



BLIND FOLD LEGAL JOURNAL

VOLUME-1 ISSUE-4

{March 2022-May 2022}

E-Mail:- blindfoldjournal@gmail.com

Website: - www.blindfoldjournal.com

**CIVIL AVIATION AND IN ITS LAWS AND THE ECONOMIC IMPACT
OF IT**

Author: M Santosh Kumar

Abstract

Aviation is one of the important and a major sector of every country, which produces a lot of economic resources, and it plays a major role in every country's economy, as it is one of the main and important mode of trade, and is much faster than the traditional mode of trade and transportation, *i.e.*, by ship. As the sector plays an important role in economy of every county, in this research the reader will be able to understand the background of the civil aviation sector, and how the law related to civil aviation has developed over the days in India and also the international laws. Next the reader will also able to understand the economic impacts happened due to change in laws related to the sector. Finally the reader will be able to understand the developments made in the laws, and some issues which raised because of the development made in the sector as well as in the laws of the same.

INTRODUCTION:

Civil aviation has a major impact on in 21st century. It shapes the national economy. Trade is carried on by aircraft and air routes. Tourism promoted by aviation helps economics of countries like Thailand, Spain, Singapore, Malaysia, Nepal and many other countries in Europe, Africa and Asia. SS Sidhu, the Secretary General of Inter-national Civil Aviation Organization (ICAO) has said that Aviation is the agent for change and progress. On the role of modern aviation, he observed:

As you all know, civil aviation is one important industry which is touched by the revolution in high technology. In a country like India which is a huge country with tough terrain in certain regions, I think aviation has a special significance This is all the more true when we are in a developing economy which has to progress swiftly.

It's difficult to picture life today without these quick and safe planes crisscrossing all states,

regardless of sovereignty claims. Despite their differences, the earth has never been more unified. Eminent jurist H. Lauterpacht had remarked that a solution to problems of international civil aviation was a matter of future. In the field of air law, security has been an overriding goal in aviation relations. Since the beginning of space exploration in 1957, and with the growing confidence of nations in recent years, there has been a greater emphasis on the economic and commercial benefits of aviation. Garner, a distinguished scholar and lawyer, gave a long lecture in India in 1922 under the auspices of Tagore Law Lecturers, which included some extremely insightful observations on the evolution of air law. Another jurist Hudson wrote a long article on aviation and international law in 1930. The UN and its specialized agency, the ICAO (International Civil Aviation Organization), deal with the majority of these concerns. Recapitulation of the ICAO Charter, its aims, and significant role in the evolution of aviation law is of broad interest. These include issues connected with economic development, the Chicago Convention, regional developments, security aspects, bilateral agreements, impact of outer space on aviation and development of the space transport, some aviation policies of other leading countries, and perspectives on Indian air law mostly derived from international air law.

Aviation being a very fast mode of transportation as time evolves, it acts as a bridge between countries, and it is the only way by which every country can be connected individually. Even the sea routes cannot connect all countries directly as some countries doesn't have a port or a sea shore in it. So that some of the countries are dependent only on aviation. Since aviation plays an important role in the world trade it also plays an important role in the economic development. Economic development, one of the most important things which every countries strives for has a serious relationship with the civil aviation and also with the laws which governs the civil aviation laws.

When there is a rapid growth, it is a natural thing for some unexpected accidents happening. This also happens in here in civil aviation sector as well. When compared to the earlier days the unexpected incidents are in a rising trend. These incidents don't only include air craft accidents and incidents done by the airlines, but also incidents which happen inside the aircrafts not by the crew members or the pilot but by the passengers. Disruptive passengers are not a new occurrence, but the number of cases is steadily increasing. According to data supplied by the International Air

Transport Association in 2017, one unruly passenger incident was reported per 1,053 flights. In 2017, there were around 8,371 reports of unruly passenger behaviour. Like this there are many things which are happening in the Civil aviation sector. These are some of the reasons for an established law to be present in this sector. More ineffective the laws, the need for new laws emerges.

Some laws which are used in India to govern the Civil Aviation sectors are Aircraft Act 1934¹, it is the primary domestic legislation which governs the Indian aviation sector. Its main purpose is to give the federal government the authority to set laws that control the manufacturing, sale, usage, operation, export, import, and safety of all civil aircraft. Then The Aircraft Rules 1937² generally apply to Indian-registered aircraft, wherever they may be with certain exceptions, and all aircraft present in or over India. These rules set requirements for flying conditions, registration, airworthiness and licenses, among other things. Like this there are several laws existing in India to govern the civil aviation sector in the country.

BACKGROUND OF CIVIL AVIATION AND ITS LAWS:

Every law existing in our country is been framed and established after some incidents. In the case of Civil Aviation the first step behind the formation of its laws started during the year 1911, when First commercial flight from Allahabad to Naini made by a French pilot Monseigneur Piguet covering a distance of about 10 km and carrying 6500 mails on a Humber biplane. This is considered to be the world's first airmail service and the beginning of civil aviation in India. Then in the year 1912 the first domestic air route between Karachi and Delhi was opened. After a few developments in the aviation sector in the next few years there came a need to establish the laws for these flights which are flying in the country. In the year 1934 there happened the promulgation for the first ever law related to civil aviation in India. In the year 1937 the first ever civil aviation law in India was established, The Indian Air Craft Act, 1937. Then during the year 1946 the National flag carrier was formed, after acquiring the possession from the Tata group's Tata

¹ Government of India: https://legislative.gov.in/sites/default/files/A1934-22_0.pdf

² Ministry of Civil Aviation https://www.civilaviation.gov.in/sites/default/files/moca_000947.pdf

Airlines and changing its name to Air India.

Later in the year 1953 The Indian Parliament passed the Air Corporations Act, 1953 and Indian Airlines and Air India International were set up after nationalization of the entire airline industry. A few years later the Airport Authority of India was formed, which monitors the regulation of flights by seeing its arrival time, departure time etc. Even now the Airport Authority of India is owning most of the airports in India. It is the government organization which maintains the airports and some other related to airports and civil aviation in our country. Then in the year 1986 the National Airport Authority was formed. After that in the year 1987 The Bureau of Civil Aviation was established by the Government of India by the recommendation of the Pande Committee. BCAS' key tasks include establishing standards and methods for the security of civil aviation at Indian international and local airports. It has four regional offices, one each in Delhi, Mumbai, Kolkata, and Chennai, which are all located near international airports.

The BCAS's tasks and duties include the following:

Setting Aviation Security Standards for airport operators, airlines, and their security agencies accountable for implementing AVSEC measures in accordance with Annex 17 of the ICAO Chicago Convention; Ensure that those implementing security controls are suitably trained and possess the competences necessary to do their duties; monitor the application of security rules and regulations and conduct an assessment of security needs; Security planning and coordination in the aviation industry; Mock exercise to assess efficacy of Contingency Plans and operational preparation of various agencies; surprise/dummy checks to measure professional efficiency and awareness of security employees.

Later in the year 1994 Air Corporations Act, 1953 was repealed and was replaced by Air Corporations (Transfer of Undertaking and Repeal) Act, 1994³. Later in the year 1997, the first ever policy for civil aviation was passed. Then in the year 2008, another policy named Greenfield Airport policy of the government was announced. Finally in the year 2010, The Airport economic

³ Ministry of civil aviation: https://www.civilaviation.gov.in/sites/default/files/moca_000720_0_0.pdf

and regulatory Authority Appellate tribunal was established, to here the matters related to civil aviation.

NEED FOR LAWS IN CIVIL AVAITION:

When there is a tremendous growth in any particular field, it is essential for framing laws for that, so that no one will misuse those things. Misusing things, happens in this world very easily, as most of the people existing and existed were greedy. Over greediness leads to misuse of things and this results very badly. It not only reflects on the company's name but also reflects on the government and also affects the environment.

At present, India is the 9th largest aviation market in the world with 90 operational airports, 1,180 aircrafts, 303 helicopters, 11 operational scheduled airlines and 133 non-scheduled operators. It is envisaged that by year 2020, India will be among top 3 Civil Aviation Markets in the world and will handle about 300 million passengers.

Being one of the largest civil aviation market in the world, Indian Civil Aviation sector needs a very strong laws, as Indians are very well known for finding the loop holes in the laws. This can happen here in this sector too. Like said earlier, the accidents and mistakes done in this sector is not only by the side of airlines but also by the general public who travel as a passenger. Even when there are solid laws available

Some cases related to aviation sector in India are:

Indian Airlines Corporation vs Jothaji Maniram on 28 August, 1958⁴

This is a case about a cargo package which the respondent in the case sent, from Madras to Calcutta by the Indian airlines corporations. But unexpectedly the package was delivered late by the airlines it was held that under general law a common carrier is liable practically as an insurer of the goods. A contract between the parties can regulate this responsibility. Common carriers are almost always required to engage into a contract that defines and limits their responsibility. That practice is so

⁴ AIR 1959 Mad 285

widespread that any consignor of goods would be expected to investigate the circumstances stated in consignment notes in the usual course of business. To imply that the carrier must establish that he brought the consignor's attention to the consignment note's responsibility restriction section in every circumstance is stretching the law beyond its bounds.

*Smt. Mukul Dutta Gupta and others vs. Indian Airlines Corporation*⁵

The conditions of carriage were displayed in big characters on a board mounted to the entrance of the Indian Airlines Corporation's headquarters. It was mentioned on the passenger's ticket that the ticket was provided subject to the terms and conditions of carriage. The carriage conditions were displayed in extremely small characters within the ticket's cover sheet. The corporation did take measures to inform passengers that the tickets were being issued subject to specific carriage limitations, it was determined. If not from the ticket itself, at least from the board posted at the door, where the requirements of carriage had been specified in sufficiently big characters readable to all, a passenger who was so inclined may have been apprised of these circumstances. The passenger must be regarded to have purchased the ticket with knowledge of the terms and to have impliedly, if not verbally, accepted them.

These are some cases related to the cargo aircrafts, by which some laws are made by the Indian Government and the DGCA, so that the airlines and the people working there will not misuse the products of the people who are using their service.

ECONOMIC IMPACTS OF THESE LAWS

Law and economics are like two sides of a railway track. Both are different in its own ways, but in absence of one nothing can happen. These two are the main elements for a government to run. Without one even the other cannot be proper. When we see from the perspective of economics, more the economic growth more the need for new laws comes, and when there is a tremendous economic boom or growth, it should be monitored properly to know whether the growth is correct or not.

⁵ AIR 1962 Calcutta 311

When we see from the Legal aspect, introducing and maintaining each and every law has an economic effect on it. Say, to introduce a law it causes a lot of money, and for maintaining it, the government needs funds. For example, in the civil aviation sector, it is mandatory for a pilot to take a drug test and a medical test before boarding a flight. This test causes a lot for the government, but if this is not taken seriously then, it will be the matter of hundreds of lives. One such case is the case of Indian Commercial Pilot ... vs Director General Of Civil. This case is about the medical tests taken for the pilots in the airports before their flights.

Like this there are a lot of links between the law and economy. One cannot operate efficiently without the other.

CONCLUSION:

This paper assessed competition-inhibiting provisions of statutes, regulations, policies, and practices identified within the regulatory framework of India's civil aviation industry in line with the standards set out by the Ministry of Corporate Affairs of the Government of India. This research examines India's civil aviation industry in general, while also acknowledging the need for more detailed studies of each sub-sector of India's civil aviation.

While assessing India's civil aviation sector's regulatory framework, certain provisions that limit competition within the industry came to light.

The sector, when it's booming needs new laws, and the existing laws should be regulated. When it comes to the sector of civil aviation, a very well established laws are very much important, and its effect in economics are very great, like said earlier, as it is one way to connect all the countries in various ways like trade, tourism, business, merges and acquisition, etc. . So, it is very important for the laws of the civil aviation sector to be very well developed up to date to match the pace of growing trend of the sector.