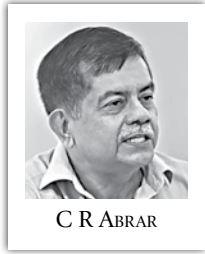


Freedom of Assembly

A right, not charity



THE streets and squares of different towns and cities including those of Rajshahi, Sylhet, Chattogram and Brahmanbaria have witnessed outbreak of wanton violence and mayhem over the last week or so. At least a dozen people were killed and hundreds more injured some with gunshot wounds. Vehicles and electric poles were torched; roads were blocked for long periods, trains were attacked and a number of facilities such as the offices of the local administration and that of land record, press club, Municipal Corporation and the famed Alauddin Khan Music Academy were vandalised in Brahmanbaria. While a section of the intelligentsia appalled by the high handedness of the state authorities and the supporters of the ruling party in dealing with peaceful protests in Baitul Mukarram and Dhaka University areas in initial days called upon the authorities to respect the right to hold peaceful assembly and protest in a statement issued on March 27, another group demanded stern and decisive action to quell what was termed to be dastardly acts of the communal forces engaged in a conspiracy reminiscent of the dark Pakistani days. This statement was issued on March 30, after more than a dozen deaths.

The two statements clearly reflect the fault line of socio-political reality of today's Bangladesh. While there is no excuse for engaging in reckless violence that was resorted to by certain quarters causing immeasurable harm to life and property, perhaps time has come to engage in a reality check about the sequence of events that led to the outbreak of the chaos.

In doing so, one is reminded of the unknown person donning a white punjabi and a pajama while being taken away by the cops in the initial days of the protest. His looks betrayed the fact that he didn't understand what was going on. He asked the police, "What wrong have I done? Do you know they are expelling Muslims from that country?" Quite naively but genuinely he implored his captors to join the protest. After all, the cause was worth it. Viewers of the footage that had gone viral did not get to know what fate awaited him. They were convinced that the detained man was simply exercising his right to protest (that many do not dare under the prevailing dispensation), a right that has been guaranteed by the Constitution of the republic, and further reinforced by the country's ratification of a host of international human rights instruments, notably the International Covenant of the Civil and Political Rights

that clearly affirms, "The right of peaceful assembly shall be recognised" (Article 21). Discontent has been brewing ever since the government decided to invite the Indian Prime Minister to the golden jubilee celebration of the country's independence and that of the birth centenary of the father of the nation. With the approaching of the date of the prime ministerial visit, public protests by a section of people and students became more pronounced in different parts of the country. Instead of taking the protests in proper stride, as expression of dissent by a group of active citizenry, they were met with violent response by the intolerant state authorities. In making the final call limiting the citizens' rights to peaceful assembly and protest on many instances the latter were beefed up by the activists of the ruling party and its plethora of front organisations, and not guided by the Constitution and the laws. On a number of occasions, the protestors were confronted with tear gas shells and rubber bullets. On March 23 activists of the student wing of the ruling party attacked the protestors of the left leaning Progressive Students Union, injuring 20 of them. On March 25 protestors in Sylhet and Rajshahi were baton charged and dispersed. Some in Rajshahi were subjected to severe beating. Ten persons were arrested, including the Vice President of the Rajshahi University Central Students Union. By March 26, at least four people were killed and 60 others were injured, many with gunshot wounds. Amnesty International expressed

its concern on the "worrysome patterns of behaviour of Bangladeshi authorities". Gradually, disproportionate state response to what were initially forms of legitimate expression of public discontent spiralled out of control, triggering even stiffer state response. Thus, the failure to respect the people's right to express their grievances through public meetings had sown the seeds of the mayhem that gradually unfolded.

Restricting peaceful assembly of people, particularly those holding dissenting views, have become somewhat of a routine matter for law enforcement over the years. In 2020, on least 17 occasions the Dhaka Metropolitan Police (DMP) blocked 17 meetings. In some instances, force was used. From December 2, 2021 the DMP authorities imposed restrictions on rallies without permission and in the first two months of 2021, two major rallies were foiled as the authorities declared Section 144 under the 1860 Code of Criminal Procedure (Amnesty International, March 26, 2021).

Rights of freedom of expression, assembly and protest have been under severe strain since the outbreak of the coronavirus pandemic. The escalating crackdown on meetings and rallies were viewed by the rights observers as "repression of the civic space". These actions of the state are taking place despite the explicit constitutional provision that affirms: "Every citizen shall have the right to assemble and to participate in public meetings and processions

peacefully and without arms...." However, this is not an absolute right as it is "subject to reasonable restrictions imposed by the law in the interest of the public order and or public health". Citing such boundary of the law, state authorities often claim that they are acting within their remit. However, critical terms to be noted are "reasonable restrictions" and "in the interest of public order". The state authorities can in no way justify their carte-blanche restriction on the public gatherings for a prolonged period and their policy of denying permission to hold meetings and rallies on the flimsy grounds of "public order". If the developments of the past couple of weeks prove anything, it is the fact that suppression of the right to assembly only leads to public disorder instead of maintaining order.

Through holding peaceful public marches, protests, pickets and demonstrations, groups of people can communicate their views to those administering the state and their fellow citizens. It is a means to raise awareness about the issues that matter to them, which could be political, social, economic, environmental and the like. Through peaceful assembly citizens bring fresh perspectives to effect change in public policies and administrative practices. In a democratic polity, free assemblies are instruments to bring social change.

The right to peaceful assembly comprises of the right to freely choose the location and the timing of the assembly including

public streets, roads and squares. All groups must enjoy the right equally, without discrimination on any ground. The state does not have any legitimate authority to ban or interfere in any peaceful demonstration. In fact, it has the obligation to facilitate free assemblies, even if the messages they convey and promote may run counter to their own policies and priorities. Such facilitation can be made "by coordinating traffic, keeping public order and providing protection to the protestors from those wishing to disturb the demonstration". Facilitation of views that challenges those of the state is a hallmark of a thriving democracy.

Analysts have noted that "even lack of notice in and of itself does not give the state free pass to use force against peaceful demonstration". In other words, if demonstrations are peaceful then the police do not have any right to interfere. The authorities can exercise the right to intervene only if the protests get violent. Even in such cases, "force the state employs should never exceed minimal force to restore normalcy". Blocking of social media and communication tools that hinders organising social protest are essentially anti-democratic measures befitting of an authoritarian state.

The International Commission of Jurists has grouped the rights of freedom of expression, association and peaceful assembly as they are often intertwined. All three components are protected under international law and are considered integral "to the furthering of a pluralistic and democratic society". Violation of the right to peaceful assembly has major ramifications for any society. It suppresses pluralism and diversity in expressing views and also hinders individuals to organise as a group to challenge the dominant paradigm. In that sense, a polity that undermines peaceful assembly of people essentially thwarts the participation of its own people in the political process.

One of the cherished goals of Bangladesh's Liberation War was to ensure people's collective voices are heard. It appears that over the decades, through a number of laws, regulations and administrative practices, including those of sedition, defamation and special power acts and the much-contested Digital Security Act, this right has been curtailed. Denial of freedom of assembly is an affront to the spirit of our Liberation War. The experience of the last couple of weeks should impel us to reflect whether as a nation we are to make a conscious effort to rectify such aberration by establishing a legal framework containing effective, clear and reasonable provisions on the right to protest, with limitations being the last resort.

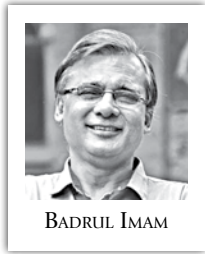
CR Abrar is an academic with interest in human rights and migration issues.



In the capital's Purana Paltan area, Awami League supporters take up position on the road against Hefajat activists while armed police officials look on from behind.

PHOTO: STAR

How is the Barapukuria coal mine doing?



BARAPUKURIA underground coal mine in Dinajpur district is the only coal mine in Bangladesh. The coal deposit was discovered at shallow and mineable depth in 1985 by the Bangladesh Geological Survey. However, Barapukuria had to wait 20 years before an underground mine was established in 2005 with the technical and financial assistance of the Chinese government. The main aim of the mine is to supply coal to the coal fired Barapukuria power plant at the mine's mouth. Coal production continues till date to fuel the power plant. By any standard it is a small mine running a modest power plant. But its importance is recognised in north Bengal where a significant power demand is met by the power plant.

Barapukuria mine is not miner friendly. It is overlain by a thick water bearing sand aquifer and underlain by a regime of high heat flow, thus it is popularly known as a mine with "water above and fire below". The sudden and complete inundation of the mine at a point in the past testified to it being vulnerable to being flooded by water. At several coal production areas, the working condition of the miners is very bad with very high temperature and humidity—endangering

the health and safety of the miners. However, the underground mine has managed to be free from major accidental events like gas explosion, structural collapse and so on. The recovery of coal from this underground mine is expected to be only about 10 percent of the total coal deposit.

The above is perhaps a lesser reason for the Barapukuria coal mine to be known to the public, than the coal scandal that surfaced in 2018 from the loss allegedly by theft, of about 142 thousand tons of coal from the mine. The coal yard was almost empty and the power plant had to shut down. A number of inquiry committees investigated to find the cause of the coal loss and to find who was responsible. While some committees suggested system loss to be the cause of the missing coal, others pointed at manipulating the coal moisture content while trading the coal, thus causing the loss. There was, however, no hint by any of the inquiry committees of an act of physically removing the coal using bags or sacks or trucks or the like. Many observers believe that the act of herding together all previous managing directors of the Barapukuria coal mining company (BCMCL) by the law enforcing agency to send to jail without any specific allegation, has been unjustified, considering the social status they held. While the investigation into the allegation of the alleged coal theft is yet to be complete, the Barapukuria coal mine has returned to

operating as per usual.

The Barapukuria mine has been running with the expected rate of coal production even during this pandemic period. But the power plant has been chronically underperforming. The 525 MW capacity power plant for most of its time could not generate half its capacity. The question arises whether the under performance of the power plant is linked to a lack of coal supply from the mine? If so, why isn't the required coal coming from the mine?

The Barapukuria coal-based power plant started running in 2006 with two units, 125 megawatt (MW) each, with a total generation capacity of 250 MW. The coal mine started producing coal from the end of 2005 under a contract between BCMCL and Chinese contractor CMC which run consequently for three terms till date. During the first contract period (2005 to 2011), the average annual production was 608 thousand metric tons of coal against an actual average annual demand of 444 thousand tons for the power plant. During the second contract period (2011 to 2017), the average annual coal production was 920 thousand metric tons against an actual average annual demand of 540 thousand metric tons. Therefore, the Barapukuria mine could supply the power plant with the required amount of coal during this time and could sell the remaining coal to the outside industry, mainly brickfields.

In 2018, a third unit of 275 MW capacity

was added to the power plant, thus increasing the total power generation capacity of the plant to 525 MW. The coal requirement for running the power plant has now increased, but the coal production from the mine could not be increased consequently. According to the BCMCL, there was no assurance from their part given to the Power Development Board with respect to supply of additional coal to be required for the additional capacity installed in the power plant. In fact, the average annual coal production during the third contract period (2017-2021) was 840 thousand metric tons against an actual average annual demand of 1200 thousand metric tons. The reduction of coal production from the previous contract period, according to the BCMCL is due to the increased depth of coal and increased instability of coal faces in the 3rd slice.

The aforementioned factors indicate that the Barapukuria coal mine cannot produce enough coal to supply for generation of available capacity of the power plant. And this situation arises from the fact that the third unit of 275 MW capacity was added to the power plant without getting an assurance of additional coal supply from the Barapukuria coal mine. The Barapukuria mine is about to complete its mining operation in the central part soon and will then move to the northern part. It is understood that the average annual production from the northern part in the coming years will decrease due to mining

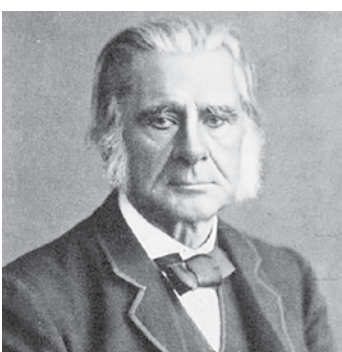
constraints. The power plant is thus faced with the continued prospect of supplying lesser coal than is required for generating optimum power.

This leads one to ask, why was the third additional power capacity of the third unit added, knowing that the coal may not be available to run it? Is this not a case of lack of coordination between governmental departments for which public money is being wasted?

What is the future like for the mine as well as the power plant? The mine in its present form and design cannot meet the power plant's coal demand. Bangladesh may increase coal production either by adopting to a different mode of underground mining or to limited open pit mining where coal can be found at shallower depths subject to sociable acceptability. At a time when Bangladesh begins implementing large scale coal-based power generation, it is perhaps not rational to keep most of its own coal fields unexploited. Being the only coal mine in the country, the performance and experience of the Barapukuria coal mine will have lessons to share, should the government want to change its coal import policy and decide to add national coal to lessen the coal import volume.

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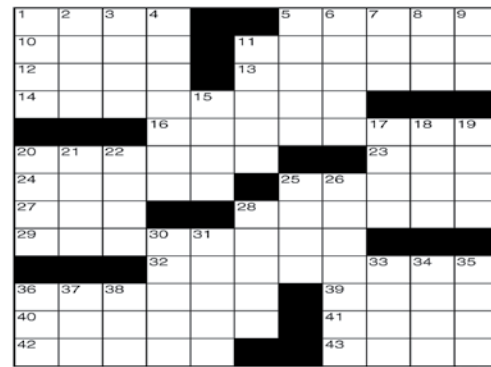
ON THIS DAY IN HISTORY



THOMAS HUXLEY
British Biologist (1825—1895)
"Life is too short to occupy oneself with the slaying of the slain more than once."

CROSSWORD BY THOMAS JOSEPH

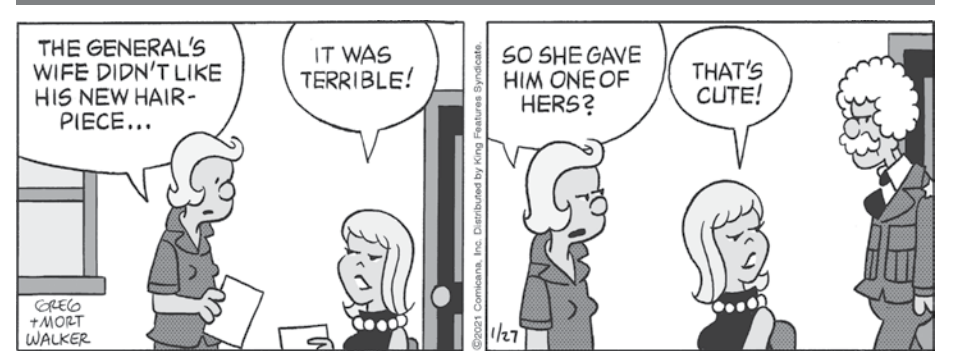
- ACROSS**
- 1 Part maker
 - 5 Small tree
 - 10 Lotion additive
 - 11 Relaxed
 - 12 Writer Uris
 - 13 Chinese food veggie
 - 14 Texas flag symbol
 - 16 Prominent player
 - 20 Marbles, so to speak
 - 23 Drink with a head
 - 24 Penned
 - 25 Was wide-open
 - 27 Longevity
 - 28 Comes up
 - 29 Navigating aid
 - 32 Reward for good schoolwork
 - 36 Portugal's place
 - 39 Swaying dance
 - 40 Carouses
 - 41 "Yeah, right!"
 - 42 "Erymion" poet
 - 43 Tempo
- DOWN**
- 1 Ref's decision
 - 2 Bread spread
 - 3 Earth cirler
 - 4 Charity event
 - 5 Iron output
 - 6 Learns about
 - 7 Cardi B specialty
 - 8 GI-enter-taining
 - 9fp.
 - 9 Nap location
 - 11 In a fitting way
 - 15 Location
 - 17 Spigots
 - 18 Out of the wind
 - 19 Cincinnati team
 - 20 Trade
 - 21 Best Picture winner in 2013
 - 22 Seasonal song
 - 25 June celebrant
 - 26 Zeppelin
 - 28 Travel aid
 - 30 Snowy wader
 - 31 Planting bases
 - 33 Oompah producer
 - 34 Guinness of movies
 - 35 Assess
 - 36 Tick off
 - 37 Worker, e.g.
 - 38 Longoria of TV



YESTERDAY'S ANSWERS

S T A Y S L A M
C O V E R F L A R E
O B E S E O U T E R
W O N L U G G I N G
L O G G I N G N A E
T E A S E B A S
M A P S H A R E
B E N L E G G I N G
L A G G I N G C A R
A D O R E E N O K I
B O R E D D A L E S
S W A Y P E S T

BEETLE BAILEY



BABY BLUES



WRITE FOR US. SEND US YOUR OPINION PIECES TO dsopinion@gmail.com.