies would cut staff costs, shifted jobs overseas and kept stock prices high by engaging in share buybacks. It was not surprising that the American public turned against globalisation and blamed China and immigrants for their problems.

In 1983, Harvard sociology professor Charles Perrow studied complex organisations and why many of them failed, especially when dealing with crisis situations. In two of the biggest disasters in recorded history, the US subprime crisis of 2007 and the 2011 Japanese Fukushima nuclear meltdown, official

and disengagement from various international trade and other agreements. America is going back to "loose coupling" to allow itself new degrees of freedom to negotiate better deals at a bilateral, rather than multilateral, level. In a situation of order, disorder wins. In this barrage of disorder offensives, those who try to maintain order will be on the defensive.

Things Fall Apart, because of the uncoupling of the Old Order. The New Order brings new opportunities, but also very grave dangers. The falling global markets this week reflect that nervousness.

Andrew Sheng writes on global issues from an Asian perspective.

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LETTERS TO THE EDITOR

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Bangladesh may benefit from US-China trade war

While the ongoing trade war between the US and China, the world's two biggest economies, has set off alarm bells, Bangladesh may end up as a beneficiary if it can play its cards perfectly. Bangladesh is becoming a more popular apparel sourcing destination for western retailers thanks to the ongoing US-China trade war. As American buyers expect Chinese apparel exports to be subjected to tariffs, many American fashion companies are being forced to look for alternative supply sources beyond China—creating huge opportunities for Bangladeshi apparel exporters. A number of companies working in the cost-sensitive textile sector have already expressed their willingness to expand their sourcing from China to other Asian manufacturing hubs like Bangladesh.

This trade war has given an opportunity to competitors like India, Bangladesh, Vietnam, Cambodia, and Pakistan to pick up their respective shares in the US market. The fact that Bangladesh offers the most competitive price, followed by Vietnam, ought to be highlighted.

But other sectors, such as jute and leather goods, are yet to see an uptick in fortune. Our government should come up with a strategy to compete with other neighbouring countries to take advantage of this golden opportunity in order to expand export of garments, jute and leather goods.

Zubair Khaled Huq

By email