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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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AVIATION SECURITY AND THE ROLE OF INTERNATIONAL LAW IN SECURING IT

AUTHORED BY - AKASH AGARWALLA

ABSTRACT

The nation's vast air, land, and maritime transportation systems are marvels of innovation and productivity, but they are designed to be accessible, and their very function is to concentrate passenger and freight flows in ways that can create many vulnerabilities or terrorists to exploit. For more than seven decades, commercial aviation has been a specific focus of terrorist attacks against the nation whose flag the airline flies. The tragic events of September 11, 2001 have refocused the attention of the world community on the problem of aerial terrorism. Chicago Convention of 1944's preamble where it states that international aviation can bring nations together and increase the friendliness and cooperation shared by the international community but the same can be abused to pose a threat to national and international security. There have been a lot of developments in the aviation laws in an international context but at the same time, the developments are still standing still. This paper focuses on the civil aviation laws on an international context and the passenger security concerns or threats. It discusses how international aviation law is a valid international law and then discusses the various International Conventions and Protocols which are specifically related to the Civil Aviation and passenger security in the aviation industry, starting from the Chicago Convention 1944 to the Montreal Protocol 2014. It discusses ICAO conventions as well as the non-ICAO conventions in brief and then follows up with the lacuna that still exists in the international aviation laws before concluding on the topic.

BACKGROUND:

Air transport and the subsequent aviation industry is one of the marvels of human innovations but everything good can be exploited for malevolent reasons too. The same was mentioned in the Chicago Convention of 1944's preamble where it states that international aviation can bring nations together and increase the friendliness and cooperation shared by the international community but the same can be abused to pose a threat to national and international security. Subsequently, the International Civil Aviation Organisation was established to encourage civil aviation while keeping possible threats in check. Several other conventions were brought into force and the struggle for peaceful aviation still continues.

SCOPE AND OBJECTIVE:

The scope and objective of this paper is to identify the role that International Law has played in securing the security in aviation sector and identifying how efficient it has been while doing attempting to secure the aviation industry from potential threats of hijacking, terrorism, explosives etc. The paper is limited to the scope of passenger travel security. The paper attempts to identify the source of these International Laws and how they are being enforced by the states.

RESEARCH PROBLEM:

The Aviation industry is a global industry which connects place within a nation-state as well as across different nation-states. Hence the aviation sector has become an international industry or sector concerning the entire international community. At the same time, the international community is comprised of not just different nation-states with varying interests but also different individuals all around the world with varying interest. Due to this conflict of varying interests, there have been numerous instances of hijackings, bombings and similar disturbances in the international aviation sector and the International Laws have been brought into place in the Aviation Sector to maintain peace and remove those disturbances. But how efficient have they been while dealing with the issues?

RESEARCH QUESTION:

1) What are the International Laws instituted with respect to the aviation sector and its security and how efficient are these international laws in maintaining this aviation security?

HYPOTHESIS:

There have been various International Conventions signed for securing Aviation Security on the basis of Article 38 of the ICJ Statute which provides for the sources of International Laws. It started with the Chicago Convention of 1944 which formed the UN's specialized agency International Civil Aviation Organisation to govern and regulate the International Aviation Sector in accordance with the UN charter. Various other conventions and protocols have been signed over the year leading to a major reduction of hijacking and bombing cases and it has been efficient in controlling them but there are still certain lacunas existing in the current aviation laws, especially in its enforcement mechanisms.

LITERATURE REVIEW:

1. **Paul Stephen Dempsey, 'Aviation Security: The Role of Law in the War against Terrorism' (2003) 41 Colum J Transnat'l L 649** – This article by Mr. Paul Stephen Dempsey elaborately discusses the various conventions and protocols that constitute the International Aviation Laws in security aspect and discusses the issues that lie around it. He also states how the U.S.A has been dealing with the issue of aviation security through legislations. It gives clarity on how International Law is dealing with the issue of Aviation terrorism and how it has been efficient and inefficient at the same time.
1. **Mariano-Florentino Cueller, “The Civil Aviation Analogy” (Hoover Press) <https://www.hoover.org/sites/default/files/uploads/documents/0817999825_91.pdf> accessed 30 September 2020** – This article again discusses the various treaties and how the international laws are dealing with aviation security and how the countries are working together due common interests and public good but how the issues still pertain with the countries. It creates an analogy for the aviation laws and discusses about how cyber tools can be used to cause cyber terrorism in the aviation sector. It also states certain remedies and suggestion as to fill the gap that exists in the current Aviation laws.
2. **Diao, Weimin & Zhang, Chrystal, ‘Incorporation of International Aviation Security Conventions into China’s Legislation: Further Integration Is Needed for Effective Implementation’. (2017) 42 (3) Air & Space Law <<https://kluwerlawonline.com/journalarticle/Air+and+Space+Law/42.3/AILA2017018>> accessed 01 October 2020** – This article analyses and discusses the conventions and protocols that have been signed till now and discusses about how the enforcement lies at the hands of the treaty members to ratify the said laws. He discusses about the enforcement mechanisms of the same.
3. **Richard I. Kilpatrick, ‘ borrowing from civil aviation security: does international law governing airline hijacking offer solutions to the modern maritime piracy epidemic off the coast of somalia?’(Oceans Beyond Piracy, August 2011) <http://oceansbeyonddpiracy.org/sites/default/files/attachments/kilpatrick_borrowing_from_civil_aviation_0.pdf> accessed 01 October 2020** – This article specifically discusses the aviation laws in an international context and how USA has the biggest aviation industry in the world. It discusses law in the International area as well in USA itself and draws an analogy between Aviation law and Maritime Law in the form of hijacking issues and Somalia piracy issues.

TENTATIVE CHAPTERS:

1. Introduction - Source of Aviation Law
 - a. ICJ Statute 1945, UN Charter 1945 and Vienna Convention on the Law of Treaties 1980
 - b. Chicago Convention 1944

2. ICAO conventions
 - a. Tokyo Convention 1963 and Montreal Protocol 2014
 - b. Hague Convention 1970
 - c. Montreal Convention 1971 and Montreal Protocol 1988
 - d. Montreal Convention 1991
 - e. Annex 17 to Chicago Convention 1974
 - f. Beijing Convention 2010 and Beijing Protocol 2010

3. Non-ICAO conventions
 - a. EU Convention on Suppression of terrorism 1977
 - b. The 1978 Bonn Declaration on Hijackings 1978

4. An analysis of the existing international laws and its lack of efficiency

5. Conclusion

INTRODUCTION – SOURCE OF AVIATION LAW

- a. ICJ Statute 1945, UN Charter 1945 and Vienna Convention on the Law of Treaties 1980

To understand the legal validity of the International and National Laws and their relationship, it's essential to understand the principles or sources of International Laws and its adoption to National laws. After the League of Nations dissolved, the one supreme international organisation is United Nations which was formed on the basis of the UN charter. Further, The International Court of Justice (ICJ) Statute 1945 led to the formation of the International Court of Justice after the earlier Permanent International Court of Justice was dissolved.

Article 38(1) of the International Court of Justice (ICJ) statute 1945 states the sources of International laws. Therefore, it is the foundation of existence of all International Laws that exist

in the current world. Article 38(1) of the ICJ statute is as follows –

“The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- *international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;*
- *International custom, as evidence of a general practice accepted as law;*
- *the general principles of law recognized by civilized nations;*
- *subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.”¹*

In the context of International laws, this article lays down the source of international laws for any nation to follow. The primary sources in case of Aviation Law are the international conventions that are signed by nations. Another major source is the International Customs which are formed over time and differs in an international context from a national custom.

Article 26 of the Vienna Convention on the Law of Treaties 1980² states the principle of “*Pacta sunt servanda*”³ binding all signatories of a protocol and convention to it. Thus, any nation which has signed an International Convention with any nation or organisation is bound by the same and has to uphold the principles of the said convention.

b. Chicago Convention 1944

As World War II was drawing to a close, fifty-two of the world's nations met in Chicago and drafted the Convention on Civil Aviation of 1944 ("Chicago Convention"). The Chicago Convention established the ICAO, a specialized agency that became a part of the United Nations, headquartered in Montreal, Canada. The International Civil Aviation Organisation (ICAO) came into existence on April 4, 1944, when the Chicago Convention entered into force, and it began operations in 1947. The Chicago Convention prohibits the "use of Civil Aviation for any purpose inconsistent with the aims" of the Convention. Among its stated aims and objectives are to "ensure the safe and orderly growth of international civil aviation throughout the world" and to "meet the

¹ Article 38(1), International Court of Justice Statute, June 26, 1945 (33 UNTS 993)

² Article 26, Vienna Convention on the Law of Treaties, Jan 27, 1980 (1155 UNTS 331)

needs of the peoples of the world for safe air transport. ICAO was vested with both quasi-legislative power (in its ability to adopt SARPS as Annexes to the Chicago Convention) and quasi-judicial power (in its ability to settle disputes arising under the Chicago Convention)⁴. But no proper laws as to counter the acts of hijacking or terrorism were incorporated in this treaty. But this convention became the starting point of current aviation law along with the ICAO constantly looking into aspects to make aviation industry more secure. A series of conventions resulted from ICAO and its members.

ICAO CONVENTIONS

a. Tokyo Convention 1963 and Montreal Protocol 2014 (Convention on Offenses and Certain Other Acts Committed on Board Aircraft)

The Tokyo Convention is the first international agreement dealing with aircraft hijacking was signed in Tokyo in 1963 under the auspices of the International Civil Aviation Organization (ICAO). The Convention requires an ICAO contracting state to establish penal jurisdiction over acts, whether offences or not, affecting in-flight safety of persons or property, or jeopardizing the discipline on board its registered aircraft, and to take custody of offenders and to return control of the aircraft to the lawful commander. It encourages aircraft commanders and cabin crew to fight the unlawful acts and offences in order to preserve good order and discipline on board and to protect the safety of the aircraft⁵. For these related reasons, the Convention also authorizes the aircraft commander to impose reasonable measures, including restraint, on any person he or she has reason to believe has committed or is about to commit such an act, when necessary to protect the safety of the aircraft. One of the important points about this convention is its jurisdiction clause which provides the jurisdiction over the unruly act to the state of registration of the aircraft on which the act happens. The country over which it is flying is to take reasonable and sufficient measures to get the aircraft back under original control and the landing state is to decide on the further appropriate actions⁶ of handing over or rendering the culprit to its domestic criminal laws by notifying the concerned states involved. There is no mandatory extradition provision. A Protocol to amend the Tokyo Convention - the 2014 Montreal Protocol – was adopted in April 2014 in Montreal, Canada. It was the culmination of a four-year effort to modernize the Tokyo instrument, in an attempt to address disruptive and unruly passengers on scheduled commercial

⁴ Paul Stephen Dempsey, 'Aviation Security: The Role of Law in the War against Terrorism' (2003) 41 Colum J Transnat'l L 649

⁵ Article 6, Convention on Offenses and Certain Other Acts Committed on Board Aircraft 1963

⁶ Article 13, Convention on Offenses and Certain Other Acts Committed on Board Aircraft 1963

flights. It significantly improves the ability of ICAO Member States to expand jurisdiction over related offences to the state of the operator and the state of landing (which includes a state to which the flight is diverted should the need arise from the unruly behaviour). The Protocol clarifies what constitutes unruly behaviour, which is believed to include a serious offence that includes physical assault, or a threat to commit assault against a crew member, as well as a refusal to follow a lawful instruction. It also serves to enhance global aviation security provisions by expressly extending legal recognition and protections to in-flight security officers (IFSOs) from this point forward⁷. By empowering the aircraft commander and IFSOs to take the appropriate action against the unruly passenger, the Protocol will strengthen the aviation industry's position when tackling unruly passengers.

b. Hague Convention 1970 (Convention for the suppression of unlawful seizure of aircraft)

The 1970 Hague Convention was adopted in an attempt to address the inadequacy of the Tokyo Convention to tackle the increasing occurrences of violence in air transport. It extends the scope to cover both international and domestic flights and grants every contracting state the power to exercise jurisdiction over the offenders provided these states are affected by an offence committed under the Convention. It obliges a contracting state to submit the case to its competent authorities for the purpose of prosecution, provided the state concerned chooses not to extradite the offender to his/her home country⁸. In addition, the Convention prescribes explicitly how to determine an offender by defining any person on board a civilian aircraft in flight who unlawfully, by force, threat of force, or any other form of intimidation, seizes or exercises control of the aircraft or who attempts such acts, as well as those accomplices who facilitate and participate in the act despite their absence from the affected aircraft. The act does not define what 'offence' is but it states what would constitute an offence.⁹ It specifically deals with the offences committed onboard an aircraft-in-flight. It provides for mandatory legal proceedings¹⁰ and severe punishment by the prosecuting state but what's severe punishment differs from state to state. Further, the convention makes the offences prescribed in it as extraditable offences. But it's not made mandatory but optional by the country where the accused is received.

⁷Diao, Weimin & Zhang, Chrystal, 'Incorporation of International Aviation Security Conventions into China's Legislation: Further Integration Is Needed for Effective Implementation'. (2017) 42 (3) Air & Space Law <<https://kluwerlawonline.com/journalarticle/Air+and+Space+Law/42.3/AILA2017018>> accessed 01 October 2020

⁸ Ibid.

⁹ Article 1, Convention for the suppression of unlawful seizure of aircraft 1970

¹⁰ Article 7, Convention for the suppression of unlawful seizure of aircraft 1970

c. Montreal Convention 1971 and Montreal Protocol 1988 (Convention on Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation)

The Montreal Convention was adopted in 1971, only one year after the Hague Convention. This was achieved as a reflection of ICAO's increasing concerns over the growing threat of violence on international civil aviation, stemming from a series of hijackings between 1968 and 1970 for which neither the Tokyo Convention nor Hague Convention were able to identify any acts of unlawful interference committed on the ground against airport facilities. To this effect, the Montreal Convention introduced the concept of 'aircraft in service'¹¹ and expanded the scope of offences to include any acts of violence performed unlawfully and intentionally against a person on board a civilian aircraft in flight, destroying the aircraft in service, or placing or causing to be placed devices or substances likely to destroy the aircraft, if such acts are likely to endanger the safety of an aircraft in flight. Hence, it brings ground level offences into its purview a little too. Yet the Montreal Convention is still limited to offences that affect the safety of the aircraft in service or in flight without embracing the offences committed in air navigation facilities. As a remedy to this, the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation 1988* (Montreal Protocol 1988) was adopted in February 1988, stipulating provisions on combating offences against any person at the airport and the destruction or damage of airport facilities or interfering with their operation, where such acts and conduct endanger or are likely to endanger safety at the airport. The protocol extended the scope of aviation security to ground level operation which takes place at airports¹². This convention has the same prosecution and extradition provisions as that of the Hague Convention.

d. Montreal Convention 1991 (Convention on the Marking of Plastic Explosives For The Purpose of Detection)

The Convention on the Marking of Plastic Explosives for the Purpose of Detection, adopted in March 1991 at Montreal, was a response to the 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland, which claimed 270 lives. The issue was escalated to the ICAO dispute resolution to ICJ to the Security Council of the United Nations by United States against Libya

¹¹ Jung, Sang Yool, A Legal Analysis of Aviation Security under the International Legal Regime (LLM Thesis, McGill University 2005)

¹² Diao, Weimin & Zhang, Chrystal, 'Incorporation of International Aviation Security Conventions into China's Legislation: Further Integration Is Needed for Effective Implementation'. (2017) 42 (3) Air & Space Law <<https://kluwerlawonline.com/journalarticle/Air+and+Space+Law/42.3/AILA2017018>> accessed 01 October 2020

because USA was convinced of Libyan official involvement in the said blast.¹³

After such incidents, ICAO required that all contracting states take necessary measures to:

- 1) Ensure appropriate and proper marking of plastic explosives so as to make them more easily identifiable and detectable, thereby prohibiting their improper and unlawful use;
- 2) Monitor and regulate the manufacturing and possession of plastic explosives and to prevent and prohibit the manufacture in its territory of unmarked explosives and movement into or out of its territory.

In order to reflect the rapidly changing technical characteristics of the development of detection techniques, chemical additives and marking methods, this Convention adopts an "annex system" which is subject to a separate and distinct amendment procedure enabling an amendment to be adopted promptly by consensus without the need to convene a conference and without the formalities of ratification¹⁴.

e. Annex 17 to the Chicago Convention 1974

Annex 17 of the Chicago Convention-entitled Safeguarding International Civil Aviation Against Acts of Unlawful Interference - addresses aviation security Annex 17 requires that each member state "have as its primary objective the safety of passengers, crew, ground personnel and the general public in all matters related to safeguarding against acts of unlawful interference with civil aviation." It binds them to establish a national civil aviation security program' and to create a governmental institution, dedicated to aviation security, that would develop and implement regulations to safeguard aviation.¹⁵ Contracting states also must develop a security training program, share aviation threat information, and otherwise cooperate with other states on their national security programs. First promulgated as a SARPS in 1974, it has since been expanded and updated many times. It also upholds the provisions of the Tokyo, Hague and Montreal Conventions when it comes to the obligations of the state parties.

¹³ Paul Stephen Dempsey, 'Aviation Security: The Role of Law in the War against Terrorism' (2003) 41 Colum J Transnat'l L 649

¹⁴ Diao, Weimin & Zhang, Chrystal, 'Incorporation of International Aviation Security Conventions into China's Legislation: Further Integration Is Needed for Effective Implementation'. (2017) 42 (3) Air & Space Law <<https://kluwerlawonline.com/journalarticle/Air+and+Space+Law/42.3/AILA2017018>> accessed 01 October 2020

¹⁵ Paul Stephen Dempsey, 'Aviation Security: The Role of Law in the War against Terrorism' (2003) 41 Colum J Transnat'l L 649

f. Beijing Convention 2010 (Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation) and Beijing Protocol 2010 (Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft)

These two documents were a result of the 9/11 attack which shook the world. The ICAO drafted this after years of negotiations and it constitutes an important advancement in the global aviation security.

The Beijing Convention 2010 replaces the Montreal Convention 1971 and the Montreal Protocol 1988 while the Beijing Protocol 2010 supplements the Hague Convention 1970 and is supposed to be read together as a whole.

The convention, responding directly to the events of September 11 2001, the convention criminalises the use of a civil aircraft to cause death, serious bodily injury or serious damage to property and/or the environment. A second new offence criminalises the use of civil aircraft to release or discharge any biological, chemical or nuclear weapon or similar substances onboard or against civil aircraft. The convention further criminalises the unlawful transport of any biological, chemical or nuclear weapon, related material or other dangerous material. Cyber- attacks on air navigation facilities also constitute an offence under the convention.¹⁶

The Beijing Protocol expands the scope of the hijacking offence to include hijackings that occurs pre or post-flight, as well as a variety of ancillary offences, including:

- Making credible threats
- attempt to commit the offence;
- accomplice liability;
- conspiracy; and
- assistance after the fact.

The protocol recognizes that not all persons involved in hijacking will necessarily be onboard the aircraft. The jurisdiction of the case which earlier was extended only to the landing state or registration state or where the offence was committed, now also extends to the state of which the accused is a national. One of the key debate and controversy was with respect to the 'military

¹⁶[Andreas Fankhauser](https://www.internationallawoffice.com/Newsletters/Aviation/Switzerland/Baumgartner-Mchler/Beijing-Instruments-on-aviation-security), 'Beijing Instruments on aviation security' (International Law Office, 18 December 2013) <<https://www.internationallawoffice.com/Newsletters/Aviation/Switzerland/Baumgartner-Mchler/Beijing-Instruments-on-aviation-security>> accessed 24 November 2020

exclusion clause'¹⁷ which states that the acts of military aircrafts in case of an armed conflict would be excluded. This was ultimately not included after a vote was done on the same.

NON ICAO CONVENTIONS

a. European Convention on the Suppression of Terrorism 1977¹⁸

In November 1976, the Committee of Ministers of the Council of Europe adopted the European Convention to ensure that the perpetrators of terrorism could not escape prosecution and punishment by encouraging extradition between member States and by limiting the political offense justification for refusing extradition¹⁹. Article 1 lists class of offences (including offences of The Hague and Montreal Conventions) which would not be considered as political offenses for the purpose of extradition. Article 2 requests member States not to consider a serious offence which involves an act of violence against the life, physical integrity or liberty of a person or against property, other than the offences covered by Article 1, as a political offence. Article 4 calls for automatic inclusion of such offence as an extraditable offence in all existing treaties. Article 5 permits the requested State to refuse extradition, if the State has "substantial grounds for believing" that the extradition request has been made in order to punish a person on account of his race, religion, nationality or political opinions. Also, Article 13 authorizes any State to reserve the right to refuse extradition in respect of any offence mentioned in Article 1, if States decide any offence as a political offence, even though contracting States are under the obligation to take into due consideration, when evaluating the character of the offence. The jurisdiction and mandatory proceedings of the earlier treaties are adopted in this too.

b. The 1978 Bonn Declaration on Hijackings

This declaration is a joint declaration made by the leaders of the G-7 (Canada, France, Germany, Italy, Japan, the United Kingdom, and U.S.A.) The main highlight of the declaration was that any state which refuses to extradite or prosecute those who have hijacked an aircraft and/or do not return such aircraft, the heads of the states shall stop all flights to and fro from that state²⁰.

This isn't a treaty or a convention but a declaration made by the G-7 leaders. Though it is the

¹⁷ Stratis G. Georgilas, 'The suppression of Illegal Acts in (international) Civil Aviation and the responsibility of the States : New Developments' <<http://ghlaw.gr/docs/beijingconandprotocols.pdf>> accessed 24 November 2020

¹⁸ European Convention on the Suppression of Terrorism, 27 January 1977 (Strasbourg), 15 I.L.M. 1272 (1976)

¹⁹ Jung, Sang Yool, A Legal Analysis of Aviation Security under the International Legal Regime (LLM Thesis, McGill University 2005)

²⁰ Ibid.

right of the G-7 states to do so as a sovereign nation, the said declaration contradicts with the provisions of the Vienna Convention's article 26 and other principles in it, UN Charter's Article 39 and 41 which validates only the Security Council to make such sanctions. It's more of a unilateral declaration by the major players of aviation industry.

2. An analysis of the existing international laws and its lack of efficiency

Since the Chicago convention of 1944, there have been many conventions and protocols as we can see for the purpose of securing the aviation sector and the aviation industry. The Chicago convention was the starting point of legislation in aviation industry, followed by the Tokyo Convention 1963 which dealt with the obligation of a contracting state to help deal with the disturbance and unruly behavior of passengers in an aircraft of another contracting state and it also empowered the aircraft crew and the commander to take reasonable and appropriate actions to deal with the same without worrying about any liability in return. This was followed by the Hague Convention 1970 which dealt with the issue of hijacking, followed by the Montreal Convention 1971 and Montreal Protocol 1988 which dealt with the addition issue of ground level disturbances and attacks and damage to the aircraft by expanding the concept of aircraft-in-flight to aircraft-in-service and setting up relevant authorities and airport securities to keep the airport premises secure along with the aircrafts. This was followed by the Montreal Convention of 1991 which dealt with the issue of marking plastic explosives and such dangerous substance prohibition inside an aircraft through proper screening mechanisms. After this, the 9/11 incident which shook the world gave birth to the Beijing Convention 2010 and the Beijing Protocol 2010 which further strengthened the security legislations in the aviation industry. Lastly, the Montreal Protocol 2014 which was attached to the Tokyo Convention 2014 aimed at further improving the said legislations.

Thus, from the overview of all of the above, it is quite clear that the legislations aren't much at fault for the inefficiency of the aviation laws but the technical aspects of it. There continuously exists a jurisdictional crisis and extradition crisis when it comes to the unlawful acts which the nations are trying to deal with in the international conventions. The Beijing instruments have further opened one more jurisdictional claim. Amidst all this, the main concern of Terrorism in aviation industry isn't being dealt with due to the lack of a united stand on this jurisdictional crisis. Hence, the nations need to come up with a solution to solve the different jurisdictional claims and make it more smooth when it comes to prosecuting the said offenders.

Another important aspect of inefficiency is the enforcement mechanism or the dispute resolution mechanism. The conventions provide for negotiation or arbitration or the ICJ as the dispute resolution mechanisms (in that order). Negotiation hardly would solve disputes whereas arbitration can but there are several other concerns in the same such as business orientation of the arbitrator, the choice of arbitrator, the knowledge of arbitrators, the seat of arbitration, bias etc. ICJ is a last resort. Hence, there needs to be established an independent body purely for the dispute resolution of contracting states. The dispute resolution mechanism of ICAO is quasi and it could also be modified to suit the needs of the current times.

Lastly, cyber terrorism is a much left out topic from the aviation conventions except for Beijing Convention 2010. With the growing menace of technology and misuse of the same, cyber terrorism can blind aircrafts and navigation centers quite easily. Hence, it is very important to take the misuse of cyber technology for terrorism in aviation too.

CONCLUSION

There are many conventions which exist today but many of them are not ratified or signed by many states because of which they haven't come into force. For example, the Beijing Convention and Beijing Protocol of 2010 have not yet got the minimum number of ratification to come into effect, let alone become a customary international law. Hence, there is more interest to be paid in the aviation industry to keep the laws up-to-date and to efficiently curb the hijackings and terrorism in the aviation industry.

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