



INTERNATIONAL LEAGUE
FOR HUMAN RIGHTS

AN ASSESSMENT OF THE SAVILLE REPORT

By
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1. This is an assessment of the Saville Tribunal Report on the events of Bloody Sunday, January 30, 1972 in Northern Ireland. This assessment is prepared on behalf of the International League for Human Rights (the "League").¹
2. The League, and the attorneys who have served the League by following the work of the Saville Tribunal, have reviewed the Saville Tribunal's June 15, 2010 Report. In the main, the League agrees with the findings of the Saville Tribunal. The Tribunal deserves great credit and much respect for its efforts. Its Report is comprehensive and honest. Because of that, it is courageous as well given the circumstances. It is not, however, without flaws.
3. The principal findings and conclusions, as to the soldiers, were that soldiers fired on unarmed civilians without justification, killing 13 and seriously wounding another 13. The Report clears the victims themselves and provides the long sought vindication of the claims of the victims' families and the survivors of the march. But that is only part of the story. Of equal importance is determining the cause of the rampage, and that is largely obscured by the Saville Report.
4. The Report discusses at length the actions of the army's more senior command, and it concludes that tactical missteps by the Lieutenant Colonel commanding 1 Para (1st Battalion of the Parachute Regiment) were a cause of the casualties. The Report concludes that errors he made in giving the order to execute the army's plan (the Operation Order) for making arrests that day, rather than the plan itself, were the key

¹ The League is a New York based non-governmental, non-profit organization that became involved in the events of Bloody Sunday at the request of the National Council of Civil Liberties (NCCL) of England. The League has special consultative status at the United Nations, the Council of Europe and the International Labor Organization. Its platform is the UN Universal Declaration of Human Rights. In the immediate aftermath of Bloody Sunday, the Chairman of the League enlisted the aid of Professor Samuel Dash, of the Georgetown University Law Center, and later, the Chief Counsel to the Senate Watergate Committee; Louis Pollack, then Dean of Yale Law School, and later a Federal District Court Judge; and John Carey, then the International League's president, and later a Justice of the New York Supreme Court. They went to Northern Ireland in the hope that foreign lawyers, acting for an international organization and having no axe to grind, would be able to help in a situation fraught with bitterness and distrust. Their roles included encouraging the families of the victims to cooperate with and actively participate in the Widgery Inquiry, which began shortly after Bloody Sunday and lasted until March 1972. The Widgery Report was submitted on April 10, 1972 and made public on April 18, 1972. Soon afterwards, Professor Dash, assisted by Robert F. Muse, at the request of the League, published a Report ("Justice Denied") challenging the central findings of Lord Widgery, and labeling it a whitewash.

This assessment of the Saville Report was prepared on behalf of the League by Robert F. Muse of Stein, Mitchell and Muse, Washington, D.C., and by John M. Bray, Jamie A. Lang and Marian Lee of King & Spalding, Washington, D.C.

mistakes which, together with unjustified shootings by as many as 14 different Paras, resulted in the 26 casualties.

5. The army had nurtured and encouraged an attitude of intense hostility and distrust toward the entire nationalist community. The senior commanders well knew prior to Bloody Sunday that such hostility and distrust had permeated the ranks of the Paras, and that it was the cause of the excessive violence for which they had justifiably become feared and notorious. The plans for the Scoop up - - the fatal arrest exercise devised to catch terrorists among the marchers - - were the subject of debate and some level of disagreement among the military, and between the military and the RUC (Royal Ulster Constabulary). As the day of the march approached, it was the senior army officers who chose the most aggressive option at each point of their plan for the day. And it was the senior military, rejecting suggestions from some officers and the RUC, who decided to use the Paras for the most aggressive part of their strategy on the day of the march -- the Scoop up by the arrest force. Shortly after 4 p.m., although the rioting was dying down and people were moving away from the barricades, the Scoop up order was given by Lieutenant Colonel Wilford with the approval of Brigadier MacLellan, and the Paras began the planned arrest operation. It was the hostile culture and those aggressive plans that led to the rampage.
6. This was not a single tragedy caused by some tactical mix-up. The misjudgments did not merely lead to one innocent person's death. This tragedy occurred 26 times in a row; it took 10 minutes of aimed rifle shots; it was not the work of one or two soldiers who panicked. Only innocent victims were shot, and they were shot by at least 14 separate Paras in five separate killing zones, where over 100 shots were fired.
7. In the senior officers' meetings leading up to Bloody Sunday, the army devised the Operation Order and the plan to use the Paras. Army commanders had long demonized the nationalist population that was to conduct the march. The Paras were led to expect that the marchers would be mingling with gunmen who would take over the march, when in fact the crowd at hand was overwhelmingly composed of civilians participating in a civil rights demonstration. The Paras were very well trained for deadly combat in war, but they were inadequately trained to conduct arrests at a protest march by a crowd of their own citizens. The Paras were also intensely frustrated at months and years of chasing elusive prey who would ambush them and disappear.
8. The faults the Saville Tribunal finds are that Lieutenant Colonel Wilford gave the order to execute the Scoop up without the marchers achieving separation from rioters; that he failed to repeat the injunction against proceeding a significant distance down Rossville Street; that he sent two companies of Paras to arrest rioters when only one had been approved; that he sent one company in vehicles; and that he sent them into an area he told his soldiers was dangerous and where they might come under lethal attack from gunmen, knowing they would respond instantly with gunfire if under attack. The Tribunal essentially stops the blame for the Bloody Sunday shootings at Lieutenant Colonel Wilford and at those soldiers who did the shooting. It does not

acknowledge that the mistakes of the senior military officials were actually a cause of the casualties.

9. These deaths and injuries were not merely a product of one commander ineptly carrying out the Operation Order. The plan itself that became the Operation Order, and the misguided thinking that gave rise to this overly aggressive use of military in a domestic protest, is what history must condemn. If all that senior government officials and senior officers of the world's armies and military academies were to learn from Bloody Sunday was that the military in its home country should merely assure that there is a tidy separation of rioters from civilians before sending forth highly provoked battle ready troops armed with deadly firepower, there will be many more Bloody Sundays and Kent States.
10. The larger constituency of potential victims of future Bloody Sundays deserves a clear statement and a memorable condemnation of the decisions and the attitudes that resulted in the 26 shootings. As important as the Saville Tribunal's determinations about criminal culpability are, its conclusions about the mistakes and misconduct that were the proximate cause of the rampage are far more important to prevent future civil rights and human rights abuses. In Northern Ireland, human rights abuses had long been the order of the day, tolerated, perpetuated and encouraged in many segments of the military and government power structure, and that climate often infected decision-making. It led to denials of civil rights and to human rights abuses, and then to a crescendo of human casualties on Bloody Sunday.
11. In fact, the rampage and shooting of 26 fleeing, ducking, crawling, unarmed civilians was caused not by some untidy mingling of the rioters and the non-rioting civilians; it was caused by enraged armed troops opening fire on the civilians, indeed only on civilians. They were trained to think those being encountered were most likely terrorists and that a violent putdown of this march was expected by their superiors, had been sanctioned by their superiors, and would be applauded by their superiors. The evidence adduced by the Tribunal and the factual findings by the Tribunal itself provide strong support for this conclusion. Yet the Tribunal declined to draw the connection between the misjudgments in planning and oversight and the casualties, and to acknowledge that the central causes of the tragedy were plans and decisions made by senior commanders.
12. In 1998, Prime Minister Heath acknowledged that, in Northern Ireland there was a demeaning attitude against the Catholic minority in 1972, and that this produced lives of misery and poverty, and "the indignity of being treated as inferior human beings in their own country" It could hardly be surprising that Paras might one day take matters a deadly step too far when deployed against the citizens who were viewed through such a hostile prism.
13. The reputation of 1 Para as a brutally tough force with a seething antipathy for those referred to as the "Hooligans" was well known to senior army officers when they brushed aside the recommendation of Chief Constable Frank Lagan that the march

should be policed by the RUC, not the Paras, and that it should not be blocked by barricades and stopped from reaching its end point at Guildhall Square. It was the senior military who decided that barricades should be erected. They admitted that they understood that rioting would erupt if barricades were used. The Tribunal found that Lieutenant Colonel Wilford had become distressed at what he termed the “horrifying” TV footage of his Paras staying behind barricades like “Aunt Sallies” while daily rioting occurred. The Tribunal found that General Robert Ford Commander of Land Forces in Northern Ireland had also become unhappy with his local commanders. It was the senior military who decided that the march should be policed by the army, and that the Paras should serve as the arrest force and use this protest against internment as a vehicle for increased internment - - as an opportunity to conduct even further arrests by sending heavily armed Paras on this occasion rushing forth from behind the barricades to execute a Scoop-up. A soldier in Support Company testified at the Tribunal that at the evening briefing the night before the event, the Lieutenant who commanded his platoon told the men “we want some kills tomorrow.” That Lieutenant agreed only that he had said there was a risk they would encounter gunmen, and for the Paras to come out on top if they did. The next day, General Ford stood at Barrier 14 as 1 Para charged the marchers, yelling to them: “Go on 1 Para, go and get them and good luck.”

14. Shortly before Bloody Sunday, General Ford had stated his belief in a confidential memorandum to Lieutenant General Sir Harry Tuzo, the General Officer Commanding Northern Ireland, that the only way to stop the “Derry Young Hooligans” was, “after clear warnings, to shoot selected ringleaders.” However, since this belief was not engraved onto the soldiers’ Yellow Card, the Tribunal did not treat General Ford’s attitude as a proven cause of the casualties.
15. Moments after the 26 civilians were shot, General Ford gave an interview to the BBC saying his soldiers were attacked as soon as they were on the other side of the barrier where he had stood. He claimed they were attacked by six nail bombers, a petrol bomber and seven gunmen. He said that 10 to 20 rounds were fired at the Paras before they returned fire. In fact, as the Tribunal has found, none of that had occurred. Moreover, General Ford ultimately admitted that he had not received any precise information supporting any of those claims, except he maintained that he had been told the soldiers were fired at first. General Ford’s statements to the press were soon heard by the soldiers as well as the world, establishing the message used thereafter to justify the killings.
16. A tapped telephone call between two army officers on the evening of Bloody Sunday reflected the same attitude:

Male Voice: “. . . I think it has gone badly wrong in the Rossville . . . the doctor’s just been up the hospital and they are pulling stiffs out there as fast as they can get them out.

Male Voice: There is nothing wrong with that.

Male Voice: Well there is because they are the wrong people . . . there is about 9 and 15 killed by the Parachute Regiment

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Male Voice: He was lapping it up.

Male Voice: Who was?

Male Voice: Ford.

Male Voice: Was he?

Male Voice: Yeah . . . he said it was the best thing he had seen for a long time.

Male Voice: Interesting, is it not.

Male Voice: Well done 1st Para, he said

Male Voice: Good, excellent.

Male Voice: He said this is what should happen.”

17. The Tribunal found that in fact there had been no provocation by any victim. But the Tribunal received testimony that as soon as the enormity of the rampage was apparent, the soldiers and others began to discuss concocting lies and corroborating the story that the victims had all fired at or thrown bombs at the soldiers first, and that the soldiers only returned fire after giving Yellow Card warnings. That story was told and repeated throughout the military and delivered to two tribunals by the testimony of many in the army. But, in fact, the soldiers fired first. No victim had a gun. No petrol bombs or nail bombs were thrown or brandished. No provocation had led to the shootings. Of the 26 victims, several, including the very first victim, were shot in the back or shot while fleeing. Others were shot while crawling away or trying to help the dying. No Yellow Card warnings were given. No soldier could claim even a slight wound from all the fabricated tales of gunmen and nail bombers. The army was faced with awful evidence, and a far ranging cover-up by the military had taken hold. It was not limited to isolated instances of perjury by the shooters. The testimony of many soldiers at the Saville Inquiry was rejected as false. There were at least 7 soldiers whose testimony the Saville Tribunal found was proven to have been knowingly false.

18. The Saville Report fails to fully assess the effect of the cover-up in concealing for all these years the extent of the senior military's role in producing the casualties. The Tribunal did find that the decision to use the Paras to police the march was a mistake because the Paras had a reputation for excessive violence. It is inexplicable, however, having appreciated it was a mistake, that the Tribunal fails to acknowledge that mistake was a proximate cause of the rampage that did indeed occur. With that failure, we respectfully disagree. More than a mistake without consequence, this part of the plan ran counter to the proper goal of a police function to subdue unruly rioters, not to provoke a more violent eruption. This civil rights march followed close on the heels of a number of prior encounters. Just a week earlier, Paras had clubbed, kicked and dragged demonstrators at Magilligan Strand. Some army officers who were present that day testified to the Tribunal that the Paras did engage in unnecessary violence at Magilligan. Those tactics were caught by TV cameras and news photos. Senior commanders saw those photos and footage. One army colonel called the assistant to General Carver after the Magilligan encounter to urge that 1 Para were the wrong soldiers to use as the arrest force. Yet the army's decision to forge ahead with the plan to use the Paras, a week after widespread reports that they had behaved brutally at Magilligan Strand, and to have them be the arrest force that would charge out from behind barriers with loaded rifles, was a reckless plan, and the senior military

command bears a large share of the blame for its decision to do so, and for the consequences.

19. Finally, a few words about the Widgery Report. Quite understandably, the Saville Tribunal made it clear that it would not be sitting as a reviewing court as to Widgery. Instead, it would review the evidence de novo, and come to its own conclusions. The political implications of one Tribunal sitting in judgment of another could only complicate the primary mission of the Saville Inquiry. Indeed, that appropriate restraint by the Saville Tribunal makes it all the more necessary that other groups assess the Widgery Report's role.
20. In February 1972, Lord Widgery was selected by Prime Minister Heath to lead a Tribunal of Inquiry under the 1922 Act, and he decided that the Tribunal would consist only of himself. His service in, and steadfast alliance with, the army was well known to the Prime Minister. Lord Widgery was selected and brought to meet with Prime Minister Heath by the Lord Chancellor, Lord Hailsham. Lord Hailsham's attitudes were well documented. He had stated a belief that anyone opposing or interfering with the army in Northern Ireland should be shot, whether or not armed or shooting. Together the three discussed what the Tribunal would do, how the army might be allowed to tell its story, and the importance of soldiers being protected from terrorist reprisals. Prime Minister Heath admitted that he told Lord Widgery: "It had to be remembered that we were in Northern Ireland fighting not only a military war but a propaganda war." Asked to articulate the purpose for such an exertion of command influence upon the judge of the matter, the Prime Minister explained that he merely said this to Lord Widgery because "it was polite to remind him."
21. In April 1972, Lord Widgery issued his Report and bestowed benign approval on these unprovoked killings as though each casualty had been an unrelated event. He concluded that the worst that happened was that some shootings bordered on reckless.
22. The question might fairly be asked whether Lord Widgery was merely a victim of the cover-up and was unwittingly deceived by the testimony now found to have been a festival of perjury. His duty, like the duty of any tribunal was to evaluate the evidence presented, employ common sense, correctly apply time-honored standards traditionally used to evaluate evidence, and then reach honest conclusions. The process used by other tribunals called upon to evaluate evidence includes assessing human motives and acknowledging that testimony is often shaped by the instinct for self-preservation and the impulse to explain away mistakes. Lord Widgery accepted the testimony of the implicated soldiers for every one of the shootings. The same excuses were used 26 times. He abandoned the tenets of decision-making, and instead, he accepted the transparently false testimony of the implicated soldiers in the face of contrary physical and circumstantial evidence.
23. By any standard, Lord Widgery failed the system in this most important obligation. He voiced no serious skepticism that no soldier was wounded by all the fabricated gun fire or the wild fragmentation a nail bomb would have produced, or that no one but a few soldiers reported petrol or nail bomb explosions. He strained to award soldiers the

benefit of doubt where none was called for. At every turn, he awarded the benefit of doubt only to the army. He ignored or mischaracterized the credible testimony of eyewitnesses. He did the same with the forensic evidence, turning a blind eye to irrefutable physical evidence. He failed to acknowledge the contrast between the physical evidence that portrayed shootings of fleeing and crawling victims, and the very different stories of threats, bombs, and guns told by the implicated soldiers.

24. As to provocation, Lord Widgery accepted the soldiers' excuses for the telltale absence of evidence of the bombs and weapons. He accepted the soldiers' repeated claims that, while under fire from soldiers, some random civilian would always step into the line of fire, in easy range of firing Paras, would pick up the weapon or fizzing bomb allegedly dropped by each of the victims, would elude the Paras' fire, and, over and over again, would escape with the weapon. Lord Widgery credited such testimony every time. He did so sitting as the sole judge, under circumstances where there was no review of his conclusions, nor any checks on his decision-making. Lord Widgery found, accordingly, that the shootings were provoked by assailants and at least an apprehension of imminent threats of deadly weapons. Since he concluded that the actions of the soldiers were without fault, he ruled as though nothing else in the decisions of the army or the government was improper. The British government accepted the Widgery Report and treated the matter as concluded.
25. The League evaluated the Widgery Report in 1972. It concluded then, and it reaffirms now even more forcefully, that the Widgery Report was a shameful whitewash. Far from an innocent victim of the lies and cover-up, he became their champion. His Report helped bring on the ensuing decades of bloodshed. Lord Widgery's Report sent a message that the rule of law had no application to sectarian matters in Northern Ireland, for if the Lord Chief Justice would make a mockery of such an event, what hope was there for change through legal processes? It was a clear and taunting message that the goal of civil rights in Northern Ireland could not be reached through the halls of justice. To a grieving desperate people, the Widgery Report was the final evidence of hopelessness.
26. While it was apparent in 1972 how biased and misleading the Widgery Report was, evidence revealed publicly since then by soldiers coming forward and by the Saville Tribunal Inquiry, has confirmed all the criticism and skepticism of observers in Northern Ireland and around the globe as to the bona fides of the Widgery Report.
27. In sharp contrast to Lord Widgery, Lord Saville was joined by Former Chief Justice of New Brunswick, William L. Hoyt, and Former Justice of the High Court of Australia, John L. Toohey. All three are experienced, learned officials. They joined in a three-person Tribunal which found that the actions of several of the soldiers in shooting the victims were reprehensible; and that the soldiers and others concealed the facts that showed the shootings were all unjustified. But it is not enough to say, as Prime Minister Cameron did, that by the Saville Report, Lord Widgery's findings have been laid aside. Much more than that, the Saville Report stands as a de facto condemnation of an appalling injustice by the Widgery Tribunal.

28. The killings, the cover-up, the obstruction of the investigation, and the perjury are surely important for prosecutors to review. The misjudgments and poor decisions of superiors that together were the driving causes of all this are, for the most part, likely not criminal violations of any extant law of the day. The world can live with that. However, the cause of human rights cannot move forward without calling out with a clear voice what really went wrong so that such a rampage is never repeated by any authority willing to learn from Bloody Sunday.

29. The International League for Human Rights pays tribute to all who brought the Saville Tribunal to life and to all those who persisted against constant opposition to unearth the truth and remove the cloud of the Widgery Report from the annals of British justice.