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RESURGENCE OF THE RESORT TO "URGENT" BILLS

CRM warns of dangers of rushed legislation

The practice of treating Bills as "urgent in the national interest", which has surfaced afresh in recent times, is a matter of serious concern to the Civil Rights Movement (CRM). There have, so far as we can ascertain, been no less than seven such Bills in the current Parliament[1]. Not one of them is available at the Government Publications Bureau at the time of writing.

The time and opportunity given to members of the public in the normal course of events to study and petition the Supreme Court challenging Bills, is already woefully inadequate. When a Bill is endorsed as "urgent in the national interest" by decision of the Cabinet, even this limited opportunity is curtailed. Such a Bill does not have to be made publicly available by publication in the Gazette. The Bill is referred to the Supreme Court, which is required to decide on its constitutionality within twenty four hours, or within such further period not exceeding three days as the President may specify. There have been occasions when petitioners have nevertheless managed to intervene and be heard by Court, as in the notorious *Kalawana case* where an amazing attempt to interfere with the franchise was averted[2]. But this requires a Herculean effort by the petitioner's lawyers, who must usually rely on news reports and speculation as to the contents of the Bill.

The harm caused by resort to this practice goes well beyond the denial of opportunity for legal intervention. Members of the public have a right to know about, study, and make representations to legislators about the laws that are to govern them, especially since their constitutionality cannot be questioned in our courts after enactment. When such laws are rushed through in this manner, not only is this right denied, but also an atmosphere of suspicion and mistrust of the government is created. Faith in representative democracy is thereby undermined. It is not the position of CRM that under no circumstances should a Bill be treated as urgent, but this should be limited to the most extreme cases. Unfortunately the law does not require the Cabinet of Ministers to explain the reasons for urgency, nor is it the practice for it to do so.

There is yet another important factor. The Supreme Court determines only the question of consistency with our Constitution. But Sri Lanka is also bound by international treaties such as the International Covenant on Civil and Political Rights, to which we have been a party since 1980. The Human Rights Committee set up under this treaty periodically examines Sri Lanka's reports as to our implementation of the Covenant, and now also hears individual complaints of violations under the Optional Protocol to which Sri Lanka became a party in 1998. Already four such complaints have been upheld by the Committee. There is a binding obligation on Sri Lanka to ensure that its laws and practices do not violate its international obligations, and a duty to ensure that proposed laws are properly studied with this in view. ■

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