



**A Critical Study on Aviation Terrorism and Contemporary
International Law**

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Declaration

I am giving confirmation that I wrote the thesis entirely by myself and that it has not been changed in any manner for academic purposes. I certify that I completed this thesis for the EWU Department of Law's LLB program (Supervised Dissertation). It is solely my work, and it has never been used in conjunction with any other degree or academic honor. A list of references is also supplied in order to preserve citation information.

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Abstract

The purpose of this study is to understand more about Aviation Terrorism. Terrorism is a present and serious threat. We need to know how terrorist organizations work to create effective countermeasures, especially by using the Aviation since it has been a major target for modern terrorists. Terrorists in terrorist hotspots might utilize the Aviation to promote their messages.

This article discusses the influence of terrorism on the aviation industry's operations. It traces the origins of aviation terrorism and the phenomenon's growth. The thesis emphasizes the relationship between terrorist attacks and aviation industry management practices in particular. Additionally, terrorist strikes have unquestionably had a negative impact on the overall aviation business. Terrorism has resulted in massive losses for airlines and has become a huge treat to the people of countries all around the world. Aviation terrorism's continued escalation could result in enormous economic losses for the whole sector and governments affected by the occurrence. Aviation terrorism must be curbed to keep these losses to a minimum. Nonetheless, the airline industry's long-term viability is assured.

List of Abbreviations

UN= United Nation

FBI = Federal Bureau of Investigation

TWA = Trans World Airlines

IT = Information technology

UK = United Kingdom

USA = United State of America

UNO= United Nations Organization

EU= European Union

UKBA= UK Border Agency

FBI = Federal Bureau of Investigation

IT = Information technology

SCADA = Supervisory control and data acquisition

DDoS = Distributed Denial-of-Service

DoD = US Defense Department

DSA = Digital Security Act

NCGHM = National Center for Global Health and Medicine

PTA = Pakistan Telecommunication Authority

NSC = United Nations Security Council

ASEAN = Association of Southeast Asian Nations

Scope and Limitations

This research paper could have been better if I did not have any limitations such as lack of resources and time. At this time the main obstacle is COVID-19 pandemic. Due to the present Covid-19 situation, there were many limitations such as, shortage of proper reference books, no entry to the university library, lack of proper Articles, Journal, DLR etc. This study could produce better results if the pandemic situation did not happen.

Research Methodology

This thesis employs a qualitative analysis approach and is centered on Aviation terrorism. It's also based on research, books, statutes, case studies, publications, journals, and articles, among other things. As a primary source, it examined numerous statutes and case studies, while secondary sources included journal articles, newspapers, and articles. It also discusses Aviation terrorism measures and examines them with the most illustrative case.

Literature Review

In 1930s the phrase "Aviation Terrorism" was invented. The first attack against civil aircraft dates back in that time. Since then, hijacking aircrafts and different kinds of attacks against civil transports has become a great threat to the civil aviation industry.

Aviation Terrorism is defined as a criminal act involving aviation industry or aircrafts with the intent of instilling fear in the community through violence, the goal is to manipulating a government or a population to follow a political line.

According to Jin-Tai Choi, Aviation terrorism is more than an attack on the rights of the innocent and the rule of law. It constitutes a great threat to global peace.

Aviation Terrorism, according Andrzej Glen, is a planned, politically motivated attack against aircraft.

Aviation Terrorism, according to Brian Michael Jenkins, is act of violence against civilian aircraft, passengers and airline facilities. He says, aviation crime committed for political purposes in order to instill fear, intimidate, or coerce a target government or people, as well as inflict or threaten to do harm and create fear among people.

According to Paul Wilkinson, Aviation Terrorism is a highly disruptive attack on aircrafts by private individuals to cause disruption and devastation in order to achieve political or social goals.

According to Brian Jenkins, Aviation terror is the unauthorized destruction of aircrafts to the point that governments or societies are threatened and brought to their knees in order to achieve political, social, or ideological aims.

Chapter 1

What is Aviation Terrorism?

1.1 Research Question: What is the use of international law in Aviation Terrorism?

1.2 Introduction

Terrorism is nothing new. It is the use of unlawful violence towards innocent people in order to achieve political or religious goals. In other words, Terrorism is violence by non-state actors, such as individuals or groups, to achieve radical political goals. Terrorism is usually targeting civilians in the name of politics and religion. ¹

We all know, what is Terrorism, now the terrorism that involves airplanes or using aviation as a tool in order to commit a terrorist attack is Aviation Terrorism. Aviation Terrorism is more than just attacking innocent people but it is a global threat. On September 11, 2001 Al Qaeda, an Afghanistan based terrorist organization attacked the world trade center in New York and the Pentagon near Washington DC. The terrorists group hijacked four civilian airplanes and flew them into their targets, dying along with their victims. Majority of the hijackers were from Saudi Arabia and a few of them were from Middle East. This incident was a part of Aviation terrorism since it involves airplanes. After this 9/11 incidence the world shook and the word terrorism became known to all. But aviation terrorism is not something that started with the 9/11. In fact, it has been there for almost a century. The first Aviation terrorism took place after only 17 years of the first commercial flight in 1931. To this day, hundreds of Aviation terrorism took place. ²

On June 14, 1985, TWA flight 847 was hijacked by two Muslim men. Who boarded in Athens, Greece. The plane was going to the Da Vinci Airport, Rome. After approximately 20 minutes of take off the two passenger attacked the pilots of the aircraft carrying 153 passengers on board. They immediately ordered the pilots to divert the aircraft to Beirut, Lebanon. The pilots had no other choice but to divert the plane towards Beirut, Lebanon. After successfully diverting the plane

¹ Eric B. Shiraev and Vladislav M. Zubok, *International Relations* (Oxford & New York: Oxford University Press, 2017)

² *ibid*

towards their destination the terrorists started beating the male passengers and shifted them to the window seat. The passengers were forced to keep their hands between their legs so that they cannot see the face of the terrorists. After taking control of the aircraft the terrorists ordered an ex-German nationalist to collect passports and identification from all the passengers. After taking the identification from the passengers the terrorists find out that there are two US Navy Militaries in the aircraft. And they took this as an advantage, since the ground tower did not give them permission to land on Beirut airport. The terrorists started beating one of the Navy officers till the ground authorities gave them permission to land. The authorities had no choice but to give them the permission. Finally, they got the permission to land on the Beirut airport. After landing on the airport the terrorist had another demand, they wanted fuel and in exchange of fuel they released 17 women and 2 children's. They did this kind of demand every time they landed.

In the middle, they started flying again so that the US military could not take any action against them. When they came back to Beirut for the second time, the terrorist went too extreme, they shot one of the US Navy Militaries and throw his dead body through the door of the aircraft. The terrorists did not stop even after committing such horror. Later that night they demanded to turn off the lights of the airport and while the airport was dark, more terrorists joined the aircraft and took the hostages. They did not take all the hostages but they only took people they thought were Jewish. Finally, after being held hostage, 17 hostages were released. But as always it was not for free, it was another exchange, this time the terrorist's demands were huge, they asked to withdraw the Israeli military from Lebanon, they asked to release one of their Muslim Shiites from the Israeli jail and they asked for the withdrawal of US and Israeli military from the Middle East. Later they flew the aircraft to the Shiite neighborhood. But before that the delta force was able to rescue the Jewish hostages. This incident was a huge example of Aviation terrorism. For 17 days they kept the hostages and these 17 days all the media and politicians were connected to this issue. The terrorists almost got what they wanted. The Muslim Shiites were released from the Israeli prison. This is how the terrorists achieved their political goals through Aviation terrorism. ³

³ What is Terrorism? History of Terrorism <<https://ourworldindata.org/terrorism>> accessed on 11th March 2022

1.2 Prologue of Aviation Terrorism

On September 11, 2001, It was Tuesday in the New York City, a very regular day, people passing through the world trade center and suddenly everything started shaking everyone was on the ground, there were loud noises, people started screaming and they noticed one of the biggest towers in the world, World trade center was collapsing, two 110 storied tower in the middle of the New York city was shattered. ⁴

It all started earlier that morning, Mohammad Atta, a US trained pilot along with four others boarded on the Flight 11 of American Airlines in the Boston airport, the plane was going to Los Angeles. After 15 minutes of departure the five people took control of the deck overpowering the crew members and Mohammad Atta who was a trained pilot took control of the plane. He turns off the transponder so that the air traffic controllers could not track the plane. He then headed the aircraft towards the New York City. At 8:46 am, when the aircraft was traveling at 450 miles per hour, loaded with fuel, Atta, flew the American Airlines' 767 aircraft into the North Tower of the World Trade Center and it went through the building between the 93rd and 99th floors. The terrorists did not stop there. After only 20 minutes of attack of the first Tower, they struck again. This time they attacked the second tower. At 9:03 am, United Airlines Flight 175, traveling at over 500 miles per hour went through the 77th and the 85th floor of the second building of the world trade center. Both of these attacks were same. Both of the flights had five Al Qaeda members. The plan was same as well. 56 minutes after the second attack the towers collapsed killing thousands of people who were trapped above the floors that was attacked. ⁵

The world trade center was destroyed. The whole world was in shock. It was undoubtedly one of the horrifying events in the history. But the terrorists would not just stop yet. At 9:37 am the American Airlines 757 flew into the west side of the Pentagon building. This American Airlines Flight 77 was departed from Washington DC and was going to Los Angeles. The plane was

⁴ Aviation Terrorism Historical Survey, Jin-Tai Choi <<https://link.springer.com/content/pdf/bfm%3A978-1-349-23175-1%2F1.pdf>> accessed on 12th March 2022

⁵ ibid

hijacked in the same manner as the previous two. Same number of terrorists entered the plane, took over the plane and crashed into another most secured building in the world. ⁶

9/11 incidents did not stop there. United Flight 93 took off from New Jersey headed for San Francisco. When the plane took off, the passengers had no idea planes were being hijacked. After almost 40 minutes after the departure, the terrorists took over the aircraft. But the passengers somehow able to make phone calls. After making the phone calls they found out that similar hijacking had been took place on that very day. There were 32 passengers on board. They planned that they are not going to let this attack happen. They waited for the plane to fly above a rural area space and as soon as they saw fields, the passengers rushed to the deck and overpowered the terrorists. But the aircraft was crashed and all the people on board died on the crash. ⁷

These attacks are the biggest terrorist attacks that have ever took place in the history on humanity.

⁸

1.3 Consequences of Aviation Terrorism

In this modern age, the international air transportation business allows a vital communications link which brings welfare to many states. This vital link has not only been threatened by terrorism but also by failures in the aviation security system. For some reasons airlines have been one of the most attractive targets in the eyes of terrorists, it is in the nature of aviation that has huge potential to generate wide publicity. From the early 1930s, act of violence against civil aircrafts have become one of the most serious challenges to the safety of flying. ⁹

Between the year of 1984 to 1988, 752 people were killed and 136 people were injured in attacks against civil aircrafts throughout the world. These attacks involved hijacking the aircrafts, bombing in aircrafts, sabotaging and crashing the aircrafts. In statistical sense, the number of

⁶ Jin-Tai Choi survey on Terrorism <<https://link.springer.com/content/pdf/bfm%3A978-1-349-23175-1%2F1.pdf>> accessed on 12th March 2022

⁷ ibid

⁸ ibid

⁹ ibid

victims of aviation terrorism is smaller than the human loss that results from natural disasters and accidents. But the impact of aircraft hijackings, attacks on airline facilities and the sabotage bombings on aircrafts have been much more jeopardy than any kind of attacks on the civilian. The level of political, economic and psychological involvement is there in any kind of aviation terrorist attacks, any other kind of attacks do not have it. Aviation terrorism usually are very dramatic in nature but the impact is very brutal. These civil aviation attacks focus on public attention and in order to achieve that, hijacking and sabotaging aircrafts take place. Terrorist now choses aviation terrorism because it has proven to be a very effective method to get what they want. These hijacking gets full media coverage and it becomes very easy for the terrorists to put their demands in front of the world. Aviation terrorism will not just stop or disappear suddenly. Hijacking is just a way international terrorism expresses itself, but it is unlikely that terrorists will stop hijacking planes. In the international community aviation terrorism has become a serious and urgent issue to deal with. Every day its recognition is getting more and more. However, the governments, national and international organizations, airlines, some states are not taking proper actions against it. The current reality of the situation in terms of combating aviation terrorism is the failure to enforce the recommendations of international agreements regulating aviation crime, as well as insufficient security staff training.¹⁰

In this context, violence against civil aviation needs to be evaluated in order to combat such attacks. It's a big challenge. But where there is a will, there is a way.¹¹

¹⁰ Threat among us <https://www.pnnl.gov/main/publications/external/technical_reports/PNNL-25689.pdf> accessed on 15th March

¹¹ ibid

Chapter 2

Different Countries legal approach on Aviation Terrorism

2.1 United Kingdom (UK): UK is one of the most powerful countries in the world but they continue to face the serious and lasting threat of terrorism. UK's current threat assessment is strong, which means that the likelihood of an attack is very high. Goals of British counter-terrorism operations is to reduce risks in UK. This includes enhanced protection against the attack. After the attempt of terrorist attack on Detroit on Christmas Day 2009, UK is being committed to strategic defense and security screening, to make changes before flight checks, to better identify individuals, impersonating terrorists intimidate and prevent flights to or from United Kingdom. Strengthen the protection of British aviation and International security. They can use a lot of power from Government to prevent representatives of the threat of terrorism from flights to the United Kingdom. These include: Tough visa system, getting visa to enter the UK should not be easy. There are related measures to fight terrorism such as, recall prisons or criminal offenses. Progressive Passenger information sent to e-Borders may be used detect such violations and notify the airline not to board certain people and the law in this situation. This will prevent certain aliens who pose the threat of terrorism from flying to England. Individuals who are officially excluded from the UK Subject to national security or UNO, or EU travel ban will also be denied. Scheme to provide the most effective means prevent these people from flying to the UK. However, the impact of the attack on the plane can be very high, the first of the UK government keeping citizen's safe is a priority. UKBA (UK Border Agency) they check details of each and every passenger and provide every information to the airline in the notification to notify the airline, whether the passenger has permit to carry or denied, they will propose to provide airlines with a briefing. Airlines passenger data can be sent at any time data transfer window. Work together Industry, also within the framework of this consultation evaluate how best to operate this aspect of the program. Citizen freedom is at the heart of government, approach to anti-terrorism, and it will be important to ensure that these suggestions are taken into account people's freedom. The intended effect of

the scheme is possibility of terrorist attacks by targeted prevention individuals identified as threats of terrorism for people from planes to the UK live your life with confidence and freedom.¹²

2.2 United States of America (USA):

Being the most powerful country in the world could not stop them from getting attacked by terrorists. The biggest terrorist attacks in the history of terrorism, took place in the US, The 9/11 incident. The situation where the worldwide media were humming with reports of U.S. security frameworks under constant aviation attacks from the Al-Qaeda. A significant number of people died in that attack. Al Qaida is America's essential psychological oppressor enemy. After that attack, the association as of now works inside the cyber world. After the 9/11 incident, The US government has become more alert. US is always under the risk of getting attacked. Since the US military troops are all over the middle east, a lot of non-state organizations are targeting the US. US's current goal is to reduce the risk of any kind of terrorist attacks. Since terrorism is so much based on aviation, US government and the airlines working together to create a very strong transport system. The US government is taking various measures including tough visa system. We are very familiar with this system. A lot of advanced countries follow this system. We often see that getting a visa from certain countries are tough. Such as, getting visa for any European country is quite tough. They will check your history of travel, they will check everyone and everything that is related to you. Where you work, who are you working for, every such details. This system will prevent any person who has plans for any kind of threat, he cannot get the visa in the first place. After that, they are focusing on strategic defense and security system, which is checking every individual's background who are travelling with the airlines. Almost every advanced country in the world is familiar with this system. What this system requires is very advanced technology, which will check every detail about an individual within minutes. Mostly the airlines, do not check each and every individual. They check if any passenger looks suspicious. Usually the airlines check certain things, whether this individual has any criminal records or not, whether he is related to any such organizations that can be threatening to the airlines or not, whether this individual is capable of fighting or taking charge of any aircrafts or not etc. They also

¹² AVIATION SECURITY: CONSULTATION ON A STATUTORY AUTHORITY TO CARRY SCHEME
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/157777/consultation-document.pdf> accessed on 18th March 2022

check individuals who are related to military or they are ex-military. Mostly people from the Middle East are checked carefully.¹³

2.3 Malaysia: In June 2016, the Malaysian Immigration Bureau dismissed 15 officers after revealing security. Probably an injury that started in 2010. Up to 100 people were involved in granting permits to specific passengers travel without checking the country's major international airports. Malaysian officials classified this breach as a nuisance due to abuse of computer system rights under review. A passport to a database that contains a list of lost and stolen passports. The system is running When offline passport managers must manually screen passengers. This can allow a myriad of numbers. Anyone whose passport has been stolen or forged will not be detected by security. This corruption, mismanagement, and violation of security standards put immigrants at risk. Leaving a country vulnerable to terrorists who may have easily invaded the sector and country during 6 years. Airport and global aviation security exposed due to potential terrorists about insider negligence. Authorities believe that malicious insiders were working to get instructions online from foreign criminal groups. Criminals have been granted access. It is a system that allows you to move the cursor without anyone physically manipulating. Or the findings show that internal threats are increasing and passport security is increasing. This is another tactic that terrorists can use to wield and inflict violence on aviation. Malaysia is currently focusing on their airport security system. They are focusing on building advanced security system like the US and the UK.¹⁴

2.4 Pakistan: Pakistan continued to be hit by terrorists, but the attacks and casualties are not as much as the other countries. Their aviation security and immigration system is not very strong. They are not that focused on a fighting aviation terrorism. Pakistani troops and security forces conducted operations against groups attacking within Pakistan (Tehrike Taliban Pakistan (TTP), Baluchistan Liberation Army etc.). Pakistan counters terrorist financing and launching a large scale attack by a group of militant focused on India after Pakistan based guards carrying Jaishe-e-Mohammed (JeM). To prevent this, they took conservative steps in 2019. Pakistan has taken

¹³ National Strategy for Counter Terrorism <<https://www.whitehouse.gov/wp-content/uploads/2021/06/National-Strategy-for-Countering-Domestic-Terrorism.pdf>> accessed on 18th March 2022

¹⁴ Country Reports on Terrorism 2019 <<https://www.state.gov/reports/country-reports-on-terrorism-2019/>> accessed on 20th March 2022

actions against outward groups, including prosecuting Hafiz Saeed, the founder of Lashkar-e-Taiba (LeT), and his associates in three separate terrorist financing cases. However, Pakistan remained a safe haven for terrorist groups concentrated in other areas. Terrorist groups continued to operate from Pakistan's soil. In 2019, Governments and the military were unable to take sufficient actions to prevent certain terrorist groups and individuals from acting openly in the country. Pakistan is not being a very pleasant position when it comes to counter terrorism. They are well aware of terrorism but they are not focusing on improving their airport security. If this continues Pakistan can be hit very hard very easily.¹⁵

2.5 India: In August, India amended the 1967 Anti-Illegal Act to approve the designation of individuals as terrorists. This was done a month later by designating four terrorists, including Lashkar-e-Taiba (LeT) and Jaish-e-Mohammed (JeM) leaders. The Parliament of India also amended the National Investigation Agency (NIA) Act of 2008 to allow NIA to investigate terrorist attacks abroad. The United States continues to expand its strategic partnership with the Government of India through bilateral meetings of the Joint Anti-Terrorism Working Group in March and the second ministerial dialogue in December. In April, ISIS-inspired terrorists killed hundreds of people in a sophisticated suicide bombing of churches and hotels across Sri Lanka on Sunday. This was a vivid example of ISIS's determination to continue the fight and stimulate attacks from global affiliates and networks after the loss of the so-called "caliphate" in Syria and Iraq. India is under huge risk of terrorist attacks. There is a huge list of terrorist attacks that took place in India. On September 5, 1986, Abu Nidal Organization attempted to hijack, Pan Am Flight 73 during a stopover in Karachi, Pakistan. A flight attendant of the flight, Neerja Bhanot, who tried to alert the pilots about the hijacking. Bhanot died trying to help save the passengers and crew, of whom 359 of the 379 on board survived. She was shot while helping passengers escape through the emergency exits. Still after this kind of attacks, India is not as concern as other western countries are about preventing aviation terrorism. Rather India is more focused on preventing terrorism that are connected to Pakistan.¹⁶

¹⁵ Terrorism Reports on Different Countries <<https://www.state.gov/reports/country-reports-on-terrorism-2019/>> accessed on 20th March 2022

¹⁶ *ibid*

Chapter 3

International law on Aviation Terrorism Part 01

Since aviation terrorism has become a huge threat to the world. International community has adopted a few conventions in order to counter terrorism.¹⁷

Aircraft Convention, 1963: Aircraft Convention also known as the Tokyo Convention, it entered into force on 4 December 1969. This Convention applies to criminal offenses and all acts that endanger the safety of persons or property on board commercial aircraft during flight and international air navigation. The scope covers, in addition to the airspace of the contracting Parties, committing or attempting to commit crimes and other specific acts of boarding a contracting state registered aircraft while flying over the high seas and other areas outside the territory of the state. Includes that, criminal jurisdiction is exercised by contracting parties other than the registered state under limited conditions, that is, if the exercise of jurisdiction is required by multilateral international obligations for the benefit of national security, etc. There may be cases. For the first time in the history of international aviation law, the Convention recognizes the specific powers and immunity of aircraft commanders on international flights that may detain anyone with reasonable reasons for believing that they are committing. Crimes that can threaten the safety of people or property on board, or that endanger order and discipline. In short, this convention is about offences and certain acts that are committed on board aircraft. This convention will apply to the acts that affect the safety of an in-flight. This convention gives power to the aircraft commander to take any kind of measures in order to keep the aircraft safe. The commander has given power to restraint any person he believes is about to commit or has committed any kind of harmful activity on board of an aircraft.¹⁸¹⁹

¹⁷ Terrorism and Counter Terrorism, MD. Abdul Halim (CCB Foundation: Lighting The Dark, June 2015)

¹⁸ Flying with Unfriendly Skies

<<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1226&context=njilb>> accessed on 1st April 2022

¹⁹ The Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft
<<https://core.ac.uk/download/pdf/147638834.pdf>> accessed on 2nd April 2022

Unlawful Seizure Convention, 1970: Also known as The Hague Hijacking Convention. On December 16, 1970, this convention was adopted by the International Conference on Air Law at Hague. It came into force on October 14, 1971. This convention now has more than 185 parties. 183 of them are UN members. It is a multilateral agreement in which the state agrees to ban and punish airplane hijacking. This treaty only applies to the commercial aircrafts, it does not apply to customs, law enforcement, or military aircraft, only to commercial aircraft. The Convention only deals with situations where an aircraft takes off or lands outside the registered country. The treaty establishes the principle of *aut dedere aut judicare* that parties to the convention must prosecute hijackers if no other state requests extradition of the same crime. This convention is about the unlawful seizure of aircraft. This convention talks about offences that includes taking control of an aircraft or hijacking it. This convention requires parties to the convention to make hijacking punishable by severe penalties.²⁰²¹

Civil Aviation Convention, 1971: This convention is about the suppression of unlawful acts against the safety of civil aviation. The Convention was adopted on September 23, 1971 by the International Conference on Air Law at Montreal, Canada. It came into force on January 26, 1973. The Convention has more than 188 state parties. This convention requires parties to make offences like, violence against any person on board, place an explosive on an aircraft or any kind of act that endangers the safety of an aircraft punishable with severe penalties. Even if a person tries to commit such crimes will be punishable as well.²²

Airport Protocol, 1988: This convention is about the protocols for the suppression of unlawful acts of violence at airports or unlawful acts against the safety of international civil aviation. This convention is an extension of the Montreal convention (Civil Aviation Convention, 1971). The state parties to this protocol considering that unlawful acts of violence which endanger or are likely to

²⁰ Country Reports Counter Terrorism < <https://www.state.gov/reports/country-reports-on-terrorism-2019/>> accessed on 15th April 2022

²¹ Measures for the combat of aviation terrorism <https://www.researchgate.net/publication/333358404_Measures_for_the_combat_of_aviation_terrorism> accessed on 15th April 2022

²² *ibid*

endanger the safety of persons at airports serving international civil aviation or which jeopardize the safe operation of such airports undermine the confidence of the people of the world in safety at such airports and disturb the safe and orderly conduct of civil aviation for all States. Considering that the occurrence of such acts is a matter of grave concern to the international community and that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders. Considering that it is necessary to adopt provisions supplementary to those of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, to deal with such unlawful acts of violence at airports serving international civil aviation.²³

Hostages Convention, 1979: Sometimes referred to as the Sabotage Convention or the Montreal Convention. It is a multilateral treaty by which states agree to prohibit and punish behavior which may threaten the safety of civil aviation. In short this convention talks about any person threatens to kill, or tries to kill or detain any person in order to achieve something from a third party, namely an international organization, a state etc.²⁴

New Civil Aviation Convention, 2010: Also known as the Beijing Convention. On September 10, 2010 at the Diplomatic Conference on Aviation Security in Beijing this convention was formed. The Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft was adopted in this very conference as well. This convention is about any unlawful acts relating to the international civil aviation. This convention criminalizes any such act that includes using civil aircrafts as a weapon in order to commit any terrorist act, using civil aircraft to discharge nuclear weapons or any other weapons that can cause death and transporting such weapons.²⁵

²³ McGill Montreal Protocol 1988 <<https://www.mcgill.ca/iasl/files/iasl/montreal1988.pdf>> accessed on 16th April 2022

²⁴ *ibid*

Chapter 4

International law on Aviation Terrorism Part 02

December 25 in 1986, an Iraqi airline crashed in Saudi Arabia, killing 62 people, the airline was being hijacked. Only a few months ago, Arabic speaking hijackers killed 16 passengers and injured many others. Slightly more than a year before this incident, Shiite Moslems attacked TWA flight 847, when the flight was just leaving Athens Airport. In addition to these acts, terrorists are now getting advanced, they are not just hijacking the airlines now but also bombing them. After all these attack the airport security is now concern. Many question raised, these attacks might have stopped by using some advanced airport materials. In fact, some victims and families of these victims of terrorist attacks have sued the airlines, they argued that, the airport did not used proper security devices. These lawsuits raised so many questions, why is not the airlines using better security measures? ²⁶

The Warsaw Convention governs the incidents regarding international air travel. This convention tries to limit the liability of the airports but when it comes to willful misconduct of the airlines, this convention does not limit the liability. According to the critics, to reduce the total number of airport hijackings airport safety must be increased. Moreover, if it is possible to limit the liability of the airlines then the courts could compensate the victims of terrorism better. On the other hand, questions can be arising whether removing the liability limits would violate the spirit and policy of the Warsaw Convention since the convention do not take liability when it comes to willful misconduct of the airlines, so how to compensate the victims of the terrorism then?²⁷

The Warsaw Convention: In the year 1925 in Paris and the year 1929 in Warsaw, two international conferences were held and The Warsaw Convention was the result of these two international conferences. When the conferences were held, everyone hoped that it will solve many

²⁶Flying the Unfriendly Skies

<<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1226&context=njilb>> accessed on 18th April 2022

²⁷ ibid

problems of the civil aviation industry in the future. It was hoped that the conference would have plans on how to stop aviation industry problems. The conference planners had goals to maintain uniformity in both procedural and substantive law applicable to claims arising out of international transport and limit airlines liability for damages arising out of accidents. The airlines needed capital that time but if there were risks of accidents then attracting such capital might not be possible. There were large liabilities for the losses suffered in such accidents. Later, it was pretty clear that limitation of liability is the most important goal of the convention. But the Warsaw Convention not only served the airlines, they protect the passengers also. But, the Convention later diverted the burden of proof to the carrier. They said, they and their agent took all the necessary things to avoid any kind of accident but it was not possible to avoid all the damages. But the Montreal agreement later on protected passengers by creating a new system that had strict liabilities for injuries which was covered by Article 17 of the Warsaw Convention. But when it comes to willful misconduct on the part of the airlines or its agents, the limitation on airline liability does not apply. However, the Article 25 of the Convention does not define willful misconduct so it has been criticized because it is not particular and quite difficult to interpret as well. There are so many criticisms as well. Some critics even said that this Article does not clearly define willful misconduct so that different countries can interpret willful misconduct according to their own laws. On the other hand, supporters of this article say, the limited liability provision should not protect intentional acts. After so much of these criticisms finally in 1955 a conference was held and the article 25 was replaced by article 13 of The Hague Protocol. Article 13 provides a great definition of willful misconduct. It was expected that The Hague protocol will achieve the desired uniformity but it did not achieve it. Later in 1971 Guatemala Protocol and the Montreal Protocol number 334 declared that in the event of willful misconduct the liability limitations could not be broken. And when it comes to compensating the victims, removing blame to one based on absolute restricted culpability in all situations, even when the blameworthy action is done purposefully, wantonly, or with reckless disregard for the consequences, is ethically untenable. The victims are not compensated properly for the damages they had from the intentional conducts.²⁸

²⁸ Flying the Unfriendly Skies: The Liability of Airlines under the Warsaw Convention for Injuries Due to Terrorism <<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1226&context=njilb>> accessed on 18th April 2022

International Civil Aviation Organization (ICAO): In October 1947, ICAO became an agency of the United Nations. As of April 2019, there are 193 ICAO members, consisting of 192 of the 193 UN members. ICAO is funded and directed by these 193 national governments at the Chicago Convention 1944. As stated at the Chicago Convention, ICAO's goals are developing international air transport to ensure the safe and orderly growth of international civil aviation throughout the globe, to encourage operations for peaceful purposes, the development of airways, airports, and air navigation facilities for international civil aviation, meet the needs of the peoples of the world for safe, regular, efficient, and economical air transport, promote safety of flight in international air navigation and many more.²⁹

In May 2019, ICAO participated in the launch of the United Nations Anti-Terrorism Program at the United Nations Headquarters in New York. Fang Liu emphasizes that aviation security and facilitating passenger movement are important and mutual priorities in air transport. In September 2019, ICAO hosted the 3rd Global Aviation Security Symposium at ICAO Headquarters in Montreal, Canada, it countered the threat of terrorists targeting civil aviation by bringing together aviation security experts from around the world to strengthen and promote the international framework for aviation security standards.³⁰

ICAO has published standards for machine-readable passports. Fake passports will not be readable by using this system so anyone who is carrying a fake passport will be caught immediately.³¹

²⁹Flying the Unfriendly Skies: The Liability of Airlines under the Warsaw Convention for Injuries Due to Terrorism<<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1226&context=njilb>> accessed on 18th April 2022

³⁰ ibid

³¹ ibid

Chapter 5

Recommendation and Conclusion

While the whole world is getting aware of terrorism. Bangladesh is very far from them, when it comes to the laws relating to terrorism.

Anti-Terrorism Act, 2009

This act is only applicable in Bangladesh. This act also applies to the ships and aircrafts registered in Bangladesh. This act came into force on 11th of June 2008.³²

This act is about the prevention and punishment of certain terrorist activities. This act applies to the whole Bangladesh including any person or persons, aircrafts and ships as well. But one thing to keep in mind that these ships and aircrafts should be registered in Bangladesh.³³

Offences and Punishment under this act: If any person, Bangladeshi or foreigner, tries to commit any such act that can be threatening to the public security of our country. Shall be punishable accordingly. Section 2 of the Anti-Terrorism Act, 2009 talks about the offences and punishments, if any person, Bangladeshi or foreigner, kills, hurt, kidnaps or tries to kidnap, tries to damage any property that belongs to the government or any person, keeps any explosives or arms or uses it for the purpose of threatening the public security of Bangladesh, he shall be punished with he shall be punished according to the laws under this section.³⁴

According to the section 7,

Terrorist financing under this act: If any person finances, collects or receive money in order to provide any person or any organization, who plans to commit any terrorist activities that can cause

³² Terrorism and Counter Terrorism, MD. Abdul Halim (CCB Foundation: Lighting The Dark, June 2015)

³³ *ibid*

³⁴ *ibid*

harm to the public security of the country then that person will be punished according to the act.
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According to the section 8,

Member of any such groups: If any person is part of any such groups or organizations, who plans to commit any terrorist activities that can cause harm to the public security of the country then that person will be punished according to the act.³⁶

According to the section 9,

Supporter of any such groups: If any person is supports any such groups or organizations, who plans to commit any terrorist activities that can cause harm to the public security of the country then that person will be punished according to the act. Supporting here means, arranging important things in order to perform any terrorist acts or helping the terrorists with anything that is related to anything that can cause harm to the public security of our country. ³⁷

One of the main source of Terrorism in this modern time is Aviation. Aviation Terrorists best weapon is aviation. They use this aviation as a great tool in order to perform their notorious acts. The whole world is getting aware of this terrorism while Bangladesh is still very far away from that. Day by day aviation terrorism is getting worse, attackers are targeting a wider audience. But Bangladesh has only a few laws on terrorism. Anti-Terrorism Act, 2009, Anti-Terrorism Rule, 2013 these are not quite enough. ³⁸

Multiple questions remain about these Acts. The question remains whether the proper use of these laws will be enough to prevent terrorist activities or not? Different countries are using various methods to improve the safety of civil aircrafts and to protect the passengers, For instance,

³⁵ Terrorism and Counter Terrorism, MD. Abdul Halim (CCB Foundation: Lighting The Dark, June 2015)

³⁶ *ibid*

³⁷ *ibid*

³⁸ *ibid*

Tough visa system. We are very familiar with this system. A lot of advanced countries follow this system. We often see that getting a visa from certain countries are tough. Such as, getting visa for any European country is quite tough. They will check your history of travel, they will check everyone and everything that is related to you. Where you work, who are you working for, every such details. So that any person who has plans for any kind of threat, he cannot get the visa in the first place.³⁹

Strategic defense and security system, which is checking every individuals background who are travelling with the airlines. Almost every advanced country in the world is familiar with this system. What this system requires is very advanced technology, which will check every detail about an individual within minutes. Mostly the airlines, do not check each and every individual. They check if any passenger looks suspicious. Usually the airlines check certain things, whether this individual has any criminal records or not, whether he is related to any such organizations that can be threatening to the airlines or not, whether this individual is capable of fighting or taking charge of any aircrafts or not etc.⁴⁰

Improving the air transport security system comes first. The procedures to the purchase of airline tickets, registration should not be as easy as it is. Examination of passengers and cargo is also a must for the safety of the passengers. Also increasing technical standards of security, keep eye on all over the airport area, checking every corners, explosives can be anywhere.⁴¹

Introduction of preventive measures aimed to stop any kind of act of terror. This is the creation of databases on potentially dangerous passengers. Just like the UK does it. They check each and every passenger that are flying with them and they check very carefully whether any of the passengers are members of any radical political organizations, religious organizations or belongs to any criminal groups. They check whether any of the passengers are capable of fighting the crew

³⁹ Terrorism and Civil Aviation Security: Problems and Trends
<https://ciaotest.cc.columbia.edu/olj/co/co_mar05/co_mar05e.pdf> accessed on 25th April 2022

⁴⁰ AVIATION SECURITY
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/157777/consultation-document.pdf> accessed on 22 April 2022

⁴¹ ibid

members or taking charge of the aircrafts or not. This is almost like, Strategic defense and security system.⁴²

There are not enough conventions to properly organize the actions of the states to fight the terrorist threats on civil aviation. Improvement of these conventions are must.⁴³

I am very well aware that, giving suggestions is easy but putting these into effect is very difficult. There will be many grounds not only the financial or organizational but also from political and moral grounds as well. When the airport security system is taking finger prints and scanning each and every passenger, this is kind of violating individual freedom. Many can argue with all these methods. But taking all these measures are important for these same individuals as well. I must ultimately arrive at the conclusion: terrorism will forever exist; it will exist as long as humanity does. We can only try to fight it back, that is all.

⁴² AVIATION SECURITY: CONSULTATION ON A STATUTORY AUTHORITY TO CARRY SCHEME
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/157777/consultation-document.pdf> accessed on 28th April 2022

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