

Condemnable way to enforce transport strike

People hostage to a powerful syndicate

WE are outraged by the way the transport workers' 48-hour countrywide strike was enforced. Not only were public transports prevented from operating, even vehicles of the emergency services such as ambulances weren't spared. Transport workers in many areas of the city physically harassed drivers of rickshaws, motorcycles and private cars—which are normally out of a strike's purview. In many cases, they smeared burnt engine oil on the faces of drivers and passengers; even women were targeted. And the police did nothing to restrain them.

It is condemnable that in one instance, a seven-day-old infant died in an ambulance because transport workers held it for hours in Moulvibazar. While *hartal* is a political right, coercing the people to obey it is not. And that is exactly what the workers did.

What is even more ridiculous is their reason for going for *hartal*. They want the recently passed Road Transport Act, which road safety campaigners say is not enough, to be toned down to such an extent that it would cease to be an effective deterrent. They don't want lethal road accidents caused by the negligence of a driver to be regarded as manslaughter. They also want to lower the minimum educational requirement for obtaining a driving license.

Such unreasonable demands must not be accepted. While their rights to protest should be respected, the fact that workers resorted to harassment to coerce people into getting off the roads must not be condoned. It is time the administration took deterrent actions so that people are not held hostage to, and blackmailed by, a syndicate that enjoys patronage of certain powerful quarters.

Violations of firearms law

Illegal use must be curbed

TO see that some people with licences to bear firearms are putting them to illegal use, such as those employed by private security agencies, as guards in banks, as a report in this newspaper has exposed, is alarming.

There are specific laws and rules that govern the use of firearms. And the licence puts several caveats on a licence holder, limiting its use to personal protection and hunting as per law. Therefore, use of a firearm in any other circumstances should result in the revocation of the licence and even confiscation of the weapon. The security companies who are doing so are in breach of the rules, and are as much culpable as those companies employing the individual armed guards. It is surprising that the law enforcing agencies have been oblivious of the matter, and were it not for the said *Daily Star* report, the police would still have been ignorant about such a situation prevailing in the country, as evident from the statement of a police officer in the report.

It would not be a big issue were it not for the fact that Bangladesh is seriously affected by two sets of problems when it comes to the question of firearms. One is that the country is saturated with arms of this particular denomination, most of them illicit. The other is that, many of the differences in the society—individual and collective—are being arbitrated through the use of legal as well as illegal small arms. Although we have no report of any casualty caused by a carrier of such firearms, there is always the potential. While banks and other institutions do need safety and security, the law cannot be violated to achieve that.

LETTERS TO THE EDITOR

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Sri Lanka in turmoil

A violent wind of change is sweeping through Sri Lanka, where the prime minister has been ousted, the cabinet sacked and the parliament suspended. The ouster of the prime minister is at the heart of the dangerous political game being played by Sri Lankan President Maithripala Sirisena.

Such sweeping changes, wherever they take place, are unsettling as they pose serious threats to the security and stability of the countries and their people. There have been many such instances so far, and on many occasions, people across the world have suffered a lot due to the various political dramas and plots orchestrated by their leaders.

Leaders should understand that their action and decisions hugely affect their people and society. Hence the need for extra caution. They should set aside their differences for the greater benefit of their people.

Right now, Sri Lanka is going through a transformation that will, in all likelihood, affect the future of the country. And it is the people who will suffer most because of such undemocratic practices. Here's a lesson for other Asian countries on what not to indulge in: violating the integrity of democratic institutions for petty interests. Since leaders are the ones who most often do that, they should be careful not to make such mistakes.

P. Senthil Saravana Durai, By email

NAZNIN TITHI

NEARLY three years have passed since the Domestic Workers Protection and Welfare Policy was approved by the government. But sadly, we are yet to see any visible impact of the policy on the lives of our more than four lakh domestic workers. Although the amended Labour Law 2013 recognised domestic work as a profession, it falls under the informal sector, meaning that domestic workers would not get certain facilities and benefits that workers in the formal sector are entitled to. The much-talked-about DWPW policy, which was approved in 2015 after years of advocacy and pressure from child rights organisations, now exists only in paper as there has hardly been any progress in terms of its implementation.

According to the ILO-UNICEF baseline survey 2007, the number of domestic workers in the country is 420,000. Among them, 83 percent are female. Another research conducted by BILS has found that 33.6 percent of the domestic workers are children and their age range is from 5 to 14. On average, these children work more than 10 hours a day. Not only that, these children are engaged in many kinds of hazardous work at their workplace, are often physically and mentally tortured by their employers, face sexual harassment, and are sometimes even raped. A recent study has found that 66 percent of the

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domestic workers suffer mental torture, while seven percent of them are raped.

The Domestic Workers Protection and Welfare Policy, 2015, specified that no children under 12 years of age can be employed as domestic workers at any household and also child domestic workers cannot be engaged in heavy and dangerous work. However, in reality, none of these provisions are implemented.

In the most recent reported case of child domestic worker abuse, Lamia, an



PHOTO: KAZI TAH SIN AGAZ APURBO

11-year-old was frequently tortured by her employers, Ashraf Islam Chowdhury and his wife Sharmin Akhter, at their house in Barishal. The little girl was kept at her employer's house against her will. She wanted to escape but could not as her employers used to lock her up inside a room. Not only that, her employers used to shave her head so that her hair would not fall on food. She was rescued unconscious by the police, with a bruised face and injury marks all over her body. The brutal torture that was inflicted on Lamia is indescribable. If the DWPW policy was implemented, little Lamia might not have to face such horrors.

Lamia's case reminds one of Sabina and Aduri—both of them were 11 years

old when they had to face brutal torture by their employers. All three cases have disturbing similarities: Aduri was found unconscious in a severely malnourished condition near a dustbin in the capital's DOHS Baridhara area in 2013 while Sabina fled her place of employment last year after facing severe torture by her employers. The pictures of both the children with injury marks all over their bodies went viral on social media.

We can only assume that there are countless other incidents of violence against child domestic workers across the country that do not come to our notice. Such incidents are taking place because the policy that we have to protect the rights of (child) domestic workers is rarely implemented, and also because there remain some loopholes in the policy that must be fixed if we want to see any change in the current situation.

Firstly, it is important that domestic workers are registered and their wage is fixed by the government in accordance with the DWPW policy. If there is a government database of the domestic workers and a monitoring mechanism in place, employing underage children at households will be difficult.

Another issue that must be given due importance is fixing a minimum age for admission to domestic work. The

Paradise lost?

Preliminary notes on a constitutional coup in Sri Lanka

ASANGA WELIKALA

THERE were three dramatic announcements on the evening of Friday, October 26, 2018 from the Presidential Secretariat, which occurred in the following order: (a) the announcement of the withdrawal of the UPEFA from the government; (b) the swearing-in of Mahinda Rajapaksa before President Maithripala Sirisena as the prime minister; and (c) the announcement that the president has informed Ranil Wickremesinghe in writing that he has been removed from the office of prime minister under Article 42(4).

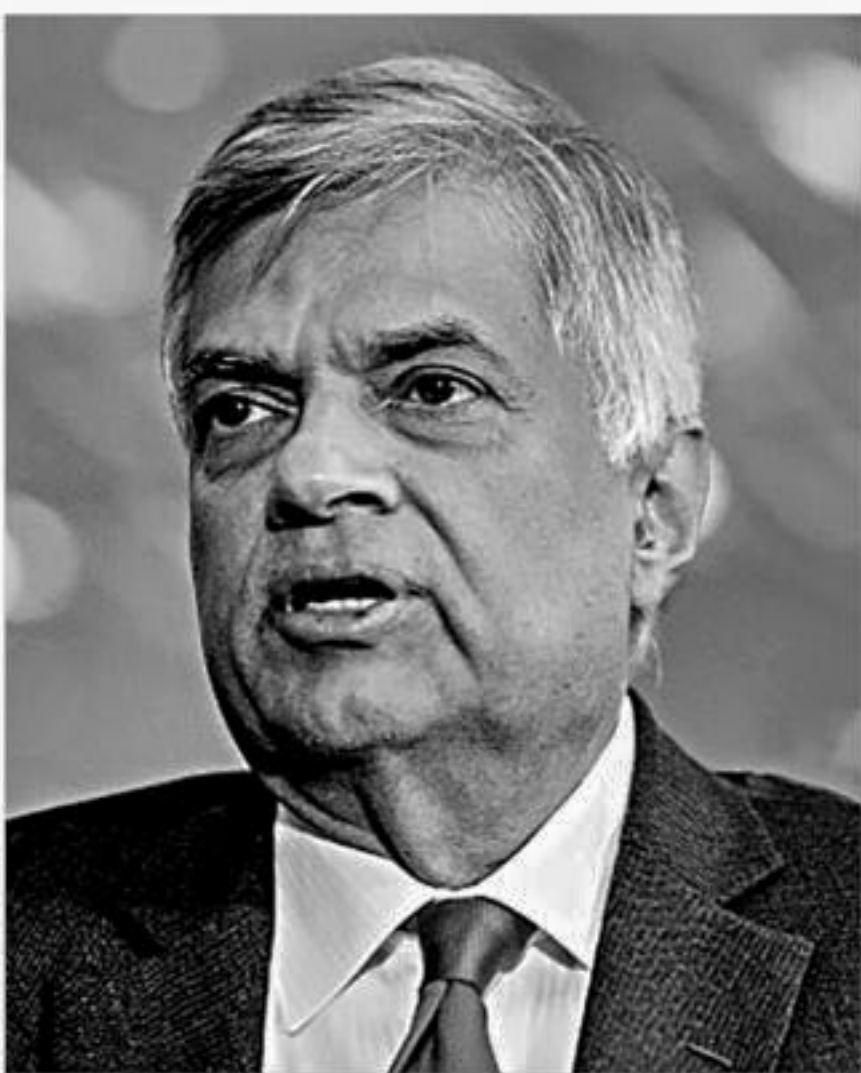
Even if the legality of the procedure and the clarity and meaning of the relevant constitutional provisions can be debated, the fact that the event was planned in complete secrecy, with no consultation of Parliament or giving the serving prime minister and cabinet the courtesy of even a short prior intimation before the course of action was made public, that it was suddenly carried out on a Friday evening, and that it has taken the country by total surprise, point to some extremely questionable motives.

Indeed, the whole set of circumstances suggests not the way a change of government ought to occur in a democracy, but the sharp practices associated with a constitutional coup, which is likely to lead to a constitutional crisis. It is a constitutional coup because the serving prime minister has not legally ceased to function in office before a new prime minister has been appointed. And it will lead to an unprecedented constitutional crisis because there are now two competing prime ministers and their parties jostling for power, authority, and legitimacy at the very heart of the state. Until one of these persons—Mahinda Rajapaksa or Ranil Wickremesinghe—can demonstrate that he has the confidence of Parliament through the support of a majority of MPs, and force the president to accept the will of Parliament, the crisis will not be resolved. Only time will tell what long-term damage this does to Sri Lanka's constitutional fabric.

After the Nineteenth Amendment was enacted in 2015, the prime minister can only cease to hold office by death, resignation, by ceasing to be a Member of Parliament, or if the government as a whole has lost the confidence of Parliament by a defeat on the throne

speech, the budget, or a vote of no-confidence (Articles 46(2) and 48). Since the Constitution after the Nineteenth Amendment specifies these ways in which the prime minister ceases to hold office, and has impliedly removed the previous power of the president to remove the prime minister at will, it follows that there are no other ways in which this can happen. In particular, the president can only appoint another prime minister where the serving prime minister has lost office in any one of these ways.

It is clear that the serving prime minister has not ceased to hold office in any one of these ways. Rather, the president has purportedly removed the prime minister from office by acting under the provisions of Article 42(4), which states that the president shall



Sri Lankan President Maithripala Sirisena dismissed Prime Minister Ranil Wickremesinghe (L) on Friday and appointed ex-strongman president Mahinda Rajapaksa (R) as his replacement.

appoint as prime minister the Member of Parliament, who, in the president's opinion, is most likely to command the confidence of Parliament. The president seems to have taken these words rather too literally than is constitutionally permissible. When this provision speaks of the president's opinion, it contemplates not the subjective and personal opinion of the president as to which MP is best suited to be prime minister, but an objective and constitutional view formed by reference to who can command the confidence of Parliament. This is usually, although not always, the leader of the largest party

represented in Parliament.

Prime Minister Wickremesinghe survived a vote of no-confidence by a substantial majority earlier in the year. No other canvassing of Parliament's confidence has occurred since then, or before the purported appointment of Rajapaksa, and therefore the president can neither constitutionally remove a prime minister who has not lost the confidence of Parliament nor appoint another in his place.

It must also be stated that Article 42(2) speaks only of the appointment of the prime minister by the president and says nothing about the removal of the prime minister by the president. While the power of dismissal could be assumed as inherent to the power of appointment in the constitution prior to 2015, the Nineteenth Amendment has changed



this by now providing expressly for the specific ways in which the prime minister can be removed (under the previously noted Articles 46(2) and 48). That these procedures have not been followed renders the purported presidential acts illegal and unconstitutional.

If the parliamentary numbers have changed since Wickremesinghe's confidence vote in April in favour of a majority now supportive of Rajapaksa by, among other things, the withdrawal of the UPEFA from the national government—presumably the basis for Friday's presidential acts—then it is also not clear why Sirisena and Rajapaksa did

minimum age for starting domestic work should be increased to 14 years—currently it is 12 years. Although the Labour Act 2013 (amended) has fixed the minimum age for admission to work at 14 years (and in case of hazardous work, the age for admission to work is 18), sadly it does not apply to domestic workers. In this respect, Bangladesh should ratify the ILO convention 138 which has specific directions in terms of determining the minimum age for work.

Then there is the issue of including domestic work in the list of hazardous works. Article 3 of the ILO convention 182 on the Worst Forms of Child Labour mentions that “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children” will be considered hazardous. The National Child Labour Elimination Policy 2010 also clearly states the conditions that will be considered hazardous for children. Some of the conditions are: more than five hours' work per day; work that creates undue pressure on the child worker's physical and psychological health and social status; work in an insecure and unhealthy environment; work without wage or with irregular payment or low wages; work that requires carrying out duties disproportionate to his or her capacity; work in such a condition that hinders his or her education, etc. All these conditions mentioned in NCLEP-2010 are applicable to our child domestic workers. So, what is holding us back from listing domestic work as hazardous work for children?

Lastly, domestic work should be recognised as a profession in the formal sector. If that can be done, addressing and protecting the rights of the (child) domestic workers will be relatively easy. Because then, domestic work will come under the various regulations and monitoring mechanisms of the government.

If the government can take these policy decisions and also implement the existing policy regarding protecting domestic workers' rights, chances are that we will not have to see any more children like Lamia, Sabina and Aduri suffering in silence across the country.

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not choose to take the constitutional path to removing Wickremesinghe by defeating him in Parliament first. The crisis will be prolonged if Rajapaksa cannot swiftly demonstrate his command of Parliament, but the strategy he and Sirisena have followed on Friday shows that they have chosen to seize the political initiative and momentum by the element of surprise, with the probable intention of consolidating their hold on the state machinery and in particular the police and armed forces over the weekend, before conforming to constitutional and parliamentary niceties. They would also quite correctly have concluded that technical illegalities would not effectively be justiciable, because it is unlikely in the extreme that the Sri Lankan courts would risk a venture into such a high-stakes political game.

This kind of behaviour of course is entirely normal in Rajapaksa, and to his credit, he has never pretended to be anything other than a banana republic presidential populist. But Sirisena was elected in 2015 exactly to instantiate changes to curtail this dubious and destructive strain in Sri Lankan politics. His descent from the heroic standard-bearer of high idealism to a despised villain of the lowest form of low politics has been truly Miltonian.

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