

## Aviation professionalism which India must draw from

**I**f there is a possibility of several things going wrong, the one that will cause the most damage will be the one to go wrong," is one of Murphy's general laws.

The aviation accident, on Tuesday, January 2, 2024, where a Japan Airlines (JAL) Airbus A350 aircraft collided with a Japanese Coast Guard Bombardier Dash 8 aircraft at Tokyo's Haneda airport while landing, in which all 379 passengers on the JAL plane escaped but with five fatalities on the smaller aircraft, is a perfect example of this. There was a notice to airmen issued for Haneda indicating that the stop bar, a set of red lights that come on at taxi holding point for that runway, was not available. The Coast Guard plane was cleared to the holding point, which was acknowledged by the pilot to Air Traffic Control (ATC). The ATC tape transcript also shows the JAL flight being cleared to land, which was acknowledged by the pilots. The investigation report will indicate what made the Coast Guard pilot enter the runway. Did he miss the notice to airmen? Did he not hear the ATC issue landing clearance to the JAL aircraft? The investigation report will identify these and we can expect the preliminary report in a fortnight, unlike accident reports in India which take months and years.

Aircraft manufacturers are required to demonstrate that an aircraft, in maximum density configuration, can be completely evacuated within 90 seconds using only half the total number of emergency exits. The world witnessed the highest quality of discipline and crew training, which saved 379 people in the fiery accident. It was an amazing display of orderly evacuation from the burning wreckage that the JAL cabin crew executed. All passengers followed the safety instructions and left the aircraft without carrying their hand bags or crowding around after coming down the aircraft evacuation slides. Only three exits were available for evacuation. The cabin public address system was not working and the crew used megaphone and voice announcements for the evacuation.

### Other incidents

On August 2, 2005, Air France flight, AF 358, from Paris, France, to Toronto overshoot the runway while landing in heavy rain and caught fire. All 309 passengers were evacuated safely, though 11 received injuries. Images of the evacuation showed several passengers leaving the burning aircraft with their hand luggage. Similar action by passengers on an Emirates flight (EK 521) from Thiruvananthapuram to Dubai, on August 3, 2016, that crashed while landing, showed a complete lack of discipline on the part of passengers who were grabbing their hand luggage, thus delaying the evacuation. The aviation world should learn a lot from the absolutely high professional standards in JAL's



**Captain A. Mohan Ranganathan**

is a former airline instructor pilot and aviation safety adviser. He is also a former member of the Civil Aviation Safety Advisory Council (CASAC), India

India's aviation regulator and airlines have much to learn from the Japan Airlines incident in terms of safety and training

training of its crew. Air passengers worldwide should also realise that pre-flight emergency procedure instructions should be followed seriously.

### Safety concerns, training flaws

The Japanese authorities have already made the ATC transcripts public. Contrast this with what would have been several months of silence and secrecy in India. Take the case of an extreme hard landing done by the crew of an Air India Airbus flight from Kochi to Dubai on December 20, 2023. The news surfaced only after a tracking site showed the aircraft flying to Mumbai on December 27 at an altitude of 9,000 ft instead of the normal 31,000-plus ft. Eventually, the news was that the flight had made a 3.5g landing at Dubai and was on ground for more than a week. To put that in simple language, 'g' is acceleration due to gravity. If an aircraft does a 1g landing, the weight on the wheels equals the weight of the aircraft. A 3.5g landing means the weight on the wheels of the aircraft at touchdown is 3.5 times its landing weight for that flight. Landing gears are not designed for such an impact and the resultant damage to crucial aircraft parts can be serious. The plane was permitted to depart as an unpressurised flight and was allowed just one take off and one landing.

Did the captain report the hard landing in the aircraft tech log? Did he file the flight safety report within 24 hours, a mandatory requirement by the Directorate General of Civil Aviation (DGCA)? What action did Air India take upon learning of the very hard landing? Why did it take more than 10 days to report this serious event? Was there an attempt to hush up this serious accident?

A disturbing fact is the failure of the Air India management to act proactively on a report by the instructor who trained the captain. He was a copilot on the airline's Boeing 777 fleet and was brought to the Airbus A320 fleet for his first command. The minimum hours on type that is required for first command were bypassed. Let me quote from the letter that the instructor had sent to the Chief of Training, Operations and also Safety of Air India. "Sir, they are facing difficulties in exercises which require manual flying skills and raw data flying and had to be recommended for corrective training twice. This I feel can be attributed to their lack of experience in the same, as they both are from the B777 fleet.

"God forbid if there is an incident/accident involving one of these pilots from the [airline's] 777/787 fleet, many questions will be raised, and we will not have any reasonable answers."

It was a case of shooting the messenger and the instructor pilot was sacked from Air India. Today, the airline has several questions to answer. The DGCA and Air India should look at the

accidents caused by confusion of flying different types of aircraft, especially when fatigue and stress are involved. One can go back to October 12, 1976, when an Indian Airlines Caravelle flight from Bombay to Madras (IC 171) crashed shortly after take-off at Bombay and while attempting an emergency landing, killing all 95 passengers on board. The pilots had endorsements on their licences to fly the Boeing and the Caravelle. The switch positions for certain functions worked differently in each aircraft, which was highlighted in the court inquiry

In the Indian Airlines Airbus crash at Bangalore, on February 14, 1990, where there were 52 fatalities, the pilots were fresh from conversion training for the aircraft.

In the TAM Airlines Airbus crash in Sao Paulo, on July 17, 2007, this was the fourth sector of the day. Even though the flight was within duty time, one cannot discount the fatigue factor for the crew. The ATC calls on the wet runway condition were more in line with Boeing terminology. The aircraft also had one thrust reverser unserviceable. One of the pilots had flown previously on Boeing aircraft. The thrust lever action on a Boeing where the reverse thrust lever in the cockpit is wire locked is different from that on an Airbus. All on board the flight literally burnt to death.

In the Asiana crash in San Francisco, on July 6, 2013, the captain had flown previously on Airbus aircraft. On final approach for landing, he was lulled into thinking that the auto thrust would respond like in the Airbus he was so used to, forgetting that he was on a different aircraft.

### Focus on standards

Air India has had a long history of covering up serious incidents and accidents with the blessings of the DGCA. The hard landing accident at Dubai should serve as a wake-up call for the airline. The airline has just inducted a new aircraft, the Airbus A350, and the criterion for the crew selected to fly it should be based on very high standards and not on seniority. While the first lot of captains are Airbus experienced, the second lot being sent for conversion are from the Boeing fleet. Both the DGCA and Air India should insist on a hard copy of the simulator proficiency check report/certification of the pilots training on this aircraft.

Merely stating that safety is paramount when so many incidents are being swept under the carpet will not improve the reputation of the airline. India can claim to be among the fastest growing aviation markets but where do we stand on the passenger safety count? The Air India management needs to do some soul searching when it comes to operations, training and safety. India and its airlines have much to learn from the Japan Airlines incident.

EVASTALIN

A  
G  
+

## Structured negotiation as a boost for disability rights

**S**tructured negotiation is a collaborative and solution-driven dispute resolution technique which is increasingly being used as an alternative to litigation. It typically involves inviting the defaulting service provider to the negotiation table and impressing upon them the benefits of complying with social welfare legislations.

While its utility pervades sectors, structured negotiation has been most effective in settling disability rights cases in the United States, a development that one of us, Ms. Feingold, has played no small part in ensuring.

### Its success rate

So far, structured negotiation has been successful in addressing the issues relating to inaccessible automated teller machines, point of sale devices, pedestrian signals and Service provider websites. It has convinced Walmart, CVS and Caremark to create accessible prescription bottles for blind or low vision customers. It has also been able to drive institutional reform by facilitating strategies for creating more accessible voting machines and websites.

At the heart of this success lies the win-win situation which the methodology of structured negotiation presents. Defaulting service providers want to avoid the high costs and negative publicity associated with litigation, while complainants want a barrier-free participation in the marketplace, both of which can be achieved through structured negotiation. This is not to dilute the role of the law and legal advocacy in securing the protection of rights of marginalised populations. Indeed, a key factor upon which the success of structured negotiation depends is the creation of a strong body of disabled-friendly legal precedents that create a robust foundation

### Rahul Bajaj

is Co-Founder, Mission Accessibility, Senior Associate Fellow (Disability rights), Vidhi Centre for Legal Policy and a practising lawyer

### Lainey Feingold

is an American lawyer, author and speaker

Its success lies in the win-win situation that its methodology presents, for defaulting service providers and complainants

for structured negotiation to take place. Once courts are able to create a blueprint for what accessibility and compliance with the law in a given sector looks like, structured negotiation emerges as a pathway for businesses to ensure that they are able to make their offerings accessible without having to go through the rigmarole of litigation and for users with disabilities to obtain a disabled-friendly offering without the cost and unpleasantness associated with litigation.

### India's red tape

As it is, the increasing pendency, paperwork and red tape in Indian civil courts are already dissuading parties from using traditional dispute resolution methods. India's flagship disability legislation, the Rights of Persons with Disabilities Act, 2016 provides that any non-compliance with its provisions may be reported to the Chief Commissioner for Persons with Disabilities ('CCPD'). The CCPD then puts the defaulting service provider on notice, and may then either direct them to make their services accessible or impose penalties on them for non-compliance. While the creation of a designated body for handling cases on disability rights has been a positive measure, its actual impact on repairing accessibility barriers in the marketplace remains to be seen.

For instance, the CCPD recently directed PayTM, a digital payments application to make its mobile applications accessible for Persons with Disabilities. In complying with the order, the PayTM application ultimately became more inaccessible. This incident demonstrates that any attempt to make digital services accessible for persons with disabilities in real time requires constant vigilance and user inputs which can

validate the efficacy of solutions.

This is where the potential of a Structured Negotiation technique can be utilised. On one hand, it can allow service providers such as PayTM to avoid the embarrassment of being labelled as non-compliant. It can also help them avoid hefty legal fees and prevent their officials from being tied up in paperwork before courts for days. On the other hand, it can enable Persons with Disabilities to take their concerns directly to the service providers and monitor the fixes as they get implemented.

### Priority is key

However, at the same time, it is pertinent to note here that the success of any alternative dispute resolution model is directly proportional to the level of priority that such service providers are willing to afford to the struggles of persons with disabilities. Till the time such providers continue to feel that there are no real benefits of providing any services to persons with disabilities, any attempts to settle these claims amicably outside courts would be a tall order to achieve.

That said, as Helen Keller noted, "optimism is the faith that leads to achievement". And so we submit that for India, the time to deploy structured negotiation in a big way has come. Businesses that refuse to join the bandwagon will be doing so at their own peril as they will be losing out on the enormous buying capacity that persons with disabilities possess, even keeping aside the question of legal compliance to one side. It is high time that businesses prioritised the needs of disabled users, and exhibiting openness to enter into a structured negotiation would be a powerful step in this direction.

*The views expressed are personal*