

The infamous Justice Ellis inquiry report on firing

After the firing took place On February 21 and subsequent days an enquiry was held on the firing. The Government appointed Justice Ellis of the High Court to conduct the same. The Chief Secretary of East Pakistan at that time was Assize Ahmed who was reviled for his anti-Bengali bias within the civil service. Justice Ellis himself was an Englishman who later became the Governor of East Pakistan from October 25 1954 to December 22, 1954.

It is noted that the later famous Justice Hamoodur Rahman acted as counsel of a number of government officials appearing at the Enquiry. The Committee concluded on the firing and remarked that it was justified. The original notification on the decision of Enquiry is reproduced below:

Report of the Enquiry into the Firing by the police at Dacca on the 21 February 1952, by the Hon'ble Mr. Justice Ellis of the High Court of Judicature at Dacca on the 21 February 1952, by the Hon'ble Mr. Justice Ellis of the High Court of Judicature at Dacca.

Government of East Bengal Home (Police) Department
Resolution
No. 2149/8PL, dated the 3 June, 1952.

Government Notification No. 943-PL, dated the 13 March, 1952, stating that with regard to the firing that took place at Dacca on the 21 February 1952, an enquiry should be held by a Judge of the Dacca High Court, to be nominated by the Hon'ble the Chief Justice, to ascertain whether-

- the firing by the police was necessary; and
- the force used by the police was justified in the circumstances of the case.

Read-The Report, dated the 27 May, 1952, submitted by the Hon'ble Mr. Justice T.H. Ellis, who was nominated by the Hon'ble the Chief Justice and appointed by Government to hold the enquiry.

The Government of East Bengal is pleased to accept the findings of the Enquiring Judge that-

- the firing by the police was necessary;
- the force used by the police was justified in the circumstances of the case.

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Ordered that a copy of the Resolution be forwarded to the Enquiring Judge, the Hon'ble Mr. Justice T.H. Ellis, for information.

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Ordered further that the Resolution together with the Report be published in an extraordinary issue of the "Dacca Gazette."

Aziz Ahmed
Chief Secretary

In the report Justice Ellis described the process and mentioned the nature of deposition of the witnesses in the following manner:

The hearing in camera should have commenced on the 7 April, 1952, but on that date it proved impossible to examine any witness as certain preliminary arrangements were not completed in time. The examination of witnesses actually commenced on the 8 of April.

Witnesses whose statements were in support of the police claim that the firing was justified and was not in excess were examined on the 8, 9, 10, 15, 16, 17 and 18 of April, i.e., for 7 days. Witnesses whose names figured into the statements disapproving of the firing were examined on the 21, 22, 24, 25, 26, 28 and 30 of April, i.e., for a similar period of 7 days. After the statements of the witnesses had been recorded two days were taken up in argument, Mr. Hamoodur Rahman presented the case for his clients on May 2, and Mr. Abdul Ghani argued his case on May 3. After the enquiry was concluded, although familiar with the topography of the scene of the firing I visited the locality to refresh my memory as to the position and lie of the buildings and landmarks figuring in the enquiry and to see for myself the bullet marks on the Medical College hostels.

Witnesses' statements recorded in the enquiry may conveniently be divided into 5 classes. The first class consists of official witnesses- 1 to 21 and witness No. 36, Ashraf Ali Wahidi a photographer attached to the firm of Messrs. Zaidi & Co., who took photographs at the instance of the police after the occurrence was over.

Sister Miss Eliza Kuruala 43
Miss Nur Jehan Begum 44, and
Miss Pulu Costa 48
Five of the witnesses are Ward boys and Ambulance attendants, viz-

Deedar Bux 45
Mohammed Mian 46
Sekander Ali 49
Muslim Khan 59, and
Ramzan Khondkar 61

Witness No. 51, Abdus Sattar Dewan is connected with the Medical College Hospital being its Account and witness N. 63, Mr. Ekhlas uddin Ahmed is a representative of the firm of Khondkar & Co., Contractors to the Medical College Hospital.

The 5 and the last class of witnesses consists of those persons who may be conveniently grouped together as witnesses belonging to the public. They are-

Mir Muslim, Bus driver 22
Mansur, Bus conductor 23
Sona Mian, Rickshaw-puller 25
Pear Bux, Rickshaw-puller 27
Faku Mian, Rickshaw-puller 29
Kala Chan, Rickshaw-puller 30
Nawab Mian, Rickshaw-puller 31
Ashrafuddin, Rickshaw-puller 32
Abdul hamid, Rickshaw-puller 33

Witness No. 26, Khairullah, is a Rickshaw passenger. In this class also come-

Dr. A. Musa A. Huq, a medical practitioner 24
Mr. Md. Kamal, M.A. at present unemployed 28
Mr. Abdus Sattar, A Technician of the APP 34
Matil Islam, an Assistant in the C.L. and I. Department, Government of East Bengal, Dacca 56,
and Mr. Noor Mohammed, an Assistant in the Air Customs office, Tejgaon, Dacca 57

The witnesses who were represented by Mr. Hamoodur Rahman had already had their statements recorded and these were produced as each of the witnesses presented himself at the enquiry. As it was thought advisable to do so, each of the witnesses was examined by Mr. Hamoodur Rahman and was then cross-examined Mr. Ghani. When the witnesses who had been cited in disapproval of the firing presented themselves they were questioned by the presiding officer first of all and were then questioned by Mr. A. Ghani and Mr. Hamoodur Rahman in turn. It may be added that none of the witnesses deposed on oath as the enquiring officer had no power to administer an oath to any person appearing as a witness in the enquiry.

It may be here observed that the witnesses whose evidence is really immaterial in this enquiry are the 8 official witnesses, 6 police officers-

Witness No.
Mr. Md. Idris, PSP SP Dacca 1
Mr. A.Z. Obaidullah, D.I. G., Dacca-Range 3
Mr. Md. Siddique Dewan, D.S.P. City Dacca 4
Mr. Mohammed Yusuf, Special Superintendent of Police. I.B., East Bengal Dacca 1
Mr. Abdul Gofran, then Officer in Charge, Lalbagh PS Dacca, now Inspector of Police Barisal 9
Mr. Mir Ashraf Huq, Inspector of Police, Detective Department, Dacca; and two Magistrates 10
Mr. S.H. Quraishi, CSP District Magistrate, Dacca 2



Graffiti recalling the great sacrifice: Lest we forget...

Mr. Nooruddin Ahmed, S.D.O. Sadar, South, Dacca and nonofficial witnesses 5
Mr. Md. Kamal, M.A. 28
Dewan Haroon Md. Maniruddin 64
Justice Ellis sums up parts of the case at mid point through the following statement:

On the Police statements it is their case that the situation rapidly deteriorated and although the Police expended a huge quantity of tear gas firing in all 39 gas grenades and 72 tear gas shells they were by 3 PM not in a position to cope with the riotous mob that kept assembling and reassembling in front of the Medical College gate and in the compound and, across the road, in the University playing ground. It is only too obvious that the students regarded the University compound, the Medical College compound and the Hostel area as "sanctuary" from which they could with safety rally out and attack the police. This is perhaps the reason why the students who have made statements all claim that they were inside the compound behind the railings engaged in their peaceful pursuits.

It will at this point be appropriate to quote the statements of the official witnesses with regard to the position of the police force at 3-20 and with regard to the necessity for firing on the crowd.

Mr. Idris (SP Dhaka) was questioned with regard to the situation at the time when he opened fire as follows:

Question No. 75-"Now to return to the determined lathi charge, would you tell me what was the effect of the lathi charge?"
Answer-"The lathi charge failed completely. Instead of the crowd receding and stopping brick-battling they started advancing with more showers of brickbats, mainly from two directions, from the university playground corner and from the Medical College Hostel side."

Question No. 76-"What would be your estimate of the crowd, you say, advancing from these directions?"

Answer-"Five to six thousand."

Question No. 77-"What was the strength of the Police Force at that place at that time?"

Answer-"In all at that time there were 3 head constables, 30 constables of the armed branch, two head constables and 14 constables of the unarmed branch, and one head constable and 14 constables of the gas squad, one Inspector and two Sergeants."

Question No. 78-"When the crowd was advancing, you said that lathi charge had no effect. Would you tell me what steps did you consider necessary at this time?"

Answer-"The crowd was advancing with shower of brickbats and I had to come with armed forces and put them in position. When the situation came to such a pass that we were being almost encircled and overpowered, I consulted the DM and the DIG who had all along been present there. We decided to open fire."

Question No. 79-"Could you tell me how fire was opened by you and under whose command?"

Answer-"Firing was done under my command. I put my men in position and formed them in flanks of 5 men each facing the university ground corner and Medical College hostel side. I ordered my men on both flanks to fire one round each. They did so. The crowd near the University playground, at the corner of the university playground-was held back and I found one man dropping down there, but the crowd from the Medical

College Hostel side fell back momentarily and again advanced towards us with heavy showers of brickbats. I ordered the 5 men in the flank to fire a volley of rounds. Then I ordered them to stop as soon as I saw this mob falling back. I ordered cease fire and then checked up ammunitions and found that in all 27 rounds were fired."

Question No. 80-"Prior to the opening of the fire was any warning given to the crowd?"

Answer-"Yes, we warned them repeatedly."

Question No. 81-"To Court: "Who gave the warning?"

Answer-"We all."

Question No. 82-"What do you mean by 'all'?"

Answer-"DIGDM and myself all warned them and ultimately firing was opened."

Question No. 83-"To Mr. H. Rahman: "Would you give us the approximate time of the firing?"

Answer-"At about 3 pm"

Question No. 84-"What was the effect?"

Answer-"One man dropped down, that was at the University playground."

Question No. 85-"What was further casualty?"

Answer-"We could not ascertain that."

Question No. 86-"Why not?"

Answer-"Because the attitude of the mob was very violent. To make any attempt to recover the dead and the injured persons from amongst the rioters would have been a severe fight. That was my reading of the situation at that item because even after the firing throwing of brickbats continued."

Question No. 87-"You have said that after the second firing the mob fell back and you ordered 'cease fire'. When the mob fell back did you see any injured person in the street?"

Answer-"No."

Question No. 88-"What happened to that person who died?"

Answer-"The dead body was removed by ambulance."

Question No. 89-"By whom?"

Answer-"I could not tell you."

Question No. 90-"You have told my Lord the situation in which you opened firing. Would you now tell my Lord what would be the result had you not ordered open firing?"

Answer-"Had I not opened firing all the forces could have been overpowered."

Question No. 91-"Is it your case then that firing was necessary for your protection and for the protection of your force?"

Answer-"that was my object; otherwise firing would have been done long ago. It was only when we were being overpowered we fired to save ourselves."

Question No. 305-"In one word, Mr. Idris, is it not a fact that the firing was rather excessive and was not called for by the exigency of the situation?"

Answer-"The firing was not excessive. The firing was most essential. Unless we opened fire I would not have been here to give evidence today. I had two alternatives before me, either to run away with my force or to allow myself to be overrun and killed."

Justice Ellis's description of the witnesses who testified against the firing is noted below:

The statements of the witnesses who came forward to condemn the police firing did not carry conviction. Many of them had no material contribution to make to the objects of the enquiry, and it was only to clear that the student elements were concerned to disclaim all knowledge of inconvenient facts and circumstances. Mr. Hamoodur Rahman



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points out that in the statements which they made in the enquiry they studiously avoided all mention of the events on the road outside the university and the Medical College gates and following the same pattern they spoke of events within the fencing which was to them an area forbidden to the police and they one and all knowledge of the microphone which was set up in the compound after the police firing was over-the microphone through which fiery speeches were broadcast over that particular area. Mr. Ghani suggests that the students were "stamped" and thought it was better in their own interest to disclaim all knowledge of anything that happened outside the compound and to confine to their statements cannot be relied upon and that if the students avoid mentioning any events in the streets and try to deny their presence as participants in the meeting on that day the statements which they do make should not be accepted as carrying any weight against the police. A witness who economises truth when it suits his personal ends stands discredited.

According to Justice Ellis the most important witness. He explains why:

Of all the statements that the general public made the most important one is that of Dewan Harun md. Maniruddin (witness No. 64), the only witness who claims actually to have witnessed the firing. This witness stated that he was a student of the Jagannath College, Dacca, and admitted that he submitted two representations in response to the President's invitation. In his first statement he began by saying that he was a student of the Jagannath College, Dacca, who went to the University premises on the call of the All Party State Language Committee to raise a demand for Bengali as a State language at about 10-30 am and the main aim of the assembled students was to let the M.L.A.'s and M.C.A.'s know their demand, so he himself in one statement admitted that he had gone to the University premises at the call of the All Party State Language Committee. Subscribed to his second statement appear the following words: "Dewan Harun md. Maniruddin, 23-3-52-a student of the Jagannath College, Dacca who was present at the time of firing and took part in the State Language movement of the students." When he appeared before the enquiry he changed his tune and stated that he had actually gone on that morning, not to the University but to the Outdoor Department of the Medical College Hospital for treatment, and he disclaimed the position which he had assumed for himself in his written statement as one who took part in the state language movement of the students. As to the witnesses he named, he admitted that he never consulted them to see if they knew anything about the firing-he put their names as he thought they would be "good witnesses." In this spirit he put down the names of Mr. Fazlul Huq and Mr. Shamsuddin nd he named Matil Islam (Witness 56) who as in Chandpur and Noor Mohammed (Witness 57) who was in Noakhali on the date of the firing. In course of his evidence this witness stated that he actually saw the Police enter the Medical College Hostel premises to take up their position alongside the path running through the Hostel and from there fire at the people in the compound as a result of which one man fell on one of the Hostel verandahs, and 7 or 8 other persons were injured.

Question No. 52-"Then what happened?"

Answer-"Then after half-an-hour or a bit more I saw a few Police going inside the hostel and taking their position by the path which runs through the hostel."

Question N. 53-"Then what did they do?"



Shaheed Rafiq. The rare picture was given to us by Fariduddin Ahmed, Advocate Supreme Court of Bangladesh. He was a member of the Rastrabhasha Committee and Acting General Secretary, DUCSU 1953-54. Advocate Ahmed told us that, he had collected it from Mizanur Rahman, the retired commercial editor of BSS.

Answer-"they fired at the people."

Question No. 54-"What were the people doing at that time?"

Answer-"They were standing on the premises of the hostel and also on the College premises."

Question No. 55-"Where were you standing then?"

Answer-"I was standing in the Medical College compound."

Question No. 56-"How many times did the Police fire?"

Answer-"I did not count it."

Question No. 57-"Did the Police hit anybody with the firing?"

Answer-"I did not see, when they fired, who was wounded, but after that I saw a man falling down on a verandah."

Question No. 58-"Was he dead?"

Answer-"Yes, Sir."

Question No. 59-"You saw one man shot dead, did you see anybody being shot at?"

Answer-"Afterwards I saw."

Question No. 60-"Did you see anybody else being hit?"

Answer-"I saw 7 or 8 people."

Question No. 61-"Killed?"

Answer-"Not killed, but injured. I saw them when they were being carried by people to the hospital."

Question No. 62-"Did you go inside the hospital?"

Answer-"No, Sir."

Question No. 63-"You saw 7 or 8 people being carried to the hospital, after that what did you do?"

Answer-"Then I went to Dewanji Bazar Road through the torn wall at the back of the ENT Department and crossing the University premises."

Question No. 64-"Where did you go to?"

Answer-"From Dewanji Bazar Road and Nazimuddin Road I went to Aga Mashi Lane and then I went straight to my house."

I am not prepared to accept to accept the statement of so irresponsible a witness as being a statement of truth. It was never suggested in cross-enquiry he changed his tune and stated that he had actually gone on examination of any of the police witnesses that any Police constable actually trespassed into the Medical College hostel compound and from inside the compound opened fire on the students and others assembled there. What was suggested was that one of the constables advanced up to the "Master Cabin" the double storied shop at the corner to the Medical College Hostel gate and from there fired into the compound. This suggestion was denied by the Police officers who claimed that the firing party never broke the square and fired from the position which they took up under the orders of the Superintendent of Police (Vide witness N. 1 Q. 281 to 284).

Justice Ellis's conclusions are the following regarding the firing and the intensity of force used.

I have now to see whether the firing was excessive or not. It has already been pointed out that at first the Police stationed on both flanks of the firing squad fired one round. One man fell dead on the University playground side and the rush on that side was promptly stopped. The rush on the other side, the Medical College Hostel side, was temporarily stopped, but the advance began again and brickbats were thrown at the Police and so firing was opened for the second time on that flank. I have satisfied myself from the relevant entries in the registers that 27 rounds were fired in all and that as a result of those 27 rounds 9 casualties were caused which have resulted in four deaths. Remembering that when the Police open fire they do so with the deliberate intention of killing I cannot hold from the number of casualties shown taking in conjunction with the number of rounds fired that there was any use of excessive force. The firing was controlled and was effective.

I have also satisfied myself from the registers of Medical College Hospitals that the casualties caused by the police firing are as stated in the enquiry before me. It is true that the registers show that a large number of persons was affected by tear gas and also injured by lathis or by falling on the ground but that is not unexpected in view of the fact that the police expended a large quantity of gas grenades and shells and made two determined lathi charges.

I cannot part with this enquiry without recording the astonishment with which I learned that the East Bengal Police Force is not equipped with steel helmets and has only a few ancient ARP helmets to draw on. It seems incredible that a force required to maintain law and order should have to take up "action stations" wearing cloth caps and stand its ground under showers of brickbats, stones and similar weapons, and Dacca, in its present state of constructional activity, presents potential law-breakers with a veritable arsenal of ammunition. Had the Police force under Mr. Idris been properly equipped, it is more than probable there would never have been any occasion for this enquiry.

51. In conclusion I must find, on a consideration of the statements made in this enquiry, that-

- the firing by the police was necessary;
- the force used by the police was justified in the circumstances of the case.

52. It is unfortunate that certain Associations and organisations decided to boycott the enquiry as they disapproved of its limitations. Had they taken part in the proceedings, the official witnesses would undoubtedly have been subjected to a more knowledgeable and therefore more effective cross-examination while the presentation of the case against the Police would have been more effective because better informed. I have, however, gratefully to acknowledge the assistance of Mr. Hamoodur Rahman....

The document is excerpted from "Bangladesher Swadhinata Juddho. (Bangladesh's War of Independence Vol. I. Page 272-305)

It's a historic document which has been rarely seen because it lay inside the official archives and it's existence was known only to those who had lived through that period. However, this is significant in terms of historic assessment and source of information. Although most would disagree with the conclusions of the report, few can deny its importance as a source of information. It also has references to events, people and places that provide a background to the events of that time.

But the irony of this report is also considerable. An English jurist, conducting an enquiry on an event which became the source of subsequent events and ultimately history.

More ironical is that the judgement of the Ellis committee though based on the foundations of legality and evidence of official witnesses failed to outrun the trend of history. Historical process and political aspirations finally overwhelmed all the conclusions and while the rather dismissive attitude towards the agitators is obvious, they claimed the front seat and took over the reins of command while those who ordered the firing are "lost" and remembered only in derision.

The power of history appears more sustainable than the logic of legality.