

4. Do Judges Need to be Trained on Crisis Management?

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I. INTRODUCTION

I stumbled across the phrase crisis management in a training conducted for the district judiciary in 2003. I was slow on the uptake as to how crisis management is relevant to Judicial Officers? We have such other departments and institutions in place, who could be reached out in case of emergency, catastrophes and crisis. Nevertheless, it was just two years after the training, while I was carrying out my duties as the District and Sessions Judge Abbottabad, that the horrendous October, 2005 Earthquake accentuated Pakistan's vulnerability to natural disasters. It shattered everything and made every mind inquisitive about the scantiness of crisis management system in Pakistan and lack of governmental attention to the matter. The horrifying incident did not only cost five thousand human lives in district Mansehra and Abbotabad but also a plenty of valuable data and record was lost. We tried to converge on different departments which are expected to be the dab hands in crisis management. Nonetheless to my realization, everyone was so grappling and bent over backwards to hedge themselves that we were left with no option than to rely upon ourselves, put our feet down and to mitigate the loss. The need for an adequate institutional and policy arrangements and a huge public grief resulted in the constitution of the National Disaster Management Commission (NDMC), the National Disaster Management Authority (NDMA), and the passing of the National Disaster Management Ordinance, 2006.² It proved to be a *crowning glory* of the catastrophe.

However, the tragedy evoked every department to live on its hump and necessitated an institutional policy of preparedness

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² National Disaster Risk Management Framework Pakistan, March 2007

and response to such strokes of ill luck. The judiciary, being the most vulnerable public sector to human induced disasters, felt more dearth of such policies and training. The need was further hungered for after 9/11 terrorist attack and subsequent developments in Pakistan, when a series of attacks on legal fraternity and judicial officers, court staff, family of judges took place on many occasions even in the compounds of courts. It cultivated the need for awareness and training of judges for any crisis situation. Therefore, I advocate the conductance of crisis management trainings to judges and court staff and establishment of a full-fledged mechanism in courts in that regard. I am confident that implementation and further preservation of the said policies will prevent the Justice sector of Pakistan from disasters to a huge extent.

2. COMPREHENDING THE PHRASE

The Oxford Dictionary defines the term of crisis that it is ‘a time of great danger, difficulty or doubt when problems must be solved or important decisions must be made’. Alternatively termed as disaster, UNO defines it as “*A serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses which exceed the ability of the affected community or society to cope using its own resources.*”³ Crisis brings harmful changes in the environmental as well as in the human affairs and its negative impact directly affects the individual, group of certain people and society at whole. In a living society it is easy to constitute a crisis intentionally or unintentionally, but there are various solutions which can justifiably combat the crisis.

3. TYPES OF CRISIS

While sorting out the crisis, it can be mainly divided in two categories i.e., natural crisis and man-made crisis. The following is a short description of the both categories:

- i. Natural crisis are those which occur without intimation and with very minimum or almost no

³ Emergency Response Plan Judicial Complex Sirsa, 2014

direct contribution on the part of human beings, such as floods, earthquakes, avalanches, cyclones/storms, droughts, glacial lake outbursts, pest attacks and epidemics. The natural disasters and crisis are difficult to manage and therefore such crisis give a tough time.

- ii. Man-made crisis are those which occur on the ground of proper planning. It can occur in shape of bomb blasts, terrorist attacks, strike of lawyers, fight between litigant parties in the court and/or other issues that create barriers in the dispensation of justice. There is always an agenda behind such type of crisis.

4. PURPOSE OF CRISIS MANAGEMENT TRAINING

A typical crisis management training program encompasses the full range of leadership and governance structures designed to prevent, prepare for, respond to, and recover from any threat, emergency, or disaster that could disrupt operations. It includes policies, procedures, plans as well as internal and external outreach strategies along with multi-year strategic planning based on training and capacity building.

Historically Pakistan has been known to be a terra firma of casualties, emergencies and disasters and is exposed to a wide range of natural disaster risks. Geographically speaking Pakistan, India and Nepal are situated on the Indo-Australian plate which, is constantly moving northward and subducting under the Eurasian plate and hence tripping earthquakes in the channel of Himalayan Mountains. Additionally, 56% of the Indus River basin lies in Pakistan which overlays almost 70% of the country's land prone to floods in summer from July to September annually due to heavy monsoon rains.⁴ The regions of Kashmir, Northern Areas and parts of the KP province are particularly vulnerable to landslide hazard. Aside from the young geology and fragile soil

⁴ Ibid

type of mountain ranges, accelerated deforestation is a major cause behind increased incidences of landslides⁵.

Besides natural disasters discussed above, Pakistan being religiously, ethnically, culturally and linguistically a heterogeneous society has also suffered the human induced disasters in the name of civil conflicts, terrorism and sectarian violence etc. The crisis also includes all other modes which breach the public peace and tranquility and create hindrance in smooth running of the system such as strikes, protests etc.

Purpose of crisis management awareness and training within the courts is to enable judicial officers to respond effectively to a broad array of such potential operational interruptions and crisis. After 9/11 consequent to war on terror and subsequent military operations in Tribal areas of Pakistan, there have been several occurrences (including bomb blast, target killing and suicide attacks) on court staff, judicial officers and even their families and legal fraternity. The shoddier security situation has compelled courts to revisit and enhance critical incident and security procedures to ensure the protection of court assets: people, facilities, and records. Similarly, the earthquake in 2005, and multiple floods and other like incidents underscored the necessity for courts to ensure that essential functions are sustained in the event of a broad array of disruptions and disasters. Moreover, Judges do come across bar strikes or court staff strikes oftentimes and must be prepared and trained to handle all such situations.

5. CRISIS MANAGEMENT BY A JUDGE

The role of judiciary in Pakistan, being a pillar to democratic country is the vital one. During any state of crisis, especially the constitutional crisis, judiciary is expected to be a safeguard against state encroachment in the wake of such crisis and thus protect the fundamental rights of citizens, as guaranteed by Constitution. On the other hand how a judge should deal with the

⁵ Ibid

natural disasters, emergency or crisis remains a question mark and focal point of various legal institutions across the globe.

Justice sector, like all other departments of state, also experiences crisis on and off which sometimes create unmanageable situations. It harms the social norms and basic structure of a running system and possibly the human lives too which are connected to an organization or system. Crisis always occur suddenly and unexpectedly and lead to a huge loss, therefore, for smooth functioning of the system it is important that every possible step be adopted to eradicate and combat crisis. Generally, all sort of crisis need immediate solution to tackle any issue which becomes the reason of crisis. All events of crises appear suddenly which create high level of uncertainty. Particularly the environment of court must be free from any sort of crisis if it is natural or manmade, because it would not only create hurdles in dispensation of justice but it would also present a gloomy picture of the society. A good team leader/judicial officer should be capable to manage the unexpected and sudden situations which create unmanageable circumstances.

The court is one of the most sensitive public sectors in terms of vulnerability and the nature of services it provides. Its functions make it exposed to a number of controversies and public opinions. Besides all those crisis which an ordinary Public or private sector faces, the courts are prone to many other appalling disasters like camouflage, riot, affray and disturbance of public tranquility and peace due to diurnal disputes in the name of litigation and strikes of bars etc. A myriad of such examples are found in the judicial history of Pakistan.

A judge being a custodian of the court needs to acquire the necessary crisis management Training to deal with such mishaps to crucially perceive what to do and how to act under such threats. Getting trained shall enable a judge to fight tooth and nail by following the prescribed set emergency protocols to minimize the risk and overcome physical injuries. Training shall impart confidence to the responder judge while facing threats and he'll be more assured of his capabilities. Besides moral there

are also some technical advantages of training e.g. consuming safety resources e.g. Fire extinguishers, more efficiently

The most imperative promise to be made during the crisis, especially those of bomb blasts and other terrorist attacks, natural disasters including rainfall, wind, earthquake, floods and affray etc., is the safety of human lives as well as building and structures of the court, so that it is operative and is accessible to public with the routine ease. In order to prevent the building and structure of courts from being the casualty of any disaster, the phenomenon Crisis Management provides a very effective process in the name of “HRVC analysis” abbreviated as “Hazard, Risk, Vulnerability and Capacity.”

The potential danger is known as hazard. It usually (if happens) results in disaster or crisis. Risk is the probability of a hazard to occur. It may be of any of the certain categories depending upon the severity i.e. high, moderate and low risk. Vulnerability is the extent to which a certain body (courts for our concern) is exposed to loss, casualties and injuries caused by hazard. While capacity is the potential of the judicial body to mitigate or otherwise prevent the risk.

Technically speaking, risk is directly proportional to hazard and vulnerability while indirectly proportional to capacity id est. Risk of severe loss increases if the court is more vulnerable to hazardous situations whereas by maximizing the capacity of the court and judges to mitigate the potential consequences of any hazard, the risk of harm can be reduced. Hence comes the indispensable need for a judge to acquire the crisis management training. The process of crisis management training or awareness can be channeled into the following stepladders:

5.1. PREDICTABILITY OF CRISIS & COLLECTION OF INFORMATION

The foremost job to be done by a judge, in crisis management, is to identify and analyze how much the court or its structure are vulnerable to any crisis and then to make sure that it endures to function during such crisis. Generally, a judge with its limited resources can't whitewash the disaster in a helter skelter; hence

it's important for him to have awareness and predictability of the danger beforehand and to prepare his 'to do list' accordingly. Awareness and predictability can be acquired by collecting information. However, the information whether beforehand or prompt should be accurate. Crisis could be prevented or managed once occurred, through;

- (a) Beforehand information
- (b) Prompt information and
- (c) Accurate Information

Access to beforehand, prompt and accurate information facilitates the process of decision making in crisis management. Awareness of information creates capability to take precautionary measures at earliest. There are certain situations where a judicial officer can get beforehand information. These include a possible strike by court staff, some unpleasant situation created by a group of lawyers in court premises, decision of a sensitive case, decision against a terrorist or some criminal gang etc. Apart from this, extreme weather can also create crisis. In today modern world, any sort of crises can occur with or without formal warning which can create alarming situations. In this regard prompt and beforehand information of such incidents can provide chances to revoke harmful crises. Another related issue is the accuracy of information. Whether it is justice sector or any other institution, access to accurate information is always equally important.

5.2. DEFINING PRIORITIES

The second step in the process of crisis management is defining priorities. The topsy-turvy priorities may result in ruining the implementation of response plan. As discussed earlier protecting and preserving human lives should be the top priority of a judge in the time of crisis, tracked by the following;

- Protecting sensitive records and official documents
- Securing assets of courts if possible
- Protecting communication system and Facilities like water supply, electricity etc.

- Protecting the infrastructure, offices and residential site of the building

5.3. READINESS (PRE-EMPTIVE MEASURES)

When a judicial structure is exposed to hazard, it may result in loss of human lives, injury to human bodies, damage to public property and an obstacle in judicial functions i.e., Litigation.

Judges while acquiring the training, must be taught disaster risk management, encompassing the risk-reduction strategies⁶ and taking pre-emptive measures like risk assessments, HRVC analysis, arrangements, trainings and exercises. A judge should always be prepared to face any unpleasant event and must take anticipatory measures rather than locking the barn door after the horse has bolted. The stage of preparedness may be achieved by;

- Ensuring the availability of first aid,
- Securing file cabinets, lockers and other movable items to walls by angle clips,
- Installing hand grips right through for earthquake preys,
- Lodging fire extinguishers with fire alarms.
- Using fire retardant coats for wood vulnerable to fire.
- Installing double action door hinges at halls and auditoriums
- Coating exposed electric wires
- Illuminating Exit signals at passages.
- Renovating ceilings and overcoming falling cement plasters thereon.

The best example coming into my mind in this regard is the response during 1996 bombing in Manchester by the Crisis management team as widely considered to be successful in terms of constituting a crisis control center within 30 minutes. The team was able to establish collaborations between different departments and initiate an expeditious evacuation with less than an hour saving hundreds of lives. The only recognized

⁶ Ibid

reason behind such success was considered to be the planning preparedness⁷.

5.4. ANALYSIS & COMMUNICATION

For the sake of getting better solutions for crisis management, all stakeholders should sit together and properly analyze the crisis with respect to its nature, effect and possible solutions or management should be sorted out with consensus in order to reduce the vulnerability posed by a potential crisis.

The process of proper communication should be adopted after having the accurate information and complete knowledge of the crises. It is important to bring such incidents in the notice of seniors and immediate boss for information and guidance as well. The same methodology can be adopted to discuss the same issues with colleague and subordinate staff for the sake of consultation and also getting their opinion for crisis management. It would help to build a result-oriented crises management team.

5.5. SELECTION OF CRISIS RESPONSE TEAM (CRT)

The vision and mission of a competent judicial officer is to accomplish the assigned tasks whether it is related to court work or other administrative work such as presiding in general elections or working in crisis management. He must perform as a team leader and must also know the strength of their team. It depends upon judicial officer to prove that he is a perfect team leader and problem solver especially when his team is working in crises management.

The three fundamental Cs required to respond to any disastrous situation are Command, Control, and Coordination. These three factors can be obtained by constituting an institutionalized team in the name of CRT (Crisis Response Team). The successful response of Australia to the Bali Bombings in 2002 was primarily due to the fact that all the team members stuck firmly to the plan

⁷ Williams, Bath, & Russell, 2000

with a mission to promise a 'joined up' response.⁸ Hence the district and sessions judge of the judicial complex of every district should formulate a crisis management team and assign roles to them accordingly. SOPs should be designed to prescribe role and responsibility of every team member. A database should be developed to maintain records of resources accessible by court for disaster response.

In district judiciary, district and sessions judge enjoys the role of a team leader and therefore it's his responsibility to take charge of the affairs and formulate the crisis management team assign tasks to each member. He may use his loaf and direct the team about the Command, Control, and Coordination and the priorities thereof. He may endorse the operation and get the show on the road. He may also obtain help from other departments which will be explained in following part of this paper. He should make certain team members responsible for obtaining information about the number of people, sensitive documents and other property exposed to incident, making and authorizing reports for allocation of response equipment in accordance with the severity of incidence and priorities drafted by District and sessions Judge thereon, coordinating with all members of team.

Another major role in crisis management is to be played by court security officer who may well be regarded as A Knight in the Shining Armor. The primary duties of court security officer being expert at security matters, depend upon the nature of incident e.g. evacuation in earthquakes or Fire incidents. He has to maintain telephone/radio communication with his security personnel deployed in potentially vulnerable portions of the court building e.g. courtrooms. They will conduct inspection through the CCTVs, magnetometers and x-rays metal detector provided to them on regular basis. They have to establish a uniformed screening policy at the entrance which is systematically applied to every visitor. There must be compulsory additional security training for judges, staff, jurors, and others.

⁸ Paul, L. (2005). New levels of responsiveness - joining up government in response to the bali bombings. *Australian Journal of Public Administration*, 64(2), 31-33.

5.6. RESPONSE AND MITIGATION

A judge must establish quick response strategies in case of crisis. Operationally, the response may include saving lives, treating the injured, creating security zones and restoring critical infrastructures.⁹

Once a disaster happens, the judge must endeavor to minimize the risk at best possible rate. Emergency mock drill/exercises should be conducted. Warning systems and specialized communication systems, must be installed to mitigate the disastrous circumstances. Following steps may mitigate the hazard;

- Notifying occupants of court premises and the residents of immediate area to seek assistance
- In case of Fire, confining it by closing the doors of halls once it's vacated.
- Activating nearest Fire Alarm Restraining occupants from standing near windows to prevent them from shattered glass.

Following problems may occur during response stage that may throw a wrench in the work and against which the judge should be alerted;

- Overcrowding and blockade in exit ways
- Alarm not heard
- Team members getting dubious about responsibilities / response
- Human lives not accounted
- People running towards lifts
- Inconvenience in evacuating disabled Personal.
- Phone and communication issues
- Delay in medical response
- Delay in fire service response
- Delay in the response of security

⁹ (McEntire, 2007)

- Liaison miscommunications
- Problems in Command, Control and Coordination

With the risk of any of these issues surfacing, a judge must go the whole nine yards and take all the necessary steps as demanded by the circumstances and severity of the incident. Nonetheless he must have alternative plans in his list for any unseen change of the situation.

5.7. ALTERNATIVE PLANS/CONTINGENCY PLANS

The judicial officer should not put all the eggs in one basket while making strategies for crisis management. There is always a need of contingency planning which is an anticipatory step prior to the occurrence of disaster. The factors like foregoing issuance of resources, personnel, weapons, emergency control rooms, and assignment of tasks, responsibilities and decision guidance/rules, play important role in minimize the risk and maximizing an effective response to emergency. Locking the barn door after horse has bolted doesn't make sense. Contingency planning doesn't necessarily promise an effective response to disaster but it surely enables the responders to deal with problems, e.g. loss of sensitive data, records, administrative files etc. Hence making the contingency planning as a part of routine work will carry weight in any disastrous situations.

The full-fledged crisis management plans are to be adopted mutatis mutandis to establish an effective contingency plan that would include;

I. Scenarios: Considering the nature, geography and architecture of court building, expecting the most likely incident that may happen in the near future e.g. terrorist attacks in frontier areas, cyber-attacks at urban areas, earthquakes in earthquake prone cities and heavy snowfall in Northern Areas.

II. Trigger: Deciding as to what spot the plan triggers. E.g., should the established contingency plan for heavy snowfall will be triggered by heavy rainfall or actual snowfall?

iii. Prescribing who to inform: The liaison should be smartly practiced.

iv. Responsibilities: that brings us to our next important part of the crisis management which is selection of crisis response team and assigning tasks to every member of the team with prescribed stage to be deployed on.

5.8. CO-ORDINATION/LIAISON WITH OTHER DEPARTMENTS

Court must establish an effective liaison with all those departments whose resources and services may prove helpful during crisis. To be effective, court emergency management programs should be multi-disciplined, both internally and externally. This means courts should interface with external other departments, such as;

- District Administration
- Emergency Medical Services e.g., Rescue 1122.
- Meteorological Department
- Red Cross
- Fire Department
- WAPDA
- Armed Forces
- Civil Defense
- Federal Flood Commission
- Police etc.

The judge shall incorporate all facets of court operations, including administration, automation, finance and budget, security, human resources, and facilities management.

5.9. RECOVERY

It means retrieving the pre- disaster conditions. The stage of retrieval begins only when threats to the priorities discussed above ceases to exist. The primary purpose of recovery is to bring back the affected area back to some degree of normalcy.¹⁰

¹⁰ 'The Five Phases of Emergency, Management', Office of Emergency Managements, San Antonio.

Bringing back courts to same stage where it's conveniently accessible to Public and is suitable for litigation, will serve better as an effective Recovery.

5.10. RE-HABILITATION

Once a disaster occurred and all the protocols of an effective crisis management as discussed above have been followed and there's still a room for further management, there comes the stage of rehabilitation. It includes resettling the targeted site and to manage the hazard occurred thereof. The court soon after the hazard, besides getting down in the mouth, should lick its wounds and make necessary renovations in order to make court accessible to public and make the litigation processes stay in course. If the original court isn't of such condition to resume the litigation, court should find an alternative location and relocate its proceedings thereon. Where the data and records are destroyed and are obscure, the courts should assist the lawyers by providing them with copies of materials already saved in the courts' systems. Such steps will not only aid attorneys but will also prevent unnecessary postponements of cases, which would have ultimately resulted in further case backlogs.

A judge should also perform following tasks at the state of rehabilitation for a secured future;

- Highlighting mistakes made during crisis management.
- Assembling lessons learnt during crisis management.
- Creating prospective plans for potential future crisis of same nature.
- Calculating the financial impact of crisis and request the government to make reparations thereof.

CONCLUSION

It is a well-known fact that judiciary is considered as one of the highly esteemed branches of government and is always held in high regards. Nonetheless it comprises of the most imperiled public servants who are between wind and the water, exposed to threats and controversies. Crisis management training is a long-

term investment on a judge which will enable him to deal in such situations with required professionalism.

The pace at which a judge or other responsible person responds is the factor which plays a key role in mitigating the loss. At the same time, the fact should also be absorbed that the responder, after getting a close call during emergency, may experience a broad array of emotions e.g., fear, anxiety, dread, hopelessness and helplessness. Hence, it's quite obvious for a judge or other responsible officer to be in a lather which can be obtained through training him for any such like situations. There can be psychological barriers to his quick and effective response. Furthermore, briefing the terrified people in targeted court premises may prove to be merely preaching to deaf ears. But every cloud has a silver lining. A judge should acknowledge the fact that Fear is an important psychological consideration in the response to a threat and a perceived threat can motivate and assist people take required steps. Hence rather than ruffling feathers to people bearing heebie-jeebies, he should give anticipatory guidance to people and assign them with tasks to do in order to make them feel engaged and overcome fear. A judge should not be over concerned about eliminating people's emotions; he should rather cash their emotions and help them manage their negative feelings by setting them on a course of action. Taking an action during a crisis can help to restore a sense of control and overcome feelings of hopelessness and helplessness. ¹¹Any member of the team should not rap over the knuckles for not having their assigned tasks accomplished within due time, for it's not an orderly situation. These efforts are not only establishing an atmosphere of peace and trust but morally it is demand of the present day.

I conclude with the words that a judge bearing a high horse in the dominion and custodian of public rights must be trained in crisis management to act responsibly in the gut-wrenching scenes of emergency.

¹¹ Benight CC, Bandura A. Social cognitive theory of posttraumatic recovery: The role of perceived self-efficacy. Behaviour research and therapy, 42(10), 1129-1148;2004