

International Aviation Law

IX Semester LL.B. - Elective Course

Introduction:

International Aviation Law is one of the major areas of law developed in the twentieth century consequent to the rapid developments in air technology. Ever since the Wright Brothers successfully carried out their first engine powered flight in 1903, the aviation law has been a matter of international concern and debate. While the debate between the freedom of air and the sovereignty of states over airspace was the primary concern in the early days, the more complicated questions relating to liability, insurance, airport management and crimes on board aircrafts are the matters of concern for legal fraternity at present. In response to ever increasing legal issues of international debate in civil aviation, the international community has adopted various legal measures at international, regional and municipal levels.

Objective of the Course:

The course, as the title suggests, has the objective of dealing with the developments in the air law at the international level. To start with, the course would look into the provisions of Chicago Convention on International Civil Aviation 1944, which provides the fundamental principles governing the international civil aviation. The composition and working of International Civil Aviation Organization (ICAO) would form one of the major areas of study. The course would then go on to deal with the regime of liability established under the Warsaw Convention 1929 and the related instruments. It would also look into the possibility of application of strict liability in aviation. Rules of liability for damage caused on the surface of the earth and to aircrafts in flight would be covered extensively by referring to the Rome Convention 1952 and the Montreal Protocol 1978. Moving forward, the course is intended to cover the most recent development of aviation insurance, which is the requirement of flying in most of the states. Finally, the course is also designed to deal with the legal issues surrounding crimes on board aircrafts by referring to the Tokyo Convention 1963, the Hague Convention 1970 and the Montreal Convention 1971.

Course Outline:

The course is divided into following seven modules.

Module 1: Introduction to Air Law

- 1.1 Theories of airspace
- 1.2 Origin of air law
- 1.3 Freedom v. Sovereignty debate
- 1.4 The development of international legal regime

Time allotted: 3 Hours

Reading List:

- A. Lord McNair, *The Law of the Air* (Chapter 1 - Introduction), 3rd edition, (London: Stevens & Sons, 1964) pp. 3 - 14.
- B. Peter Martin, et al., *Air Law* (Chapter 1 - Historical Summary), Vol. 1, 4th edition, (London: Butterworths, 1977) pp. 1 - 10.
- C. P.P.C. Haanappel, *The Law and Policy of Air Space and Outer Space* (Chapter 2 - National Sovereignty), (The Hague: Kluwer Law International, 2003) pp. 15 - 23.

Module 2: Chicago Convention and the Fundamental Principles

- 2.1 Scheduled and nonscheduled air traffic
- 2.2 Airline cooperation
- 2.3 Nationality of aircrafts
- 2.4 Rules on airports
- 2.5 Jurisdiction
- 2.6 International Civil Aviation Organization

Time allotted: 6 Hours

Reading List:

- A. I. H. Ph. Diederiks - Verschoor, *An Introduction to Air Law*, 8th revised edition, (The Netherlands: Kluwer Law International, 2006) pp. 13 - 50.
- B. J. G. Gazdik, 'Nationality of Aircraft and Nationality of Airlines as Means of Control in International Air Transportation', *Journal of Air Law and Commerce*, Vol. 25, No. 1, 1958, pp. 1 - 7.
- C. Eugene Pepin, 'ICAO and Other Agencies Dealing with Air Regulation' *Journal of Air Law and Commerce*, Vol. 19, 1952, pp. 152 - 165.
- D. Paul Stephen Dempsey, 'The Role of the International Civil Aviation Organization on Deregulation, Discrimination, and Dispute Resolution', *Journal of Air Law and Commerce*, Vol. 52, 1986 - 1987, pp. 529 - 583.

Module 3: Carriers' Liability under the Warsaw Convention

- 3.1 Debate over the applicability
- 3.2 Carriage documents
- 3.3 Extent of the liability of carrier
- 3.4 Duration of the Liability
- 3.5 Jurisdiction and procedural aspects
- 3.6 Related instruments

Time allotted: 12 Hours**Reading List:**

- A. Frederick B. Lacey, 'Recent Developments in the Warsaw Convention', *Journal of Air Law and Commerce*, Vol. 33, 1967, pp. 385 - 401.
- B. Allan I. Mendelsohn, 'The Warsaw Convention and Where We Are Today', *Journal of Air Law and Commerce*, Vol. 62, 1996 - 1997, pp. 1071 - 1082.

- C. George N. Tompkins, Jr., *Liability Rules Applicable to International Air Transportation as Developed by the Courts in the United States* (Chapter 1 - The Road from Warsaw 1929 to Montreal 1999), (The Netherlands: Wolters Kluwer, 2010) pp. 1 - 15.
- D. J. C. Batra, 'Modernization of the Warsaw System - Montreal 1999', *Journal of Air Law and Commerce*, Vol. 65, 1999 - 2000, pp. 429 - 444.
- E. P.P.C. Haanappel, *The Law and Policy of Air Space and Outer Space* (Chapter 5 - Private Aerospace Law), (The Hague: Kluwer Law International, 2003) pp. 67 - 96.

Module 4: Product Liability in Aviation

- 4.1 Concept of product liability
- 4.2 Move towards strict liability in aviation
- 4.3 Crashworthiness
- 4.4 Punitive damages
- 4.5 Codification of product liability

Time allotted: 4 Hours

Reading List:

- A. I. H. Ph. Diederiks - Verschoor, *An Introduction to Air Law*, 8th revised edition, (The Netherlands: Kluwer Law International, 2006) pp. 183 - 193.
- B. Wallace E. Maloney, 'Current Trends in Aviation Product Liability Law', *Journal of Air Law and Commerce*, Vol. 36, 1970, pp. 514 - 549.
- C. Douglas A. Harrison, 'Aviation "Crashworthiness": An Extrapolation in Warranty, Strict Liability and Negligence', *Journal of Air Law and Commerce*, Vol. 39, pp. 415 - 432.
- D. Donald M. Haskell, 'The Aircraft Manufacturer's Liability for Design and Punitive Damages - The Insurance Policy and the Public Policy', *Journal of Air Law and Commerce*, Vol. 40, 1974, pp. 595 - 635.

Module 5: Liability for Damage Caused on Surface and During Collisions

- 5.1 Non-applicability of the Warsaw system

- 5.2 Relevance of the Rome Convention and Montreal Protocol
- 5.3 Risk liability of the operator
- 5.4 Liability for noise, sonic boom and crop-dusting
- 5.5 Air collisions

Time allotted: 8 Hours

Reading List:

- A. I. H. Ph. Diederiks - Verschoor, *An Introduction to Air Law*, 8th revised edition, (The Netherlands: Kluwer Law International, 2006) pp. 211 - 241.
- B. Andre Kaftal, 'The Problem of Liability for Damages Caused by Aircraft on the Surface', *Journal of Air Law*, Vol. V, No. 3, 1934, pp. 347 - 409.
- C. Mairin K. North, 'Current State of the Law in Aircraft Noise Pollution Control', *Journal of Air Law and Commerce*, Vol. 43, 1977, pp. 799 - 822.
- D. Anthony J. Ortner, 'Sonic Boom: Containment or Confrontation', *Journal of Air Law and Commerce*, Vol. 34, 1968, pp. 208 - 222.
- E. Howard Osterhout, 'The Doctrine of *Res Ipsa Loquitur* as Applied to Aviation', *Air Law Review*, Vol. 2, 1931, pp. 9 - 28.

Module 6: Liability Insurance in Aviation

- 6.1 Development of aviation liability insurance
- 6.2 Risk evaluation
- 6.3 Aviation Hull Insurance
- 6.4 Carriers' liability insurance
- 6.5 Flying personnel insurance
- 6.6 Insurance against hijacking of aircrafts

Time allotted: 6 Hours

Reading List:

- A. I. H. Ph. Diederiks - Verschoor, *An Introduction to Air Law*, 8th revised edition, (The Netherlands: Kluwer Law International, 2006) pp. 243 - 254.
- B. Rod D. Margo, 'Aspects of Insurance in Aviation Finance', *Journal of Air Law and Commerce*, Vol. 62, 1996 - 1997, pp. 423 - 478.
- C. Guy H. Riddle, 'Aviation Insurance Coverage Issues: Beware the Renter Pilot', *Journal of Air Law and Commerce*, Vol. 70, 2005, pp. 407 - 428.

Module 7: Legal Regime Governing Crimes on Board Aircrafts

- 7.1 Problem of jurisdiction and applicable law to try the offenses on board aircrafts
- 7.2 The Tokyo Convention
- 7.3 The Hague Convention to combat hijacking
- 7.4 The Montreal Convention and the safety of civil aviation

Time allotted: 6 Hours**Reading List:**

- A. Peter Martin, et al., *Air Law* (Chapter 11 - Crimes and Civil Aviation), Vol. 1, 4th edition, (London: Butterworths, 1977) pp. 521 - 533.
- B. Robert P. Boyle and Roy Pulsifer, 'The Tokyo Convention on Offenses and Certain Other Acts Committed on Board Aircraft', *Journal of Air Law and Commerce*, Vol. 30, 1964, pp. 305 - 354.
- C. Jacob M. Denaro, 'In-flight Crimes, the Tokyo Convention, and Federal Judicial Jurisdiction', *Journal of Air Law and Commerce*, Vol. 35, 1969, pp. 171 - 203.
- D. R. H. Mankiewicz, 'The 1970 Hague Convention', *Journal of Air Law and Commerce*, Vol. 37, 1971, pp. 195 - 210.

Books for Reference (For all Modules):

Compulsory Readings:

1. I. H. Ph. Diederiks - Verschoor, *An Introduction to Air Law*, 8th revised edition, The Netherlands: Kluwer Law International, 2006.
2. Lord McNair, *The Law of the Air*, 3rd edition, London: Stevens & Sons, 1964.
3. Peter Martin, et al., *Air Law*, Vol. 1, 4th edition, London: Butterworths, 1977.
4. P.P.C. Haanappel, *The Law and Policy of Air Space and Outer Space*, The Hague: Kluwer Law International, 2003.

Recommended Readings:

1. Lawrence B. Goldhirsch, *The Warsaw Convention Annotated: A Legal Hand Book*, The Hague: Kluwer Law International, 2000.
2. Elmar Gjemulla, et al., *Montreal Convention*, The Netherlands: Wolters Kluwer, 2010.
3. Chia-Jui-Cheng and Doo Hwan Kim, *The Utilization of the World's Airspace and Free Outer Space in the 21st Century*, The Hague: Kluwer Law International, 2000.
4. J. C. Batra, *International Air Law*, New Delhi: Reliance Publishing House, 2003.

Modes of Evaluation:

Sl. No.	Evaluation Method	Marks
1.	Presentation of the Project	20
2.	Written Project	25
3.	Class Participation	10
4.	End Semester Examination	45

Dr. Sandeepa Bhat B.
(Course Teacher)