

Appeared in *The Book Review*, May 2005

13 December: Terror over Democracy, Nirmalangshu Mukherji, Foreword Essay *Manipulation of Fear* by Noam Chomsky, 2005, Promilla & Co., Publishers in association with Bibliophile South Asia, New Delhi, pp.ix-xvii, 1-372 and index, Rs 395.

On 13 December 2001, at 11.30 a.m. a white Ambassador equipped with the red light of a VIP car and a Home Ministry sticker, entered the Parliament complex, rammed into the Vice President's cavalcade when attempting a U-turn and, challenged, the five armed persons in the car opened fire. In the battle that followed, all five men were shot dead, nine persons including six security personnel and a gardener were killed, and 16 others belonging to the security forces sustained injury. The Prime Minister likened the December 13 attack on Parliament to the 9/11 catastrophe. Parliament was adjourned *sine die*. Pakistan was held responsible for the attack and, while rejecting President Musharraf's offer of a joint probe, a massive military offensive was launched leading to perilous moments with fingers poised over the nuclear trigger. No actual war ensued, but several thousand crores of rupees went into the eyeball-to-eyeball confrontation, hundreds of soldiers died, and "reportedly, over one hundred children died and many farmers lost their livelihood due to heavy mining in the border areas." (p.11) POTA, which the government had been unable to get enacted, sailed through Parliament in the climate of fear that caught on, and was perpetuated, after the attack.

The five terrorists were declared to be Pakistanis; no one claimed them, not from India, not from Pakistan, and the leads were not followed through to establish their identities. Instead, on the basis of mobile phone numbers that were allegedly recovered from the dead men, three Kashmiri Muslims were picked up and tried for conspiring in the commission of a terrorist act. The wives of one of the accused was drawn into the ring of the accused as someone who must have had knowledge that the attack was being planned, for the meetings were allegedly held in her house. The three men were Afzal, a militant who had surrendered to the BSF in 1992 and was under the watchful eye of the Special Task Force since then; Shaukat Guru, his cousin, a fruit vendor who had married the fourth accused, Afshan Guru who was born Navjot Sandhu, a Sikh; and Geelani, a professor in a New Delhi college. Afzal and Shaukat were said to have made confessions

to a police officer, which only under POTA is admissible in evidence. Their s.313 statements made in response to the questions of the judge when the prosecution's witnesses had been examined, contradicted much of what the 'confession' contained which confessions, they maintained, had been written on to signed, blank papers that had been extracted from them. The Designated Court convicted them all, and gave a range of death sentences and life imprisonment to the three men, and 5 years rigorous imprisonment and fine to Afshan Guru. In appeal, the High Court acquitted Geelani and Afshan Guru, for there was no evidence at all that the court found against them. The convicted men, and the state, are now in appeal before the Supreme Court.

In all this time, as the fear of a threat to the nation has been allowed to escalate, as enemies have been identified by conjecture rather than fact, as trial by the media, extraordinary laws, and the casting away of the protection of procedure has sent three men who have been proclaiming their innocence close to gallows, what stands out is the non-existence of a public inquiry.

Parliamentarians who were huddled in the Parliament building as bullets flew around outside have not demanded an inquiry. The media, whose headlines screamed the version fed to them by the police, did not project the need for filling the many gaps that opened into chasms. The police did not ask for a brief to extend their investigations to find the many missing pieces. In fact, perhaps the most astounding feature of the attack on Parliament has been the complete, deafening, silence about a public inquiry.

It is this that Nirmalangshu finds is his spur to writing this book. A committee of inquiry that he envisages with respect to December 13, 2001, would have as its task the answering of some basic questions: (p.5)

“Who attacked Parliament?

What exactly was the conspiracy?

How could the attackers nearly succeed in blowing up the building itself?

What are the domestic and international ramifications of this event?

What steps have been taken to bring the real perpetrators to justice?

Have the accused been given a fair trial and their human rights protected?”

These seem so basic, and the need for finding answers so incontrovertible, that it is stunning to realise that “[n]o commission of public inquiry was ever instituted at any level.” (p.5)

The only inquiry of which the public has knowledge has been translated into criminal proceedings in the court. The microscopic nature of a trial in court, however, means that it is only the accused whose conduct will be interrogated and judged, leaving the five armed dead men beyond its range, the question about cross-border terror not even asked, and the possible involvement of another government -- which took the two countries to the precipice – not even in the penumbra of concern. Even as the circumstances of the case cast a pall of doubt on the conspiratorial complicity of the accused, many questions remain even unasked about them. For instance, how could it come to be that Afzal, a surrendered militant, evaded the eye of the STF to hobnob with Pakistani militants? Does it sound plausible that this is what happened? Shouldn't we want to know? For, wherever there is militancy, there are those who opt to return from it, and the state exercises a power and control over them that we, outside that arena of operation, know little about. Shouldn't an allegation of cross-country conspiratorial activity by a surrendered militant under surveillance make us want to ask what this is about? In providing the ground for asking these questions, Nirmalangshu does us a signal service.

The preservation of rights is a related concern that runs through the book. For, “It is widely recognized that protection of civil and human rights is a significant preventive measure and response against terrorism. It could well be that terrorist groups in fact welcome the enactment of measures that infringe upon civil rights. As civil rights are curbed, as is an authoritarian state, the space for open democratic expression of dissent shrinks, while dissent itself grows because of the application of the measures themselves. The terrorist hopes, with some justification, that some of this unexpressed dissent will flow to swell their ranks and legitimise their goals in the general population.” (p.4) So, Nirmalangshu walks us through the conduct of the proceedings, surveys the shrinking of civil rights and the right to a fair trial which has deliberately been planted in the law, and makes a strong case for resisting a dilution of these rights.

His analytical exposition of the media's role in fostering fear, sensationalising every step of the way, adopting the police version, and even following police instructions on what they may and may not publish, holds the fascination of horror. The headlines that damned Geelani even as the investigation had hardly begun speak of suspicion being equated with certainty. The effect of labelling and the role of the media in pre-judging the accused is laid bare. A.C.P. Rajbir Singh, who was the Chief Investigating Officer in the case, organised a press meet, where Afzal was paraded before select news channels and where he 'confessed'. This preceded, even, his 'confession' to Rajbir Singh's senior, under POTA. As if this brazen public trial with the connivance of the press, which breaches every norm of law and police functioning, was not enough, Rajbir Singh and the press walked an extra mile together. "In the interview," Nirmalangshu writes, "although Afzal admitted to his involvement in the crime, he categorically exonerated Geelani from any involvement. In full view of the assembled press, the investigating officer A.C.P. Rajbir Singh reprimanded Afzal for mentioning Geelani despite his orders to the contrary. The A.C.P. then asked the press not to report Afzal's exoneration of Geelani" (p.19). As Afzal brought out in his cross-examination of the Principal Correspondent of Aaj Tak (reproduced at p.210):

"Q: I put it to you that Rajbir had not simply told me but shouted at me not to say anything about Geelani?

Ans: It is correct".

And, the press, to the last person, acquiesced, and stayed silent – till 100 days later, when one news channel telecast the unexpurgated version. By this time, the damage was done, public prejudice had supplanted informed judgment, and facts no longer mattered.

This is an important book. It introduces us to a series of documents which are in the public domain, including the charge sheet, the 'confessions' under POTA, transcripts of Afzal and Shaukat's s.313 statements, analytical reports by PUDR and Amnesty International, significant articles that appeared in relation to the asked and unasked questions, excerpts from the judgments of the Designated Court and the High Court, and "a wife's appeal for justice" by Tabassum, speaking for Afzal, who had been let down

badly by the legal aid system while being tried, convicted and sentenced for a capital offence. And, after a searching analysis, Nirmalangshu sets down an agenda that will move our quest out of the mire of the fear and presumption that the rhetoric of terrorism all too often brings. “The book,” as the blurb tells us, “ends with a strong appeal for a comprehensive parliamentary inquiry.” At stake is democracy, our right to know what happened, and the lives of those caught in the web of our ignorance.

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