ROLE-OF JUDICIARY IN AVIATION SAFETY

The Inside Stories of Aircraft Accident Investigations

Profile

- **1976**   **Commissioned in PAF**
- **1978**   **First Fatal Crash Investigation**
  - In-flight wing separation structural failure (PD Challaghan).
- **1985**   **Aircraft Accident investigation Trg**
  - UK AAI,
- **1986**   **Establishment of IAS**
- **1989 to**   **2009**
  - Conducted 30 Major investigation s for Air Forces Army, Navy and CAA
- **2009**   **Independence of investigations**

INTRODUCTION

- **Aircraft Accident Investigations**
  - <u>Under the table hand shake between operator, regulator and industry</u>

  - <u>An observation by USA Judiciary</u>

  - *<u>Who represents the public</u>*

  - **A Change in UK, USA, Canada, and Australia**

A CANADIAN EXAMPLE

1. On 15 December,1985 an Arrow Air DC 8 Crashed in Canada

2. 248 US Mil personnel and 8 Civ died.

3. Investigation by Canadian Transport Board was not accepted by USA and Canadian public

4. On 10, March 1989, A Fokker F 28 of Air Ontario crashed just 950 meters from runway (24 passengers died)

PUBLIC INQUIRY BY COMMISION

- **On 10, March, 1989 Government ordered an Inquiry by Canadian Safety Board**

- **Public rejected it.**

- **On 29, March 1989, Govt facing huge public pressure and criticism ordered a public inquiry.**

JUDICIAL INQUIRY BY

- **Justice Virgil P Moshansky at Court of Queen's Bench at Alberta Canada**
- **Mandate**
- **To Inquire into and report on the Contributory Factors and Causes of the crash**
- **Make recommendations in the interest of Aviation Safety**

Judicial Inquiry Proved
The most Exhaustive Review of Aviation History

- **Permanent Role of Judiciary in aviation**

- **Representation of Public interest**

- **Impact on National and International Aviation Safety**

A NEW ACCIDENT INVESTIGATON PHILOSOPHY

- **Prevailing Methodology**
  - –A probable cause of Pilot error
- **Operators –**
  - Happy to accept pilot's shoulder for blame
- **Shield**
  - Operator, regulator and designer

What Happened

1. It Provided an exceptional opportunity for an in depth review of System
2. The Pilot Error or Incorrect decision became a starting point for the Inquiry
3. It deducted faults not only in the Cockpit but also with operator , regulator and government policies.

How it happened?

- **By Establishing Credibility**
- **Independence and dignity**
- **Transparency**
- **Freedom from Constraints or Influences.**

Challenges faced by the Commission - I

- **Whom to report**
  - Ministry or Parliament.
- **Mode of Inquiry**
  - Public Hearing, Open to Media with daily briefings
- **Scope of Investigation**
  - Not to Focus only on last event –the accident

Challenges Faced by the Commission II

Records were Refused

Documents were sheltered under Evidence Act

Evidence of Mismanagement was declared as state secret

Threats of Legal action

Challenges faced by the Commission   III

Air Ontario (Operator)

> Intentions Challenged in Federal Count of Canada (Names in Final Report)

> Generic Findings

> Against any Finding of Misconduct

> Naming of Individuals

Determined to name Individuals, organization and Groups

Result of litigation – Favorable to Commission.

Challenges Faced   by the Commission   IV

Canadian Airline Pilots Association   Application to prevent   pilots' appearance.

Statements before Flight Safety Officer were privileged, based on confidentiality.

Safety Must Trump confidentiality.

Challenges faced by the Commission V

Finally Industry's Turn

- **Outside Threat To Status Quo**
- **Criticism of Clean Wing Regulation By Chief Pilot.**

- **Waste of Time, money and efforts in Judges and in matters better understood by Aviation Personnel.**

Findings

In Three Years

Safety System Weaknesses were exposed.

Govt, Regulators, and Air Operators were aware of these weaknesses for Decades.

Causes included not only the Pilot error but "Systematic Failure of Transportation System"

Prominent Findings

Inadequate Aviation Legislation

Insufficient Human Resources

Inadequate Regulatory over sight

Recommendation

Final Report with 191 Major Recommendation

New Aviation Act

Civil Aviation Rule (CARs) in harmony with FARs, and JARs.

Role of Judiciary
in Pakistan Aviation Safety

28th July, 2010

        Tragedy in Margala hills 152 died

28th July, 2010

        CAA ordered investigation under rule 273 of CARs.

July – August

        Investigation by CAA rejected by public & Experts & Families of victims

25th September, 2010

        Petition No 2473 file in Sindh High Court for Board of Inquiry in Air Blue Accident in accordance with international standards by independent experts.

25th October, 2010

        Sindh High Court Disposed of petition and directed Federal Government to institute Board of Inquiry in accordance with international standards by independent persons

4th January, 2011

        another petition in Sind high court for removal of non qualified untrained persons at Safety and investigation board of CAA

The Final Order

an investigation

Mr. Shahab Sarki, Learned Standing Counsel, states that on receipt of the investigation report, the Federal Government itself is going to conduct an independent inquiry through a Board of Accident Inquiry in terms of Rule 282 of the Civil Aviation Rules, 1994, which will follow the principles of Paragraphs 3.4.5 as provided in Annex-13 to the Convention on International Civil Aviation known as Aircraft Accident and Incident Investigation filed with the petition as Annexure "J". It is further contended by the learned Standing Counsel that in case it is considered necessary by the Federal Government to take over the investigation in terms of Rule 273, the same can also be done by it as per Rule 285.

In case the Investigation Team fails to complete the investigation and put up its report within a period of two months, the Federal Government shall exercise the powers under Rule 282 & 285 of the Rules as noted and have the investigation and inquiry conducted by independent persons as per conventions noted above.

The petition in the above terms is disposed of. The listed application is also disposed of.

Sd. Gulzar Ahmed.
JUDGE

Sd. Imam Bux Baloch
JUDGE

The Order for Contempt of court

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P No.D-2473/2010

Date	Order with signature of Judge

For orders on Misc. No.17389/2011 (contempt)

09.08.2012

Petitioner present in person.
Mr. Khalid Mahmood Siddiqui, advocate for Respondent No.1.
Mr. Ashraf Mughal, D.A.G.

Mr. Khalid Mehmood Siddiqui learned counsel for the Respondent No.1 alongwith learned D.A.G waives notice and concedes that Federal Government shall convene an inquiry as required under Section 282 & 285 of the Civil Aviation Rules 1994. Mr.Khalid Mehmood Siddiqui learned counsel undertakes to provide copy of the constitution of the inquiry commission within two weeks, whereafter timeframe to conclude the inquiry may also be determined.

CHIEF JUSTICE

JUDGE

SM

THANK YOU