

## Media Trials and Courtroom Tribulations: The Battle of Images, Words and Shadows in the 13 December Case

### **Shuddhabrata Sengupta**

***"The acquittal of an innocent man is not an occasion for celebration, but a cause for reflection."***

***Syed Abdul Rehman Geelani***, on his being acquitted by the Supreme Court on charges of conspiracy in the "13th December, 2001 : Attack on Parliament" Case. August, 4, 2005.

On the 4th of August, 2005 (yesterday) the Supreme Court of India gave its verdict on the 13th December, 2001 'Attack on Parliament' Case, acquitting two of the original accused, SAR Geelani, lecturer in Arabic at Zakir Husain College, Delhi and Afshan Guru (aka Navjot Sidhu) wife of one of the other accused - Shaukat Husain Guru, and upholding the death sentence pronounced by the Delhi High Court and the Special POTA court on Mohammad Afzal. The High Court's pronouncement of a death sentence on Shaukat Husain Guru was commuted to 10 years imprisonment.

In announcing this verdict, the Supreme Court of India upheld the Delhi High Court's acquittal of SAR Geelani and Afshan Guru. Geelani had been sentenced to death, and Afshan Guru awarded five years of rigorous imprisonment by the judge of the special POTA court, S.N. Dhingra on the 18th of December, 2002.

The Justices P.V. Reddy and P.P. Naolekar, while acquitting SAR Geelani on the grounds that the prosecution was not able to present adequate evidence against the accused, maintained that there was still a 'needle of suspicion' against SAR Geelani, but that suspicion alone could not form the basis of a sentence in the absence of robust evidence.

With the pronouncement of this verdict by the highest judicial authority of the Republic of India, a sordid chapter in the history of this republic has come to a provisional and uncertain conclusion. One hesitates to use the term 'end' because the unpredictable nature of events as they unfold, perhaps in the immediate future, perhaps due to a random discovery in the archives many decades hence, may yet deliver us another 'turn' in the unravelling of this story which might still give cause to startle us all.

Or it might not, as in what befalls many unexplained twists and turns in the script of our times. We may learn to become inured to the tug of an uncomfortable and persistent memory of things and people that went amiss. Like the 'out-takes' in footage that never quite made it into a film, about which we can say that we have a memory of being present as witnesses at the shooting, but little or no recall of ever having seen them on screen, like papers, documents, transcripts, bodies and memories that turn to dust and are scattered, the history of the attack on the Parliament of India too will in all likelihood become a hazy recollection with only the words and images of 'terrorists' and 'martyrs' and 'threat to national security' thrown up in bold relief, and with all else obscured within a labyrinth of shadows.

Some people call this forgetting, others call it history. The history of the Republic of India could fill an archive of lost memories. Perhaps there needs to be, somewhere near India Gate, not far from the present 'National Archives' and the Parliament, a site earmarked for a building to house a 'National Archive of Forgetting'. A building - part Lutyens, part Le Corbusier, part Raj Rewal, part Kafka and part Borges, that in its architectural imagination would do true justice to the delicate combination of pomp, paranoia and amnesia that buttresses the foundations of the republic.

While there may be widespread relief in the knowledge that SAR Geelani and Afshan Guru are now acquitted (if not unconditionally exonerated) by the judicial apparatus, the turn of events does not give anyone any cause for celebration. Neither the Delhi Police and the prosecution, who have seen

their arguments fall like so many dead birds from the judicial sky. Those who have stood by Geelani and sought to defend him can breathe easier, and pause at the end of the maelstrom that has occupied their sleeping and waking hours, but there is little cause to rejoice. The court has maintained that there is a 'needle of suspicion' even as it has not been able to show any evidence to substantiate this charge. We need to ask how this 'needle of suspicion' got created, and why it continues to persist, quivering in the minds of the judges even as they comb swathes of missing and faulty and forged evidence. As Geelani himself said in a press conference immediately after the pronouncement of the verdict, "The acquittal of an innocent man is not an occasion for celebration, but a cause for reflection." Why, after all did the police and concerned security agencies, and large sections of the 'independent' media have to go to such lengths to frame a man against whom they could not provide a shred of quality evidence in the special POTA court, in the High Court, and in the Supreme Court? Now that at least two of the accused can walk free, and one other can live (albeit in prison) we need to begin to ask what really happened. Some others may have to do whatever is necessary and permissible under the law to ensure that Shaukat Husain too is able to leave prison sooner and that Mohammad Afzal does not take the final walk to the gallows.

The doubts about the circumstances that led to the attack on the Indian parliament will persist as long as the primary actors in the case do not reveal, or are not compelled to reveal, through the process of an independent and impartial inquiry the roles that they have played. A committee to demand precisely such an inquiry has indeed been constituted by a group of citizens, but as of now, no agency of the state, or civil society, and no voices of substance in the media have either endorsed or echoed their demand.

If Mohammad Afzal is indeed executed, then some of the truths that he alone (barring some of his handlers and interrogators) has access to, will follow him to his grave. In the event that the spin doctors of the media continue to

play the role that they have played so honorably in the duration of this entire set of trials, it is unlikely that anything approximating the truth will ever be made available to the public in India, or indeed, anywhere in the world. The gentlemen and women of the fourth estate, the shining knights of the free press and electronic media of India will once again have demonstrated their willingness to construct an elaborate machine made out of smoke and mirrors that does more to conceal than to reveal. For an alternative version of the events to eventually emerge, it is crucial that Mohammad Afzal's death sentence be challenged, and that SAR Geelani stay alive. Let us recall that there have been two extra-judicial attempts on Geelani's life, once while he was in prison, and again outside his advocate Nandita Haksar's residence by an as yet unidentified assailant in February this year. Both Geelani and Afzal need to live if we are to get any closer to the truth of what happened on the 13th of December 2001, and why Geelani was framed. It is vital to understand that the 'climate of suspicion' that has led to Afzal's conviction, and to the Supreme Court's unwarranted remark that a 'needle of suspicion' still points at Geelani are a product of more than four years of consistent information management and the production of images. Judges, like the rest of us, are as likely to be swayed by these images and processed bodies of information in the media, and we need to be sharply aware at least of the fact that the management and processing of information is a key element in the realpolitik of 'terrorism and counter-terrorism' before we jump to any conclusions about apportioning guilt and innocence. My hunch is that the critical media literacy of the highest judiciary of the Republic of India is not so immaculate at the present as to render it immune to prejudice. The role played by the production of moving images, in film and video, in cinema and on television is particularly pertinent here, and I will attend to this in some greater detail later in this essay.

As of now, barring a presidential pardon, or the unlikely re-opening of the case, Afzal will hang. One hopes, for all our sakes, that it is otherwise, and that the circumstances that led to the alleged 'terrorist' attack on the

parliament of what is sometimes loosely called the 'largest democracy in the world', to the passing of the most draconian preventive detention law by the legislature of the same 'largest democracy' (the thankfully now repealed POTA), and to the situation of near war that lasted for more than a year between two nuclear weapons states who are also neighbours, will one day become available in the public domain. Until then, the delicate combination of secrecy and hyperbole, of understatement and exaggeration, of straight lies and half cooked truths, of skullduggery and sentimentality, will continue to taint the history of communication practices in our republic of forgotten truths and remembered illusions, where (as elsewhere), the 'media', the 'television and film industries' and the 'intelligence community' dance an elegant tango in which it sometimes becomes difficult to discern who leads who on the dance floor.

This text is only a call for a sustained meditation on this condition. And an attempt, to account for and ask some questions about the overproduction of images and the aporiae within them that surround the representations of what is called 'terrorism', the events of the 13th of December, and the trials that followed. I do not pretend to give a comprehensive account of what happened, because I do not possess the necessary critical forensic-legal apparatus by way of training, nor am I an expert media 'analyst'. I am a media practitioner, and I write this from the standpoint of someone who practices media and who observes what others practice. I do hope however, that reading this might prompt those who have the necessary legal-forensic apparatus, or who may lay claim to being expert media analysts, to ask some hard questions on the role that the media have played in this case, and with regard to the representation of 'terrorism and counter-terrorism' in general, and provoke some reason for introspection within the community of media practitioners.

A thorough enquiry into these matters will make it necessary for us to examine a whole range of materials - charge-sheets, court records, depositions, defence and prosecution arguments, judgements as well as

news reports, television news and current affairs programmes, televised enactments or dramatizations and feature length fiction films.

This text is culled from preliminary notes towards such an exercise, but even in making these notes I have become aware of the fact that the task of reflection on the media requires us to consider media materials, not as isolates, but as elements in a networked reality. Where cinema, television, newspaper reportage and even public service messages enter into elaborate interweaving feedback loops that re-inforce and sustain each other, either through direct quotation, or through narrative 'enhancements' that create a situation where each message enhances its claim to credibility by relying on the credentials of the other. Thus, when hearing a voice say authoritatively on a televised commentary accompanying a visual of a slain man's visage that the face belongs to a 'terrorist' we are implicitly being asked to invoke 'images' of terrorists, faces that we may have seen in fiction film.

Conversely, when a fiction film consciously evokes the aesthetic register of the rough hewn 'documentary' look and feel of news reportage when invoking terrorism, it is doing so in order to buttress its own claim to credibility. Events and processes such as the 'reading' of 13th December and its aftermath take place at the intersections of a densely networked media space, where messages, memories, events, and mediums relay and overlay each other. These realities make the task of sophisticated and sensitive readings of media, not an academic exercise but an urgent political task, that has bearings not only on the destinies of our polity but also, as in the 13th December case, on the life and death of individuals. The galling neglect, incapacity or unwillingness, on the part of a vast majority of media scholars and critics in India to undertake this exercise, and the lax ethical standards of many media practitioners has in the final analysis to be read against what happens to us as a polity, and what happens to the lives of individuals and to those close to them.

For too long we have looked at media materials - be they film, or television, or print as if they exist in isolated, hermetic universes . This mode of analysis

that sees `cinema as cinema alone' and that does not take into account the networked information world inhabited and created by viewers, readers, audiences and producers of media materials through a constant process of interactive, cross referential and self referential iteration of media objects is totally inadequate when it comes to the task of understanding the place of images, sounds, words and information that attempt to express the contemporary realities we live in.

It is important to remember that on seeing the pictures of the bodies of the slain alleged `terrorists' who entered the precincts of the Parliament building on the morning of the 13th of December, the then home minister, Lal Krishna Advani is said to have remarked that the assailants `looked like Pakistani Terrorists'. Advani must have known what he was talking about (at least the part about their looking like `Pakistanis') since he looks a lot like a Pakistani himself (as do many north Indians and migrants to India like Advani from the provinces of British India that became West Pakistan in 1947). But more importantly, he was able to assert the fact that they looked `like...terrorists'. It is important to pause and consider how exactly we know that someone looks like `terrorists'. The Delhi police, which has had considerable experience in handling `terrorists' and `terrorism' over the years, has reminded us in a series of thoughtful public service advertisements that `terrorists' are suspicious because they stand out by virtue of their somewhat unusual appearance and behaviour (they were clothing unsuited to the weather etc.) , and that simultaneously they are suspicious precisely because they blend in so easily with the general population. It is this combination of `standing out' and `blending in' at the same time that causes alarm. It is possible to say that one can't quite make out if a person `stands out' if he/she `blends in' at the same time. But to this, like Advani, we know that we can respond with certainty, because we feel we know that when we see a `terrorist' we will be able to recognize one. After all, we have `seen' people who convincingly embody `terrorism' many times. We have seen them on identikit photographs pasted on to walls and street corners, we have

seen their disfigured, hooded and blurred faces in newspaper and magazine photographs and television reports, and we have seen them up close, countless times in mainstream cinema. We have seen the face of the terrorist so often, and so intimately as a moving image that in a sense the terrorist actually lives in our own heads, and were we to ever come across his body, living or dead, or his image, we would be immediately in a position to cross check his features against the indelible impress of those features in our nervous system.

The production of terrorism is not something that happens *sui generis*. The production of terrorism is almost always, in every society, also a production of images of terror. In fact the fear that terrorism induces in general terms is not so much by way of the actual impact of explosives, gun shots and incendiary or lethal materials but by way of a circulation and amplification of images and their effects. We know this from every instance of spectacular terrorism that we have witnessed in the last hundred or so years. So much so that even more or less arbitrary calendrical notations like 9/11, 12/13 or now, more recently, 7/7, become indexical images of terror. All we need to do is to see a particular alphanumeric arrangement to experience at the very least a twinge of the recognition of the feeling that terror induces. If the production of terrorism is so interlaced with the production of images, we can also say that the production of certain images is also linked to a climate that gives credibility to the production of a certain set of seemingly self evident truths about terrorism. Sometimes to create the consequences that a terrorist incident produces it is necessary to create a strong body of images that will serve the necessary purposes in a focused way.

The tried and tested tactics of infiltration into existing terror cells or political groups, or the creation of such cells where none exists, or when those that exist are too weak to perform a spectacular act of terror are well documented in the extant literature on the work and function of intelligence agencies of various states. The MI6's murky relationships to the IRA, and later, the provisional IRA, Mossad's successful infiltration of the Palestinian Abu Nidal

group, and the Italian and Belgian intelligence agencies dealings with the Mafia, ex-Nazis, far right militias, fascists and secret societies in setting off a chain of spectacular terrorists incidents in the 1980s (including the Bologna train station bombing of 1974 and 1980 that killed 113 people and wounded 180) that could later be attributed to 'left wing' terrorists is very well documented, as is the history of the infiltration of the 'Naxalite' movement in India in the 1970s by Indian intelligence bureau and special police operatives. The picture of a shadowy dalliance between 'terrorism' and 'counter-terrorism', between 'militants' and 'surrendered militants', between people in and out of different kinds of uniform is also beginning to emerge from the battlegrounds of Kashmir, Assam and the North East. Military intelligence officers, 'special task force' personnel, intelligence bureau operatives and a host of 'free lance' professionals (including 'surrendered militants') occasionally masquerading as 'militants' and performing violent acts in order to create the necessary climate for stringent 'counter-terrorism' measures is a well established pattern.

There is no reason to suppose that the tacticians and strategists of the 'intelligence community' that owes its fealty to the Indian state do not from time to time have to consider it necessary to 'create' or manufacture instances of terrorism, when it suits the purposes of the state to do so. This is standard practice worldwide, especially under the conditions of the 'global war against terror', and there is no reason to suppose that Indian intelligence professionals are anything but abreast of key global trends in this regard.

This 'creation' of terrorism is something that generally requires a calibrated media strategy and information management such that the bodies and actions that characterize a particular operation can be 'rendered' in a manner that is convincing and useful. The overproduction of enthusiastic and detailed reports on the supposed backgrounds, past lives and actions of the primary accused in the 13th December case bear an overwhelming stamp of such a close alignment between the need to create a body of convincing 'evidence' on the part of the security and intelligence community and the

media's thirst for a meaty story. Television channels and newspapers routinely projected the accused and arrested as 'terrorist masterminds and co-conspirators' without even the caveat that this was as alleged by their captors.

The enthusiastic reportage of the 'arrest' of the prime accused Afzal, Shaukat Husain and Geelani, which in some instances bordered on the hysterical, particularly in the week following the 14th of December, (when Geelani was detained under POTO) is particularly noteworthy. In the stories that began to make their appearance, the swoops were a result of the brilliant investigations carried out by the police on the mobile phone records of the phones and sim cards found on the bodies of the alleged slain terrorists. Not one newspaper or television channel paused to ask why a group of terrorists going on what could clearly be a 'suicide mission' or one in which the chances of their being captured was very high, should carry identity cards, diaries detailing their actions and plans and mobile phones that could be made to yield entire directories of their contacts. No one paused to ask what can only be very reasonable questions about the veracity and provenance of these records and documents, nor were any questions raised about the absence of stringent forensic procedures and criteria pertaining to the recovery of data from these documents. Court records show that the phone records relevant to the conversations between Afshan Guru and Shaukat or to certain conversations that Geelani is said to have had that were produced by the police as evidence (after much dithering) are actually of the days 'after' they were detained. These inconsistencies in the record were then sought to be explained away as 'typographical errors'. Not a single newspaper or television news programme in those days, or in the early days of the trial in the special POTA court could exhibit the necessary degree of reticence or patience required in the handling of a case as sensitive as this one. If the investigating authorities or the prosecution, or the police said that phone records said something, no one actually asked to see the phone records, or to examine the dates, let alone the content of what transpired.

The fact that the death sentences handed out by the POTA court were on the basis of false, forged, or inadmissible or absent evidence was not remarked upon by any news channel. A notable exception however, which should not go unremarked is the reportage of the case in the Hindu, which, barring a stray story in the early days, was marked by balanced and fair reporting, especially the reports filed from the court by Anjali Mody and which even subjected other media reports of the case to some degree of critical scrutiny.

Finally, when the defence asked for the phone records to be produced and examined by independent and knowledgeable witnesses, what came to light were discrepancies in translation and transcription. The fact that the translated sentence 'It becomes necessary sometimes' ('yeh kabhi kabhi zaroori hota hai'), apparently said in response to a question about 'what has happened in Delhi', which Geelani said referred to a domestic dispute and which the prosecution claimed was about the attack on parliament, and on which hinged the entire structure of the case against SAR Geelani was not found to be audible in the tape of the phone intercept when it was played repeatedly for the benefit of the two independent defence witnesses - a documentary filmmaker, Sanjay Kak and a trade union activist, Sampath Prakash, both native Kashmiri speakers.

It needs to be mentioned that while the media attention on SAR Geelani, as the 'intellectual preceptor' of the terrorists was particularly intense, it was less so with regard to Mohammad Afzal, the man whose 'confession' in detention, an instrument inadmissible in ordinary law as evidence (although permitted in POTA) escaped much by way of scrutiny. The media nailed Geelani on the basis of this confession.

Newspapers detailed property Geelani is said to have amassed as rewards for his labours, as well as the minutiae of his contacts with a student of 'West Asian' origin who must have been an 'Arab terrorist'. But no newspaper or television channel ever mentioned, that Afzal identified as a former JKLF militant and fruit merchant, was in fact a 'surrendered militant' and that he

had for seven years been harassed by, and on occasion worked for, the `Special Task Force' a shadowy counter-terrorism outfit that operates with impunity in Kashmir. The fact remains that in his statement to the court Afzal said unequivocally that he met one Tariq, a trusted lieutenant of the arch-terrorist `Ghazi Baba' who is said to have motivated him to return to the ways of the `jihad for azaadi' in an STF training camp in Dral in South Kashmir, and his wife's statement that Afzal was instructed to bring two of the men later identified as the `slain terrorists' in the Parliament Attack to Delhi and provide them with shelter while they were in `transit' by none other than his STF handlers, went unremarked, with one significant exception, to which we will refer later.

It is interesting to speculate as to how some stories made their way into the media, and how some stories remained virtually `out of bounds' even if they made their appearance sometimes in court documents. It is also interesting to consider whether this pattern of omission and insertion or fabrication pointed to the collaborative authorship (between the police, the intelligence community, and the media professionals and channels/newspapers) of these media materials . It is still not clear as to where the origins of these stories lay, and why they appeared so frequently, and why they were given so much space. One thing is certain, the efficient public relations and media exercises carried out (whether through fear or favour, or simply, access) by the `Special Cell' of the Delhi Police in order to make the journalists community simply reproduce what was fed to them in routine press briefings seems to have worked well. The operation worked particularly well with television, with several channels broadcasting `exclusive' interviews with what seemed to be an affable and loquacious prime accused Mohammad Afzal on the 20th of December.

If media professionals highlighted elements from Afzal's first `confessions' in custody to substantiate their allegations against Geelani, they also obscured the fact that later, during the filming of the `broadcast confession' of 18th December, Afzal explicitly denied the fact that Geelani had anything to do

with the conspiracy. It was only when footage from this `interview' was reproduced in a special Aaj Tak (`100 Days after the Attack') programme that it came to light that Afzal had actually explicitly exonerated Geelani. When SAR Geelani's defence lawyers called upon the Aaj Tak reporter who took that interview, Shams Tahir Khan as a witness, it became clear from his deposition that journalists had in fact been instructed, indeed threatened, by the much decorated Delhi Police `Special Cell' officer and `Encounter' specialist, ACP Rajbir Singh that airing the latter part of Afzal's `confession' would invite dire consequences on any journalist present who chose to do so.

These developments did not deter Zee News, one of the most zealous extra judicial prosecutors of the 13th December case from producing an extensive `docu-drama' on 13th December which it aired on more than one occasion, even as the trial progressed. Broadcasts were aired, despite the protest of defence lawyers on the days of the final hearings in the early phase of the trial process.

This television programme has an interesting and chequered history. Its premiere screening took place in the august presence of the then home minister and `dead Pakistani identification expert', L.K. Advani. Advani praised the film as an excellent example of investigative journalism and in fact (on a later occasion) even compared it favourably to a subsequent Zee TV expose (on the attack on `Akshardham' in Gujarat) saying that the former was much more meticulous and thoroughly produced. The film, which relayed and represented news, was itself news on the Zee News Channel, and its making was featured as a lead story on the Zee News network. The film, with a stentorian commentary by the Bollywood `B' Movie Star Raza Murad, featured a troupe of actors, enacting the `conspiracy'. The script of this television programme, as stated in a text insert at the beginning of the programme is based on the charge-sheet of the Delhi Police in the case. What is particularly interesting are the many parallels, both in plot, mise-en-scene and narrative detail between the charge sheet, the Zee TV film and the Shahrukh Khan\_Manisha Koirala starring film by Mani Ratnam - *Dil Se*. We

see the same procedures - procurement and manufacture of identity cards, the reconnaissance of the landmarks of Lutyens Delhi on winter days, the listening to Hindi film music as terrorists work (on Radio in the film, downloaded from computers in the TV programme) the hint of romance, the presence of a hard line intellectual ideologue, the same locale - the alleyways of Old Delhi, around Karim's and the same method of masquerade as security 'personnel'.

There is an uncanny similarity between the plots of large parts of these two audio visual documents, (one a fiction film and the other a docu-drama) almost as if the 'terrorists', the police investigators, and the producers of the docu-drama had seen the film (*Dil Se*) together and discussed its merits in a film analysis class before going their separate ways to give form and shape to their different agendas. Or, could it be, that the police genre of literature and filmmaking, which often shapes the trajectories of alleged 'terrorist' incidents, found in *Dil Se* - 13 December a suitable vehicle for the execution of one of their most complex plots ? We will never know whether or not this is indeed the case, until some of the key actors in this 'film' decide to speak. But it is self evident that a private news network gaining access to the highest echelons of the home ministry in order to be able to re-enact and shoot on the grounds of the Parliament, with the extensive operational co-operation of police and security personnel points to a close embrace between the security apparatus and the same media agency. And just as the justices of the Supreme Court may well have their reasons to continue to point their 'needles of suspicions', we too will have reason to begin looking for, and pointing, our needles of suspicion in the directions that they lead us. We will need to continue to ask questions as to why the events of 13 December and their aftermath needed the extent of 'spin doctoring' that we have seen? We will have to continue to ask why the prosecution's case in the 13 December case had to be argued, not only in the court, but also on air, in living rooms, between commercial breaks. There are no doubts left any more about the fact that the arguments were flimsy and untenable. That they were bad in

law, and that they could not be sustained under cross examination. This is perhaps why they had to be buttressed with so much media hype, in the hope that TRP ratings would work where forensic evidence was failing.

The dense tangle between film and reality in the 13 December case does not begin and end with *Dil Se*, there are two other films that bear looking at as well, (and there may well be more to come) one being *16 December*, and the other *Khaki*. The two films have two distinct approaches, and are noteworthy not because I think they influenced what I think is the 'scripting' of 13 December, but because they are mirrors through which 13 December can be read. *16 December* is titled so because it happens to be the date on which India won the 1971 war against Pakistan, and so is the date when in the film, a Pakistani soldier turned terrorist wants to unleash a nuclear attack on Delhi as an act of vengeance. As can be expected, the film features a dedicated bunch of Indian intelligence operatives (including the model turned actor Milind Soman who portrays a surveillance expert, with a special fondness for mobile phones) who foil the plot and save Delhi, India and the world from Nuclear Armageddon. What is interesting about *16 December* is the way in which it 'naturalizes' surveillance technologies, (CCTV cameras, satellite based video surveillance, human surveillance through street based 'agents' who happen to be an army of blind beggars with sharp ears, and mobile phone interception) to produce a seamless evidentiary narrative. Mobile phones are high technology, the capacity to tap mobile phones is still higher technology and truth flows out of higher technology. What is even more interesting is a remarkable sequence in the film when the entire intelligence apparatus connives to create a 'simulation', an image of a location in far away Afghanistan on the floor of a 'film studio' so as to hoodwink a drugged and captured 'terrorist' into talking. This tacit admission of the practice by intelligence agencies of 'staging' incidents relating to 'terrorism' as a measure necessary in order to combat terrorists is almost like a sudden revelation of the 'repressed' narrative of how intelligence agencies actually create the realities that we think they are combatting.

One might recall also the climactic revelation in the Sanjay Dutt\_Jackie Shroff\_Hrithik Roshan starrer *Mission Kashmir* (with its own oblique references to the enigmatic figure of 'Ghazi Baba') of how a 'video simulation' of 'terrorists in Indian army uniforms' (found during the course of a raid by Indian military personnel dressed as 'terrorists' on a 'terrorist hideout') blowing up a Muslim holy shrine in Srinagar in Kashmir is yet another instance of the way in which the 'production of images' is seen as key to the 'production of terror'. The deliberate confusion in the appearance of combatants in and out of uniform, of masked men who appear in the middle of the night and wreck devastating violence, in the pursuit of an 'image', who could be, 'militants' or 'soldiers' or 'both' is a reflection of the shadowy realities that have overtaken Jammu and Kashmir. Here, as we observed earlier, we know who is who, even though the 'terrorist' 'stands out' and 'blends in' at the same time. It is as if the apparatus of illusion that is the cinema had taught many lessons to the secondary art of the moving image of statecraft, at least in its 'terror/counter-terror' avatar.

Seen in the light of the extraordinary 'entente cordiale' between security and intelligence agencies and the image producing agencies of the media in India, the film *16 December* becomes an interesting if unwitting source for the making of an oblique comment on the reality of '13 December'.

In a similar, though perhaps more conscious vein, the film *Khaki* (starring Amitabh Bacchan, Akshay Kumar, Ajay Devgan and Aishwarya Rai) actually invoked the figure of a 'rogue security agent' acting to protect what he thinks are the interests of the nation state, by seeking to eliminate what we are at first led to believe is a 'suspected terrorist mastermind' a Dr. Ansari, whose appearance, demeanour and dignified silence, particularly in the first half of the film, cannot but fail to bring to mind what we know of SAR Geelani. Ansari is later revealed to be someone who knows 'vital information' about the engineering of a communal riot by corrupt politicians (shades of 'Gujarat 2002' here) and his silence is an effort to protect what he knows so that he can reveal it at the most appropriate moment. Although the

film follows the formula of good cops versus 'rogue' cops (not exactly 'bad' cops, but cops used by shadowy forces within the state beyond their control) it again points out the macabrely pantomimic character of 'war against terror'.

What do *Dil Se*, *Mission Kashmir*, *16 December* on the one hand, and the Zee TV docu-dramas add up to? They add up to the metaphorical identikit photograph of the terrorist in our heads whom we can recognize when we look at almost anyone's face, regardless of whether they 'stand out', or 'blend in'. This is the terrorist writ large as 'everyman' so much so that Zee News can use the footage from the 're-enacted' scenes of the 13 December film even in another programme, an 'Inside Story' special broadcast barely on 'the Al Qaeda Terror Manual' on the evening of the 24th of July, in the wake of the London bombings of the 7th of July and barely days before the final Supreme Court verdict on the 13 December case on the 4th of August. This programme, which can be seen as a sort of do-it-yourself 'how to become a terrorist even if you never thought of becoming one', with details of how to obtain and mix chemicals to make bombs, the details of poisoning drinking water systems, how to form cells and conduct communications using codes, etc., (in a classic example of the 'system' actually egging people on to become the 'terrorists' that it can then frighten the rest of us with) again used the same scenes of the actors playing Geelani, Shaukat, Afzal and the five dead men. Though this time it did not name them. But anyone who had seen the earlier '13 December' film would immediately recognize once again the fictionalized SAR Geelani hectoring his cell comrades in the sequence on 'organization of terrorist cells'. Just as anyone who had seen the '13 December' film would have seen the gratuitous and grainy images of 'terrorists' training under pine trees and of a televised 'encounter' with the late and larger than life 'Ghazi Baba' caressing a strangely shaped 'Scorpion' pistol in what was marked 'file footage'. Like a nightmare or a bad b movie that condemns its audience to constant re-runs, the 'images' of the Zee TV-Special Cell collaborative genre of 'terrorism' refuses to give up

its ghost. It returns to haunt our television screens, back to back with *Crime Reporter* and a host of other sensational programmes that can only be described as a sad case of police-porn-snuff movies on late night but prime time television.

It returned to our screens momentarily when Geelani was shot by an unidentified gunman in Delhi on the 9th of February, 2005. When earnest reporters, and television news anchors, across channels, for several days following the incident, instead of asking why the police were constantly shadowing Geelani, his brother, his friends, asked why his advocate had thought it wise to save his life by taking him immediately to hospital, and not wait for him to succumb to his injuries as she went through the process of filing, first and foremost, a `proper FIR (first information report) as per procedure, with the Delhi police`.

The night of 4th August, 2005 (yesterday) was occasion for broadcasts on the final supreme court judgement on the 13 December case. These broadcasts, produced once again the latest (and perhaps last) episode in this continuing `b` series TV show. Zee News produced yet another `special` dovetailed into its prime time news show at 9 PM. This time it was titled *13 December : Ek Saazish* ('13 December - A Conspiracy'). The news report had shown a high ranking Delhi police special cell officer Ashok Chand (in a split screen with the first ever viewing of surveillance camera footage from the Parliament on 13 December) offer an explanation of the splendid conduct of the Delhi Police in the case, after all, Afzal had been convicted as a result of the investigation. The others could not be convicted, because, as the reporter explained to the anchor in the studio, the terrorists had used `high technology` - mobile phones and laptops. And what this implied was that we need better and stricter laws to deal with such `high tech terrorists`, so that no one would be able to get away. There is some irony in the fact that the `very high technology` which had helped the police write their charge sheets in the first instance, was now being blamed for their inability to fix the blame on say, a Geelani, on whom, the report continued to assert, the `needle of

suspicion' stayed firm and unwavering, though somewhat unsubstantially. So, mobile phones help catch 'terrorists', mobile phones are also so high tech that they can be used by those 'terrorists' and their advocates to subvert the commendable work done by hard working police officers. Therefore bring back laws, or make new laws that can make the task of using evidence from mobile phones and other high tech devices 'easier' for the prosecution. In other words, bring back or make laws that enable phone tapping and surveillance on a generalized scale, that facilitate the faulty transcription and translation of tapped conversations, that enable the manipulation or obfuscation of phone records, and that do not have to produce the taped evidence in court in order to obtain a necessary conviction, and that enable the airing and unofficial pre-censoring of 'interviews' of the accused in detention in the media while a trial is in process, so that television network news executives can have an easier nights sleep and count their takings.

In a remarkable admission, and in passing, while playing once again the 'dramatization' of Afzal's indoctrination (once again from the '13 December' film) the Zee News broadcast commentator said - 'Afzal was a surrendered militant, he had worked off and on for the STF for seven years, and he had met Tariq in an STF camp in Dral'. Why was this piece of information which had been available in the court records, like everything else in this case, since the 21st of September, 2002, not made public knowledge either in the previous Zee News programmes, or in any programmes thereafter to inform the public? Any reasonable person would surmise that a person (in this case Afzal) who has been in regular contact with intelligence operatives of the Indian state, who has been harassed by them, who has had money extorted by them (as per his wife's statement made to a newspaper) must also be asked what relationships these operatives had to the sequence of events leading up to 13 December. If one needle of suspicion points at 'militants' and their handlers, whether local or across the border, then, clearly, another 'needle of suspicion' (which looks stronger, at least, circumstantially) also

points to the activities and personnel of the shadowy agency or cluster of agencies called the `Special Task Force`. Until these details are investigated, we cannot come to any certain conclusion about who Afzal is, what role he played, and why he has to die.

Why also, were the surveillance camera footage of the vehicle seen proceeding towards the parliament building about as far as the `Red Cross Road-Sansad Marg` roundabout not ever made public before? Was it because the channel had to `wait` until the case was satisfactorily `closed`? Surely any journalist or television producer would know that the vicinity of the parliament and other sensitive government buildings have been photographed on CCTV cameras for a long time. Surely an analysis of the movement of the car, as seen in this footage would be able to tell us something about how the car was approached, which barriers it crossed and how. Could it be that the white ambassador car we see in the surveillance footage had prior clearance to approach the parliament, at least till a sufficient distance, before all hell could break loose? Could it be, that those watching the white car approach, were watching, and waiting?

In the end, more questions than ever, remain un-answered. About the conduct of the intelligence and security agencies, about the conduct of the media and about our gullibility as citizens to be quick to condemn, first SAR Geelani, and now Mohammad Afzal. Questions remain about the fact that news channels and papers can see it fit never to apologize either to SAR Geelani and Afshan Guru for the deliberate distortions of the truth that these organs of the media were party to, throughout the course of the trials. Not once, did Zee News or any other news channel offer an apology to any of the accused, or to the public for the emotional stress that their broadcasts may have caused, even as they continued to highlight the `plight` of the families of the `martyred` security and other personnel who fell in the line of duty on December 13, 2001. Even in the telecast of the 4th of August, 2005, Zee News considered it necessary to provoke the family members of one of the `martyred` security personnel into an outburst demanding death for all the

accused. It did not however deem it necessary to reflect on the fact that the families of SAR Geelani, Afshan Guru, Shaukat Husain or Mohammad Afzal too had to suffer, first knowing that their loved ones were in prison, that they were brutally tortured, and that they had to go through the trauma of hearing that they had been awarded death sentences. Not once did any news channel ever apologize for creating and sustaining the climate of suspicion against people who were ultimately acquitted, they did not see it necessary to issue a single note of regret to their viewers for having failed to live up to their stated claims of providing free, fair, fearless and objective reportage. The events of 13 December and their aftermath, along with the sad episode of the Kargil War, are probably the nadir as far as a deviation from media ethics and professional standards are concerned for a vast swathe of the `free and independent media' in India.

In the end, the truth, or the truths (there may be many and conflicting truths) may yet turn out to be more complex and disturbing than either Zee News or the Supreme Court of India can permit themselves to imagine or ask. Zee News, or `any other alphabet TV' is not asking, at least not yet, any of those slightly difficult questions. And if the Supreme Court of India is to have its way, Afzal is going to hang some day. Some of the answers will die with him. SAR Geelani remains alive, and we hope he lives long, but as he has himself said, "let us not celebrate the acquittal of the innocent, let us instead pause to reflect on where we are and how we got here." Geelani has reminded us that his fate is not special, that there are many in his generation, in Kashmir and elsewhere who have had to go through things that are as bad, or worse. And few have had the good fortune that he has had, to come out of it all, alive and sane. For their sake, and so that Geelani's quiet and dignified fight for justice for those still in prison, or for those who are facing the gallows, or have `disappeared', or have turned up with bullets in their heads, we must all continue to ask some very hard questions, for a very long time. It is possible that the mainstream media will be a weapon in the process of silencing such questions. It is also possible

that professionals in the mainstream media will become more aware and sensitive to the ethical and professional demands associated with their practice, and will occasionally refuse to toe the lines dictated in smoke filled back rooms where channel executives, editors, senior correspondents and intelligence agents gather for quiet chats. I hope for the latter. The demands of justice and freedom in South Asia will depend on such acts of refusal to `spin' stories out of blood and smoke.

## **References**

I have relied extensively on the information (court records, deposition etc.) and analysis undertaken, collected and collated in `December 13 : Terror over Democracy' by Nirmalangshu Mukherjee, 2005, published by Promilla and Co. Publishers, in association with Bibliophile South Asia, New Delhi and Chicago. I acknowledge my gratitude for the scholarly diligence and care with which Nirmalangshu Mukherjee unravels the December 13 case. I have also relied on the report of the meeting to discuss the media trial of SAR Geelani held at Sarai CSDS in. I would also like to acknowledge conversations that I have had with Nandita Haksar and Vrinda Grover while thinking about the background to the 13 December case.

I would like to acknowledge the students and faculty of the Department of Film Studies, Jadavpur University for the opportunity to present some of the material and ideas in this text to them and for their feedback on the same.

For more information on the 13 December Case please see the website of the All India Defence Committee for SAR Geelani - <http://www20.brinkster.com/sargeelani/>

*Also see*

Nirmalangshu Mukherjee's article on `The Media and December 13'  
<http://www.revolutionarydemocracy.org/misc/dec13.htm>

Nandita Haksar's article in Sarai Reader 04 - `Trial by the Media' [www.sarai.net/journal/04\\_pdf/20nandita.pdf](http://www.sarai.net/journal/04_pdf/20nandita.pdf)

Tripta Wahi's article in Sarai Reader 05 - `The Strange Case of Qays al Kareem'  
[www.sarai.net/journal/05\\_pdf/03/04\\_qay.pdf](http://www.sarai.net/journal/05_pdf/03/04_qay.pdf)

And, an earlier posting by me (December 18, 2002) on the Reader List titled `The Worst is Always Precise', <http://mail.sarai.net/pipermail/reader-list/2002-December/002080.html> which has links to several newspaper reports relevant to the 13 December case.

The films I watched while thinking about this text were *Dil Se* (Director : Mani Ratnam, 1998), *Mission Kashmir* (Director : Vidhu Vinod Chopra, 2002), *16 December* (Director, Mani Shankar, 2002) , *Khaki* ( Director : Raj Kumar Santoshi, 2003) and the Zee News Telefilm on 13 December, as well as the Zee News `Inside Story' on the Al-Qaeda Terror Manual, broadcast on 24th July, 2005, and the News at 9 and Special Programme at 9:30 :13 *December Ek Saazish* also broadcast on Zee News on the evening of July 4, 2005.

I also watched several news broadcasts on Aaj Tak, NDTV, Rashtriya Sahara and Zee News, through the course of the successive trials in the special POTA court, the Delhi High Court and the Supreme Court.

Readers interested in the murky history of the involvement of European State intelligence agencies under the ambit of 'Operation Gladio' to 'create' incidents of terrorism and sustain a 'strategy of tension' particularly in Italy are advised to refer to 'Fascism and the Establishment : Italy and the Strategy of Tension' [http://struggle.ws/freeearth/fe3\\_italy.html](http://struggle.ws/freeearth/fe3_italy.html). Google searches incorporating the words 'Gladio, P2, Italy, Belgium' are also likely to yield interesting results.

An equally interesting though less candid account of the work of intelligence agencies in India, particularly the IB, by a former intelligence operative, can be found in 'Open Secrets: India's Intelligence Unveiled' By Maloy Krishna Dhar, Manas Publication, Delhi, 2005.