

Standing Up for Few Good Men

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Editor's Note

This personal narrative recounts an incident where the author had to ensure that justice was done in case of men who were unwittingly drawn into a misdemeanour in counter insurgency operations and brings out many lessons for dealing with such situations if they ever occur.

The recent trial of an army Major (Maj), in an incident of staged abduction and elimination of innocent civilians in Shopian district,¹ brought back painful memories of a similar ghastly incident, in Punjab in 1993. Unfortunately, in rare cases a young officer with overzealous or malevolent tendencies may fall prey to greed and diabolical conduct. It is sad that despite being exposed, such despicable acts happen, tarnishing the otherwise excellent track record of armed forces in challenging environments. This happens in all armed forces under stressful conditions, My Lai being a very prominent example.² There is a general tendency to avoid debate on such incidents but it is important to analyse them and learn appropriate lessons.

The incident under discussion occurred in Mar 1993 in the dying phase of Punjab militancy. It was covered extensively by the print media.³ Hype was fuelled by the fact that unlike the Punjab Police which was often accused of ham handed and ruthless approach, the army had maintained an impeccable record till this isolated incident. The story's principal character was Maj PS Gill, who was tried in his substantive rank of Captain. In 1983, as a newly commissioned officer, he walked into my office when I was Adjutant of my regiment. He introduced himself as 'Pinky'. In my perception he was a tough, stout and eager Sikh, with awards in the Rashtriya Indian Military College (RIMC), the Officers Training Academy (OTA) and national level shooting, and needed a more appropriate pet name. I decided to call him 'PS', which became his

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Fauji name. He showed great promise and was picked up as ADC by our Colonel of Regiment. In the aftermath of Mrs Indira Gandhi's death, his life was saved by another regimental officer, when a mob attacked his train compartment.

My regiment was deployed for countering militancy in Punjab and he was leading a column in Malerkotla area. The incident being narrated unfolded with the detention of a 26-year-old jaggery trader, Valjinder Kumar Singla, from a check post established by the army on the highway on 01 March 1993. The explanation given by PS to his men was that the person was a terrorist. He was confined in the isolated Moharana canal rest house and sum of Rs 32,000 which was with him, was taken away. Later, a demand for a ransom of Rs 35 lakhs was made from local number to his relatives. It is important to remember that there were no mobiles then. It was later learnt that on 03 March 1993, he was dumped (with stones in his clothes), resulting in his drowning in the Bhakra canal. Despite a concerted search, his dead body could never be recovered.

The check post party, commanded by PS and included one Junior Commissioned Officer (JCO) (Risaldar Amar Singh), two non-commissioned officers (NCOs) (Dafedars Vijay and Surender), and a driver (Surinder Pratap or SP). Sepoy Virender who was the officers orderly was also dubbed as collaborator in this incident. Soon after disposal of the detainee the officer proceeded on leave. He also sent all members of his party on leave. His plan was to proceed on the Junior Command Course, for which he stood detailed, after leave. Concurrently, the army was also scheduled to pull out from anti-militancy operations in April 1993.

The officer had applied his amateur planning skills by choosing an isolated stretch of road on inter district border. Yet, unknown to him the spike in crime had spurred the Punjab Police to deploy special pickets in this area, under a highly motivated ex-Olympian officer. Since the army had discontinued deploying check posts, deploying the one in question was logged by Police and the Central Reserve Police Force (CRPF), as aberrations, adding to evidence. PS chose the supposedly deserted canal rest house. However, but as per rotational roster, Mohrana rest house was the venue for pay distribution in that month. This lead to congregation of troops there some of whom heard the wailing of the detained trader.

The officer's over confidence was also fuelled by having a relative in the police, local friends and proximity to his native place. Yet, these only contributed to his nailing, as a maid at one friend's house testified that the officer had made calls from there. As providence would have it, the local manual exchange had been upgraded to electronic in that very week, enabling call tracing. The lesson is very clear; every crime leaves a very long trail and tell-tale signs. Despite planning to cover up, the law in all probability will catch up, especially in the current age of electronic surveillance.

All hell broke loose on 08 March, as the Punjab Police and Military Intelligence homed in on the culprits. PS was recalled and arraigned for enquiry on charges of murder, abduction and extortion. During custody, PS ran away in an army jonga (light vehicle) on 10 March, leading to a Hollywood style chase across two states, till he surrendered at Suratgarh, the next day. After, a summary of evidence, a General Court Martial (GCM) was convened. The JCO readily became an approver and became the common thread to string together the plot for prosecution. Notwithstanding absence of a dead body, there was a trail of considerable circumstantial evidence. Armed with confessional statements of men, the prosecution was in an over drive to wrap up the case. The charge was led by experienced, retired Judge Advocate General (JAG) officer, hired as the prosecution counsel.

In such trials, the accused, specially *jawans* (soldiers) are entitled services of legal counsel at government expenses. On defence side, PS privately engaged another equally renowned ex-legal branch officer. Daffedar⁴ Surender hired a retired JCO, masquerading as a lawyer, on government expenses. Daffedar Vijay, Sepoy Virender and SP (the driver) asked me to defend them. It was literally the biggest challenge of my career, as I had no legal background. Institutional advice of my reporting officers — Brigade Commander, new Commanding Officer (CO) and others was to avoid this task as it amounted to defending the indefensible. They also felt that I would be absent from the unit when we had an acute shortage of officers; my friends also called it avoidable 'panga'⁵. I tried to objectively advice the *jawans* about my limitations and attendant risks. They surprised me by sticking to their decision and enhanced my dilemma by getting their families to write and appeal to me.

It was gratifying at one level to enjoy their confidence, yet at another level, the responsibility appeared too heavy to shoulder. Above all, I was risking a critical appraisal report in case I fared poorly in a task for which I was not trained. However, a sense of loyalty to my men who had requested my assistance made me accept the task. There are times in life, when one has to make a choice, between playing safe and taking a '*panga*'. I was facing this dilemma during this critical year of my career when I was to earn a report which was essential for upward progression. It was a double whammy of sorts, as I had refused an extension in a UN mission to return for this report.

Conventional legal wisdom and all available advice recommended joint defence by all accused. My reading of the case led me to a unique but untried line of argument. The simple basic premise was that jawans were merely victim of circumstances. Study of sections 34 and 35 of Indian Penal Code (IPC) covering nuances of joint/collective responsibility and explanations of common/similar intention, fortified my belief. My research resulted in the conclusion that I needed to adopt an independent line of defence. This decision resulted in some ill-informed people questioning my sense of camaraderie and jettisoning of a regimental officer (PS). I decided to follow the Chetwode code and hold the officer accountable for betraying the trusting jawans, that too in operational area where freedom of action for men is minimal. It really meant that I had to open another front against PS. Accordingly, I asked for a separate designation, seating area and cross-examination of the main accused. My unpleasant task was to build and prove the narrative of coercion and intimidation by the officer for defending the jawans. This was initially scoffed by seasoned lawyers on both sides as an amateurish foray. After the trial, the seasoned lawyers accepted that it was indeed a good legal approach.

My regiment was short of officers and was located in Ambala, while GCM had been convened in Patiala. Road connectivity between two places in 90s was impacted by construction of a new highway and the Shambhu barrier was the main choke point. Every challenge throws up solutions, consequently we discovered service roads and canal tracks to bypass the traffic jams. My basic routine was to leave for Patiala, very early in morning, returning in evening to catch up with regimental work. It is to credit of my squadron that

they went the extra mile with me. The interesting part is that I used to give a lift to PS's father, who attended the proceedings, on the return trip uptill Rajpura.

I had to burn considerable midnight oil and prepare for the case every night. Reading up on law was tough but I had no choice. In pre-internet age, it was difficult to get hold of All India Law Recorders and read commentaries, on similar cases. It was equally tough to keep up motivation. Movies like 'A Few Good Men' and 'The Scent of a Woman', seen many times on videocassette recorder (VCR), helped to sustain my resolve. As the assignment was causing me obvious stress, my wife Anita kept visiting Gurdwaras to seek divine blessings for my guidance. The prayers must have helped because it did make me feel that I was pursuing a just cause in the case of the three men I was defending, who had unwittingly and unwillingly been drawn into act which was otherwise reprehensible to them.

Defending Virender was relatively easy as he had not been at either the check post or the canal site where the person was thrown. In case of Dafedar Vijay, while he was member of the check post, detailed on orders, but his sixth sense, literally, saved him. After initial detention of the trader, he had contrived to get detailed elsewhere as he did not want to be associated with an act where he was smelling a rat. This became clincher for me on the issue of his not sharing common intention. Analogies to buttress my arguments were drawn from similar cases adjudicated in High courts, by way of extrapolation.

The most difficult element of defence, related to SP, who though largely passive, had been present all along. He along with PS and others had helped to throw the deceased into the canal. As the case had progressed, pressures on me from various quarters increased but I persisted with my approach. The court was kind to acquit Vijay and Virender of all charges. Unfortunately, it convicted SP of partial complicity in murder, while acquitting him of other charges. Despite my appeals for mitigation to court and various authorities, SP was awarded dismissal and prison term. PS and Surrender were awarded dismissal and life imprisonment.

After nearly ten months, I got back to normal soldiering and got many requests related to court martials as I had earned the reputation of being a good defence counsel, but I could not accept

them. The simple reason is that Vijay, Virender and SP were my charge, they were my men and were not clients. Later, I learnt that SP jumped parole and he wrote to me that he is fine. His parting words, “on every Navratra, I will pray for you to be my squadron commander again”. I also pray that jawans like him are never caught up in such maelstrom. I also hope that after many years, PS can understand my obligations and loyalty to our men.

The objectives of this personal recollection are to highlight and reiterate four positive lessons. Firstly, caution to such offenders to steer clear of such acts as the law invariably catches up. So operate within the bounds of law, especially in disturbed areas as the army follows ‘zero tolerance’ policy. Secondly, need for loyalty to hapless men, who often get caught in such a maelstrom because of the military psyche of unquestioning obedience. Thirdly, to emphasize objectivity of our legal and trial process, this is both swift and fair. Finally, law which is seemingly complicated is not beyond comprehension. Regimental officers can not only harness it, but apply innovative approaches. It is hoped that such narrations will dissuade malevolent tendencies as also inspire officers to protect their men, to uphold traditions enshrined in the Chetwode code.

Endnotes

¹ PTI, “Shopian encounter: Police charge sheet says Army captain, 2 others attempted to destroy evidence”, *Economic Times*, Jan 24, 2021 https://economictimes.indiatimes.com/news/defence/shopian-encounter-police-charge-sheet-says-army-captain-2-others-attempted-to-destroy-evidence/articleshow/80432957.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

² The My Lai massacre was one of the most horrific incidents of violence committed against unarmed civilians during the Vietnam War. A company of American soldiers brutally killed most of the people—women, children and old men—in the village of My Lai on March 16, 1968.

³ Kanwar Sandhu, “Whiff of Scandal- Army Officer Faces Extortion and Murder Charges”, *India Today*, May 31, 1993. Accessed Jan 20, 2021 from <https://www.indiatoday.in/magazine/defence/story/19930531-army-officer-faces-extortion-and-murder-charges-811102-1993-05-31>

⁴ A Sargent is called a Havildar in the Army except in the Armoured Corps where he is called a Daffedar.

⁵ A colloquial Punjabi word meaning “Don’t mess with me without a cause” which is commonly used all over India.

The End of an Era: India Exits Tibet, India-Tibet Relations [1947-1962]@

Claude Arpi

This is the fourth and final volume in Claude Arpi's tetralogy on India-Tibet relations from 1947 to 1962. Its dolorous title, "The End of an Era – India Exits Tibet" sums up the author's sorrow and anger at the way things ended up. It is, at the same time, one for the ages; the extensive coverage of first-hand sources makes it not just an intellectual tour de force, but also a valuable reference work.

The final volume covers the period 1958 to 1962, and tells the story of how the situation in Tibet reached a stage where open rebellion broke out against Chinese rule, the growing differences and distance between the Indian and Chinese leaders, and the war of October-November 1962. Arpi also explores the internal balance of power in China, and clearly links the hardening of Chinese positions on the border, and on India, to the return of Mao to active power after having been side-lined as a result of the failure of the Great Leap Forward. In the course of his researches, Arpi unravels very important facts. For one thing, he shows that the construction of the Lhasa-Urumqi Highway was known as early as 1953, and confirmed by an Army reconnaissance team in 1957. The report was submitted to the political leadership, but was rubbished by Krishna Menon as American propaganda.

Another insight provided is that Indian Air Force reconnaissance flights had established, as late as 1961, that the Chinese had no air assets worth the name in Tibet. This being known to the political and military leaders, it remains a puzzle why Nehru did not use the IAF in 1962. It might have made the difference between humiliation and honours even. Enough has been written about the intelligence failures, but this was not one. This was more a loss of nerve. Because Nehru did ask the US for twelve squadrons – no less! – of fighter aircraft and pilots in the perfervid weeks of the war.

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