CHAPTER III

J. REDDY COMMISSION AND D. P. MADON COMMISSION: POST-RIOT COMMISSIONS PRIOR TO 1980s
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The years following the 1947 partition riots witnessed a relative lull as far as incidents of communal riots were concerned. While in 1954, the incidents of communal disturbances numbered 83, this number had gone down to 26 by 1960. But, the 1960s and 70s witnessed a resurgence of communal riots in India. Right from Jabalpur to Ranchi-Hatia, Jamshedpur, Ahmedabad and then Bhiwandi, most parts of the country came under the spate of communal riots. Between 1963 and 1968, Gujarat alone witnessed, twenty-nine communal riots of varying intensity. There were larger political changes occurring in the country around this time where the dominance of the Congress was slowly fading away and it was going through a phase of internal rifts. It was around this time that various explanations were advanced for the sudden increase in the number of communal riots in different parts of the country. The immediate reasons that often contributed for the riots to begin during this period ranged from the killing of a solitary cow, rumors of the women of one particular community molested/raped by a member of another community, a rumor of an idol being stolen from a Hindu Temple and processions taken out by one community leading to altercations, especially when the procession had to pass through the place of worship of the other community. A review of the communal situation by the Home Ministry in 1969, just months before the outbreak of riots in Ahmedabad, suggested that there were 210 communal incidents in 1969 and among them 37 occurred from quarrels over religious or marriage processions and playing of music

before mosques. The review suggested that communal tensions deteriorated in the latter part of 1967 and in the whole of 1968.

Other than the immediate reasons for the breakdown of riots in most parts of the country, larger political changes, particularly the tussle for power within the Congress party and attempts by other political parties to uproot the Congress in different regions created a situation of political instability which according to many was vulnerable enough to be exploited for fomenting violence between two communities. For many, these riots were essentially a question of law and order and a failure of the administration to effectively deal with situations of violence between members of two different communities.

It was under these circumstances that the 1969 communal riots occurred in Ahmedabad and other parts of Gujarat, followed by the riots in Bhiwandi, Jalgaon and Mahad in Maharashtra in 1970. The Jaganmohan Reddy Commission and the D. P. Madon Commission were appointed subsequently to investigate these two riots respectively. The aim in this chapter would be to understand whether the reports of these commissions were reflective of the concerns related to communal riots during this decade. The aim here would not be to discuss each and every finding of the two commissions as the purpose is not to provide a summary of the findings and recommendations but to flag some of the key issues that emerged before the commissions that were contributory to the overall understanding of communal riots.

This chapter through an analysis of Jaganmohan Reddy and Madon Commission provides an overview of the functioning of post-riot inquiry commissions in the 1960s and 70s. Both these Commissions have occupied a pivotal status in any reference to judicial commissions on communal riots and have been models for a number of other judicial commissions which

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5 ibid
were appointed in later years. Therefore the attempt in this chapter would be to probe how these two commissions deal with various important questions related to communal riots while investigating two of the most devastating riots of the 1960s and 70s. What were the concerns before post-riot inquiry commissions during this time? Under what circumstances were these two commissions appointed and what issues emerged while these commissions were being constituted along with their members? More importantly, between these two commissions, the inquiry into Bhiwandi riots exclusively deals with the role of processions as a fertile ground for instigating communal riots. It is all the more relevant considering the fact that processions still pose a challenge of leading to communal riots, if the Rath Yatra in 1989 and the number of riots which occurred throughout India subsequently during that year is any indicator. It becomes important therefore to study these two commissions and their findings and recommendations on this particular aspect. How were these two riots investigated? What were their views on conducting a fair and neutral inquiry? These are some of the questions that this chapter seeks to address in the course of its analysis of the Jaganmohan Reddy Commission appointed in 1969 to investigate the Ahmedabad riots and the D. P. Madon Commission on the Bhiwandi, Jalgaon and Mahad riots of 1970. For the purpose of this study, the Madon Commission’s recommendation on Bhiwandi riots would be studied and the Mahad and Jalagaon do not feature in the analysis.

The 1969 Ahmedabad Riots and Reddy Commission

Communal Riots in Ahmedabad

The communal riots that occurred in Ahmedabad in 1969 killed more than 1000 people and around 2000 hutments were either burned or demolished rendering around 12,000 people homeless. The riots started after two sadhus of the Jagannath temple were attacked by a group of people allegedly belonging to the minority community. The common theory that emerged after the riots was that the problems between the two communities (Hindus and

8 A.G. Noorani, “Playing out a farce?”, The Hindustan Times, 19 March 2002
Muslims) were visible in Gujarat even before the riots actually occurred.\textsuperscript{10} While the squabble between the sadhus and some people of the minority community soon turned violent and became the immediate cause for the riots, there were other smaller incidents involving members of the two communities that had occurred in the months before the September riots. There were allegations made on the Gujarat State government for their failure to protect the life and property of the people of the city and particularly of the minority community who had suffered the most during the riots.\textsuperscript{11}

There were three or four issues that were being voiced about the riots and these finally resulted in the demand for an inquiry into the riots. The first of them was the inability of the State government to protect the people and their property during the riots which included the failure of the police in effectively curbing the riots. While some wanted an inquiry to understand why the State government and the administration had failed in this, there were others who felt that this was a deliberate attempt of the government to appease the majority community.\textsuperscript{12} The second was with regard to the involvement of certain leaders of the Jan Sangh and the Hindu Dharma Raksha Samiti in instigating riots. The Jan Sangh leader Balraj Madhok's inflammatory speech a few days before the riots was also alleged as one of the reasons contributing to the riots. Similarly, the Jan Sangh alleged that it was the newly formed Majli-e-Mushawarat and its activities which created an environment leading to the riots in Ahmedabad. There were also questions being raised on how effectively the administration used the curfew as a tool to counter the violence on the streets of Ahmedabad.\textsuperscript{13}

The third dominant interpretation of the reasons for the riots was that the division of India and Pakistan gave an opportunity to the neighboring country to foment communal riots in India and take advantage from the situation. Commenting on the Ahmedabad riots of 1969, Jayprakash Narayan said, “The division of India and creation of Pakistan resulted from

\begin{itemize}
\item \textsuperscript{11} Mr. A.M. Pirzada’s Statement published in \textit{The Times of India} on 22 September 1969.
\item \textsuperscript{13} Ajay Bhatacharjee, “Sinister Evidence of Advance Planning,” \textit{Hindustan Times}, 5 October 1969
\end{itemize}
communal riots. Pakistan would like that the same thing should happen again. If the rioting goes on and Muslims are able to say that the Government is unable to protect them, they will ask for a territory where they can protect themselves and live in peace. This will mean a second partition. This is the interest for which pro-Pakistani elements and extremist Muslims have been keeping up the riots. 14

There were different conflicting theories circulating on the reasons for the occurrence of the riots which ranged from the involvement of anti social elements to the role played by Jan Sangh and RSS in fomenting riots. The political tussle between the Congress (I) and Congress (O) was seen as another reason behind the planning of riots in Ahmedabad. 15 These allegations had to be investigated for it was important to have an official but independent account of who was or what factors were responsible for the riots that led to killings and damages on such a large scale. Was the government indeed inefficient in handling the riots and failed to protect the lives of the people as was being claimed? Did the government have prior knowledge of the occurrence of these riots and yet failed to act as alleged? 16 Was administrative lapse the reason for the riots to have spread and caused so many deaths? Who instigated these riots? Was it the work of a particular organization, a group of people or were there a set of factors which independently contributed to a riot like situation? The judicial commission appointed to inquire into the Ahmedabad riots was expected to answer these questions. The sections dealing with the appointment, proceedings, recording of evidence and findings of this commission would analyze the approach that it adopted while investigating the riots. What understanding of a post-riot commission of inquiry emerges from the report of this commission? What reasons can be attributed for this commission to be viewed as fair and neutral?

14 Jayprakash Narayan, 'The Crime in Gujarat was premeditated,' Citizen and Weekend Review, 11 October 1969
15 Most of the newspaper clippings during the time of the 1969 riots in Ahmedabad wrote about this factor and the political developments in the country being a reason for the riots. Much later these reports were given a consolidated form in Asghar Ali Engineer's book, Communalism and Communal Violence in India: An Analytical Approach to Hindu Muslim Conflict, Delhi: Ajanta Publications, 1989, p.64
16 The Home Minister Y.B.Chavan had disclosed at a meeting of the consultative committee of Parliament that the State government of Gujarat was warned by the centre about the deteriorating communal situation in the state as early as April. "Gujarat government was warned discloses Chavan," Times of India, 9 October 1969.
Establishment of Reddy Commission

There were two vital issues related to the appointment of the Jaganmohan Reddy Commission that had a bearing on the way the commission functioned. The first was the composition of the commission and the second was the appointment of Justice Reddy as Chairman of the commission and the reasons for the same. The inquiry into the Ahmedabad riots was announced on 30 September, 1969 by the State Government, within fifteen days of the occurrence of the incidents of violence and the formal appointment was made on 13 October, 1969.¹⁷ This was a three member commission with Justice Jaganmohan Reddy as the chairman and Justice Nusserwanji K. Vakil and Justice Akbar S. Sarela as the other two members of the commission.

The next few paragraphs would analyze the reasons for the constitution of a multi member commission to inquire into the Ahmedabad riots, the impact of the same on the inquiry and what larger lessons can be drawn with regard to the composition of a commission from the experience of the Reddy Commission. The multimember composition of the commission was an attempt to create a balance where no single member including the chairman had arbitrary decision making authority. Though on paper the appointment of members of Reddy Commission was made by the Government of Gujarat, it was actually the central government in Delhi which made the selection of the chairman of the commission.¹⁸ Justice Reddy was reluctant to accept this responsibility when he was told by the then Chief Justice Hidyatullah that the Home Minister, Y.B. Chavan and Prime Minister Indira Gandhi had particularly wanted him to head the inquiry into the Ahmedabad riots.¹⁹ Justice Reddy sighted the example of Sir Lionell Leach, the Chief Justice of Madras High Court who had refused to concede to Chief Minister Rajagopalachari in 1938 to appoint a particular judge to inquire into a matter of public importance. He viewed that it is not correct for the government to ask for a particular judge as it would give a wrong impression on conducting a free and fair inquiry into such matters.

¹⁷ "Supreme Court Judge for Gujarat Riot Probe," The Hindu, 1 October 1969
¹⁹ P. Jaganmohan Reddy, "Not hearings in secret; Justice must be seen to be done," The Statesman, 29 May 1987.
inquiry and the choice should be of the Chief Justice. Justice Reddy accepted the position of the chairman after it was suggested by the Chief Justice that his composite background would instill confidence in the victims that justice would be done to them.

Also, important to mention is that among the other two members, one member was a Muslim and the other was a Parsi. This again was a deliberate attempt to create a fine balance which would send the message to the victims belonging to the minority committee that the government was determined to conduct a fair inquiry into the matter. Apart from the fact that Justice Reddy would bring his composite cultural background while inquiring into these riots, another factor which made the selection natural was the fact that he had the prior experience of chairing judicial commissions. The primary concern while appointing the members of the commission was to strike a balance where the chairman was a sitting judge of the Supreme Court and the other two members were sitting judges of the High Court. The appointment of the commission and its members was therefore not an arbitrary decision but a lot of thought went into the whole process. While there was no objection from outside to the appointment of the members of this commission, some amount of initial apprehension and skepticism related to the composition of the commission was present within the commission. The chairman of the commission, Justice Reddy accepted the offer of heading this judicial commission with initial skepticism, as has been outlined above. But, this initial apprehension did not get carried forward when the commission started functioning and even when rumors surfaced of rift among the members after the report was submitted, Justice Reddy quelled such rumors as they would have questioned the credentials of the report giving rise to speculative theories.

Since, all the other three inquiry commissions of this study are single member commissions, a comparison with the multi-member inquiry commission on the Bhagalpur riots appointed in

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20 ibid
21 Op. cit. 18, p. 168. When Justice Reddy was reluctant to take up the charge of the Chairman of an Inquiry Commission, Chief Justice of India, Hidiyatullah convinced him by giving this explanation for his selection.
22 "Probe into Riots in Gujarat," The Hindu, 2 October 1969
23 Op. cit. 18, p.167
24 "Probe into the Riots in Gujarat," The Hindu, 2 October 1969.
26 ibid, p. 235

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1989, would be useful at this point to further illustrate how the Reddy Commission, irrespective of the initial skepticism, was able to work in the larger interest of the subject under inquiry and those associated with it.

Riots in Bhagalpur occurred in 1989 during a procession, carrying bricks to Ayodhya for the construction of a Ram Temple. A commission of inquiry was constituted to inquire into these riots on 8 December 1989. The commission not only came out with two different reports, one from its Chairman, Justice Prasad, and the other from its two members as has been mentioned in the earlier chapter, but right from the beginning to the submission of the final report, the multimember aspect remained the single largest factor for the commission losing its credibility. The two reports were not just different but had arrived at diametrically opposite findings. The commission appointed in 1989 was a single member commission and after two years in 1991 the composition of the commission was changed because of objections from all sections against the single member. While the Congress (I) government had appointed the single member commission, the composition of the commission was changed by the Janata government which later came to power in Bihar. The problem with the composition did not finish at this stage as later, in the same month of the appointment of two additional members, the Ramshila Pujan Samiti and Shri Ram Mahayagna Samiti petitioned the Patna High Court for removal of the two members and later further made a Special Leave Appeal in the Supreme Court when their petition was rejected by the High Court. Keeping with the Supreme Court order, the State government appointed two retired judges of the Patna High Court, Justice R C P Sinha and Justice S Shamsul Hasan, to replace the earlier appointed members. This entire episode ended finally with the commission submitting two different reports and in the process raising questions on the validity and relevance of the report.

29 ibid
30 CWJC No. 7461 of 1991
While right from the stage of the appointment till the submission of the report, the multimember commission on Ahmedabad riots was done in a manner that ensured the neutral and fair character of inquiry commissions, the opposite could be said in the case of the Bhagalpur Commission. The Bhagalpur Riot Commission’s composition unlike that of the Ahmedabad Commission was changed into a multimember status after serious objections were raised on the integrity of the Chairman. While changing the composition was really an act of damage control, the initial doubts caste on a fair inquiry were difficult to remove given that the Chairman remained an integral part of the commission. Moreover, the rift between the members and the Chairman was predictable as the members were appointed following specific complaints against the Chairman, Justice Prasad. The members were never able to resolve their problems for the larger interests of the issue under inquiry. But unlike the members of the Bhagalpur Commission, the Ahmedabad Riot Commission members were able to keep their personal opinions aside and placed their responsibility ahead to facilitate a fair inquiry into the riots.

Therefore the composition of the inquiry commission and the impact it would have on the inquiry depends on the circumstances under which the appointment is made, the reasons for the appointment and how the members of the commission deal with the appointment. Addressing this problem, a forty-five member joint parliamentary committee headed by Mr. NPK Salve had suggested way back in 1970 that the government should not have the power to increase the number of members of a commission at any stage of an inquiry because such an act, “is likely to be misunderstood by the public and likely to be misused by the government.” 31 The Indira Gandhi government at that time had not implemented this recommendation and much later when the composition of the Bhagalpur Riot Commission was changed after two years of its appointment, the act was both ‘misunderstood by the public’ and ‘misused by the government’.

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31 “Probe reports must be published: panel,” *Times of India*, 11 November 1970
Procedural Aspects and Reddy Commission

Before discussing the issues before the commission with regard to procedures, it is important to provide an overview of the political situation existing in Gujarat then and how that was being viewed as a reason for the riots. It is significant to give a background of this because rival political groups viewed the judicial inquiry as an means to settle political scores. How did the commission deal with this problem without compromising its integrity? Just a few months before the riots occurred in Gujarat, the Congress underwent a split and was divided between Congress (I) led by Mrs. Gandhi and Congress (O) under Moraji Desai. The split at the national level had an automatic impact on the politics of the States and Gujarat was no exception. It not only brought instability and chaos to the political situation in Gujarat but a number of policies adopted by the government alienated both the Hindus and the Muslims. The Gujarat government’s position on the issue of cow slaughter and the treatment meted out to a number of Muslim leaders after the 1965 war against Pakistan, distanced both the communities from the Congress. The Muslims because of their disappointment with the Congress decided to form the Majlis-e-Mushwarat and the Hindus with the help of the Gujarat branch of Jan Sangh, formed the Hindu Dharma Raksha Samiti (HDRS). After the riots, there were allegations against both these organizations for fomenting the riots in 1969 and the Reddy Commission had an uphill task of accommodating the different view points that were presented by these rival groups and to devise a procedure that would be seen as transparent by all the participating groups.

The immediate concern before the commission was to decide the procedure for conducting the inquiry. The commission right in the early days of its functioning was advised by the government of Gujarat to hold its proceedings in private, or in other words in camera proceedings, where, except for the parties concerned, no one would be allowed to watch the

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35 Margadarshak, Baroda, 3 March 1966
process of conducting the inquiry. The government's letter was sent as a directive under the proviso to Rule 2 of the Gujarat Government of Inquiry (Procedure) Rules, 1969, which made any request from the government mandatory for the commission to follow. But, the reply given by Justice Reddy to this government order is referred by many even today as an example of how a commission ought to function in the interest of the matter under inquiry and those who anticipate a fair trial from a judicial commission. To quote Justice Reddy, “I made it known that I had not consented to be Chairman of the commission to hold secret enquiries. This in my view was derogatory to the dignity and prestige of the highest court......I pointed out that an inquiry held in public would give the victims an opportunity to pour out their agony, and to a large extent the objectivity of the enquiry would comfort them.”

Justice Reddy was of the view that a public inquiry, instead of opening up the wounds of the victims who had suffered in the riots, would rather provide an opportunity to the victim community to “ventilate their grievances with the faith that when they brought true facts before this tribunal and made any submissions, they would be heard and that justice would be meted out to them.” These few words perhaps summarize some of the central features for not only why an inquiry is needed but also how important it is to preserve the integrity of such a commission and how a public inquiry ensures this aspect through transparency. This purpose served by an inquiry commission was understood by the Chairman of the commission to inquire into the riots in Ahmedabad and in the decision to conduct a public inquiry he was supported by the other two members as well. Finally, the government had to concede for a public inquiry and keeping with the provisions of the Commission of Inquiry Act, it gave the commission the discretion to decide on the mode of inquiry.

Thus, despite the government pressure to adopt an in camera inquiry, the members of the commission did not concede and decided to hold a public inquiry thereby making the

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37 ibid
39 Op. cit. 32, p.185
40 Op. cit 19
proceedings open for everyone. The commission also had to strike a balance between accommodating different views and ensuring that its inquiry was not exploited by political organizations for their own ends. In an atmosphere of tension and rivalries between these organizations, it became extremely important for the commission to adopt a set of procedures that would be viewed as fair and neutral.

Throughout the proceedings, there was a conscious effort made to ensure that every viewpoint is brought forward so that none of the grievances remained unaddressed. Judicial commissions are platforms for the victims and the alleged perpetrators to state their grievances and therefore the Reddy Commission decided to let the different representatives of the organizations participating in the inquiry, cross examine witnesses who were other than the commission’s witnesses. It is important to clarify here that there are some witnesses who decide to come and give their witness on their own before the commission, while the second category of witnesses were those who were particularly summoned by the commission to provide the facts on the matter under inquiry. These second category of witnesses were then called the commission’s witnesses and the Reddy Commission decided that the cross examination of these witnesses would happen through the commission, where questions would be given to the commission in advance which would in turn put them across to the concerned witnesses. The commission argued that this would limit the scope of political organizations to exploit the opportunity of cross examination for purposes other than arriving at the true facts on the riots. Cross examination is a time consuming activity and takes most of the time of the proceedings, but as argued by the commission in its report, this practice ensures that everyone’s viewpoint is clearly stated and they return satisfied at the end of the day.

The cross examination of witnesses is basic legal procedure, and it forms a most salient part of the work of commissions. Cross examination has its benefits and drawbacks. In connection to the Royal Commissions in Britain, cross examination according to many was

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time consuming and did not yield the desired results.\textsuperscript{43} Those pointing out the benefits of cross examination suggest that it is a useful tool to decipher the truth behind the statements given by the witnesses. But, the logic for including this method of cross examination for those other than the commission's own witnesses by the Reddy Commission was to ensure that each group participating in the inquiry was satisfied that they were able to bring forward their point of view during the proceedings. The decision of the commission to allow cross examination which was not direct but through the commission was essentially to limit the opportunities for rival political organizations from delaying the inquiry. The larger argument being made is that a commission's decision to stick to a set of procedures is not independent of the political environment where the commission conducts its inquiry.

While to understand the truth behind the incidents was always a motive, a more important motive for the Reddy Commission was to send the message that a fair opportunity would be given to all the parties to give their version. Given the political situation in Gujarat, where there was deep division between the Hindu and Muslim political organizations, it was all the more important that the commission ensured that a fair and equal opportunity was given to everyone. This intention of the commission is clear when at a later stage the commission, as a result of a grievance from Ahmedabad Relief organization that the views of the Muslims were not adequately brought forward, decided to allow advocates from each organization to cross examine the witnesses. Earlier, the commission with consent from the different organizations had allowed different groups representing the Muslims or the Hindus, to express their views and engage in cross-examination through a single advocate.\textsuperscript{44} Though this method was less time consuming, the commission decided to allow every group to cross examine so that there was no one left with a grievance which they were not able to place before the commission and more significantly there was complete transparency in the proceedings. But at the same time by not allowing the commission's witnesses to be cross examined, Justice Reddy was being cautious that the inquiry does not become a platform for ideological battles between different political groups. Therefore the approach followed by the Reddy Commission was one of cautious transparency and this approach was based on the

\textsuperscript{43} ibid
\textsuperscript{44} Op. cit. 32, pp. 8-9.
commission’s analysis of the political situation in Gujarat. This stand taken was clearly to encourage the victims to come forward and state their grievances before the commission. The course that proceedings of a commission would take is therefore not independent of the political situation which exists and the impact they have on the overall inquiry. The Reddy Commission’s decisions on cross examination and other procedural aspects also reflects that the members of the commission understood that under all circumstances, a judicial commission had to maintain a certain level of confidence among those who were participating in the inquiry.

There are examples of commissions of inquiry which have not been able to grasp that every decision taken by an independent commission need to keep in view the impact that it would have on those participating in the inquiry. How would the participating groups view some of the procedures adopted by the commission? Whether the process of inquiry is seen as fair and neutral or biased is largely based on how the commission views the different aspects of the problem under inquiry. When a similar procedure on cross examination was adopted by the Rangannath Mishra Commission years later while inquiring into the anti-Sikh riots, it did not become a vehicle for restoring the confidence of the victims. For instance, the Rangannath Mishra Commission held a view of cross examination as a method that would be only disruptive and used by the respective parties to prove their point of view rather than help the commission arrive at the correct and true facts. But, in trying to limit cross examination and in not providing uniform rights to all the parties for cross examination, the commission gave rise to suspicion and eventually this became a primary reason for Sikh bodies representing the victims to lose confidence in the inquiry being conducted by the commission. More importantly, what perhaps went in favor of the Reddy Commission was that it was conducting a public inquiry which was viewed as transparent unlike the Mishra Commission which was holding a private ‘in camera’ inquiry.

In reflection, it can be said that the Reddy Commission’s process of inquiry gave the confidence to the victims that their voices will not remain unheard in front of an independent

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inquiry. The restoration of this confidence is a central factor for establishing a commission of inquiry and the Reddy Commission achieved this. The commission did receive its fair share of grievances even while trying to adopt a transparent process of inquiry. For instance, organizations like Hindu Dharma Raksha Samiti alleged that by not allowing a proper cross examination of one of the members of Jamaat-i-ulema, the commission was biased. But, the commission's report addressed each of the grievances raised against it and gave a clarification on why the commission acted the way it did, providing detailed explanations for the same. The comparison between the Reddy and the Mishra Commission suggests that any commission has to arrive at a fine balance between finding the truth and simultaneously ensuring that it enjoys the confidence of those who participate in the inquiry.

**Interpretation of Mandate**

A significant debate during the proceedings of the Reddy Commission was related to how the commission should interpret its mandate to subsequently decide on a scope within which it would function. The commission was given a wide mandate which required it to investigate not just what happened during the riots but also on what was the atmosphere a few months before the riots. Also, the commission was expected to investigate if there were any organizations that were involved in fomenting communal sentiments between the two communities. The commission was also to inquire into administrative lapses during the riots and whether the Gujarat government had prior knowledge of the possibility of a communal riot. Then there were issues related to curfew, role of the police during the riots and relief and rehabilitation for the victims of the riots. While other aspects of the mandate were fairly clear and there was no conflict in the way the commission interpreted them, the commission's interpretation regarding the role of organizations in fomenting communal violence in Gujarat became a source of debate. As there were a number of organizations representing both the Hindus and the Muslims, in addition to the Ahmedabad Relief Committee and the government, there was tremendous pressure on the commission, to redefine its scope. The government and some of the organizations participating in the proceedings wanted the commission to introspect more deeply why communal riots of such proportions occur and in

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the process they felt that the commission should investigate the ideology of some of the political organizations and see whether such ideology was responsible for communal riots.\(^{47}\)

The commission clearly tried distancing itself from commenting on the communal nature of any organization. To comment on the communal nature of any organization, the commission suggested, would require defining communalism and lead to questioning the credentials of some of the political parties as well and though the commission was mandated to investigate if any organization in particular was involved in fomenting communal riots, the commission felt that this kind of investigation would result in providing a political color to the inquiry.\(^{48}\) Also, the commission was a fact finding commission which was expected to investigate the riots under inquiry and therefore a deeper inquiry into the political, economic and psychological factors that give rise to a communal riot was not the function of the commission, particularly in the limited time frame and mandate which was provided to it.

There was every attempt from political organizations to encourage the commission to identify the communal parties or organization in Gujarat.\(^{49}\) But, the commission restricted itself to inquiring into the circumstances, causes and conditions for the occurrence of the riots which was the mandate provided to it and instead of investigating whether any particular organization was responsible for fomenting communal sentiments, the commission inquired into the actions of particular members and their speeches of both the majority and minority organizations. It would not go beyond to inquire into the political, religious, socio-economic and psychological reasons for the communal discord and the conditions in which communal riots occur periodically. By making this distinction, the commission clearly defined its scope in analyzing specifically the riots under inquiry and not communal riots in general. The commission did not want to be viewed as taking a particular side as it felt that this would subsequently not only raise doubts on its fair and neutral character but also it was difficult for the commission to arrive at this conclusion as it involved more than just one organization against whom such allegations were being made. There have been other commissions with a


\(^{48}\) ibid, p.18

\(^{49}\) ibid, p. 43.
similar mandate who have pinned responsibility on a particular political organization and their activities for riots between two communities. But, some of the commissions have witnessed their reports being rejected because of this factor and in the next chapter this point would be illustrated through the experience of the Srikrishna Commission. How commissions have interpreted the mandate given to them has a strong bearing in the final findings and also the response that it would evoke once it submits the report.

The Reddy Commission which was expected to submit its report by February 1970 finally submitted its report on 31st October 1970 after getting three extensions. The report ran into 307 pages and was divided into two parts. The first part of the report had eighteen chapters while the second part which dealt with the riots in places other than Ahmedabad had eight chapters. It is almost expected of commissions, particularly riot commissions to ask for extensions considering the sheer volume of evidence they need to deal with and also the fact that such commissions when headed by sitting judges, sometimes gives way to a situation where their prior commitments need attention and the commission’s work takes a backseat in the process. For instance, Justice Reddy had to give his arguments in the Supreme Court for the Bank Nationalization case which resulted in some delay in the Ahmedabad inquiry and the commission’s report was delayed by seven months. While, this delay is significant for the victims of the riots who suffered because of damage to their life and property, more recently, where the Liberhan Commission has taken 17 years to come out with its report on the controversial issue of Babri Masjid and when compared to the recent average of commissions to come out with their reports being five to six years, it almost seems that the Reddy Commission was quite ‘early’ to come out with its findings and recommendations. This sort of comparison becomes important at this stage, as it would be shown later in this study through a detailed study on the Srikrishna Commission into the riots in Mumbai, that commission work more often than not are deliberately stalled to ensure that the report is delayed for as long as possible. How the deliberate stalling of the work of commissions is a recent trend in the functioning of inquiry commissions, would be illustrated more elaborately through the case of the Srikrishna commission.
The argument being made is that a delay of five to six months or even a year is expected from commissions working on communal riots as they have to investigate different aspects of the riots and deal with voluminous evidence. For instance, the Reddy Commission examined 119 witnesses. More than 5000 affidavits of witnesses examined by the commission during its visit to the riots affected areas ran into 1426 pages and the affidavits of all the witnesses put together totaled to 27,041 pages. The government pleader and other advocates filed brief written submissions which came to 1032 pages. In addition to the affidavits, the commission had to collect the government documents, first information reports and the police log books and go over all of them. Therefore, it is but natural that the commission’s work gets delayed by a few months. But, a delay of five to six years which is the current trend would become a matter of concern both in the case of Nanavati and Srikrishna Commission, the later two case studies of this work. The Reddy Commission finished with the filing of affidavits by January 1970 and its sittings came to an end by April 1970. With all the evidence in place, it took the Reddy Commission five months to just write the report on the Ahmedabad riots.

**Recording of Evidence and Challenges Faced**

While the riots in Ahmedabad started from 19th September onwards, there were many smaller incidents involving either the Hindus or the Muslims escalating tension in the city and had a bearing on the communal atmosphere. The commission had to search for evidence with regard to these incidents and decipher the impact that these incidents had on the riots in Ahmedabad. The evidence brought before the commission were therefore not only on the riots but on incidents which occurred a few days prior to the riots since these events were correlated and had a bearing on the riots.

As mentioned in the earlier section, the evidence were in the form of affidavits, government records, special reports, log books, daily reports, first information reports and oral evidence which were provided by the witnesses during the proceedings. The Reddy Commission in addition to these evidences also went through all the newspaper reports during that period.

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50 Op, cit 18, p. 186.
While this was essentially because the commission was mandated to inquire into the role of the media during the riots, the material gathered for this purpose was also utilized by the commission to gauge the atmosphere before and during the riots in Ahmedabad.\footnote{The Report of the Reddy Commissions indicates that the Commission went through most of the newspaper reports published both in English and Vernacular newspapers during the time of the riots.}

The affidavits filed by the witnesses were through the different organizations and political parties namely, Muslim Central Relief Committee, Ahmedabad, Muslim Central Relief Committee, Baroda, Muslim Central Relief Committee, Nadiad, Ahmedabad Relief Committee, Jan Sangh, Hindu Dharma Raksha Samiti, Hullad Pidit Sahayta Samiti, Hindu Mahasabha, Congress, Communist Party of India (M), Sunni Muslim Wakf Committee, Communist Part of India and Jamait-Ul-Ulema-E-Hind.\footnote{Op. cit 32, p. 31.} There were as many as thirteen organizations and political parties who were participating in the proceedings of the commission. The commission gave permission to most of the civil society organizations that had emerged immediately after the riots and had filed an application for permission to participate in the inquiry and the proceedings. This in a number of ways helped the commission as these organizations were in constant touch with the riot victims and the affidavits were submitted to the commission through these organizations. The approach adopted by the Reddy Commission towards civil society organization is significant because a number of these organizations came out with independent reports which criticized the functioning of Gujarat administration and police during the riots. The Reddy Commission wanted to ensure that different opinions and views were brought forward before it and therefore allowed most of the organizations to participate in the proceedings. The Rangannath Mishra Commission while inquiring into the 1984 anti-Sikh riots did not take a similar stand. The commission did not allow civil society organizations like the PUCL-PUDL to participate in the inquiry as the independent report which the organization had come out with after the riots was not just critical of the government but held the Congress (I) responsible for the riots. The commission rejected the organization's request to participate in the inquiry.\footnote{"Recording of Evidence begins," Statesman, 28 January 1986} This comparison is made to suggest that commissions faced with similar situations and problems opt for different solutions which sometimes become one of the
reasons for how their report would be viewed by those involved with the inquiry and the public in general.

The Reddy Commission was able to acquire most of the government documents and the police records which it had demanded from both the State Home department and the police department. With so many organizations coming up immediately after the riots to help in the relief work and the same organizations participating in the inquiry, the commission didn't have any problem in victims coming and filing the affidavits before it. Moreover, for the speedy filing of affidavits, the commission had empowered its officers under the Oaths Act to administer oaths so that people did not have to go to the Magistrates to swear their affidavits. A significant factor that went in favor of the commission was that it was appointed within a span of month of the riots - by November the commission had called for people to file the affidavits. This facilitated in people coming in large numbers to express their grievances as the memory of the riots was fresh and a speedy process further added to the confidence that justice would be done. A number of inquiry commissions are appointed almost after a year of the incidence of riot and by then it becomes difficult for victims to be even traced let alone expecting them to come and file their affidavits. Also, people lose interest in the entire process of seeking justice through tribunal after so much time. This would be discussed in detail in the case of Nanavati and Srikrishna Commission of inquiry and the difficulties that these commissions had to face because of the time that had lapsed between the riots which they were to inquire into and their appointment.

There were two issues which came before the commission in the process of collecting evidence related to the riots. The first of them was when the central government refused to provide the commission with secret abstracts which contained information regarding communal matters circulated to all State governments. This information was important to decipher whether the Gujarat police had prior indication of the possibility of riots occurring in Ahmedabad. The government by refusing to give this information stated that this material was collected by the Intelligence Bureau through its own secret sources and it had been a

54 Op. cit 32, p. 6
55 ibid, p. 5
consistent policy of the government not to share it with agencies outside the government. The commission was chaired by a sitting Judge of the Supreme Court and whose other two members were sitting judges of the High Court, who would by no means have made the material public had the government decided to share the information. Nevertheless, the government decided not to reveal the information citing ‘consistent policy’ which eventually resulted in the commission not being able to answer a vital question which was a part of its mandate.

Fact finding commissions are a means through which all the parties concerned including the government want to arrive at the true facts related to the matter under inquiry. Under such circumstances, it is important that all the agencies including those of the government make the process smooth so as to arrive at the Truth. Commissions, as was seen in this situation, cannot do much unless they have proper facts to provide answers to the uncomfortable questions that are asked after the riots.

To state that something happened before the commission would be a fact and to describe how it happened is evidence. In inquiries conducted by the judicial commissions, both fact and evidence are important. In this context, the commission faced the second challenge where it was able to ascertain a fact related to the peace efforts after the Jagannath Temple incident but could not get to the evidence as the key witness decided not to provide any information on the matter. The sadhu, Harshadasji, was a key witness who had interactions with the Muslim leaders when they had come to the Jagannath temple in their efforts the establish peace after the Jagannath temple was attacked and some sadhus were injured. But, this particular witness refused to provide any information on the peace yatra and whether soon after the peace efforts that day he gave any speech. Under such circumstances the commission could not do anything to establish certain key facts like whether any

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56 The letter by the Government of India, Ministry of Home Affairs, D.O. No. 31/10/70-Poll I (A).
58 Op. cit 32, p. 95
inflammatory speech was delivered on that day and what exactly happened during the peace talks.

On another occasion, the commission with great difficulty was able to acquire the tape containing the speech of Mr. Balraj Madhok, the Jan Sangh leader but the commission later found out that the police had the tape all the time and despite the commission specifically asking for it, the police had explained that they did not have the original tape.\(^5\) The commission wasted precious time during the investigation trying to retrieve this tape while the police had the tape and did not disclose the same to the commission.\(^6\) The statements and affidavits filed by the police also did not make the commission reach the true facts about the incidents of violence during the riots. These statements were often prepared to ensure that the police officials would not be implicated for their actions during the riots. The appointment of the commission was viewed by a number of high ranking officials as demoralizing the forces, as commissions more often than not found the police guilty of not performing their duties to protect the people during communal riots.\(^7\) There was a set pattern to the statements prepared by the police, which according to the commission gave the "impression that the police was not ready to place any evidence before the commission."\(^8\) The commission had a difficult time in reaching the correct facts related to the riots and most of the conclusions were drawn from the log books, First information reports and the special reports, which revealed more information than the statements and affidavits filed by the police.

Some of the issues before the Reddy Commission indicate that in the process of ascertaining facts and recording evidence, a serious problem was the acquiring of correct facts. This further poses a problem when the government and its agencies do not provide the required documents and the Reddy Commission ended up spending more time in acquiring some of the evidence which could have otherwise been easily available. Contrary to the general perception, evidence does not automatically come before the commission. The commission

\(^6\) Op. cit 32, p. 69
\(^7\) ibid, 218
\(^8\) ibid, p.216
of inquiry on a number of occasions has to explore the different possibilities of finding the
evidence through varied sources. This was evident when the commission tried acquiring the
original tape of the speech given by Balraj Madhok a few days before the riots occurred in
Ahmedabad. The commission after cross examining the Deputy Commissioner of Police and
from its reading of the news reports in Indian Express came to the conclusion that the police
had both 'prior knowledge' and 'possession of the original tape' which contained the
controversial speech of Balraj Madhok, but did not inform the commission of the same.\textsuperscript{63}

**Findings of the Commission**

This section would deal with the findings of the Reddy Commission on the Ahmedabad riots
and what is the general picture of communal riots that emerges from the report. What
conclusions did the commission make on the role of the administration and government
during the riots? It would be argued that the evidence before the commission did not provide
straight answers to these questions. Often it is suggested that a commission is expected to
listen to the arguments of two opposing views on an incident and then ascertain which one is
correct. But, it is important here to understand that a judicial commission is not a court of law
to act as a judge between two opposing views which are brought before it.\textsuperscript{64} The commission
has to do much more than that. It has to ascertain the real truth and if the evidence for the
same is not brought then the commission has to further investigate to get to them. A
commission not conscious of this role can easily get embroiled in the tussle that takes place
between opposing participating groups during the proceedings of the inquiry.

Overall the findings of the commission were that the Jagannath temple incident which was
the starting point of the riots in Ahmedabad was not a deliberate attack on the temple but on
the Sadhus who had a tussle with those participating in an Urs procession. But this does not,
according to the commission, mean that there was an absence of a communal atmosphere in
Ahmedabad before the attack on Jagannath temple incident as was being claimed by the


\textsuperscript{64} Justice Madan Mohan Prasad, "Law Relating to Commissions of Inquiry," *Journal of the Bar Council of
police throughout the proceedings. The commission held the view that the situation in Ahmedabad had reached a stage after the Ramayana and Quran incidents earlier that anything involving the two communities could have resulted in a riot like situation and the attack on the Jagannath temple only provided this opportunity for the riots to begin in the society.

In a post communal riot situation after a judicial commission is appointed, all those who have a stake in the inquiry start preparing their statements on the incidents to be inquired. The Reddy Commission had to face a similar situation with regard to almost every incident where two or three different versions were presented before the commission. A discussion on the findings would be a way to understand how the commission dealt with this, while inquiring into the important aspects of the Ahmedabad riots. The Reddy Commission had to constantly remind itself of its role as a body that was appointed to ascertain the truth rather than becoming an agency where participating groups can score points against each other. A discussion on some of the findings of the commission would be reflective of this factor.

The commission inferred that the communal riots in Ahmedabad were not started by anti social elements as was being claimed by the government. Once the riots began, anti social elements could have taken over and found the situation convenient for looting and arson but the riots began because of different reasons and a combination of factors were responsible for the same. In making this conclusion, the commission ensured that the responsibility of the riots did not get shifted to the anti social elements who might have participated in the violence, but the reasons for the riots had to be searched elsewhere.

While making a conclusion about the role of the police during the riots, the commission pointed out that it was observed in the statements filed by most of the police officials that on most occasions they seem to have arrived after the crowd had dispersed from the site of trouble. The commission based on this observation concluded that unlike what was claimed

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65 Op. cit 32, p. 43
66 ibid, p.90
67 The governor of Gujarat, Mr. Shriman Narayan suggested this as a reason behind the riots in Ahmedabad. See, "Organised gangs behind Ahmedabad Riots: Governor, Government taken by surprise," *The Times of India*, 19 September 1969
in the statements that the police arrived immediately after trouble began in most of the localities, the police actually came much later and this was the reason why the crowd had dispersed on most occasions leaving no scope for action against the culprits.\textsuperscript{68}

In a post-riot situation, even simple and positive efforts to restore peace in the wake of communal riots when brought before the commission are given a color that would suit the interest of the person who narrates it. For instance, the Muslim leaders while describing the peace efforts suggested that these were not independent initiatives from Muslim leaders to establish peace with the Sadhus in the temple who were allegedly attacked by a Muslim mob near the Jagannath temple. On the contrary, these efforts were encouraged and initiated on the request of the police. The police, on the other hand described the efforts as completely independent of any intervention from them. The commission, in its report brings out this unique situation where a positive step like peace effort suddenly becomes a negative initiative where no one wants to claim their initiative for such an effort. The leaders of the minority community did not want the peace efforts to be interpreted as an independent initiative from them for fear of being branded as soft towards the Hindus. The police, as the commission later found out, had actually encouraged the minority community leaders to initiate peace efforts with the sadhus but did not want to confess to this as they would be viewed as pressurizing one particular community. Therefore, how the activities during the communal riots of different parties including the administration would be interpreted takes center stage after the riots and it is based on an assumption of the interpretation that statements and evidences are given before an inquiry commission.

The Hullad Pidhit Sahayata Samiti filed several affidavits and statements before the commission suggesting that it was the Muslim mob which started the violence and the Hindus’ attack on the minorities was only a reaction to it. The commission rejected this understanding of the riots on several grounds. For instance, the commission argued that if it were the Muslim mobs that started the riots and violence then why in the first three days of the riots none of the Muslims were arrested? Also, there was no mention of Muslim mobs initiating violence in any of the records made by the police in the initial hours of the riots.

\textsuperscript{68} Op. cit 32, p. 152-55
While all kinds of rumors were floating in the first few days of the riots, there were no pamphlets or patrikas issued by the Muslims to float such rumors as indicated in the evidence given by the Inspector General of the Police before the commission. On the contrary the commission concluded that "Hindu communal elements were on the aggressive and the Muslim violence was a reaction."69

The question which needs to be addressed here is why did the Hullad Pidhit Sahayata Samiti submit such an affidavit before the commission? Commissions of inquiry are platforms where the victims provide an account of what happened during the riots and therefore being fully aware that evidence of Hindus aggression against the Muslims would emerge, the Samiti perhaps decided to be on the offensive by suggesting that it was actually the Muslims who were responsible for initiating violence against the Hindus leaving them with no choice but to retaliate. The statements and affidavits filed before the commission are prepared in an attempt to present before the commission a particular understanding of the riots.

How a commission views the different incidents and what it finally concludes has important repercussions for the different parties involved with the inquiry. For instance, the commission clearly stated that the Jagannath temple incident which ultimately triggered the communal riots in Ahmedabad was not an attack on the temple as a religious symbol of the majority community. Instead, the attack was aimed at a few sadhus whose negligence had resulted in a few cows straying from their usual path and causing damage during the Urs procession. All along the incident was being viewed and described as an attack on the temple by the vernacular press and the Hindu Dharma Raksha Samiti and this further charged the communal atmosphere, ultimately culminating in the riots. But, after the appointment of the commission, it stated that the attack was on the sadhus, the clarity about the incident came out for the first time in the public domain. This finding from the commission removed speculations that the attack was planned by the minority community. The police and the advocates representing the government wanted to persuade the government that the attacks on the Jagannath temple, particularly the second attack was planned and deliberate but the commission after a careful reading of the evidence came to the conclusion that the attack was

not really on the temple at all but it was an attempt to attack the sadhus inside the temple. Therefore what is presented before the commission is often a well thought and a detailed explanation of an incident for the benefit of those presenting the facts.

The commission in its report points out this aspect by suggesting that even before it was appointed, several independent investigations and newspaper reports had held the police responsible for the loss of so many lives and property. As a result of all this analysis the police and the government had become extremely cautious in their statements, which forced the commission to painstakingly work its way out and arrive at the truth behind some of the incidents under investigation. The Reddy Commission had the benefit of log books, police first information reports and other details of daily and special reports.

There could be differences in how a commission arrives at who is eventually to be held responsible for the riots, whether anyone at all needs to be held responsible. The Reddy Commission did not have evidence directly pointing out the truth behind the incidents which occurred before and during the riots in Ahmedabad, but the commission studied different sets of evidence and reached its conclusion based on an interpretation of the evidence before it. Even when prior detailed statements were prepared by the police officials to ensure that their name was cleared from any allegation, the records and log books provided details on how the police had acted in controlling the riots and the mob indulging in violence. They were particularly useful in providing information on the number of arrests made in each area police station and based on this information the commission came to the conclusion that even in places where there was serious rioting with heavy loss of life and property, the number of people arrested were negligible and this suggested that there was a lapse in the way the police conducted itself during the course of the riots. Similarly, when asked during the cross examination about the details of rioting in their respective police stations, a number of officials stated that when they reached the scene, the rioters had already dispersed and there was no one left. The commission concluded that this could have only been possible if the police reached the place hours after the rioting in some of the places, which clearly indicated the lack of coordination between the control room and the police stations. The standard answer that the commission received during the cross examination was that the police did not
have the man power and the required resources to deal with a riot of the scale which occurred in Ahmedabad and that they had not anticipated the riots when it actually took place, and so were clearly overwhelmed. The commission based on the conduct of the police during the communal riots in Ahmedabad, provided an important insight into communal riots in general. It suggested that while “it was very difficult for any administration or the government to know the exact time when the communal riot would occur, but it was nevertheless expected from the government and its law enforcing agencies to have a proper appreciation of the communal atmosphere prevailing in the State, in a town or in a particular place or locality, so that they can anticipate trouble and nip it in the bud or deal with it firmly when the situation does arise.” The commission by reaching this conclusion defined what is expected out of the State and its agencies and therefore any lapse or excuse that they did not have the resources was not a sufficient one and the government, in such a situation needs to be held responsible for its inability to control the mob indulging in violence. Also, it was the government’s duty to prevent riots from occurring at all.

The Ahmedabad Riot Commission was appointed under circumstances when there was no clarity on why these riots occurred, amidst a lot of confusion with regard to the government’s role during the riots. Therefore at every step during the proceedings, the commission was conscious of its role to find out the truth on the questions related to the riots in Ahmedabad. Every commission is appointed to unveil the truth but in certain cases where so many rumors and speculative theories circulate after the riots, the necessity of finding the truth becomes all the more imperative. The analysis of Jaganmohan Commission and its conclusions indicates that post-riot commissions define a scope for themselves given the circumstances under which they are appointed and the procedures adopted by them along with the interpretation of the mandate is not completely independent of the prevailing political situation and the impact that it might have on the inquiry.

Even before the Reddy Commission could submit its report, communal riots occurred in Bhiwandi in May 1970 and spread to adjoining areas of Mahad and Jalgaon. There are three or four issues that would be the focus of analysis on Madon Commission. The first would the

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70 Op. cit 32, p. 67
circumstances of the appointment of the Madon Commission and how the mandate for the commission emerged from the reasons for the appointment of the commission. From the point of view of this study, the Bhiwandi Riots Commission makes an interesting case since it not only provided an in-depth understanding of religious processions but identified the organizations and people who were responsible for fomenting the riots. What were the findings of this commission with regard to taking out of religious processions? Did the commission prescribe a complete ban of religious procession? How did the commission see the administrative action during the procession? These questions would be answered while discussing the findings of the Madon Commission.

Communal Riots in Bhiwandi and the D. P. Madon Commission of Inquiry

Bhiwandi Riots and Establishment of the Inquiry Commission

Almost one year after the riots in Ahmedabad, communal riots broke out in Bhiwandi in Maharashtra during the Shivaji Jayanthi processions. The procession was perhaps the largest organized during that time and numbered around 10,000 people, while normally the marchers of the procession did not exceed half the numbers. Also, the riots did not just get confined to Bhiwandi but spread to the neighboring towns of Jalgaon and Mahad. The news of the riots in Bhiwandi were spread through radio and newspapers which resulted in riots occurring in Mahad which was more than 100 miles away from Bhiwandi and Jalgaon which was 200 miles away from Bhiwandi. But, the closer the town was to Bhiwandi the more number of casualties were witnessed there.

71 The Report of the Madon Commission of inquiry is an important document and deals with several issues related to the Bhiwandi, Jalgaon and Mahad riots. The Commission particularly investigates at length the role of processions as a means for starting communal riots. It also deals with the role of the police, administration, political parties and organizations and the Special Investigation Team during the riots. But, from the point of view of this study, only certain aspects of the Madon Commission’s inquiry and its findings related to the processions and role of the police would be discussed at length here.


What was different in the case of Bhiwandi riots unlike the Ahmedabad riots was that almost everyone including the government were convinced that the riots occurred because of the Shivaji Jayanti procession and the slow build up to the preparation for the procession.\(^74\) There was no speculation on what caused the riots. There were no speculative theories floating around about the involvement of anti-social elements or the involvement of one of the neighboring countries and their organization of riots. It was clear that the riots in Bhiwandi were a result of the procession which was taken through the Muslim area irrespective of the police warning against it and the preparations leading up to the procession over a few months was fully charged with a communal atmosphere. The procession and preparation for it was seen in Bhiwandi both by locals and outsiders as the main reason for the deterioration of harmony between the Hindus and Muslims, which was maintained till the late 1960s primarily due to socio-economic reasons. The textile mills in Bhiwandi, the primary source of employment, belonged to the Muslims but their suppliers and moneylenders were Marwari Hindus which made the two communities interdependent. This economic interdependence was extended to political arena where Hindus and Muslims representatives alternated as heads of the municipal council.\(^75\) All this according to many began to change when the Shivaji Jayanti festival began to be organized and the slow and steady communal build up culminated into riots when the procession was taken out. It is important to note, something which the Madon Commission also mentions, is that Shivaji Jayanti was not celebrated publicly till 1964 in Bhiwandi and it was only in this year that the procession was for the first time organized and communal tensions began to surface in the town.\(^76\)

In the case of the Bhiwandi riots where the truth was there for all to see, the expectation from the commission was to apportion responsibility on those responsible for the riots. This is not to suggest that other commissions are not expected to name the perpetrators for instigating a mob to indulge in violence, but in this context where everyone was aware of the organizations which were involved in the act, an official inquiry’s apportioning of

\(^{76}\) The statement given by witness number 1428 Mustafa Fakih before the Madon Commission on 31. 03. 1971 on Bhiwandi riots.
responsibility is viewed by the victims as the first official acknowledgement of the crime committed by the perpetrators.

There was a general consensus that Shivaji Jayanti procession caused the riots and also the involvement of certain Hindu and Muslim political organizations in fomenting these riots but it was important that the facts were brought out in an official inquiry which would mean that somebody is held responsible for these acts, as against independent inquiries and newspaper and journal reports on the matter. While tension around the celebration of Shivaji Jayanti was seen as the cause of the riots, the Muslim organizations blamed the organizers of the festival for the riots and the Hindu organizations blamed the Muslims for their unreasonable demands while taking out the Shivaji Jayanti procession. The Jan Sangh leader in the Lok Sabha, Atal Bihari Vajpayee, made a passionate speech on the unreasonable demands of the Muslims on the route of the procession and slogans used which eventually created the tension and the riots in Bhiwandi.\textsuperscript{77} The questions being raised were who was responsible for the riots? Were slogans used during the procession provocative? How did the riot start and how did it spread? After the riots, there were allegations against the Special Investigative Team of the police constituted to inquire into the riots. These allegations suggested that the inquiry was biased against members of the minority community. What were the facts related to police inquiry? Was there a bias as was being claimed? These questions were placed before the official commission into Bhiwandi riots.

While the appointment of the judicial commission was within days of the riots, it was not an automatic decision of the government. There was a demand for a judicial inquiry but the government decided to appoint a Commissioner, Bombay Division with special magisterial powers to conduct an inquiry.\textsuperscript{78} As a result of this, the Maharashtra Pradesh Bharatiya Jan Sangh decided to observe a protest week by holding meetings, taking out processions against the decision of the government and to demand for a judicial commission. It was only after the Chief Minister announced that the government had requested the Chief Justice of the Bombay High Court to make a sitting judge available for a judicial inquiry that the bandh and

\textsuperscript{77} Lok Sabha Debate on situation arising out of recent communal disturbances in the country, 14 May 1970.
\textsuperscript{78} Maharashtra Legislative Council Debates, Question and Answer session, 8 May 1970.
protests were withdrawn. Following this, the Maharashtra government appointed a judicial inquiry commission on 12 May 1970 and Justice D.P. Madon, a sitting judge of the Bombay High Court was appointed to head the commission. The trend at that time was to appoint a sitting judge to head such commissions and this trend, as would be seen continued more or less till the Srikrishna Commission. Subsequently, because of many allegations against the functioning of judicial commissions resulting in the derailment of the reputation of the judiciary, more recently only retired judges have been appointed to head such commissions. The commission submitted a Seven Volume report in 1974 which ran to more than 2000 pages. The first three volumes of the report deal with the Bhiwandi riots and this commission submitted the most voluminous report ever by any commission of inquiry. The report deals in detail the incidents of communal rioting which began with the Shiv Jayanti processions.

**Procedural Aspects and Madon Commission**

The Madon Commission also decided to conduct a public inquiry rather than an *in camera* one while inquiring into the riots in Bhiwandi, Jalgaon and Mahad. The commission argued that the whole purpose of an inquiry would be “defeated if an *in camera* inquiry is held into matters such as communal violence.”79 In deciding to conduct a public inquiry, the Madon Commission understood the real reason behind the appointment of judicial commissions which was to restore the lost confidence of the people on agencies of the State.80 This decision was made after analyzing the positive and negative aspects of both modes of inquiry based on the experiences of some of the previous commissions on communal riots. The Madon Commission largely drew from the experience of the Raghbir Dayal Commission to inquire into the riots in Ranchi-Hattia in 1967.

From the point of view of this study it would be useful to elaborate how the inquiry into the Ranchi-Hattia riots was conducted and what lessons were taken from the same by the Madon Commission. The Ranchi-Hattia riots occurred in August 1967 in the wake of students’ procession against the move of the government to make Urdu the second official language of

the State. A commission of inquiry was appointed under Justice Raghubir Dayal to inquire into these riots which had emanated following a procession as in the case of the Bhiwandi riots. The commission which decided to hold an in camera inquiry realized the problems related to such a procedure. The commission was not able to gain the confidence of those who participated in the proceedings because of this method adopted and this the commission mentions in its report and recommends that future inquiries into matters related to communal riots should be conducted under the public eye so that there is no scope for speculation as regards the fairness and neutrality of the commission.

While there are instances when in camera inquiries have been favored over a public inquiry, as people find it easier to come and express their views and provide evidence when they are away from public scrutiny, but the report of the Royal Commission on Tribunals of inquiry provided a strong case for avoiding an in camera inquiry especially while inquiring sensitive matters related to violence by suggesting that they just helping in increasing the “quantity of evidence and not the quality” of it. A public inquiry acts as a deterrent for any kind of arbitrary methods adopted by a commission of inquiry as the proceedings are reported in the press and therefore, the commission, in the larger interest of not just the matter under inquiry but also of the institution of judicial commissions, is bound to adopt fair means to unraveling the truth and providing justice.

**Recording of Evidence and Proceedings**

This work has so far argued that a commission can decipher the truth behind the communal riots and pin down the responsibility of riots on individuals and groups only when the evidence for the same reaches the commission. When it comes to the evidence and proceedings of the Madon Commission there are two issues which gives a different dimension to the functioning of a judicial inquiry. The first of these is in relation to the evidence that came before the commission in the form of affidavits, statement and documents.
submitted by the administration and the police. In this first phase of collecting evidence if one goes by the final report submitted by Justice Madon, the commission did not have too many obstacles as most of the evidence was submitted both by the administration and the police and the victims came forward to file their affidavits before it without apprehensions. Unlike the Justice Reddy Commission on Ahmedabad riots, the Madon Commission was provided with even the secret and confidential intelligence reports. This in a number of ways facilitated the work of the Madon Commission and it was in a position to address most of the issues it was mandated to inquire. This way the commission was in a position to gauge whether there was prior knowledge of the possibility of communal riots in the wake of the Shivaji Jayanthi procession and also particularly on the effectiveness of the administration in controlling the scale of violence during the riots. The government documents are useful for judicial commissions inquiring into riots particularly to assess the decisions taken by the administration during the period when riots occurred and the Madon Commission in this respect was better placed than many other commissions.

It is the scope a commission defines for itself which really sets the pace for the direction that an inquiry would take, particularly in the case of post-riot judicial commissions. This is the second important issue which gets reflected in the case of Madon Commission. It is in relation to the scope that a commission calls for evidence. Unlike the Reddy Commission, the Madon Commission did not restrict its scope to only the particular riots that it was expected to inquire but decided to study and comment on the root causes of communal riots in the country and place the respective sites of communal riots which were under its purview within these causes. This had significant consequences as far as the inquiry into the riots in Bhiwandi was concerned.

The Madon Commission also interpreted a wider scope for itself where it did not rely only on the evidence that came before it, but to unearth those set of evidences which never reached the commission through the written statements and affidavits. The commission did not just depend on the evidence that came before it but made its own inquiries to ascertain the truth.\(^{84}\) Justice Madon argued that a commission has to dig deeper to get to the facts and that is why

it is primarily different from a court of law, which solely depends on the evidence produced before it.\textsuperscript{85} The commission found that there were serious discrepancies between the FIRs and some of the affidavits filed by police officials on the same incidents.\textsuperscript{86} Given these discrepancies, it was only logical that the commission cross checked the affidavits filed with other evidences that came in the form of log books, FIRs and newspaper reports. This was done by the Reddy Commission as well, when on several occasions the commission just did not depend on the evidence that was brought before it, but instead was able to interpret some of the newspaper reports and data collected during the visits to riot affected areas to understand some of the aspects of the riots in Ahmedabad.

This made the commission acquire a larger investigative role and the commission was able to get to some of these evidences by making field visits to some of the sites where the riots had occurred and also through the method of cross examination. The commission saw cross examination as the single most important tool to conclude the authenticity of any evidence which came before it and also to ensure that further evidence came forward because of the cross examination. Unlike the Reddy Commission, the Madon Commission did not restrict itself to a cautiously guarded form of cross examination on the premise that the commission would become a field for different political parties to score points against each other, but instead saw itself as an arbitrator in case such a situation arose and therefore decided that the different parties participating in the inquiry would be given a free hand when it came to cross examining any witness. The only clause that the commission placed before the different participating organizations was that they had to intimate the Chairman \textit{apriori} in case they wanted to cross examine a particular witness. This was essentially to save time so that proceedings did not delay the work of the commission. This study argues that the scope defined by the commission for itself is significant in determining the final findings that the commission would arrive at.

\textsuperscript{85} See, \textit{Times of India}, 10 May 1970.
\textsuperscript{86} The Commission found discrepancies between the affidavit filed by sub Inspector Benjamin Anantarao Kale and the FIR report on the same incident. Report of the Madon Commission, 1974, p. 215. Also see, the Statement of Police Witness No. sub Inspector Kale filed before the Commission.
The last two sections indicate that the different procedures adopted by inquiry commissions which could be as minor as the position that they take on the method of cross examination, impact the overall approach of the commission, the final findings and more importantly how the commission is perceived in the public domain. The commissions are given the discretion to decide on the procedure that they want to adopt primarily because not all circumstances and matter of public importance require similar treatment and it should be left to a commission to decide what procedure it wanted to adopt on an assessment of what was in front of it. The approach of the Reddy Commission to cross examination was based on a genuine concern that resulted from different participating groups trying to demonstrate that other group was responsible for the riots and Justice Reddy saw cross examination without any restrictions could be used for the very same purpose. While, the Madon Commission did face situations which suggested that participating groups were against each other to prove their point of view to the commission, he had a different understanding of cross examination and the commission’s scope as well. Therefore, it is also about how individual chairmen of inquiry commissions have interpreted their powers, scope and terms of references, which in turn shapes the course of the inquiry on riots.

The Madon Commission for instance, does not restrict itself to the 1970 Shivaji Jayanti procession and the activities related to it. The commission goes back to 1964 when the first of the procession was organized in Bhiwandi. The commission decided to explore not just the history of the Shivaji Jayanti procession in Bhiwandi but also the activities of the Jan Sangh and the Rashtriya Utsav Mandal within the township as they were the main organizers of the procession. Unlike the Reddy Commission which clearly did not want to get into the activities of some of the organizations, the Madon Commission argued that this was important given that these organizations and their members were involved in a religious procession that led to the riots. The circumstances were different in the case of both the riots and the Madon Commission had several affidavits filed before it by witnesses from Bhiwandi alleging the communal role played by both Rashtriya Utsav Mandal and the Jan Sangh. This provided the commission reason enough to investigate the activities of the Bhiwandi branch.

of these organizations. It is important for the commission of inquiry to have valid reasons for going into the activities of any organization as there is always a danger to be branded as unfair and biased if a commission is not able to do so. The Reddy Commission did not view that it had the required evidence and the scope to inquire into the activities of Hindu and Muslim organizations in Ahmedabad but the same cannot be said of the Madon Commission.

While this section describes the procedure adopted by the Madon Commission and how it has a bearing on the inquiry and the parameter of neutrality and fairness, the next section would take up some of the key issues that the Madon Commission addressed during the course of the inquiry on Bhiwandi riots and in doing so, this study would reflect on its contribution to the larger understanding of communal riots. The aim here would not be to discuss each and every finding of the commission because the purpose is not to provide a summary of the findings and recommendations but provide an analysis of the key issues that emerged during the inquiry into the Bhiwandi riots, what were the concerns before the commission while debating these issues and what finally emerged that was contributory to the overall understanding of communal riots.

**Findings of the Commission**

Madon Commission in its overall findings concluded that the Shiv Jayanti procession was a means for the local level leaders belonging to both Hindu and Muslim political organizations to foment communal riots in Bhiwandi. Historically in Bhiwandi, the Shiv Jayanti procession was the bone of contention between the Hindus and the Muslims where the two communities could not reach a consensus over the route of the procession, the communal activities of certain political organizations, parties and individuals further worsened the situation. The riots which occurred in 1970 in Bhiwandi were also under similar circumstances where an atmosphere of tension was created around the preparations for the Shiv Jayanti Procession. The commission held the Bhiwandi Branch of the All India Majlis Tameer-e-Millat, the Bhiwandi Branch of the Shiv Sena and Jan Sangh, the Bhiwandi Sewa Samiti and Rashtriya Utsav Mandal responsible for fomenting communal tension in Bhiwandi. The commission

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also specifically named some of the leaders of these organizations who through their activities and speeches had instigated the people of both the communities. 89

The commission concludes that there were several lapses at the administrative level which made them ill equipped to assess the problem in Bhiwandi and take adequate preventive steps before the procession. The commission though appreciates some of the immediate measures taken by the police to control the rioters, it observed that some of the policemen showed communal discrimination in dealing with the rioting mobs where they did not take action against the Hindu rioters. 90 The commission also found the Special Investigation Squad set up to investigate the riot cases conducted its investigation with a communal bias and therefore its report was also discriminatory.

This work would analyze the Madon Commission’s findings on religious procession, important issues that the commission raised in relation to religious processions in general and its situation of the problem of processions in the larger understanding of communal riots. The other important conclusion of the commission was with regard to administrative conduct during the riots by analyzing the commission’s findings on this aspect, the aim would be to bring forward the commission’s treatment of the larger issues of administrative accountability during situations of communal riots.

**Religious Processions and Madon Commission**

Religious processions and their interconnectedness with communal riots was not something which was unique to Bhiwandi alone. From the 1920s, starting from Tilak’s mobilization of the Hindus for Ganesh Chaturthi, the public celebration of Hindu festivals became a common feature and a part of political mobilization to propagate particular ideological interests. 91 One way or the other, people have acknowledged the direct linkages between communal riots and processions. Whether they have suggested it in the context of administrations handling of

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89 Ibid, p. 81.
90 Ibid, p. 78
riots or that there is something intrinsic to processions that make people unite as a community and indulge in riotous activity or, even further, that it is not processions as such but their politicization which ultimately results in communal riots, all these different views primarily suggest that processions have time and again proved a challenge for the State to maintain law and order and, more importantly, in protecting the lives and property of people when large scale processions are underway. Given the track record of how processions have time and again resulted in communal riots and that the Bhiwandi riots were a result of Jayanti procession, it was only natural that the Madon Commission was directed to inquire in detail and suggest how processions could be addressed in the future.

There were some important questions that the Madon Commission raised on religious processions. It debated the citizens' right to go in a procession over a public road and till this was raised, this entire right was taken for granted without any scope for restrictions. The central issue at stake was the right of one particular group of citizens to march the procession though a particular route when another group had clearly objected to it. This was not an easy question for the commission to resolve as there was a tussle between a citizen's fundamental right, "to assemble peacefully and without arms," and the governments' power to maintain law and order. The task of the Madon Commission was to strike a balance between the two where it was important to safeguard the fundamental right to assemble peacefully while at the same time ensure that the law and order was not disturbed. Given that banning religious processions would compromise the fundamental right to assemble peacefully, the commission on Bhiwandi riots did not recommend this as an option to ensure that law and order is maintained. Instead, the commission wanted to ensure that both can co-exist. The commission therefore was clearly against a blanket ban which it said would "rightly be taken

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93 Article 19 (1) (b), Constitution of India.

as dictatorial and repressive measure to stifle all opposition to the party in power. The commission instead recommended a more democratic solution to the problem where the authorities in the district administration were expected to ensure that processions did not become a public menace. The commission’s argument was that the right to take out religious procession was subject to restrictions but not from an arbitrary demand from another community that it cannot pass through their place of worship but restrictions that strictly came from the Magistrate or authorities who controlled traffic. This meant that in the eyes of the commission, two religious groups were equal and had the same rights to take out religious processions but this right was not above the restrictions of certain laws and codes that were drawn for the procession to be peaceful.

The Madon Commission did not bracket all processions under one category and give a blanket recommendation concerning them. According to the commission, there is nothing intrinsic to religious processions as such which results in communal rioting but on the contrary when religious processions become a fertile ground for communal propaganda and deliberate attempt by the organizers to create communal tension then they often lead to riots. Which religious processions have this kind of a potential could be best judged by the district authorities who are in a position to take steps to ensure that communal riots do not erupt as a result of religious processions and the restrictions laid down on a religious procession has to be based on the assessment of the situation on ground.

**Findings of the Commission on the Role of Police**

The police authorities according to the commission failed to judge the real objective and the true nature of the activities of Rashtriya Utsav Mandal and other such organizations for instigating communal riots through the organization of a large scale procession. Therefore preventive measures were not taken to ensure that violence did not breakdown during the procession. As evidence came before the commission, it became clear that policemen and officers were walking alongside those people who were shouting these slogans and yet failed

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to make any arrests.\textsuperscript{96} In the cross examination of the policemen it was found that they did not arrest anyone as the orders were to isolate those who were shouting provocative slogans and they thought that the arrests could be made after the procession was over. But, the commission observed that no arrests were made even after the procession and not even a complaint was made in the police register against these people.\textsuperscript{97}

It is important to observe that the commission just did not go by the factual statements provided by the policemen who were present during the procession. Instead, the commission called its own witnesses and more importantly arrived at a conclusion on the conduct of the police on certain occasions by reading between the lines of the statements filed. For instance, on this particular occasion in the statement filed by one of the Inspectors he stated that he did request those in the procession not to shout provocative slogans but they decided instead to join the others at the back and that Baliram More, the leader of the Bhiwandi Branch of Shivaji Sena was near this group. The commission based on this evidence came to the conclusion that people did not pay attention to what the policemen were instructing and the police personnel also did not enforce their orders on the crowd. From each of the statements and witness provided, the commission derived the facts and then tried to combine them to arrive at its key findings and conclusions on how the police conducted itself during the time of the procession. There is a pattern in which the policemen prepared their statements where they tried to suggest that under the circumstances they obeyed the orders of their superiors and did their best to ensure that no rioting took place, though it was not a small task given the size of the procession. In an attempt to provide a picture of the procession and the beginning of the riot from their point of view and to save themselves from any allegations, the policemen gave a number of contradictory statements. For instance, in one of the statements given by a Sub-Inspector, he initially suggests that those participating in the procession were shouting provocative slogans, but soon goes on to say that they were not directed against Muslims.\textsuperscript{98} The commission observes that the two were completely contradictory, as provocative slogans could not have been against anyone else in the area.

\textsuperscript{96} The statement made by Witness No. 1701, Bhausaheb Dhamankar before the Madon Commission on 2/10/1971.
\textsuperscript{97} Op. cit 79, p. 213.
\textsuperscript{98} Statement of Sub-Inspector Benjamin Anandrao Kale, Affidavit Number 950, 1 February 1971.
The Commission's Assessment of the Bhiwandi Riots

The Madon Commission answered two vital questions with regard to the riots in Bhiwandi. The first of them involved what caused these riots and the second, who was responsible for the communal violence which killed several people. It was common knowledge as has been suggested in the earlier paragraphs that the Shivaji Jayanti procession was responsible for the riots which occurred in Bhiwandi. But, the Madon Commission brings out how the processions over the years were instrumental in creating a communal atmosphere in Bhiwandi. It was a combination of factors that resulted in exacerbating the situation in Bhiwandi. It takes few years to create a situation of communal atmosphere where a small incident can also result in large scale violence between two communities. In other words the riots in Bhiwandi were a result of the accumulation of various tensions over a period of time. By suggesting this, the Madon Commission provides voice to the now accepted theory that communal riots are not spontaneous but planned over a period of time. This planned and organized nature of communal riots, which Madon Commission points at, has been reiterated time and again in several explanations of communal riots in different case studies that people have conducted. This planning could take years as in the case of Bhiwandi or sometimes only months, and minor but significant events have an impact in giving impetus to the already fragile relationship between the two communities.

While a number of commissions before and after the Madon Commission have asked the question who are the people and organizations responsible for communal riots in a town or city, this particular commission provided exact names of the organizations who indulged in communal propaganda in Bhiwandi and did not stop there but further gave names of individual leaders of these organizations who had played a specific role creating an environment conducive for communal riots in Bhiwandi. In other words, there were people and organizations being held specifically responsible for these riots and for the subsequent loss of life and property. The commission during its inquiry tracked down the activities of the Bhiwandi branch of the Shivaji Sena, Jan Sangh and the Rashtriya Utsav Mandal (RUM)

99 Paul Brass, The Production of Hindu-Muslim Riots in India, New Delhi: Oxford University Press, 2003, p. 8
which was particularly formed to organize the Shivaji Jayanti procession. The inquiry reveals how peace meetings, organizational activity and public meetings become platforms to create a communal atmosphere.

The commission did not arrive at this conclusion only based on the evidence before it. The evidence was there in the form of communal speeches by some of the leaders of these organizations, meetings held at different places in Bhiwandi which ensured that the Shivaji Jayanti organization would completely alienate the Muslims. It was the interpretation of the evidence before the commission that allowed it to arrive at the conclusion that the Shivaji Jayanti procession was turned into a communal exercise. For instance, the slogans that were used during the procession did not speak derogatorily about Islam, but they certainly provoked Muslims by using slogans that made this procession not just a Hindu exercise but that of a particular political party. Given that the slogans used during the procession were not directed against Islam or Muslims, the commission could have interpreted them as not communal in nature. But, the Madon Commission based on the history of Shivaji Jayanti celebrations concluded that by a non representation of Muslims in the Shivaji Jayanti celebration and purposefully using slogans that glorified the Hindu religion, the organizers of the Shivaji Jayanti procession provided an environment for communal riots and this intimidated the Muslim community of Bhiwandi.

The Madon Commission did not just rely on facts which were in the form of affidavits and statements filed before the commission. It instead decided to track down the activities of some of the organizations accused of indulging in creating a communal atmosphere in the town and this according to the commission provided significant leads to conclude that the Bhiwandi Branch of the Jan Sangh, Shivaji Sena and RUM were using every opportunity to create a discord between the Hindus and Muslims, whether it was in relation to the organization of the Shivaji Jayanti procession, Municipal elections or during political and public meetings. The Madon Commission went into the speeches made by some of the members of the three organizations and particularly named the Shivaji Sena’s head in Bhiwandi, Baliram More and the leader of the Jan Sangh of inciting the Hindus through their communal speeches. The commission stirred a debate on what can be considered as a
communal speech in the first place and when there should be action against the person making such a speech. This was something that occupied the inquiry proceedings of the Reddy Commission as well but as suggested earlier, the Reddy Commission was not able to easily access some of the speeches that were made just before the riots in Ahmedabad. The Madon Commission on the other hand had the services of a specially appointed police officer particularly to help the commission access all the resources to arrive at the findings. In fact there has not been any other commission before or after the Madon Commission that has had the privilege of having an appointment created within the police forces to help the commission through the inquiry.

This chapter argues that for a post-riot inquiry to be viewed as fair and neutral, it is not just the findings and recommendations that are significant but the entire process of the inquiry. This process begins from the stage of the appointment and as seen in the case of the Reddy Commission of inquiry, it is important that appointments are not arbitrary but made in consensus between the Cabinet and the Chief Justice of either the Supreme Court or the High Court depending on who appoints the commission. A comparison between the Bhagalpur and Reddy Commission of Inquiry establishes the fact that there are no blue prints that can be followed for appointing members of a commission and deciding their composition. This is because a certain type of composition has proved to be problematic for one commission but worked for the other. What is more important is how this appointment is made, who is appointed and how those appointed conduct themselves in deciding key aspects of the inquiry like procedures, interpretation of the mandate and scope of the commission. Based on the circumstances of their appointment, the Reddy and Madon Commission viewed their mandates differently and accordingly, decided the scope of inquiry. Given its mandate, the Reddy Commission could have gone into the activities of some of the political organizations to understand their communal nature but it refrained from doing so as it wanted to move away from the danger of being viewed as supporting a particular political organization against another. The political situation in Ahmedabad at the time of appointment of the Reddy Commission had a decisive impact on the functioning of the commission. The commission did not want to get dragged into the tussle which was going on between organizations of the minority and majority community to prove the communal character of
the other and because the evidence before the commission was also not clearly indicating anything against any particular organization, the commission decided that refraining from commenting on the communal nature of any particular organization would be the best course of action. The circumstances of the inquiry and the conduct of those participating in the inquiry have a significant role to play in deciding how the commission would proceed in the inquiry and the decisions taken during the proceedings of the inquiry in a number of ways establish the neutral and fair character of any inquiry.

What made the Madon Commission different from a number of other commissions was that it named individuals and organizations responsible for the riots in Bhiwandi and this was important for the victims along with those who participated in the proceedings of the inquiry. A clear picture emerged after the commission concluded its inquiry which provided details on how a procession could become a source from where a communal riot emerges, who were the people responsible for making a religious procession a means to start the riots and what was the administration’s response for the same. There were no questions left unanswered or ambiguous about how things unfolded during the days of rioting in Bhiwandi.

In the case of Reddy Commission, as was discussed earlier, the statements filed by the police officials were with a purpose of saving the police from any blame and not with the intention of presenting the truth before the commission. Therefore, affidavits and statements are neither neutral nor do they always reveal the true facts. They are often colored with a particular perspective representing a vested point of view. The Madon Commission in its report divided the evidence on each of the incidents based on whether they represented the Hindu or the Muslim point of view. It is for the commission in such a situation to derive at the truth and how the commission deduces the different interpretations on the same set of incidents has a bearing on the final findings and conclusions. Both the Reddy and the Madon Commission were confronted with more than one interpretation of the same set of incidents. What is important to understand from the point of view of this study is that both these commissions did not view themselves as resolving a conflict of views and interpretation between the two or more participating groups. Instead, they wanted to prioritize the necessity

of arriving at the true facts for which on number of occasions as pointed out in the chapter, they had to reach out for evidence which was not easily made available to them.

In the decade when the Madon and Reddy Commissions were appointed, a post-riot inquiry revolved around providing answers to the reasons behind the frequent occurrences of communal riots in the country, apart from dealing with issues specific to the riots under inquiry. There was criticism against the government in power for its failure to protect the lives and property of people during the riots. There were speculations emerging after a communal riot and allegations were made against the police and other government agencies. But, this did not prevent governments from appointing judicial commissions and once appointed these commissions were provided with proper infrastructure and support system required to conduct a proper inquiry. More often than not, official commissions preferred and argued in favor of conducting a public inquiry and the media’s reporting on the proceedings were straight forward, a description of what happened during the proceedings. More importantly, the Madon and Reddy Commission realized that every statement given by them and every step taken by the official inquiry would be keenly watched by those who were participating in the inquiry. Therefore these commissions gave explanations for every decision taken during the time of the proceedings, about why a particular procedure was adopted so that there are no misrepresentations of the decisions taken by the commission.

Through an examination of Nanavati Commission on anti-Sikh riots and Srikrishna Commission on Mumbai riots, in the next chapter, this study would enter a different phase of post-riot judicial inquiry. How were the circumstances of appointment of these two commissions different from appointments made in the 1960s and 70s? There were new dynamics to a post-riot inquiry and judicial commissions were appointed under completely different circumstances. The systematic examination of the Nanavati and Srikrishna Commission in the following chapter would investigate the continuing and newly emergent trends in judicial commissions that were appointed after the 1980s.