

The Strange Case of Qays Al Kareem

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Qays A.M. Abd Al Kareem was a research student at the University of Delhi, which he had joined in December 1997 to do his doctoral degree in astrophysics. A few months later he got accommodation in the Jubilee Hall hostel, which is a postgraduate hostel for men in the University. Qays expected to stay there till the completion of his degree, which was likely to take nearly five years. However, Qays, an Arab Muslim of Jordanian nationality, was to become the target of constant abuse and harassment by some other students resident in Jubilee Hall hostel who were associated with religious fundamentalist Hindu groups. This led to his being expelled from Jubilee Hall. During this period he continuously approached the hostel and the university authorities and brought the incessant harassment to their notice. The concerned authorities did not discharge their responsibility by intervening in the matter. Qays then approached democratic sections of the university community for help against his continual harassment.

Mr. S.A.R. Geelani,¹ lecturer in Arabic at Zakir Hussain College, Delhi, and a civil liberties activist, whom Qays had met on the research floor of the Central Reference Library, and who used to help Qays and could speak to him in Arabic, took him to the People's Union for Civil Liberties (PUCL). The PUCL General Secretary Ms. Gopa Joshi of Ramjas College, Delhi University, intervened to seek alternative accommodation for Mr. Qays so that he could complete his thesis in peace. The university gave him accommodation in the Teachers' Transit Hostel (TTH) for three months from October to December 2001, with the understanding that his stay would be extended since the Transit Hostel always remained half-empty. The students who had made his life so difficult in the Jubilee Hall made a public issue, however, of Qays having been given accommodation in the Transit Hostel which is primarily for teachers.

Unfortunately for Qays, following the infamous attack on the Parliament on 13 December 2001, S.A.R. Geelani was arrested the next day in connection with that attack (according to the prosecution, he was arrested on 15 December). Those black days saw the media, both print and electronic, abdicate its role of acting as the fourth estate.²

Instead, Geelani was publicly tried by the media on the basis of police statements. Even before his trial began, the media had pronounced Geelani guilty. Within three days, the Jubilee Hall students also came up with 'information' which amounted to insinuations about

S.A.R. Geelani's 'international connections' and their 'relevance' to the Parliament attack case. These students suggested this by talking of Geelani's friendship with Qays and their long phone calls to destinations in West Asia.³

These insinuations – a friendship between a Jordanian student, an educated Kashmiri Muslim man, a lecturer facing a show trial on a charge of 'terrorism', together with allegations about international 'connections' in the Arab world – all fell in place to create a 'spin' made potent by the prevailing national and international climate of paranoia related to the 'global war against terror'.

Qays was forced to leave the TTH without any further notice or without even having been given time to look for alternative accommodation. In fact, he was locked out of his room with his baggage in the room. All this was happening when he was in the submission stage of his thesis. He was detained by the Central Investigating Department (CID) and was called several times by the Special Cell of the Delhi Police, which was handling the Parliament attack case.

This was not all. The university officials held back the appointment of examiners for examination of his thesis for very long. Qays approached a large number of teachers to help him get examiners appointed for examination of his thesis since his visa had been extended for only six months, and time was running out. Fearing for his safety, Qays's family wanted him to return immediately (they had in the previous year called back his younger brother who was studying mathematics at Delhi University), but Qays did not want to return without a degree since he had already invested more than four years in his studies. Qays was resolute that he would return only after getting his degree.

Finally, his *viva voce* was held in October 2002. He did extremely well in his *viva* and his examiners unambiguously appreciated his thesis for its contribution to its area of study. He finally got his degree in the last week of October 2002, which he immediately sent for attestation/authentication to the Embassy of Jordan. He booked his return air ticket to Jordan for 14 November 2002. This ticket was confirmed. But all was not over for Qays; the worst was yet to come.

On 7 November 2002, Qays went to the Foreigners' Registration Regional Office (FRRO) with all his documents to inform the office of his date of departure and to obtain permission for the same. He handed over all his documents, including passport and ticket, for due procedure. He was asked to wait, but his documents were not returned to him nor was he given any information. After waiting for nearly three, Qays rang up Mr. N.D. Pancholi, his lawyer and a civil rights activist, to inform him of all that had happened at FRRO. Mr. Pancholi advised him to wait as per official advice. Qays again rang Mr. Pancholi at 4 pm and informed him that he had not been given any information by the office, nor were his papers being returned. Mr. Pancholi asked Qays to ring him up at 5 pm. Not receiving any call from Qays, Mr. Pancholi went to the FRRO where with some difficulty he learnt that Qays had been sent to the Lampur Detention Centre. Mr. Pancholi was unable to ascertain the reason for his detention but he was informed that there were some instructions 'from above'. Mr. Pancholi acted immediately and sent telegrams to the Home Minister, Police Commissioner and the FRRO about Qays' illegal detention.

The following day (8 November 2002) *The Hindustan Times*, *Indian Express* and *The Times of India* carried reports about Qays' detention. According to these reports, the

reason given by the FRRO for his detention was that Qays' air ticket was "not confirmed". The reports went on to state that Qays would be deported by the FRRO on the ticket bought by Qays himself, in order to "ensure his departure". The reason given by the FRRO was clearly spurious, since Qays' ticket was confirmed. In any event, no reason was given by the FRRO to Qays as to why he was being detained, and why he would be deported.

Fearing for his safety and life, two teachers of the university, namely, Nandita Narain and Tripta Wahli, immediately moved a *habeas corpus* petition on 8 November 2002 in the High Court of Delhi (No. CRLW 1287/2002).⁴ The division bench comprising Justice D. Bhandari and Justice H.R. Malhotra asked the centre and the Delhi Police to produce Mr. Qays in court on Monday (11 November 2002) at 10.30 am. In view of the anxiety expressed by the petitioners about the safety of Qays, the Court asked the Union of India and others to ensure that Qays was brought to the court in good condition.

On Monday, 11 November 2002, the petitioners and Mr. Pancholi were shocked to see the physical state of Qays; his spectacles and wristwatch were broken, his shirt was torn and there were scratches all over his forearms. His physical condition was there for all to see in the court. He told the court that the previous evening (i.e., Sunday evening), four policemen had come to the detention centre to take him away. The policemen had told him that they had come to take him to court. Aware that this was not possible on a Sunday evening, Qays resisted going with them. In this physical resistance his spectacles and wristwatch had got broken, his shirt torn and he had received scratches all over his body. He stated that he could prevent the policemen from physically dragging him out only when he shouted for help and other inmates of the detention centre came to his rescue. The police flatly denied this altogether, but the physical condition of Qays left no doubt in the minds of all present in the courtroom that Qays was telling the truth. The Hon'ble judges were visibly angry and they reprimanded the Union of India and others, stating that they had given special instructions for his physical well-being and that their instructions had not been obeyed. They were so disturbed by this incident that they asked the Union of India and the Delhi Police to appear in the forenoon. Ms. Mukta, Public Prosecutor for the Delhi Government, was pleading with the Hon'ble judges that the Additional Solicitor-General was to appear for the Union of India and that he could come only in the afternoon. However, he was ordered to come no later than noon. This reflected the anger of the Hon'ble judges at Qays' physical condition.

Mr. Sud, the Additional Solicitor-General of India, argued that Qays was to be deported on grounds that could not be revealed publicly, and there were confidential reports/documents which warranted his departure. He mentioned Qays' connection with S.A.R. Geelani and stated that Qays had been taken and questioned by the CID and the Special Cell of the Delhi Police several times in connection with the attack on the Parliament on 13 December 2001. He went on to state that Qays was to be deported for reasons of security. On this being contested by Mr. Pancholi, the Hon'ble judges asked for and examined the Home Ministry's files with confidential reports. Their observations about the contents of the files are very significant. They commented that although Qays had been taken and questioned by the CID and the special cell several times in connection with the Parliament attack case, there was yet no evidence against him, and he had been released

each time. They further added that they saw no apparent reason for him to be deported when he himself was leaving the country.

During the course of the argument Mr. Sud referred to the petitioners as 'leftist activists' who were always trying to create trouble for the state. Finally, he argued that the government wanted to deport him so that he is not able to go as a free man and that it should become a part of his record. He insisted that the government would deport him and send his luggage later. It is quite tragic that the Hon'ble bench succumbed to the government pressure to deport him although it found no evidence in the confidential files to warrant the deportation of Qays. Even on the issue of Qays' baggage, the state was adamant that it would pack and send Qays' luggage. However, the petitioners passionately argued that his research material collected over so many years ran the risk of getting lost/scattered if Qays was not allowed to sort out his own baggage. The court permitted Qays to collect his luggage at Parmanand Colony in the presence of a lawyer designated by the court. The court also sought assurance from the Union of India and the Delhi Police about Qays' safety till his departure on 14 November 2002, which assurance was given by the state. The petitioners got permission from the court to be present at the time when Qays was to collect his baggage from his residence. The same was done on the evening of the following day, i.e., 12 November 2002.

Qays left on the air ticket he himself had booked and paid for (on 14 November 2002), but with the following observations (made by the FRRO on the day Mr. Qays had gone to the FRRO office for permission to leave) inscribed on to his passport:

The holder of this passport is being deported from India due to his undesirable activities by FRRO Delhi vide order No. 1408/ For (I.M. Cell) dated 7/11/02.

Qays has had to face a lot of trouble in Jordan arising out of his deportation.

...Could it be that the decision to hold Qays at the Lampur detention centre, the attack on him the evening of the day before he was due to appear in court, the attempt to impound his luggage, and the decision to deport him, were all part of a pattern dictated by the necessity to obtain a forced confession implicating Gilani, and/or, to 'plant' incriminating evidence in his belongings, and to ensure that Qays would never be able to return to India to testify before a court of law? Like many other aspects of the '13 December' case, the deportation of Qays Abd Al Kareem too, is a fact that leaves many questions un-answered...

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NOTES

1. S.A.R Geelani, a lecturer in Arabic at Delhi University, was an accused in the '13 December 2001 – Attack on Parliament Case'. Geelani, along with two others of his co-accused, was sentenced to death to by a special anti-terrorism court under the Prevention of Terrorism Act (POTA; repealed in 2004). Geelani was arrested, shortly after 13 December 2001 by the 'Special Cell' of the Delhi Police and detained without trial under POTA (then an ordinance). The evidence produced by the Special Cell on the basis of which he was convicted by the POTA court, consisted of a mistranslation of the transcript of a mobile phone conversation between Geelani and his stepbrother in Kashmir, that was recorded through an unauthorised act of telephone surveillance. The verdict was challenged in the Delhi High Court. A protracted campaign by Geelani's friends, colleagues and human rights activists, together with his legal defence by a team of advocates, was able to reverse the POTA court's verdict. The 'evidence' was found inadmissible, and Geelani was acquitted on 29 October 2003, after spending nearly two years on death row in Delhi's Tihar Jail. Subsequently, the Delhi Police appealed against the acquittal in the Supreme Court, and the case is still being heard. On the 8 February 2005, Geelani was shot by unidentified assailants outside the house of Nandita Haksar, one of his lawyers. Haksar and her husband rushed Geelani to the All India Institute of Medical Sciences, where he was operated upon for three bullet injuries. Geelani survived this attack and is currently recovering. On 14 February 2005, Geelani issued a statement saying that he suspected the involvement of the Special Cell in this attack on his life. For more details of the 'Geelani Case', see the website of the All India Defence Committee for S.A.R. Geelani at www20.brinkster.com/sargeelani. For a comprehensive timeline of the 'Parliament Attack' see - <http://in.rediff.com/news/pat2001.htm>
2. For more on the 'Media Trial' of SAR Geelani, see Nandita Haksar, "Tried by The Media: The S. A. R. Geelani Trial". In *Crisis/Media: Sarai Reader 04* (Center for the Study of Developing Societies, 2004, Delhi) pp. 158-164; also at www.sarai.net/reader/reader_04.html/. See also Nirmalangshu Mukherji, "The Media and December 13: Who Attacked the Indian Parliament and Why Don't Indians Have the Full Story". In *Zmag*, 30 September 2005. <http://www.zmag.org/content/showarticle.cfm?SectionID=32&ItemID=6332>
3. "Hunt for Teachers' Pet in Jubilee Hall", *The Hindustan Times*, 17 December 2001.
4. "Produce Jordanian on Monday, HC tells Police", *Indian Express*, 9 November 2002.

