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Investigation and Adjudication of Claims Related to Airline Liability

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The expansion of air transportation has demonstrated the necessity of international regulations in aviation. However, the existing regulations in this area have primarily focused on public international air law. With the increasing volume of passenger transportation by air, attention has also turned to private international air law. Although the majority of liability principles within the international legal system have been drafted in a manner acceptable to both common law and civil law countries, the drafters of international instruments have not reached a satisfactory consensus regarding the definition of certain key concepts and terms in the relevant international documents that would be acceptable to both legal systems. Consequently, they delegated the task of defining and interpreting terms such as "accident" to the courts. Therefore, this section of the article aims to clarify that the absence of precise definitions for these terms and concepts reflects the flexibility of the Warsaw–Montreal regime, which has enabled many countries to ratify and implement it. Courts adjudicating claims related to international air transportation are thus permitted to define and interpret the key terms and concepts in international instruments based on the principles of their own legal systems and in consideration of their national conditions. Despite the presence of multiple terms in the Warsaw Convention, a useful jurisprudence has developed over seventy years in the United States and other countries regarding some of these concepts. The Montreal Convention also did not define or clarify these key and general terms, although some aviation legal scholars believe that the Montreal Conference represented a significant opportunity to define such terms, thereby reinforcing uniformity in international regulations. The drafters of the Montreal Convention justified the omission by arguing that comprehensive and exhaustive definitions were not feasible and emphasized that any attempt to define these terms could conflict with established judicial interpretations, potentially causing further difficulties for the courts. They also emphasized that allowing for the clarification of facts and interpretation of relevant issues may lead to legal development in this field. This article examines the process and procedures for adjudicating claims related to airline liability and concludes with relevant findings and conclusions.

Keywords: *Adjudication procedure, claims, liability, airlines.*

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1. Introduction

When the use and operation of airplanes as a means of public transportation began in early 20th-century Europe, European countries were confronted with two critical issues: the liability of air carriers and the compensation for damages to passengers and cargo. Initially, they extended the concept and rules of carrier liability—already established in their national legal systems—to air carriers. Before the onset of international air transportation, European states applied their civil laws and, more specifically, their rules of private international law and conflict of laws to legal relations between passengers and airline companies for both domestic and international flights. It is worth noting that during that period, only a few European governments had codified independent aviation laws, and most countries implemented civil and commercial regulations for air transport.

As international flights became more common, legal, economic, social, and political challenges emerged for European governments. In other words, they began encountering passengers and aircraft of various nationalities within their own territories. Due to the increase in international flights and the presence of foreign elements in civil law concerning international air transport—on a scale not seen in other sectors of human activity—a significant number of lawsuits involving foreign nationals were referred to national courts.

Nevertheless, passengers and those shipping valuable cargo by air are often unaware of the rights and privileges explicitly stipulated in the Warsaw Convention, national legislation, and the regulations of the Civil Aviation Organization of Iran. This lack of awareness regarding their legitimate legal rights sometimes creates opportunities for certain airline companies to evade their legal duties by providing substandard, insufficient, and damaging services.

2. Plaintiffs in Claims Concerning Death and Bodily Injury

Article 17 of the Warsaw–Montreal regime does not explicitly specify who may file a claim for compensation in the event of a passenger's death or bodily injury. Although Article 24(1) of the Warsaw Convention and Article 29 of the Montreal Convention state that these conventions take precedence over national laws, they do not identify the parties entitled to bring a claim for harm inflicted upon passengers. Determining who is entitled to act as a plaintiff is a significant issue for every country (Imanian Bidgoli, 2012).

Countries apply their respective national laws in this regard and explicitly enumerate the individuals authorized to file such claims. The individuals recognized as plaintiffs in the event of death vary among jurisdictions. In fact, identifying plaintiffs is more a matter of social construction than a strictly legal issue, and international instruments cannot provide uniform rules in this area. Therefore, drafting uniform provisions that satisfy all nations is not feasible, and the drafters of the Warsaw and Montreal systems preferred to leave this issue to the courts, which can resolve it based on the applicable national law.

Islamic law has elaborated in detail the rules and provisions concerning inheritance, and these rules are immutable. A plaintiff seeking compensation for death or bodily injury need not be designated by the court as the personal representative of the deceased. According to the Civil Procedure Code, no court may consider a claim for damages unless it is initiated by the rightful heirs or their legal representatives. Plaintiffs are determined based on inheritance laws, and under Islamic inheritance rules, neither the legislature nor the courts may alter or amend the explicit provisions of Sharia. Courts must identify plaintiffs in accordance with Islamic law, which is also explicitly stated in the Iranian Civil Code. Consequently, if an international treaty or domestic statute contradicts Sharia law in this regard, it must be repealed and nullified by the legislature.

Most disputes between passengers and airlines are resolved by the airlines themselves, since airlines generally maintain liability insurance coverage and refer injured parties to their insurers for compensation. However, in cases where the dispute is more complex and both parties assert their rights and blame the other for the damage, resorting to judicial proceedings becomes inevitable.

In any case, if damage is caused to the passenger, personal belongings, or cargo, or if there is a delay in transport or delivery, legal action and notification to the airline must occur immediately upon discovery of the damage. The primary concern is identifying the person or persons entitled to lodge a complaint. Following this,

one must identify the airline or airlines involved in transporting the passenger or cargo that may be held liable. In air transport, it is possible that the person intending to travel or the actual owner of the goods has not personally booked the ticket or issued the airway bill, but instead transferred it to another individual.

With regard to passenger tickets, there is generally no issue since the ticket is issued in the name of the person who is expected to board the aircraft (Qasemzadeh, 2012).

In such cases, if damage or injury occurs, the passenger or their heirs are recognized as eligible for compensation. Article 24 of the Warsaw Convention provides that, in the cases provided for in Articles 18 and 19 of the Convention, an action for damages, however founded, can only be brought subject to the conditions and limits set out in the Convention. This provision also applies to cases under Article 17, without prejudice to the rights of the persons entitled to bring an action or to the rights appertaining to each of them (Qasemzadeh, 2012).

3. Plaintiffs in Liability Claims Arising from Lost or Damaged Baggage

With regard to claims concerning a passenger's personal belongings, the passenger whose name appears on the ticket has the right to file a complaint, since the baggage receipt is issued without a name and is attached to the passenger's ticket. Airline tickets contain a clause related to the delivery of personal baggage which states that the person presenting the receipt is presumed to be the owner of the baggage. However, it is possible to rebut this presumption. A passenger whose personal belongings have been delivered to another person may receive compensation by proving that they did not receive the items, as the airline voluntarily attaches the baggage receipt to the passenger's ticket. Thus, it is implicitly accepted that the owner of the personal belongings is the individual named on the ticket. Therefore, if the airline delivers the baggage to someone other than the named passenger, it remains liable to that passenger. Furthermore, since the airline ticket is non-transferable, the attached baggage receipt, considered part of the same document, must also be deemed non-transferable.

In relation to persons entitled to file claims for damage to cargo, the situation differs somewhat from personal baggage, as the Warsaw Convention recognizes the transferability of the air waybill. Article 15(3) of the Hague Protocol provides that this Convention shall not prevent the issuance of a negotiable air waybill. Accordingly, in addition to the consignor and consignee, the last person to whom the air waybill has been transferred also has the right to initiate a claim and seek damages. The advantages of a negotiable air waybill can be summarized as follows:

1. If the air waybill arrives at the destination before the cargo, the holder of the air waybill can sell the goods to another party and transfer the waybill to the buyer.
2. In multimodal transport—where various means of transport such as air, land, and rail are used together—the negotiable nature of the air waybill facilitates the transport process.

However, the inherent speed of air cargo transportation limits the practical utility of a negotiable air waybill (Ashrafi Arani, 2015).

Lastly, regarding the persons entitled to file a claim for damage during cargo transport, the Warsaw Convention recognizes the right of individuals other than the consignor and consignee to file claims. Article 15 of the Warsaw Convention provides that Articles 12, 13, and 14 shall not affect the relationships between the consignor and the consignee or the rights of third parties whose entitlements derive from either. In summary, in cases of damage to cargo, the consignor, the consignee named in the air waybill, the consignee(s) subsequently appointed by the consignor, and the actual owner of the goods all have the right to file a complaint. This is because the consignor delivering the goods to the airline or the consignee at the destination may only be intermediaries who are not personally affected by the loss or delay of the cargo. Therefore, the right to file a claim must also be recognized for the actual owner of the goods, enabling them to pursue the matter efficiently and effectively (Imanian Bidgoli, 2012).

4. Defendants or Liable Carriers

In passenger and cargo transport from the departure airport to the destination, many companies may be involved, and depending on the type of contract, different liability structures arise for the airline. The types of contracts in passenger and cargo transport include simple carriage contracts, successive carriage

contracts, and multimodal (or mixed) transport contracts. The liability of airlines under each of these contracts is discussed below (Masih Tehrani, 1998).

4.1. *Simple Carriage Contract*

In this type of contract, the passenger or consignor directly purchases the ticket or air waybill from the airline. In a simple carriage contract, only the issuing airline is responsible, and no other company is a party to the contract. The majority of flight contracts fall under this category of simple carriage (Imanian Bidgoli, 2012).

4.2. *Successive Carriage Contract*

A successive carriage contract is one in which, with the consent and agreement of the passenger or consignor, several airlines are involved in the transportation for the entire route. Such a contract may be evidenced by one or multiple tickets or air waybills. Article 1 of the Warsaw Convention defines successive carriage as transportation performed by several successive air carriers, which shall be deemed to be one undivided carriage, whether it was agreed upon under a single contract or multiple contracts, provided the parties regard it as a single operation. Even if such carriage is entirely within the territory of a single state, its international character is preserved.

In successive carriage, an injured passenger may file a claim against the contracting carrier or against the carrier responsible at the time of the incident or delay, unless the first carrier (who issued the ticket or air waybill) explicitly assumed responsibility for the entire route. The passenger or consignor may bring a claim for damage to personal baggage or cargo against the contracting carrier, while the passenger or consignee may file a claim against the final airline involved. Any of these parties may sue the airline responsible at the time of the loss, destruction, or delay. These airlines are jointly or separately liable to the passenger, consignor, or consignee.

Article 30(3) of the Warsaw Convention provides that, in respect of baggage or cargo, the consignor or passenger may take action against the first carrier, and the consignee entitled to delivery may take action against the last carrier. Furthermore, each of them may take action against the carrier performing the carriage during which destruction, loss, damage, or delay took place. These carriers may be held jointly and severally liable to the passenger, consignor, or consignee (Masoumiyan, 2016).

4.3. *Multimodal Carriage Contract*

A multimodal carriage contract is one in which multiple modes of transportation—such as air, sea, or land—are used. According to Article 3(1) of the Warsaw Convention, in cases of multimodal carriage, liability is assigned to the airline for the segment involving air transportation, provided that the conditions set out in Article 1 are fulfilled. Article 1 defines international carriage as transportation where the place of departure and the place of destination are situated in the territories of two different countries party to the Warsaw Convention or, if within the same country, there is an agreed stopping place in another country (whether or not it is a party to the Convention).

Therefore, if damage occurs during the air segment of a multimodal transport, the consignor and consignee have the right to claim. If the damage occurred during a non-air segment—such as land, sea, or rail transport—and the parties have agreed in the carriage contract that the Warsaw Convention and its amendments apply to all stages of transport, then the Convention shall govern the contract and the legal relations between the parties (Talayan, 2011).

Article 32(2) of the Warsaw Convention states that in the case of combined transportation, none of the provisions of this Convention shall prevent the insertion in the air transport documents of conditions relating to other modes of transport, provided that the provisions of the Convention are applied to air transportation. Clearly, if the parties have not previously agreed to apply air transport rules to all segments of the transportation, then damage will be governed by the rules applicable to the respective mode of transportation.

In some cases, it may be impossible to determine during which mode of transport the damage occurred. In such instances, the Uniform Rules for a Combined Transport Document adopted by the Executive Committee of the International Chamber of Commerce in June 1975 must be applied, provided the parties have agreed to this framework. Under these rules, if it cannot be determined during which carrier's segment the loss occurred—whether sea, land, or otherwise—the contracting airline

must pay compensation at a rate of 30 francs per kilogram of lost or damaged goods (Masoumiyan, 2016).

5. The Impact of Airline Dissolution on Legal Proceedings

Another important issue regarding the identification of airlines against which claims may be brought is the death of an individual or, more precisely, the dissolution of an airline company. Article 27 of the Warsaw Convention addresses this matter by stating: "In the case of the death of the person liable, an action for damages shall lie in accordance with the terms of this Convention against those legally representing his or her estate" (Talayan, 2011).

6. Competent Court for Filing a Liability Claim

The injured party must promptly and within the prescribed time limits notify the airline and submit their objection upon discovering the damage. The Warsaw Convention does not require the injured party to initially address the airline to pursue their right. In each case, resort to a court has been provided. Article 28 of the Warsaw Convention stipulates that an action for damages must be brought, at the plaintiff's choice, in the territory of one of the High Contracting Parties, either before the court of the domicile of the carrier, the principal place of business, the place where the contract was made, or the place of destination. It is up to the injured party to choose among these forums, and there is no obligation to pursue only one. Some airline tickets, however, include a provision stating: "The address of the carrier is the airport of departure" (Jabari, 2014).

Inserting such a condition, which restricts the injured party's right to choose from among the courts provided in Article 28, is not valid unless it expedites the adjudication of the passenger's claim. Damage may also be caused by an actual carrier. In this case, the injured party, in addition to the four courts listed in Article 28 of the Warsaw Convention, may also file a complaint in the court of the domicile or principal place of business of the actual carrier. Article 8 of the Guadalajara Convention states that any action for damages referred to in Article 7 of the Convention concerning the liability of the actual carrier may, at the plaintiff's option, be brought in a court in which, under Article 28 of the Warsaw Convention, an action may be brought against the contracting carrier, or in a court within whose jurisdiction the domicile of the actual carrier or its principal place of business is situated.

Although the right to bring an action in multiple courts offers the injured party the advantage of filing in the most convenient location, this multiplicity can also create complications. For example, in the case of an international flight accident resulting in the death of passengers, where the right to sue passes to their heirs, problems may arise if some heirs bring claims in the court of the departure country while others file in the court of the destination country. Since the determination of rightful heirs and their share of compensation is left to the court, this can lead to conflicting outcomes.

Consider a scenario in which the point of departure is France and the destination is the Islamic Republic of Iran, and passengers suffer injury or death during the flight. Iranian law recognizes only relatives by blood or marriage, based on the statutory order of inheritance, as legal heirs. Therefore, the courts in the departure and destination countries may encounter difficulties in determining the rightful heirs and their respective shares. Additionally, under U.S. and Canadian transportation agreements, point-to-point travel within their territories is exempt. Hence, if the departure point is in a Warsaw Convention member state, applying the Convention's rules is simpler. Article 1 of the Warsaw Convention provides that the Convention applies to all international carriage where the place of departure and the place of destination are situated in the territories of two different High Contracting Parties. According to Article 1 of the Hague Protocol, this scope includes carriage where both departure and destination points are in states party to the Hague Protocol.

If the departure country is a party to the Warsaw Convention and the destination country is a party to the Hague Protocol, the governing law in such disputes will be dual in nature. Therefore, it is necessary to require injured parties in air transport cases to submit their claims to a single court (Givachi, 2009).

7. Statute of Limitations in Liability Claims Against Airlines

The statute of limitations represents the maximum period during which the injured party has the right to initiate legal proceedings for damages. It is fundamentally significant because it provides a deadline

for resolving disputes. Over time, evidence supporting the claim may be lost, and witnesses may no longer have accurate recollections, potentially reshaping their memory of events due to the passage of time or influence from others.

Article 29 of the Warsaw Convention provides that if an action for damages is not brought within two years from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date the transportation was stopped, the right to damages shall be extinguished. Article 29 thus outlines different starting points for the limitation period: the actual arrival date, the scheduled arrival date, and the date on which transportation ceased (Mir Alayi, 2011).

7.1. Date of Arrival at Destination

Determining this date is straightforward in passenger transport, as the destination is clearly specified on the passenger's ticket. For example, if the passenger's ticket indicates a round trip from Shiraz to Tehran and back to Shiraz, Tehran is the destination on the outbound leg, and the two-year statute of limitations begins upon arrival in Tehran. For the return journey, the statute of limitations begins once the aircraft arrives in Shiraz (Pour Shirazi, 2007).

7.2. Date of Aircraft Arrival

In some cases, due to delays or other incidents such as aircraft crashes or hijackings, the flight may never reach its destination. The Warsaw Convention addresses this by considering the date that the passenger should have arrived at the destination—according to the ticket—as the starting point for the limitation period. In cargo transport, since no fixed delivery date is predetermined, the date of delivery cannot be considered the date of arrival at destination. However, an approximate delivery date can be determined based on airline practices and the customary time required for transporting cargo. According to common practice, air transportation should not take longer than other means of transport (Navadeh Toopchi, 1998).

7.3. Date of Aircraft Cessation

If a flight is canceled or discontinued for any reason, the two-year statute of limitations begins from the date of the flight's cessation. It is possible that the flight was executed and arrived at its destination without delay, yet the passenger's baggage or cargo was not delivered upon arrival and was only handed over later—e.g., two weeks later. In such cases, the key question is whether the limitation period begins upon the aircraft's arrival or upon delivery of the baggage or cargo. Although the flight may have reached its destination, the end of the flight should be considered the point at which the airline has fulfilled its obligations. Therefore, mere arrival at the destination does not necessarily start the statute of limitations. For precise determination of the limitation period, Article 35 of the Warsaw Convention provides the relevant guidance (Pour Shirazi, 2007).

8. Conclusion

The foundations of liability in transportation systems differ among legal systems due to the fact that liability toward others is a form of social conduct expressed in each society's laws and regulations. Nevertheless, legal systems share commonalities. In the 1920s, European states succeeded in formulating rules on the liability of airline companies within the realm of private international air law. These efforts were based on shared concepts of liability in the common law and civil law systems, with both legal traditions represented at the First and Second International Conferences on Private Air Law in France in 1925 and Warsaw in 1928, as well as in the CITEJA Legal Committee between 1925 and 1928. Representatives of these states aimed to minimize legal conflicts concerning airline liability for passengers and cargo owners and to draft uniform regulations for certain aspects of carrier liability.

In addition to adopting liability rules from both common law and civil law systems, the drafters of the international air transport regime incorporated certain provisions from international railway and maritime conventions, which had greater legal maturity in this field. For example, the concept of limited liability—well-suited to the nature of air transport—was borrowed from these international conventions. Consequently, European states employed legal principles with technical, political, and economic advantages to create an international air transport regime that could be implemented by states with varying legal systems, even though these principles had no established foundation in the traditional structures of common law and civil law.

Today, unlike the 1920s, the demand for uniform rules governing the liability of international air carriers is no longer exclusive to European states. After World War II, states from across continents with legal systems distinct from common law and civil law, including Islamic countries in Asia and Africa, became actively involved in international air transport.

Hence, neglecting the legal systems of these countries could, over time, undermine the implementation of uniform international liability rules for airline companies. Islamic countries may prefer to apply only their domestic laws, given the differences between Islamic Sharia law and international regulations, and may choose not to enforce the provisions of the international regime. Thus, one of the ongoing challenges of private international law pertains to the legal frameworks of Islamic states.

Although there are some inconsistencies between the principles of liability under Islamic law and those of the international regime, particularly regarding the scope of liability for death and bodily injury of passengers, the Islamic legislature in Iran, after the 1979 revolution, approved the provisions of the Warsaw and Hague Conventions between 1985 and 2012, applying the same rules of limited liability to domestic and international flights in cases of passenger death or injury. Nevertheless, the Sharia-based provisions concerning *diyya* (blood money) for death and bodily injury continued to be enforced for all Iranian citizens under the Islamic Penal Code.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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