

FULL TEXT OF THE SCBA ENQUIRY COMMITTEE REPORT

PART I

1. The Bangladesh Supreme Court Bar Association strongly condemned the grenade attack on the public rally called by the main Opposition Party, Awami League on 21 August 2004 resulting in the loss of many valuable lives. The Association in an emergency general meeting held on 22 August 2004 passed a number of Resolutions unanimously. Resolution No. 6 provided: "This meeting authorized the President of the Association to form an Enquiry Committee with the President as Convenor and 5 senior lawyers as members to effectively enquire into the incident and complete the Enquiry Report within a specified period of time and to publish the report for the information of the nation."

2. Pursuant to the aforesaid Resolution a Committee was constituted as follows:

Rokanuddin Mahmud

Convenor Dr Kamal

Hossain Member Abdul

Malek Member

M Amir-Ul Islam

Member Dr M Zahir

Member

Muhammad Ayenuddin Member

The Secretary of the

Association was requested to act as the Coordinator of the Committee.

3. The constitution of the aforesaid Committee was approved in a meeting of the Executive Committee of the Supreme Court Bar Association held on 26.8.2004.

4. Subsequently in a meeting of the aforesaid Enquiry Committee, a senior lawyer Dr Kamal Hossain was elected Chairman of the Enquiry Committee. Terms of Reference were finalised and adopted by the Committee (Annexure "A"). It was also unanimously decided in this meeting that the Committee would visit the place of occurrence without delay and also meet the injured persons undergoing treatment in different hospitals for finding out the truth.

5. Pursuant to the aforesaid decision of the Enquiry Committee, all members of the Committee (except Mr Amir-Ul Islam who was abroad) went for inspection to the place of occurrence on 27.8.2004. When the Committee reached the place of occurrence at Bangabandhu Avenue they were received by a large number of people who claimed to be eyewitnesses. They described the entire incident to the Members of the Committee. What emerged clearly from their evidence was that when the former Prime Minister and Leader of the Opposition Sheikh Hasina uttered 'Joy Bangla' and 'Joy Bangabandhu' at the conclusion of her speech, there was a loud explosion of a grenade very near to the makeshift stage on the truck which was followed by another 9 or 10 explosions within a few minutes. The sound of the explosions was so great and terrible that the persons who had assembled there became totally unnerved and started running helter skelter and many persons including the top ranking Awami League leader and President of the Women Front of the Awami League Mrs Ivy Rahman (who later succumbed to the injuries) were seriously wounded. The AL leaders present on the stage created a human shield and led the Awami League Chief to her bullet-proof jeep. Immediately the driver drove the jeep towards the Stadium and left the place of occurrence in order to save the life of the Awami League Chief.

6. While leaving the place of occurrence, the jeep was attacked by some bullets and grenades and its front glass and left-side glass were hit. But as the glass was bullet-proof, the leader was saved. Almost all the witnesses emphatically stated that the grenade attack on the meeting and the bullet attack on her jeep were all aimed at killing the Awami League leader and former Prime Minister Sheikh Hasina in a pre-planned way, but somehow her life was saved.

In reply to the question of the Enquiry Committee as to who attacked and from which side, quite a few eyewitnesses clearly stated that the attack came from the multistoried Dhaka City Bhaban situated on the south-east of the meeting place.

The witnesses said that, shocked by the severity of the explosions, people ran from the place of occurrence and could not see or catch the grenade attackers. The witnesses at the same time mentioned that they did not see any member of the law enforcement agency in action in the place of occurrence before or after the occurrence. Moreover, the police forces that were deployed to the South, East and West of the meeting place near Pir Yemeni Market did not come to help the victims of the grenade attacks. Not only that they left their places of duty, but moved away to a safe distance. Even when the bullets were fired at the jeep of the Leader of the Opposition Sheikh Hasina while it

was leaving the place of occurrence no police force was seen there. The eyewitnesses also emphatically mentioned that no obstruction was given to the processions coming to the meeting on that day which was a clear departure from their past experience at previous meetings. Another noteworthy thing was that no police force was deployed on the rooftops of the nearby buildings which was also a departure from previous meetings. Moreover, Awami League cadres were also not allowed to take up position on the rooftop of the nearby buildings. By their statements some of the prominent Awami League leaders claimed that the entire incident was preplanned and the Government was involved in the grenade attack. But they could not present any evidence as to who were the perpetrators. A list of the leaders and the workers of the Awami League who gave evidence to the Enquiry Committee is given at Annexure-B.

7. After inspecting the place of occurrence the Committee (except Mr Amirul Islam) went to the Dhamondi residence (Shuda Shadhan) of the former Prime Minister and the Leader of the Opposition Sheikh Hasina at 5pm on 27 August 2004 and expressed their deep sympathy for the sad incident and their determination to resist any recurrence of such incident. In her statement Sheikh Hasina blamed the alliance Government for the incident, which killed 22 leaders and workers over 100 of them. She assured the Committee of all cooperation to find out the truth. Before meeting the Leader of the Opposition, the Enquiry Committee inspected the jeep and recorded the statements of the driver and the security officers. The driver unequivocally said that immediately after the grenade explosions, he drove towards the East with the leader in the jeep and taking a left turn he drove towards her Dhamondi residence (Shuda Shadhan) through Zero Point. The driver also mentioned that at that time from the North and East of Bagabandhu Avenue many bullets hit the front and left side glass of the jeep, and that but for the bulletproof glass, the death of the Leader was certain. It transpired more or less clearly from the statements of the driver that the incident was intended to kill the Leader of the Opposition. But they did not or could not say anything specific as to who was responsible for the attack.

8. On 28 August 2004 eleven retired police officers met the Enquiry Committee. These retired officers included senior police officers and experts in explosives. They informed the Committee in detail as to how the Government deploys law-enforcing personnel and allocates responsibilities in such public meetings. They also advised the Committee to ascertain from the relevant agency of the Government a complete list of persons deployed in the meeting on 21 August 2004 and with descriptions of their respective duties. The Enquiry Committee by a resolution authorised its Chairman Dr. Kamal Hossain to communicate with the Prime Minister, Home Minister, IGP and all others concerned to obtain the list as advised by the 11-retired police officers.

9. On the same day, 28 August 2004, the Committee visited the police Hospital at Rajarbagh and talked to the Police Officers and personnel injured in the grenade attack at the meeting. These injured police personnel were deputed for the security of the Leader of the Opposition Sheikh Hasina. Almost all of them stated that because of the sudden unexpected grenade explosions at the end of the speech of the Leader of the Opposition, they were so terrified that they could not think of anything other than trying to save the life of the Leader of the Opposition and also their own lives. One of the senior police officers who was engaged in the protection of the Leader of the Opposition for some time before gave evidence that the jeep carrying the Leader of the Opposition from the place of occurrence took the West turn and proceeded by the side of the Yemeni Market and Zero Point, and drove to the Dhamondi residence of the Leader of the Opposition. A large number of eyewitnesses saw the Leader of the Opposition's jeep going East towards the Stadium and receiving bullets from the north and north east end of Bangabandhu Avenue. If the statement of the police officer that the jeep drove off towards the West and by the side of the Yemeni Market is to be believed, then many persons would have suffered injuries being struck by the jeep of the Leader of the Opposition dashing across the road from the makeshift stage to the Yemeni Market. No such

occurrence has been reported by any one. A list of police officers and police personnel who were interviewed by the Enquiry Committee at Rajarbagh Police Hospital is given at Annexure-C.

10. The Enquiry Committee visited Dhaka Medical College Hospital, Holy Family Hospital, Trauma Centre, and Sikder Medical College Hospital respectively on 3rd, 4th and 5th September 2004. They discussed the matter in detail with over a 100 persons injured in the incident and under treatment in those hospitals. These persons described their experience of the 21st August incident in a choked voice and expressed their deep sorrow for the Government not taking any initiative for their proper treatment. Almost all of them in one voice said that the grenade explosions were so sudden, powerful and devastating that they could not spot who

Committee found that none of them could clearly say anything as to from which side the grenade attack took place. However, a few journalists and photo-journalists who were on the 1st floor at Ramma Bhaban informed that the attack was most probably directed from the multistoried Dhaka City Bhaban. The journalists also stated that the grenade attack was sudden and unexpected and it was beyond anyone's contemplation that such a terrible incident could occur in a public meeting and that before one could understand anything many persons including the President of the Women Front of the Awami League, Mrs Ivy Rahman became mortally injured with their limbs scattered and at the same time the whole place was dark with heavy smoke. Instantly the journalists also left the meeting place desperately trying to save their own lives. A list of the journalists who were interviewed by the

State Minister for Home Affairs or IGP. Not only that the Law Minister Mr Moudud Ahmed issued statements on several occasions to the effect that the Enquiry Committee had no legal basis and any report of any such Committee should not be recognized. Such statement by the Law Minister is not only undesirable but also unexpected. It may be mentioned that although the Government did not extend any cooperation, one Fakrul Alam Khan of 2 Outer Circular Road, Moghbazar, Dhaka, on 6.10.2004 sent to the Chairman and Members of the Committee a copy of the statement made by the State Minister for Home Affairs in the Parliament. The State Minister for Home Affairs mentioned in that speech that the police made all out efforts to identify the culprits immediately after the incident and within 24 hours a Judicial Inquiry Commission was constituted with a judge of the Supreme Court as the

15.9.2004 admitted the occurrence of grenade and bomb attacks at different places but has failed to find out and punish the culprits. 16. The incident of 21 August 2004 is not only heinous but also inhuman. So any person trying to unearth the mystery should receive appreciation and cooperation from all conscious persons as a matter of moral duty. The Committee expected that the Government being a democratic one would rise to the occasion reflecting moral and human values and assist the Committee in all possible ways. But the Prime Minister, Home Minister and the IGP failed to furnish any information in spite of several requests by the Committee, nor has any of them ever responded. The Enquiry Committee regards this behaviour of the Government to be unfortunate. The Committee strongly believes that if the Government cooperated with the Committee with openness this

Ahmed that the Supreme Court Bar Association had requested for co-operation from the outset of its work referring to the letters written in August and September 2004 by the Enquiry Committee to the Hon'ble Prime Minister and others requesting copies of reports of all earlier bomb-blast cases, and information regarding the illegal arms seized, and other documents and information. He has sent copies of the requests to Mr. Moudud Ahmed, with a request for his help in obtaining the needed reports, documents and information.

17. The Enquiry Committee considered it important to publish this report, as urgent measures are needed to prevent such occurrences. It is noteworthy that even before the investigation of the 21 August terrible occurrence has been completed, another grenade attack took the life of Mr. Shah AMS Kibria MP in Habiganj, an event which has shocked the nation and led to the national demand for effective investigation and action against such attacks.

18. It is a constitutional and legal duty of the state to protect the life of citizens and to ensure their security. The terrific occurrence of 21 August is a manifestation of the failure of the state to discharge its duty to provide security to the Leader of the Opposition, her party members and to those who were attending the publicly organized by the Awami League. This resulted in the violation of a number of constitutionally protected fundamental rights of those who were targets of the grenade attacks. The right to life of all those who died has been violated. The right to security of the human persons of all those who were injured was violated. The right to hold public meeting and to participate in a public meeting was violated. The right to hold a public procession, which was to follow was violated. The violation of these rights calls for effective remedies.

19. The remedies for the violations of these constitutionally guaranteed rights, include the following:

(i) An effective and thorough investigation must be completed without delay by the State to identify those responsible for carrying out the attack, as well as to identify the failure on the part of those responsible for providing security to public leaders and citizens.

(ii) The victims of violations have their fundamental right to have the investigation carried out effectively and have the right to be informed about the results of the on-going investigation as well as the right to have access to reports such as that of the "Judicial Commission" which was established to enquire into this matter. The State should immediately publish the report of the "Judicial Commission" and provide a full and detailed account of progress as well as steps it has taken to identify those who are responsible and bring them to justice.

20. The victims of the grenade attack are also entitled to compensation for loss of life and limbs and disability suffered by them and for medical treatment and for economic loss suffered by them as a result of the attack.

21. Further action that is urgently needed to ensure that effective investigation is completed into the terrific occurrence of 21 August and specific measures to be taken are set out in the recommendations in Part III below.

22. Petition/s on behalf of victims could be filed under Article 102, read with Article 44 of the Constitution, for necessary action to be taken to enforce the fundamental rights of the victims affected and all those who are affected by the failure of the government to hold effective investigation and effective action should be taken in respect of the terrific occurrence on 21 August. The Supreme Court Bar Association may extend necessary legal assistance in this regard.

23. To sum up: The Enquiry Committee, having examined a large number of persons including those who were present at the time of the incident or were injured and also a number of experts, and having inspected the place of the incident and the relevant vehicle, arrived at the following findings on the basis of the facts as summarised in Part I:

24. Given the scale and magnitude of the attack, its execution and the special get-away by the assailants, it is clear beyond doubt that it was a pre-planned attack, carried out on the basis of a carefully prepared plan, targeting the Leader of the Opposition and other leaders and persons attending the rally. The firing of the bullets and grenades on the vehicle by which the Leader of the Opposition was leaving the place of occurrence, confirms that she was the target.

25. The attack involved a large number of individuals who had the training and the capability to carry out an attack involving the simultaneous hurling of a number of grenades.

26. The Enquiry Committee made repeated requests at the highest levels of the Government for obtaining copies of reports of earlier bomb-blasts, the report of the 'judicial enquiry' into the 21 August, 2004 constituted by the Government, and other documents and information, but such requests have to date not been acceded to. (Summary given at Press Briefing on 22 September 2004—Annexure I).

27. In the course of a Question and Answer programme on Voice of America, on 9 February, 2005 Dr. Kamal Hossain (the Chairman of the Enquiry Committee) informed the Hon'ble Law Minister, Mr. Moudud Ahmed that the Supreme Court Bar Association had requested for co-operation from the outset of its work referring to the letters written in August and September 2004 by the Enquiry Committee to the Hon'ble Prime Minister and others requesting copies of reports of all earlier bomb-blast cases, and information regarding the illegal arms seized, and other documents and information. He has sent copies of the requests to Mr. Moudud Ahmed, with a request for his help in obtaining the needed reports, documents and information.

28. The unexploded grenades which were recovered from the place of occurrence were reportedly exploded on the same night by the agency concerned without obtaining forensic evidence, and thus valuable evidence was lost.

29. The police clearly had failed to prevent this tragic occurrence. Indeed after the occurrence, the police personnel also failed to carry out their duties. They failed to apprehend the culprits, or even to give a single chase, or to give protection and help to the injured. No action by the government has been announced against any of the personnel of the law-enforcing agencies including intelligence agencies with regard to their acts and omissions in relation to the tragic occurrence on 21 August, 2004 — in particular, with regard to (i) the failure of intelligence to prevent the occurrence, (ii) failure to make necessary security arrangements, (iii) failure to effectively deploy police personnel at the correct positions at the time of the rally, and (iv) failure to take effective action during and after the occurrence. Equally manifest is the increasing failure of the Government, to take action to identify those responsible for such failure.

30. The failure of the government to apprehend the terrorists has caused another tragic incident in Hobiganj. The sooner this is remedied the better as otherwise these incidents will be repeated. A system whereby effective security is provided automatically in public meetings should be devised and strictly implemented.

RECOMMENDATIONS

25. The Enquiry Committee recommends the following action to ensure an effective investigation with a view to identify those who are responsible and to bring them to justice, and further to adopt measures to prevent such attacks in future:

(1) A Commission to inquire into the events of 21 August, 2004 be set up consisting of justice and eminent independent persons, after consultation with the opposition political parties, professional and citizens' organizations and the families of the victims. This Commission should be given all necessary resources to appoint professional advisors from within the country and from abroad as necessary to assist in its work. The Commission should comprehensively and with transparency review whatever has been done by way of investigation into the above occurrences and in other bomb-blasts cases and illegal arms seizures and should evaluate the results of those investigations and present its report to the public.

(2) Petition/s on behalf of victims could be filed under Article 102, read with Article 44 of the Constitution, for necessary action to be taken to enforce the fundamental rights of the victims affected and all those who are affected by the failure of the government to hold effective investigation and effective action should be taken in respect of the terrific occurrence on 21 August. The Supreme Court Bar Association may extend necessary legal assistance in this regard.

(3) Disciplinary action should be taken against those found to have failed to discharge their duties as required by the Constitution and law, with regard to grenade attack on 21 August, 2004. The law enforcement agencies must account for the actions they took at the time of the incident and they should be disciplined by censure or other measures individually if they cannot satisfactorily explain what they were doing at the time of the incident. Similarly, if any office were to perform his job satisfactorily, this could be appreciated so that there is an incentive to act if these attacks are repeated in future.

(4) The Government must publish within one month all reports of investigations, all inquiries into grenade attack on 21 August, 2004, all reports of investigations of previous bomb-blasts, grenade attacks and illegal arms seizure cases, and failure to do so may lead to adverse inferences being drawn against the Government.

Please note that the fortnightly Strategic Issues page will appear tomorrow, Saturday, March 5.



The site of attack with a live grenade: Bangabandhu Avenue, Dhaka.

FILE PHOTO: STAR