

Time for humanity to come together

Earthquake devastation in Turkey and Syria calls for urgent help for survivors

Our heartfelt sympathy goes out to the people of Turkey and Syria, whose lives have been turned upside down by a massive 7.8-magnitude earthquake – followed by a series of aftershocks – that devastated vast swathes of the countries on February 6. The first quake was centred in southern Turkey, near the northern border of Syria, according to the US Geological Survey (USGS). As of writing this editorial, the death toll has crossed 5,000 – some 3,419 in Turkey, and 1,600 in Syria – with the World Health Organization warning that the death toll could exceed 20,000. Rescuers continue to look for survivors, digging through the rubble, in some cases, with their bare hands. At this most critical juncture, we urge all countries and international organisations to send their full support to help Turkey and Syria.

Monday’s quake is believed to be the strongest to hit Turkey since 1939, when an earthquake of the same magnitude killed 30,000 people, according to the USGS. Eyewitnesses, after the latest quake, have described it as apocalyptic, which shows the immense magnitude of the disaster. According to the Turkish and Syrian disaster response teams, more than 5,700 buildings have been confirmed flattened across several cities, including many multi-storey apartment blocks that were filled with residents who were sleeping when the first earthquake struck.

The wave of destruction swept through 10 Turkish provinces, including Kahramanmaraş, Gaziantep, Sanliurfa, Diyarbakir, Adana, Adiyaman, Malatya, Osmaniye, Hatay, and Kilis. While in Syria, most of the damage was reported in Northern Aleppo, Hama, Latakia, and Tartus. Even though rescue workers across the two countries have been scrambling to provide support to the victims, it is becoming clear by the minute that they desperately need as much support as possible from the international community. Therefore, we urge the international community to put their geopolitical interests and conflicts aside, and come to the rescue of Turkish and Syrian people on an immediate basis. The sanctions imposed on Syria will do nothing but harm its people at this moment. Therefore, all these factors should be set aside in the pursuit of rescuing the victims of this massive devastation.

Rescue efforts, we are told, have been made difficult by the winter weather. Many victims are reportedly trapped underneath the rubble amidst freezing cold. Meanwhile, hospitals in both countries are being flooded with thousands who were injured. Without immediate attention towards the seriously injured, the number of casualties could climb even higher. Thus, providing Turkey and Syria with urgent medical assistance, as well as emergency rescue personnel and equipment, should also be a high priority for the local, regional and global leaders.

It is at times like these that the international community must come together and act as one, and help out the devastated communities. We urge every country to provide as much assistance to the affected – and in the process save as many lives – as possible. Multilateral agencies such as the UN can play a big role here to ensure that these aid measures are well-coordinated and provided on an urgent basis.

HC’s frustration is well-justified

Authorities’ lack of response to air pollution is literally killing us

We share the High Court’s frustration with the Department of Environment (DoE) for allowing air pollution in Dhaka to become so bad that the capital is routinely placed high atop the list of the most polluted cities in the world. We also appreciate the HC taking a stern stance in this regard, reprimanding DoE officials for not implementing the relevant law or complying with past court directives to reduce pollution and its harmful effects. As the court has observed, citizens are indeed being “killed” by their inaction and apathy.

According to a World Bank report published in December 2022, air pollution is killing around 80,000 people every year in Bangladesh by causing respiratory problems and depression, and wiping out around 4 percent of the country’s GDP. The report gives us devastating insights into how outdoor air pollution is causing substantial damage to our health, but we should also keep in mind the devastating effects of indoor air pollution in Dhaka, which has also been found to be the worst in the world. In fact, according to an estimate, Bangladesh witnessed 94,800 deaths caused by indoor air pollution in 2019, resulting mostly from heavy use of solid fuels in cooking. Add to this the nuisance created by construction, illegal brick kilns, vehicle exhaust fumes, etc.

Among other factors that are exacerbating the problem but often remain unaddressed are the filling of wetlands and destruction of greenery, thanks to our mindless pursuit of infrastructure development. The list of causes doesn’t end here, however. The WB report, quite alarmingly, also highlighted how 30 percent of the air pollution in Dhaka, Chattogram, and Khulna cities actually originates outside the country – in India – flowed in by the strong northwest-to-southeast wind. This further complicates the problem for us as we battle the various effects of air pollution including allergies, coughing, general breathing difficulties, respiratory tract infections, diabetes, and eye problems.

With the threats so profound and coming from so many directions – literally – it’s deeply alarming to see the lack of response from the authorities. There seems to be no visible action plan on their part to save us from the serious public health threat that air pollution has become. We urge the DoE, city corporations and other relevant administrative wings to realise the severity of the threat we face and take meaningful action to prevent it. Besides regularly misting or watering construction sites and busy roads, they must expand the drive against illegal brick kilns. We also hope the government will properly follow up on the recent commitment of four countries – including Bangladesh, India, Nepal, and Pakistan – to bring down the annual average of PM 2.5 to 35 microgrammes per cubic metre by 2030.

Air pollution has truly become a silent and deadly killer. The authorities’ business-as-usual approach will not be enough to prevent it.

The Constitutionality of 15th Amendment



Dr Badiul Alam Majumdar is the secretary of SHUJAN: Citizens for Good Governance.

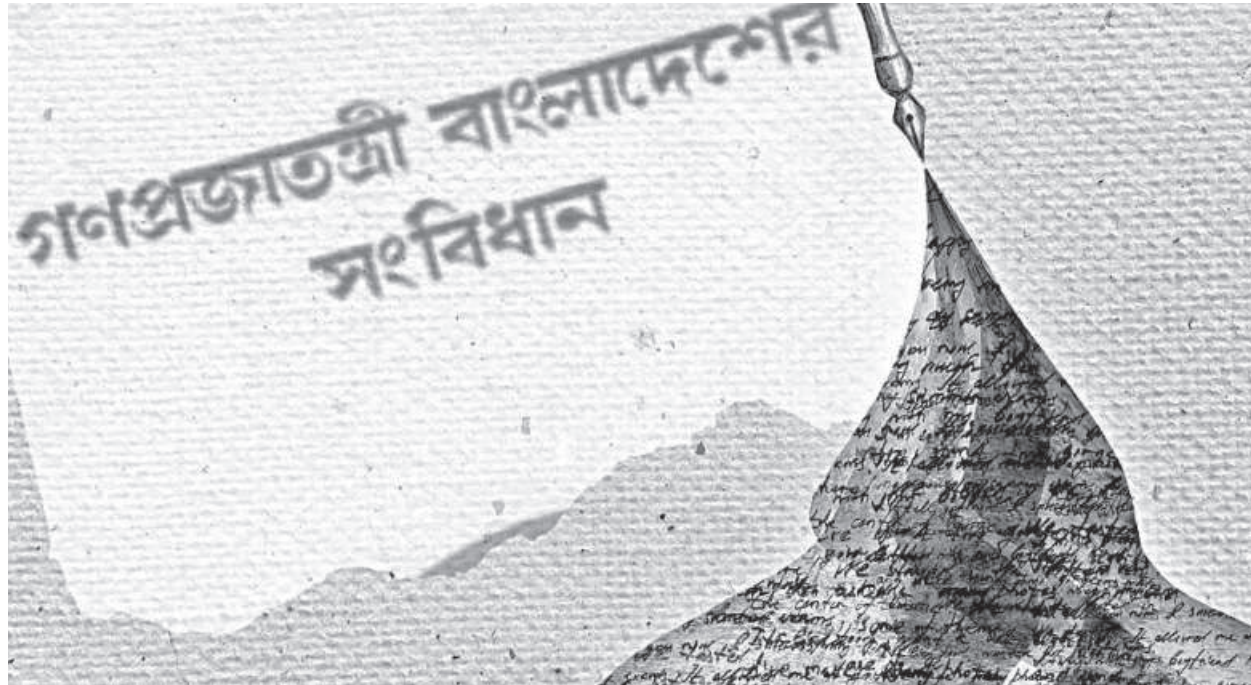
BADIUL ALAM MAJUMDAR

In 1996, the BNP-led government passed the 13th Amendment to the constitution, allowing the formation of the neutral caretaker government (NCG). The amendment represented a “political settlement” as the then Awami League-led coalition of parties demanded such a system, and BNP, after much resistance, accepted it. It not only allowed a peaceful transfer of power, but also provided equal opportunity to major political parties.

However, the unilateral passage of the 15th Amendment in 2011, in a “majoritarian” manner, by the Awami League-led alliance weaponised the constitution, destroying that political settlement. It started with the BNP-led government passing the 14th Amendment in 2004, which raised the retirement age limit for justices, ensuring that a particular former chief justice would become the chief adviser of the caretaker government before the ninth parliament elections. A further blow to the political settlement came in the form of a divided “short order” of the Appellate Division on May 10, 2011, authored by Chief Justice ABM Khairul Haque, which declared the 13th Amendment “prospectively” void after the 10th and 11th parliamentary elections, although two High Court benches had previously found the amendment constitutional.

It may be noted that Justice Khairul Haque, who was appointed chief justice superseding a senior, revived the appeal against the High Court judgment six years after it had been filed, and authored the short order only eight days before his retirement, with only 10 days of hearing and ignoring the pleas of the amicus curiae. The other three assenting justices were subsequently made chief justices, at least in one case superseding a senior, raising the concern of “some communication” between the chief justice and the government (*The Law and Politics of Unconstitutional Constitutional Amendments in Asia*, Chapter 11: “The Politics of Unconstitutional Amendments in Bangladesh” by Ridwanul Haque). Self-interest might have also played a role in Justice Haque’s authoring the short order, as he would be the chief adviser if the 10th parliamentary election was held under the caretaker government system.

It may be recalled that on July 21, 2010, a 15-member special parliamentary committee was formed, 12 of whom were senior Awami League



VISUAL: STAR

members, to amend the constitution. The committee unanimously recommended on March 29, 2011, after consulting 104 distinguished citizens – including a former president, the incumbent prime minister, three former chief justices, political leaders, editors and civil society members – to amend the constitution by retaining the neutral caretaker government system with a three-month tenure. Next day, the committee met with the prime minister, which led to a change in the committee’s recommendation, and the suggestion to amend the constitution to abolish the system.

On May 31, 2011, the prime minister held a press conference where she said the court had abolished the caretaker government system with an observation that, for holding the next two elections under the system, the parliament’s approval would be required (*Prothom Alo*, June 1, 2011), which was not true. Thus, the 15th Amendment was passed not only defying the unanimous recommendation of the 15-member parliamentary committee, but also through a serious misrepresentation of the Appellate Division’s short order and before the full judgment was published 14 months later. It was a decision serving self-interests, which led to the next elections being held under a political government headed by the same prime minister. As researcher Adiba Aziz

Experts have been raising questions on the constitutionality of the 15th Amendment. The constitution represents the will of Bangladesh people, and it should not be amended without their consent. Although our 1972 constitution did not have it, the Fifth Amendment incorporated the referendum provision in the constitution. The 12th Amendment, which was passed in 1991, based on a compromise between the Awami League and BNP and affirmed by a referendum, amended the referendum provision by limiting it to the amendment of the preamble and a few other articles. Although an Appellate Division judgment found the Fifth Amendment unconstitutional, the referendum provision remained as it was included in the 12th Amendment. Thus, it is clear that the 15th Amendment was neither legitimate nor constitutional, as no referendum was held before its passage.

No serious deliberations took place on the 15th Amendment before its passage either. Even though the BNP was asked to propose a name for the special parliamentary committee, it refused to do so, and it was also absent during the amendment’s passage. Thus, the 15th Amendment did not have the support of the major opposition.

In addition, the 15th Amendment made about a third of the constitution unamendable by designating them as

the 15th Amendment unconstitutional. The Appellate Division’s judgment is also unconstitutional. As Mahmudul Islam argued, “Providing the rider clause giving life to the discredited (NCG) system for the next two parliamentary elections, the Appellate Division made judicial legislation interfering with the functions of Parliament assigned by the Constitution and thereby dented the well-established jurisprudence and acted contrary to the rule of law and separation of powers.” The Appellate Division also intruded into political matters, which is a clear violation of “political question” – a doctrine respected by our court in the past. In addition, Justice Khairul Haque materially changed his final judgment by adding the condition of parliamentary approval for holding the 10th and 11th parliamentary elections under the caretaker government system, which amounts to “fraud on the court” and the violation of the professional code of conduct.

To conclude, abolition of the caretaker government system led to two failed elections in 2014 and 2018. Another failed election will have serious long-term consequences for us as a nation. Without a new political settlement, a credible 12th parliamentary election is likely to be a far cry, which can get us into an uncharted territory.

Why carbon emissions could cost Bangladeshi RMG makers



RMG NOTES
Mostafiz Uddin is the managing director of Denim Expert Limited. He is also the founder and CEO of Bangladesh Denim Expo and Bangladesh Apparel Exchange (BAE).

MOSTAFIZ UDDIN

At the end of 2022, the European Union and European Parliament agreed to what will become the world’s first Carbon Border Adjustment Mechanism (CBAM). In simple terms, CBAM is a tariff on the import of carbon-intensive products. Initially, these products will include those that require a highly carbon-intensive manufacturing process – cement or fertiliser, for instance. But this list could soon be extended. This seems to be the direction to which we are all headed, with regulators around the world becoming more and more focused on limiting carbon emissions and carbon neutrality.

The objective of this new levy is to deter carbon-intensive processes and encourage manufacturers to “green” as much of their manufacturing processes as possible. It aims to prevent what is known as “carbon leakage.” This happens when the EU’s efforts to reduce carbon emissions are hampered by increased emissions from outside the EU bloc via relocation of production to the countries with less ambitious climate policies by EU standards. Also, these efforts could be offset through increased imports of carbon-intensive products.

Why is this important for Bangladesh? Because the EU is the largest export market for the RMG products manufactured in Bangladesh. Our RMG sector is not included in the industry sectors covered by CBAM yet. But it may be only a matter of time. The European Parliament has already signalled a clear intention to include plastics and chemicals by 2026 as well as all sectors covered by the EU Emissions Trading System (ETS) by 2030. In addition, indirect emissions such as those caused by the production of energy used in the manufacturing process will also be included in calculating the carbon content of an imported product “under certain circumstances,” according to an EU statement.

While there is some uncertainty as to how and if RMG export will be covered by the EU laws around carbon markets, I think our industry should start planning now for such a possibility.

First and foremost, if the EU were to apply a tariff on RMG import due to the emissions associated with their production, this tariff would need to be built into the price of such products. In other words, the tariff should be passed onto the consumers in the importing

country.

Also, how will CBAM’s imposition on RMG and textiles work for those ethical suppliers who have already determined to become carbon-neutral? Will they take a “wait and see” approach, rather than make investment now to become carbon neutral? Why make an expensive investment now if the EU bands everyone together for this purpose in the future? Bangladesh has already learnt that making huge investments with regards to green factories has little to no direct payback. The CBAM could further dampen the motivation to make more investment – unless how it will be implemented on RMG import is announced soon.

But these are perhaps secondary issues; we need to think about the bigger picture here. This is the ongoing sustainability drive of some of our largest trading partners, and the implications of this for Bangladesh is big. If ever we needed a wakeup call about the need to reduce carbon emissions associated with our main export market, the CBAM is surely that.

At present, our RMG production is still far more carbon-intensive than that in the EU. In fact, we are more carbon-intensive as an industry than Turkey, the US and even neighbouring Pakistan. To give an example, if one were to shift textile production from Bangladesh to the EU, the carbon emission associated with this activity would be reduced by around 45 percent. That’s because the EU has made far more progress than Bangladesh in the use of renewable energy.

Consider this from the perspective

of a fashion brand looking for a production source, which has carbon emission targets to meet. More and more, fashion retailers are documenting the amount of emissions associated with their products, for regulatory and environmental reasons. What if a brand decided to shift all of its production to the EU and out of Asia because it felt that this would be the only way it could meet its supply chain emission targets?

If you think that sounds far-fetched, think again. Targets for carbon emissions are closing in fast on some of Bangladesh’s largest trading partners. Some have set targets for 2030. Things are moving more quickly than anybody could have imagined on this issue.

The answer for Bangladesh is quite simple. We must, with utmost urgency, shift our energy mix into predominantly renewable energy. We don’t have time to waste on this issue, and it means our policymakers, legislators, planners and industry leaders must start working together to devise a smooth transition into a clean energy future. We need a plan and we need to implement it quickly.

As I said earlier, the EU could one day be placing a tariff on RMG products manufactured in Bangladesh because of the emissions involved in their production. That would be a problem, but we may be able to solve it by raising prices.

However, if our customers begin sourcing elsewhere because our energy mix is not environmentally friendly, that is a different challenge altogether – and one that we need to take a proactive stance on.