

Aviation Criminal Laws Applicable In Indonesia¹

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Abstract: This Article deals with introduction, legal ground of aviation criminal law, aviation criminal law for domestic flight including (a) penal code (KUHP), (b) Act Number 15 of 2003, (c) Act Number 1 of 2009; aviation criminal law for international flight includes (a) Tokyo Convention of 1963 includes the main content of the Tokyo Convention of 1963, jurisdiction, power of the aircraft commander and duties of States, (b) The Hague Convention of 1970 includes scope of application, jurisdiction, (c) Montreal Convention of 1971, (d) Montreal Protocol of 1988; aviation criminal law related to ASEAN includes (a) aviation security in the AMAAS, (b) counter-terrorism action plan in Indonesia; Aviation criminal cases and others in Indonesia includes (a) hijacking, (b) aviation criminal related to aircraft accidents, (c) aviation criminal related to terrorism, and (d) entering the Indonesian territory without permission.

Keywords: aviation criminal, hijacking, terrorism, and Indonesia.

I. Introduction

Within the period of 30 (thirty) years from 1980 to 2010, hijacking incidents have accounted to 46 (forty six) events which shook the international community. One of the eventful incidents that occurred in Indonesian territory was the hijacking of flight Garuda Indonesia GA 206 on March 28, 1981. This was the first serious Indonesian airline hijacking, since it was conducted by a desperate Marine hijacker who was killed by the pilot himself. With regards to terrorist attacked, within 10 (ten) years the total of terrorist attacked at least 12 (twelve) occurrence² such as assassination attempt on President Sukarno, a bomb attack in Perguruan Cikini, Central Jakarta.³ In addition, there were also occurrences of foreign aircraft entering the territory of the Republic of Indonesia (ROI) without getting diplomatic clearance, security clearance as well as flight approval given by the authorities concerned. It is the reason to discuss the violation of the law and regulations in Indonesia, especially related to aviation criminal law. This article deals with Penal Code (KUHP), the Act Number 15 of 2003 and the Act of 2009 for domestic flight and Act Number 2 of 1976 for international flight.

II. Legal Ground Of Aviation Criminal Law

As in other member states of the International Civil Aviation Organization (ICAO), Indonesia applies two legal regimes of aviation criminal laws such as national aviation criminal laws for domestic flights such as Penal Code (*Kitab Undang-Undang Hukum Pidana-KUHP*), the Act Number 15 of 2003,⁴ the Act Number 1 of 2009,⁵ and the Act Number 2 of 1972,⁶ the Act Number 4 of 1976,⁷ applicable of international aviation criminal law. Penal Code (KUHP) is *lex generalis* applicable to any criminal act in Indonesia, Act Number 15 of 2003 is *lex specialist* applicable to any terrorism wrong doing, whilst the Act Number 1 of 2009 is *lex specialist* applicable for domestic aviation criminal laws. The Acts Number 2 of 1976⁸ and Number 4 of 1976, both are *lex specialist* applicable for international criminal laws.

Taking into consideration that Indonesia is a signatory to the Chicago Convention of 1944 (the CC of 1944)⁹, the state is committed to comply with the international criminal aviation laws and regulations adopted by Resolution of the ICAO General Assembly,¹⁰ and Standard and Recommended Practices (SARP) adopted by ICAO. This article explains the content of the international convention regarding aviation penal laws for international flight and aviation penal laws applicable for domestic flight. Indonesia has repeatedly voiced its

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² Topo Santoso, *Anti-terrorism Legal Framework in Indonesia: Its Development and Challenges*. MIMBAR HUKUM Volume 25, Nomor 1, Februari 2013, p.8

³ *List of terrorist incidents in Indonesia*. Wikipedia, the free encyclopedia. Jump to: navigation, search.

⁴ Act Concerning Terrorist, Act.No.15 of 2003.

⁵ Act Concerning Civil Aviation, Act No.1 of 2009

⁶ Act Concerning the Ratification of Tokyo 1963, The Hague of 1970 and Montreal Convention of 1971. Act No.2 of 1976.

⁷ Act concerning the supplement of KUHP, Act No.4 of 1976

⁸ Act concerning the Ratification of *Convention on Offences and Certain Other Act Committed on Board Aircraft*, signed at Tokyo on 14 September 1963. For full text see P.S. Dempsey Ed., *Annals of Air and Space Law VolXXX Part I – 2005*. Toronto : The Carswell Company Ltd pp.....>>>>

⁹ Indonesia adhered the Chicago Convention of 1944 on 27 April 1950, see Paul Stephen Dempsey Ed., *Annals of Air and Space Law*, 2005 Volume XXX-Part I. Toronto : The Carswell Company Ltd, p.52 [hereinafter Chicago Convention of 1944].

¹⁰ ICAO Doc.10022, Assembly Resolutions in Force (as of 4 October 2013)

intention to comply with international legal regimes and to provide assurances for passengers, baggage, cargo whether in national or international level.

III. Aviation Criminal Law For Domestic Flight

a. Penal Code (KUHP)

With regard to crimes relating to aviation and aviation facilities provided in Articles 479a to 479r of Penal Code. These articles regulates that unlawfully renders useless or damages a building used for safeguarding air navigation,¹¹ any person who by negligence causes destruction, incapability of use or damage of a building used for safeguarding air navigation,¹² unlawfully destroys, damages, removes or displaces a sign or an instrument for safeguarding air navigation places wrong sign or instrument,¹³ negligence cause destruction, removal, displacement of a sign or an instrument for safeguarding air navigation or causes a sign or instrument for safeguarding air navigation not be operated or causes its misplacement,¹⁴ unlawfully destroys an aircraft or causes damage to an aircraft which wholly or partially belongs to another person,¹⁵ unlawfully causes disaster to an aircraft, destroys, renders an aircraft incapable of use or damage an aircraft,¹⁶ negligence causes disaster or destruction to an aircraft or causes an aircraft to be rendered incapable of use or cause damage to an aircraft,¹⁷ benefit himself or another, unlawfully, to the detriment of an insurer causes a fire or an explosion, disaster, destruction, damage, to an aircraft or causes on aircraft to be rendered incapable of use,¹⁸ etc shall be punished imprisonment.

Such imprisonment ranking from at least 3 (three) years up to 15 (fifteen) years. Any person who by negligence causes destruction, incapability of use or damage of a building used for safeguarding air navigation, or frustration of measures for safeguarding said building, shall be punished by a maximum imprisonment of three years,¹⁹ whilst any person who with intent to benefit himself or another, unlawfully, to the detriment of an insurer, causes a fire or an explosion, disaster, destruction, damage, to an aircraft in flight or causes on aircraft to be rendered incapable of use, of which the aircraft itself or its cargo or the fee due for the transport of the cargo has been insured against above mentioned accidents or of which the insurance money for the cargo has been paid, shall be punished by a maximum imprisonment of 15 (fifteen) years.²⁰

b. Act Number 15 of 2003

The first Bali Bombing incident on 12 October 2002 was the biggest and the most shocking terrorist attack in Indonesia, however was not the first terrorist attack to occur in Indonesia. Records have shown that there have been many terror attack that precedes the Bali Bombing case such as a bombing attempt on the Istiqlal Mosque on 19 April 1999; a Christmas Eve bombing on 24 December 2000 that hit 23 churches, and the Jakarta Stock Exchange bombing on September 2000. Several years earlier, there was even a plane hijacking, in which the hijackers asked the plane to be flown all the way to Bangkok, Thailand.²¹

Following the October 2002 Bali bombings Indonesia adopted Government Regulation in Lieu of Law 1/2002. Under the Indonesian legal system, a Government Regulation in Lieu of Law has the same power as a parliament-enacted legislation, except that it can only be issued under emergency circumstances and is subject to review by the next parliamentary session. Nevertheless, Indonesia has an anti-terror legislation with strong political support. The Anti Terror Law cultivates many criticism, however. The Law contained provisions which can circumvent normal criminal proceeding such as quick and long detention. One of the main contentious provision of the Law is that it allows intelligence information to be used a preliminary evidence that can be used for apprehending a suspect. The role of Intelligence Information as evidence has been hotly debated in Indonesia.²²

c. The Act Number 1 of 2009

For the purpose of implementing the ICAO recommendations, the Republic of Indonesia (ROI) issued the Civil Aviation Act of 2009 (CAA). It came into force on 12 January 2009, and aims to promote the

¹¹ Art.479a

¹² Art.479b

¹³ Art.479c

¹⁴ Art.479d

¹⁵ Art.479e

¹⁶ Art.479f

¹⁷ Art.479g

¹⁸ Art.479h

¹⁹ Art.479b

²⁰ Art.479h

²¹ Topo Santoso, *Anti-terrorism Legal Framework in Indonesia: Its Development and Challenges*. MIMBAR HUKUM Volume 25, Nomor 1, Februari 2013, p.89

²² *Rewriting the Antiterror Law*, The Jakarta Post, 24 October 2005.

development of Indonesian air transportation.²³ It regulates a host of matters—related to aviation, from sovereignty in airspace, aircraft production, operation and airworthiness of aircraft, to aviation security and safety, aircraft procurement, aviation insurance, the independence of aircraft accident investigation, and the licensing of aviation professionals.

The CAA also regulates scheduled as well as non-scheduled air transportation, airline capital, the ownership of aircraft, aircraft leasing, fares, the liability of air carriers, air navigation facilities, airport authorities and services, and law enforcement related to air transportation. The Act of 2009 aimed at supporting the development of national and international air transportation in Indonesia, including provisions regarding the creation of a public services institute to further those goals.²⁴ The CAA thus adopted almost all the provisions of the CC of 1944. Thus, Indonesia has fully complied with the CC of 1944. This legislation aligns with the 38th ICAO General Assembly Res.A38-4 which urges all member states to continue to examine the existing legislation and adjust as necessary or enact laws and regulations to protect all the relevant safety data to the greatest extent possible, on the legal and other guidance developed by ICAO.²⁵

With regards to aviation criminal laws, stipulated in Articles 401 to 443 of the CAA of 2009. Such provision related to entering any restricted and prohibited areas; production and/or assembling aircraft without certification; aircraft operation without nationality and registration marks; operating an aircraft without possessing an aircraft operating certificate (AOC), aircraft landing and/or taking off not in the designated airports; endangering the safety of an aircraft, aviation facilities; conducting any wrong doing on board the aircraft; operating electronic device(s) that is disturbing flight air navigation; damaging an aircraft equipment; disturbing peacefulness on board aircraft; aviation personnel without certificate of competency; foreign aircraft operating an aircraft without getting diplomatic clearance from the Ministerial of Foreign Air, flight clearance from the Ministerial of Defense and flight approval from the Ministerial of-transportation (MOT); operating an aircraft without fulfilling the airworthiness; operating commercial aircraft without business permit issued by the MOT; regular and/or irregular air transportation without flight approval; carrying an hazardous material; the owners of cargo, shippers, warehousing violating the transportation; appearing in certain area of an airport without authorizations from the authorities concerned; operating an airport without fulfilling aviation safety and security; carrying a weapon, dangerous good(s) or equipment or bomb into an aircraft; operating a specific airport for public interests without permit from the MOT and causing the death of a person etc.

Anybody violating the above-mentioned provisions shall be condemned with imprisonment from at least one year to 15 (fifteen years) and a fine at least amount IDR 200,000,000.00 (two hundred million rupiahs) to maximum amount of IDR 1,000,000,000.00 (one billion rupiahs) subject to the violation above-mentioned. Anybody undertaking maintenance of aircraft, engines, airplane propellers and components shall be condemned with imprisonment for a maximum 1(one) year or a fine a maximum amount of IDR 200,000,000.00 (two hundred million rupiahs)²⁶ and any aircraft personnel performing his/her duties without possessing of competency certificate or license shall be condemned with imprisonment for a maximum 1 (one) year or a fine of a maximum of IDR 200,000,000.00 (two hundred million rupiahs), however in the case causing death of a person, the aircraft personnel shall be condemned with imprisonment for a maximum of 15 (fifteen) years and a fine of a maximum amount of IDR 1,000,000,000.00 (one billion rupiahs).²⁷

In addition, the CAA of 2009 also provides aviation criminal investigation. Such criminal investigation provided in Articles 399 and 400 of the CAA of 2009. Article 399 of the CAA of 2009 provides that designated civil servants officials of an agency which duty and responsibility scope is in aviation field shall be given specific authority as aviation criminal investigator. In carrying out their duty, the civil servants officials shall be under the coordinator and supervision of the Police of the ROI.

The authority of the civil servants investigator shall be performed such as inspecting, searching, and collecting information regarding aviation criminal actions in aviation field; receiving reports on any aviation criminal action in aviation field; calling people for hearing and investigation as witness and/or suspect of aviation criminal action in aviation field; arresting person(s) suspected of aviation criminal; asking information and evidence from person(s) suspected of committing aviation criminal action in the aviation field; photographing and/or recording through electronic media of person(s), good(s), aircraft, or anything that can be considered as evidence of any aviation criminal action(s) occurred in aviation field; examining documents related to aviation criminal actions; taking finger-prints and identity of people; searching aircraft and certain places suspected of any aviation criminal action in the aviation filed; confiscating good(s) strongly suspected as the good(s) used for committing aviation criminal action(s) in the aviation field; isolating and securing good(s)

²³ *Act concerning Civil Aviation*, Act No.1 of 2009 [Civil Aviation Act], Ministry of Transportation Republic of Indonesia, online: Directorate General of Civil Aviation <http://hubud.dephub.go.id/?en/uu>

²⁴ Martono and Amad Sudiro, *Current Air Transport Regulations In Indonesia*, published in Volume XXXVIII *Annals of Air and Space Law* 55-9 (2013).[Martono & Amad Sudiro in Current]

²⁵ See 38th ICAO General Assembly Resolution, Montreal, 24 September – 4 October 2013 A38-4.

²⁶ Art.409

²⁷ Art.413

and/or document(s) that may be taken as evidence related to any aviation criminal action in aviation field; inviting expert witness as needed; suspending investigation process; and requesting assistance of the ROI Police or other agencies in handling aviation criminal action(s) in aviation field.²⁸

IV. Aviation Criminal Law For International Flight

With regard to international criminal aviation law instruments, Indonesia has ratified the Tokyo Convention of 1963, signed at Tokyo on 14 September 1963, The Hague Convention of 1970 signed at The Hague on 16 December 1970, and the Montreal Convention of 1971, signed at Montreal on 23 September 1971.²⁹ It is worthwhile to note here with regard to the Hague Convention of 1970, Indonesia made a reservation to Paragraph 1 of Article 12 of the Convention.

a. Tokyo Convention of 1963

From 26 March to 4 April 2014, a conference was held in Montreal to consider amending the Tokyo Convention of 1963. This conference was attended by a total of 422 participants, including Indonesia, from 100 ICAO Member States and nine international organization and institutions. It was the culmination of a four-year effort to modernize the Tokyo Convention instrument; the new Protocol addressed what had become recognized in recent years as a troubling escalation in the frequency of incidents involving disruptive and unruly passengers on scheduled commercial air transport. In this event, the Director General of Air Communications (DGAC), the MOT, Mr Herry Bakti, signed a final Act of the Proposed Draft Text of the Protocol to the Tokyo Convention of 1963 at the Headquarters of the ICAO, in Montreal, Canada.³⁰

The Committee International Technique d'Experts Juridiques Aeriens (CITEJA) had already discussed terrorism and aviation security as early as 1926. During its 9th Session from 25 August to 12 September 1953, the ICAO Legal Committee had officially established a Sub Committee on The Legal Status of Aircraft, to study the problems associated with crimes on aircraft. At first, ICAO drafted the Convention on Offences and Other Acts Occurring on Board Aircraft. A final draft Convention on Offences and Certain Other Acts Committed on Board Aircraft was prepared in 1962 for consideration, finalization, and adoption by the Diplomatic Conference convened at Tokyo by the ICAO Council from 20 August to 14 September 1963. The Tokyo Convention entered into force on 4 December 1969, bringing closure to ICAO's efforts on the subject since 1950s.³¹

1). The Main Content of the Tokyo Convention of 1963

The Tokyo Convention of 1963 shall apply in respect of (a) offences against penal law; (b) acts which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein, or which jeopardize good order and discipline on board. In addition, the Tokyo Convention of 1963 applies in respect of offences committed or acts done by a person on board any aircraft registered in a contracting State, while the aircraft is in flight or on the surface of the high seas or of any other area outside the territory of any state, however, the Tokyo Convention of 1963 shall not apply to offences against penal laws of a political nature or based on racial or religious discrimination;³² to aircraft used in military, customs and police services in line with Article 3 Paragraph (b) of the Chicago Convention of 1944.³³

2).Jurisdiction

The state of registration of the aircraft is related to exercise jurisdiction over offences and acts committed on board the aircraft. Each member State of the Tokyo Convention of 1963 shall take such measures as may be necessary to establish its jurisdiction as the state of registration over offences committed on board aircraft registered in that state. The Tokyo Convention of 1963 does not exclude any criminal jurisdiction exercised in accordance with national law.³⁴

A contracting state which is not the state of registration may not interfere with an aircraft in flight in order to exercise its criminal jurisdiction over an offence committed on board, unless the offence (a) has an effect on the territory of that state; (b) has been committed by or against a national or permanent resident of that State; (c) is against the security of that state; (d) consist of a breach of any rules or regulations relating to the flight or maneuver of aircraft in force in that state; (e) the exercise of jurisdiction is necessary to ensure the observance of any obligation of that state under a multilateral international agreement.

²⁸ Art 400

²⁹ *Convention on Offences and Certain Other Acts Committed on Board Aircraft*, signed at Tokyo 1963, *Convention for the Suppression of Unlawful Seizure of Aircraft*, signed at the Hague on 16 December 1970 and *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation*, signed at Montreal on 23 September 1971 has been ratified Indonesia on 27 August 1976 by *Act concerning Ratification of Tokyo Convention of 1963, The Hague Convention of 1970 and Montreal Convention of 1971*, Act. Number 2 of 1976 .

³⁰ The Postal History of ICAO :*Legal Instruments Related to Aviation Security*. See http://www.icao.int/secretariat/postalhistory/legal_instrument_related_to_aviation_securityvhtm

³¹ *Ibid.*

³² Art. 2 of the Tokyo Convention of 1963

³³ Art 3 Para. (b) provides aircraft used in military, customs and police services shall be deemed to be state aircraft.

³⁴ Art 3

3).Power of the Aircraft Commander

The aircraft commander may, when he has reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act, impose upon such person reasonable measures including restraints which are necessary (a) to protect the safety of the aircraft, or of persons or property therein; or (b) to maintain good order and discipline on board; or (c) to enable him to deliver that person to competent authorities or to disembark him in accordance with the provision of the Tokyo Convention of 1963.³⁵

The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.³⁶

4).Duties of States

The Tokyo Convention of 1963 stipulated that, when any person has been disembarked, or delivered, or has been disembarked after committing an act, and when that person cannot or does not desire to continue his journey and the State of landing refuses to admit him, that State may, if the person in question is not a national or permanent resident of that State, return him to the territory of the State of which he is a national or permanent resident or to the territory of the state in which he began his journey by air. Neither disembarkation, nor delivery, nor the taking of custody or other measures, nor return of the person concerned, shall be considered as admission to the territory of the contracting state concerned, for the purpose of its law relating to entry or admission of persons, and nothing in the Tokyo Convention of 1963 shall affect the law of a contracting state relating to the expulsion of persons from its territory.³⁷

b. The Hague Convention of 1970

The Tokyo Convention of 1963 was ICAO's first step in what would become a major international effort to combat the spread of aviation terrorism. The 16th Session of the ICAO Assembly, held in Buenos Aires from 3 to 26 September 1968, adopted Resolution A-16-36 on the Participation of States in International Conventions on Air Law, and Resolution A16-37 on the Unlawful Seizure of Aircraft, which called on the ICAO Council and the Member States to cope at the earliest possible date with the problems of unlawful seizure.

Further to that, the ICAO Council directed the Air Transport Committee and their Air Navigation Commission to initiate their own studies on the technical aspects related to the problems of airports and aircraft security; a new committee on Unlawful Interference of Aircraft was created on 10 April 1969. The other major area for the ICAO-Council's action was, through the Legal Committee, to create a new Sub-Legal Committee either to amend the Tokyo Convention of 1963 or create a wholly new convention.

As the number of hijackings rose through 1969 and 1970,³⁸ an Extraordinary 17th ICAO General Assembly was held in Montreal from 16 to 30 June 1970, specifically on the subject of aviation security; it produced a series of resolutions dealing with a wide range of security measures, eventually leading to the adoption of a completely new annex. The primary objective of each contracting state is safeguarding its passengers, ground personnel, and crew, as well as the general public, against any acts of unlawful interference.

In addition, during its 24th Session in December 1969, the United Nations General Assembly adopted Resolution 2551 (XXIV) in which the General Assembly stated its deep concern over acts of unlawful interference with international civil aviation. On 9 September 1970, the UN Security Council adopted Resolution 286, calling upon States to take all possible legal steps to prevent further hijacking or any other interference with international civil air travel. On 25 November 1970, the UN General Assembly adopted Resolution 2645 (XXV) which condemned without exception whatsoever all aerial hijacking or other interference with civil air travel caused through threat or use of force. The international community thus condemned terrorism against air transport by giving official recognition to such condemnation, and called upon all states to contribute to the eradication of the offence by taking effective preventive and deterrence measures. Since that time, the UN General Assembly adopted other resolutions calling for international cooperation dealing with acts of international terrorism.³⁹

In the atmosphere of crisis and on the legal side, two new Conventions were prepared. From 1 to 16 December 1970, 77 states and 12 international organizations met in The Hague for a diplomatic conference ending with the signing of the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, which

³⁵ Art 6 para. (1)

³⁶ Art 6 para. (2)

³⁷ Art 14

³⁸ *Ibid.*, Within 1969-1970 occurred 118 incidents of unlawful seizure of civil aircraft and 14 incidents of sabotage and armed attacked against civil aviation occurred.

³⁹ *Ibid.*

came into force on 14 October 1971. This Convention provided for effective legal measures being taken to deter acts of unlawful seizure of aircraft through the cooperation of nations throughout the world. Action taken by ICAO and its member states resulted in a considerable reduction of hijacking during 1971.⁴⁰

1).Scope of Application

The Hague Convention of 1970 does not apply to customs, law enforcement or military aircraft, thus it applies exclusively to civilian aircraft. The Hague Convention of 1970 criminalizes the behavior of any person who on board an aircraft in flight (a) unlawfully by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or an accomplice of a person who performs or attempts to perform any such act commits an offence. Each contracting state undertakes to make the offence punishable by severe penalties.

2).Jurisdiction Provisions

With regard to jurisdiction, the Hague Convention of 1970 provides that each contracting state shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence in the case when (a) the offence is committed on board an aircraft registered in that state; (b) the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board; (c) is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that state. Each contracting state shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him to any other state.⁴¹

The contracting state in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. With regard to extradition, Article 8 of the Hague Convention of 1970 provides that the offence, for the purpose of extradition, shall be deemed as an extraditable offence.

In the years since 1968, the number of aircraft hijackings rose to very serious proportions. The total was further enlarged by politically motivated acts of sabotage against aircraft and passengers, both in the air and on the ground. It is worth remembering that on 24 November 1968, a Boeing 707, Pan Am Flight 281, was scheduled from JFK International Airport to San Juan Puerto Rico; it was hijacked by 4 men from JFK Airport to Havana, Cuba; and on 6 September 1970, two men hijacked Pan Am flight 93, a Boeing 747-121 (which departed Brussels) en route from Amsterdam to New York, as part of the Downson's Field hijackings; the flight diverted to Beirut International Airport to take on board seven other gang members for the next leg to Cairo International Airport, where the hijackers ordered the aircraft evacuated and destroyed it with explosives. Note that the aircraft flew to Cairo instead of Downson's Field (a remote desert airstrip in Jordan, formerly a British Royal Air Force base), because the Jordan airfield was considered too small to accommodate a 747.

c. Montreal Convention of 1971

Prior to the Montreal Conference, the 18th Session of the ICAO General Assembly, in Resolution A18-9 (held in Vienna, from 15 June to 7 July 1971), called for speedy adoption and ratification of what was to become the Montreal Convention of 1971. From 8 to 23 September 1971, a full diplomatic conference (attended by Delegates from 60 member states and the UN, as well as by observers from one state and six international organizations) was held in Montreal, and the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation was opened for signature; it came into force on 26 January 1973. The Protocol for the Suppression of Unlawful Acts Violence at Airports Serving the Safety of Civil Aviation was signed at Montreal on 23 September 1971 (adopted on 24 February 1988).

The Montreal Convention of 1971 does not apply to customs, law enforcement or military aircraft, thus it applies exclusively to civilian aircraft. The Montreal Convention of 1971 criminalizes the behavior of (a) committing an act of violence against as person on board an aircraft in flight if it is likely to endanger the safety of the aircraft; (b) destroying an aircraft being serviced or damaging such an aircraft in such a way that renders it incapable of flight or which is likely to endanger its safety in flight; (c) placing or causing to be placed on an aircraft a device or substance which is likely to destroy or cause damage to an aircraft; (d) destroying or damaging air navigation facilities or interfering with their operation if it likely to endanger the safety of the aircraft; (e) communicating information which is known to be false, thereby endangering the safety of an aircraft in flight. The Montreal Convention of 1971 also applies for attempting of (a)(b)(c)(d) and (e). In addition, the Montreal Convention of 1971 applies for being an accomplice to any of (a)(b)(c)(d)(e) and attempting the same.

⁴⁰ *Ibid.*

⁴¹ Art. 4 of the Hague Convention of 1970

The Montreal Convention of 1971 set out the principle that a party to the Montreal Convention of 1971 must either (a) prosecute a person who commits one of the offences or send the individual to another state that requests his or her extradition for prosecution of the same crime.⁴²

d. Montreal Protocol of 1988

The ICAO's activities include air navigation legal matters, air transport, and technical assistance and secretariat activities.⁴³ With regard to legal matters relating to the Montreal Protocol of 1988, the Sub Legal Committee met at Montreal from 20-30 January 1987, to study the development of unlawful acts of violence at airports serving international civil aviation. The Sub Legal Committee prepared a draft text for consideration and found a decision by the Legal Committee at the twenty-sixth session (Montreal, 28 – 13 May). Since the ICAO-Council accorded the items the highest priority, the Legal Committee agreed not to address any other items until work on the instrument had been completed; consequently, it did not review, inter alia, its general work program. Based on the Sub Legal Committee's report, the Legal Committee prepared the text of a draft instrument.

In June, the ICAO-Council instructed the Secretary General to circulate the draft to member states and international organizations concerned for comments. They also decided to convene at Montreal from 9 February to 24 February 1988, in an international conference on air laws, to consider, with a view to approving the text prepared by the Legal Committee for inclusion in a draft instrument for the suppression of unlawful acts of violence at airports serving international civil aviation.⁴⁴

The Montreal Protocol of 1988⁴⁵ adds to the definition of "offence," given in the Montreal Convention of 1971, unlawful and international acts of violence against persons at an airport serving international civil aviation which cause or are likely to cause serious injury or death, and such acts which destroy or seriously damage the facilities of such an airport or aircraft not in service located thereon or disrupt the services of the airport; the qualifying element of these offences is the fact that such an act endangers or is likely to endanger safety at the airport. These offences are punishable by severe penalties, and contracting states are obliged to establish jurisdiction over the offences not only in the case where the offence was committed in their territory, but also in the case where the alleged offender is present in their territory and they do not extradite him to the state where the offence took place.⁴⁶ The Montreal Protocol makes it an offence to commit similarly violent, dangerous or damaging acts in airports that serve civil aviation.⁴⁷

V. Aviation Criminal Law Related To ASEAN

a. Aviation Security in the AMAAS

The purpose of AMAAS is to implement the Declaration of ASEAN Concord II issued in Bali, Indonesia on 7 October 2003, in which ASEAN committed itself to deepen and broaden its internal economic integration and linkages with the world economy to realize an ASEAN Economic Community. It intends to accelerate the open sky arrangements and advancing liberalization in air services, with provides strategic actions to further liberalize air services in ASEAN; to promote an enabling environment for a single and unified aviation market in ASEAN; to ensure the highest degree of safety and security in international air transport and reaffirm grave concern about acts or threats against the security of aircraft, which jeopardize the safety of persons or property, adversely affect the operation of air transportation, and undermine public confidence in the safety of civil aviation.

For the above mentioned purposes, the Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic (hereinafter referred as "Lao PDR"), Malaysia, Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, Member States of the ASEAN, at Manila, the Philippines, signed AMAAS on 20 May 2009.⁴⁸

⁴² *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation*, See http://en.wikipedia.org/wiki/Convention_for_the_Suppression_of_Unlawful_Acts-against_the_Safety_of-Civil_Aviation. Accessed 11/17/2015 [Montreal Convention of 1971]; See also P.S.Dempsey Ed., *Annals of Air and Space Law Vol.XXX-Part I-2005*. Toronto : The Carswell Company Ltd, pp.217-223.

⁴³ *Yearbook of the United Nations* 1987, Vol.41 Department of Public Information United Nations. New York : Martinus Nijhoff Publishers Dordrecht/Boston/London, p.1259

⁴⁴ *Ibid.*

⁴⁵ Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal, on 23 September 1971, signed at Montreal on 24 February 1988 [Montreal Protocol 1988]. For the text See Paul Steven Dempsey supra note 30, page 217-223.

⁴⁶ Administrative Package for Ratification or accession : The Montreal Supplementary Protocol of 1988. For the text see United Nations, Treaty Series, Vol.974, p.177

⁴⁷ Montreal Convention of 1971, *supra* note 30.

⁴⁸ ASEAN Multilateral Agreement on Air Services, 20 May 2009, online: ASEAN <<http://www.asean.org/22628.htm>>.

The main content of AMAAS deals with definitions, routes, granting rights, designation and authorization of airlines, inauguration of services, ownership and effective control of airlines, notification to the depository, recognition of certificates, the provision of aviation security, tariffs, operation of leased aircraft, commercial activities, user charges, customs duties, fair competition, safeguards, application of laws and regulations, statistics, consultations and amendments, settlement of disputes, relationship to other agreements, entry into force, the duration of agreements, final provision plus two Annexes⁴⁹ and six Protocols.⁵⁰

With regards to aviation security, the Contracting Parties reaffirm that their obligation to one another to protect the security of civil aviation against acts of unlawful interference forms an integral part of the Agreement. Without limiting the generality of their rights and obligations under international law, the Contracting Parties must in particular act in conformity with the provisions of the Tokyo Convention of 1963, the Hague Convention of 1970, the Montreal Convention of 1971 as well as any other convention or protocol relating to the security of civil aviation which all the Contracting Parties adhere to.

The Contracting Parties must provide upon request all necessary assistance to one another to prevent acts of unlawful seizure of civil aircraft and other unlawful acts against the safety of such aircraft, their passengers and crew, and airports and air navigation facilities, and to address any other threat to the security of civil aviation. The Contracting Parties must, in their mutual relations, act in conformity with the aviation security provisions established by the ICAO and designated as Annexes to the Convention; they must require that operators of aircraft of their registry, operators of aircraft who have their principal place of business or permanent residence in their territory, and the operators of airports in their territory act in conformity with such aviation security provisions.

Each Contracting Party must observe the security provisions required by the other Contracting Parties for entry into, departure from, and while within their respective territories and take adequate measures to protect aircraft and to inspect passengers, crew, and their carry-on items, as well as cargo and aircraft stores, prior to and during loading or unloading. Each Contracting Party must also give positive consideration to any request from another Contracting Party for special security measures to meet a particular threat.

When an incident or threat of an incident of unlawful seizure of civil aircraft or other unlawful acts against the safety of aircraft, passengers and crew, airports or air navigation facilities occurs, the Contracting Parties must assist one another by facilitating communications and other appropriate measures intended to terminate rapidly and safely such incident or threat. When a Contracting Party has reasonable grounds to believe that another Contracting Party has departed from the aviation security provisions, the aeronautical authorities of that Contracting Party may request immediate consultations with the aeronautical authorities of the other Contracting Party. Failure to reach a satisfactory agreement within fifteen (15) days from the date of receipt of such request will constitute grounds to withhold, revoke, suspend, impose conditions on or limit the operating authorization and technical permission of an airline or airlines of that Contracting Party. When required by an emergency, a Contracting Party may take interim action prior to the expiry of fifteen (15) days. Each Contracting Party will require the airline(s) of another Contracting Party providing service to that Contracting Party to submit a written operator security program which has been approved by the aeronautical authority of the Contracting Party of that airline for acceptance.

b. Counter-Terrorism Action Plan-Indonesia

In the frame-work of Asia-Pacific Economic Cooperation (APEC), Indonesia submitted a paper entitled Counter-Terrorism Action Plan. The purpose of APEC, where appropriate, to self-assess progress against APEC Leaders' and Ministers' counter-terrorism commitments, and to identify capacity building needs to assist the CTF?? to identify priority areas for future cooperation. The counter-terrorism action plan intend to enhancing the secure flow of trade including to protect cargo, international aviation, people in transit, combat threats to security. In addition, the counter-terrorism action plan also intend to halting terrorist financing, to promote cyber security and possible assistance and expertise to offer.

This paper could be summarized that (a) Indonesia has conducted MANPADS vulnerability assessment since 2009; (b) has issued series of the DGAC regulations such as person and baggage security screening being transported by air, aviation security, quality control, security screening of cargo and mail are transported by air, person and baggage security screening to include the provisions relating to screening of hold baggage apart; and (c) has improved human resources through training for aviation security inspector, quality control of aviation

⁴⁹ Annex I concerning scheduled air services consist of routing and operational flexibility and Annex II concerning implementing protocols and consisting of six protocols.

⁵⁰ Protocol 1 exchange of unlimited Third and Fourth Freedom Traffic Rights Within ASEAN Sub-Region; Protocol 2 exchange of unlimited fifth freedom traffic rights within ASEAN Sub-Region; Protocol 3 exchange of unlimited third and fourth freedom traffic rights between ASEAN Sub-Regions; Protocol 4 exchange of unlimited fifth freedom traffic rights between ASEAN Sub-Region; Protocol 5 exchange of unlimited third and fourth traffic rights between ASEAN Capital Cities and Protocol 6 exchange of unlimited fifth freedom traffic rights between ASEAN Capital Cities.

security of airport and aircraft operator, aviation security facilities; (d) with regards to terrorist, many terrorist group operating have links to Jamaah Amshorut Tauhid (JAT) a group that replaced Jamaah Islamiyah (JI). In 2011 and 2012 several smaller group have emerged. Mostly composed of experienced/young amateurs who lack skills of the previous generation that produced Bali Bombing; (e) has shared exchange of information on counter terrorism through bilateral counter terrorism dialogue mechanism with APEC economic such as Australia, Canada, United Kingdom (UK), and Russia, as well extra regional cooperation with European Union, India, Pakistan and Sri Lanka. With regards to ratification, in 2012 Indonesia has ratified one regional convention that of ASEAN Convention on Counter Terrorism.

For the implementation of FATF (???) Special recommendation several action has been taken such as (a) initially drafted new Law on Crime of Terrorist Financing (CTF), which covered all provisions recommended in MER (???) and ICRG (???) targeted review report;(b) issued the Law Number 3 Year 2-11 regarding Fund Transfers (the Funds Transfers Act); and (c) has conducted several steps in relation to NPO(???) handling. In this relation to, there have been 7 conviction of terrorist financing in court. In addition, the Indonesian national police have been promoting public participation in cyber security and misuse of internet for terrorist purpose by enhancing people's awareness on terror threat and coordination among law enforcements agencies on combating terrorism.

VI. Aviation Criminals Cases And Others In Indonesia

a. Hijacking

Within the period between 1970s to 2000 there were 60 (sixty) hijacking cases all over the world. These hijacking attacked in 1970s were 24 (twenty-four) hijacking cases, in 1980s were 19 (nineteen) hijacking attacked. In 1990s there were 14 (fourteen) hijacking cases, in 2000s there were 13 (thirteen) hijacking cases respectively. One out of the sixties hijacking cases was Garuda Indonesian.⁵¹

On 28 March 1981, Garuda Indonesia Flight Number 206, a domestic flight from Soekarno-Hatta International Airport, Jakarta, to Polonia International Airport, Medan (with stopover at Talang Betutu Airport, Palembang), was hijacked by an Islamist extremist group called Komando Jihad. They hijacked the DC-9 name "Woyla" en route from Palembang to Medan, ordering the pilot to fly them to Colombo, Sri Lanka. Since the plane did not have enough fuel to reach Colombo, it refueled in Penang, Malaysia, then flew instead to Don Muang Airport in Bangkok, Thailand. The hijackers demanded the release of 80 Komando Jihad members imprisoned in Indonesia, US\$ 1.5 million in cash, and the plane to take the released prisoners to an unspecified destination.⁵²

On 29 March 1981, a group of Indonesian Army Kopassandha (Now Kopassus) commandos led by Lieutenant Colonel Sintong Panjaitan and Lieutenant General Leonardus Benjamin Moerdani were flown into Bangkok with a chartered Garuda DC-10 which was disguised as a Garuda flight from Europe, due to speculation that the hijackers intended to fly the plane into Libya. The team stormed the plane two days later. The recapture of the plane was a joint operation between the Royal Thai Air Force commandos and Indonesia's Kopassandha commandos. The Kopassus commandos who took part in the rescue trained for only three days with new weapons. One commando was shot by the hijackers, as was the pilot, Captain Herman Rante; they both died several days later in Bhumibol Adulyadej Hospital in Bangkok. Two hijackers were killed in the resulting shootout. The rest of the hostages were released unharmed. Two of the hijackers surrendered, but one was shot and killed by the commandos. The leader was subsequently wounded after throwing a grenade that failed to explode due to safety pin that had not fully removed, and was detained by the commandos. The rest of the crew members and all passengers survived. The terrorist leader, Imran bin Muhammad Zein, was sentenced to death by the Central Jakarta Regional Court a few weeks later.⁵³

⁵¹ *List of Aircraft Hijackings.*

⁵² Garuda Indonesia Flight 206 - ...Wikipedia.org/.../Garuda_Indonesia-Fl...

⁵³ *Ibid.*



F-GBEC, the aircraft involved in the hijacking, at London Heathrow Airport 1982

Similarly, hijacking occurred to Air France Flight 8969. The plane was hijacked on 24 December 1994, by the Armed Islamic Group (AIG) at Houari Boumendienne Airport, Algiers, Algeria, where the terrorists murdered three passengers, with the intention to blow up the plane over the Eiffel Tower in Paris. When the aircraft reached Marseille, the GIGN, a counter-terror unit of the French National Gendarmerie, stormed the plane and killed all four hijackers.⁵⁴

b. Aviation Criminal Related to Aircraft Accidents

The first fatality of powered flight while flying as a passenger with Orville Wright during a demonstration of the Wright Model A at Fort Myer, Virginia, on 17 September 1908, whilst the first aviation accident to result in over 50 fatalities did not an airplane. On 21 December 1923, the *Dixmude*, a rigid airship of the French navy, was reportedly struck by lightning and crash into the Mediterranean, off Sicily, Italy. All 52 crew and passengers were killed. The highest number of fatalities involving one aircraft occurred in 1985 when 520 people died in the crash of Japan Airlines Flight 123, whilst the most fatalities in an aircraft collision occurred in 1977 in the Tenerife airport disaster when 583 people were killed. The 11 September 2001 coordinated attack of the World Trade Centre claimed not only 157 passengers and crew, but an estimated additional 2,500 victims.

There were several aircraft accidents as a result of external attack originating on the ground e.g., ground to air missiles, destruction of the aircraft while on the runway or external attack originating in the sky e.g., intentional down by a military aircraft. An aircraft accident as a result of external attack such as an accident occurred on :

- 1) 11 September 1968, Malaysia Airlines flight number 17, aircraft type Boeing 777-2H6ER as a result of external attack originating on the ground whilst on the route on 17 July 2014 killing 298 passengers and its crew members;
- 2) 3 July 1988, Iran Air Flight Number 655, aircraft type Airbus A-300B2-203 as a result of external attack originating on the ground whilst on the route located at Strait of Hormuz, off Shib Deraz, Iran, on 17 July 2014 killing 290 passengers and its crew members;
- 3) 1 September 1983, Korean Airlines (KAL) Flight Number 007, aircraft type Boeing 747-230B, as a result of external attack originating intentional down by a military aircraft during en route located at sea of Japan near Moneron Island, Soviet Union, killing 269 passengers and its crew members;
- 4) 21 February 1973, Libyan Arab Airlines Flight Number , aircraft type Boeing Boeing 727-224, as a result of external attack originating on the ground whilst on the route located at Western Sinai Peninsula, Israel, killing 107 passengers and its crew members;
- 5) 11 September 1968, Air France Flight Number 1611, aircraft type Sud Aviation SE-210 Caravelle III, as a result of external attack originating on the ground whilst on the route located at Mediterranean, near Nice, France, killing 95 passengers and its crew members;⁵⁵

⁵⁴ Air France Flight 8969-Wikipedia, the f... See ...Wikipedia.org/.../Air_France_Flight_89...

⁵⁵ "ASN Accident Description (Air France-1611)." Aviation Safety Network, 11 September 1968.

As far as aviation criminal related to aircraft accidents, no Indonesian aircraft accident as a result of external attack originating on the ground such as ground to air missiles, destruction of the aircraft while on the runway or external attack originating in the sky such as intentional down by a military aircraft.

c. Aviation Criminal Related to Terrorism

In Indonesia, there was 1 (one) terrorist attacked in 1960, there were 3 (three) terrorist attacked in 1970, there were 4 (four) terrorist attacked in 1980, there were 4 (four) terrorist attacked in 1990, between 2000 to 2010 there were at least 12 (twelve) terrorist attacked respectively, totally there were 24 (twenty-four) terrorist attacked. The possible first terrorist attacked in Indonesia was assassination attempt on the first President Sukarno, a bomb attack in Perguruan Cikini, Central Jakarta and the latest on 14 January 2016. At least four militants reportedly detonated explosive in or near a Starbucks café in central Jakarta. Then the militants threw grenade to a police post nearby, destroying the post and killing at least 3 men. Gunfire had ensued when police arrived shortly afterwards.⁵⁶

d. Entering the Indonesian Territory Without Permission

In accordance with the Civil Aviation Act of 2009, every plane planning to fly over an Indonesian's territory shall fulfilling three requirements namely a diplomatic clearance issued by the Ministerial Foreign Affairs, security clearance issued by the Ministerial of Defense and flight approval issued by the Ministerial of Transport (MOT). In this regards, on & March 2011, Pakistan International Airlines (PIA), aircraft type of Boeing 737-300, carrying 54 passengers was piloted by Captain Tariq Khalil ur Rehman Awan, detected by airport RADAR without communicate with the control tower entering the territory of the ROI. The plane was forced to land in Makassar international airport and parked while the crew and passengers were questioned by the airport authority, immigration and officials from the Indonesian Air force. In accordance with information the passengers, all of which are Pakistani policemen who are serving in East Timor as part of the peacekeeping troops and five crew members on board.⁵⁷

Bibliography

- [1]. Books
- [2]. P.S. Dempsey Ed., *Annals of Air and Space Law* Vol.XXXPart 1 – 2005. Toronto : The Carswell Company Ltd pp.

Articles

- Martono and Amad Sudiro, *Current Air Transport Regulations I n Indonesia*, published in Volume XXXVIII *Annals of Air and Space Law* 55-9 (2013).
- [3]. Topo Santoso, *Anti-terrorism Legal Framework in Indonesia: Its Development and Challenges*. *MIMBAR HUKUM* Volume 25, Nomor 1, Februari 2013, p.89

Documents

- [4]. Act.No.2 of 1976 Concerning the Ratification of Tokyo 1963, The Hague of 1970 and Montreal Convention of 1971.
- [5]. Act No.4 of 1976, concerning the Supplement of Penal Code (KUHP).
- [6]. Act Concerning Terrorist, Act.No.15 of 2003.
- [7]. Act concerning Civil Aviation, Act No.1 of 2009 [Civil Aviation Act], Ministry of Transportation Republic of Indonesia, online: Directorate General of Civil Aviation <http://hubud.dephub.go.id/?en/tu>
- [8]. Administrative Package for Ratification or accession : The Montreal Supplementary Protocol of 1988. For the text see United Nations, Treaty Series, Vol.974, p.177
- [9]. Annex I concerning scheduled air services consist of routing and operational flexibility and Annex II concerning implementing protocols and consisting of six protocols.
- [10]. ASEAN Multilateral Agreement on Air Services, 20 May 2009, online: ASEAN <<http://www.asean.org/22628.htm>>.
- [11]. Convention on Offences and Certain Other Act Committed on Board Aircraft, signed at Tokyo on 14 September 1963.
- [12]. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970
- [13]. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, See http://en.wikipedia.org/wiki/Convention_for_the_Suppression_of_Unlawful_Acts-against_the_Safety_of-Civil_Aviation. Accessed 11/17/2015
- [14]. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on 23 September 1971
- [15]. ICAO Doc.10022, Assembly Resolutions in Force (as of 4 October 2013)
- [16]. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal, on 23 September 1971, signed at Montreal on 24 February 1988.
- [17]. Protocol 1 exchange of unlimited Third and Fourth Freedom Traffic Rights Within ASEAN Sub-Region;
- [18]. Protocol 2 exchange of unlimited fifth freedom traffic rights within ASEAN Sub-Region;
- [19]. Protocol 3 exchange of unlimited third and fourth freedom traffic rights between ASEAN Sub-Regions;
- [20]. Protocol 4 exchange of unlimited fifth freedom traffic rights between ASEAN Sub-Region;
- [21]. Protocol 5 exchange of unlimited third and fourth traffic rights between ASEAN Capital Cities;
- [22]. Protocol 6 exchange of unlimited fifth freedom traffic rights between ASEAN Capital Cities.
- [23]. The 38th ICAO General Assembly Resolution, Montreal, 24 September – 4 October 2013 A38-4.
- [24]. *Years book of the United Nations 1987*, Vol.41 Department of Public Information United Nations. New York : Martinus Nijhoff Publishers Dordrecht/Boston/London, p.1259

⁵⁶ Multiple explosions, gunfire in central Jakarta, Indonesia near café & UN Agency Office, 14 January 2016.

⁵⁷ *PIA Plane forced to land in Indonesia*, Log in with Facebook Log in with Twitter Pakistan Defense. March 7, 2011.

Others

- [25]. List of terrorist incidents in Indonesia. Wikipedia, the free encyclopedia. Jump to :navigation, search.
- [26]. Indonesia adhered the Chicago Convention of 1944 on 27 April 1950.
- [27]. Rewriting the Antiterror Law, The Jakarta Post, 24 October 2005.
- [28]. The Postal History of ICAO :Legal Instruments Related to Aviation Security. See http://www.icao.int/secretariat/postalhistory/legal_instrument_related_to_aviation_security.htm
- [29]. List of Aircraft Hijackings.
- [30]. Garuda Indonesia Flight 206 - ...Wikipedia.org/.../Garuda_Indonesia-Fl...
- [31]. Air France Flight 8969-Wikipedia, the f... See ...Wikipedia.org/.../Air_France_Flight_89...
- [32]. "ASN Accident Description (Air France-1611)." Aviation Safety Network, 11 September 1968.
- [33]. Multiple explosions, gunfire in central Jakarta, Indonesia near café & UN Agency Office, 14 January 2016.
- [34]. PIA Plane forced to land in Indonesia, Log in with Facebook Log in with Twitter Pakistan Defense. March 7, 2011.

Curriculum Vitae

Biography



1. Personal Identity

Name : K. Martono
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2. Educations

Graduate Academy/University/Institute: Specialist Civil Aviation Academy specialist as Radio Operator (1960), Faculty of Law, the University of Indonesia (1971), Air and Space Law (LLM) at McGill University, Montreal, Canada (1980), Doctor of Law, the University of Diponegoro (2006), Mediator Certificate of Supreme Court (McSc), Certified Legal Audit (2015).

3. Experiences

Prof. Dr. K. Martono was previously the chief of legal division of the Directorate General of Air Communications, Ministerial of Communications, retired in 1944 and thereafter as a lecturer in the University of Tarumanagara. Prof. Dr. K. Martono has attended t legal committee meetings in ICAO, Montreal, Canada, and domestic as well international seminars as **participant, moderator, speaker** and also **resource person** for the House of People's Republic's Representative (DPR-RI) dealing with Civil Aviation Act Number 1 of 2009. Prof. Martono writes extensively on a variety of aviation law and regulations.

4. Publications, Books and Journals

Books :

Prof. Martono writes extensively on a variety of aviation law and regulations. He has published (14) fourteen books published in Indonesia

Journals

- a. Current Air Transportation in Indonesia, published in Volume XXXVIII Annals of Air and Space Law 50-90 (2013)
- b. Aviation Tariff Regulations in Indonesia, published in Volume XXXIX Annals of Air and Space Law 162-212 (2014).
- c. Laws and Regulations of Aircraft Accident Investigation in Indonesia, published in 5th Edition of Hangkongfa Pinglun, Law Press, China December 2015, pp.303-322

- d. Laws and Regulations Related to AIR ASIAQZ8501 Crash, published in 5th Edition of Hangkongfa Pinglun, Law Press, China, in December 2015, pp353-373

5. International Speaker

- a. The International Search and Rescue Forum, International Search and Rescue Advisory Group Asia Pacific Regional Meeting 2011, on 19-20 July, at Bali, INDONESIA entitled: The Regional Aircraft Search and Rescue: Enhancing Cooperation in ASEAN Countries.
- b. The Third Annual International Conference on Law & Regulations of Air Transportation and Space Applications, on 25-29 April, 2012, at The National Law University, New Delhi, INDIA, entitled :New Indonesian Air Transport Policy Based On Aviation Act of 2009”
- c. The University of Tarumanagara on 24 June 2013, entitled :” International joint discussion on aviation law.”
- d. The International Conference In Anticipation of ASEAN Economic Community: A Study of Economy, Law and Information Technology Held by Universitas STIKUBANK, Semarang, August 29-30, 2013, entitled “The Role of Air Transport in Stimulating the National Economic Development in Indonesia”.
- e. The International Seminar, hosted by UPN at Jakarta, on 15 April 2014, entitled :”Civil Aviation Regulations and Air Power.
- f. The INTERNATIONAL CONFERENCE:”Harmonizing ASEAN Legal System Through Legal Higher Education, in Hotel Mercure Convention Centre, Jakarta, on 11 June 2014, entitled: ” The Legal Liability of Air Carriers and Others Business Activities at the Airport in Indonesia.”
- g. The Conference of CELEBRATING 70 YEARS OF THE CHICAGO CONVENTION and 100 YEARS OF WORLD COMMERCIAL AVIATION LAW FORUM, Hosted by Northwest University of Political Science & Law, China and McGill University Institute of by Northwest University of Political Science & Law, China and McGill University Institute of Air & Space Law, Canada. Organized by the Institute of Air and Space Law, NWUPL, School of International Law, NWUPL, Xi’an, China December 18-19, 2014, entitled “The Indonesian Aviation Law in the Framework of ASEAN Multilateral Agreement on Air Services (AMAAS).”
- h. The Civil Aviation Indonesia Congress (CAIC 2015) on 5 February 2015, entitle AIR TRANSPORT REGULATION IN INDONESIA (THE YEAR 2015).
- i. The Civil Aviation Indonesia Congress (CAIC 2015) on 5 February 2015 entitle “A LEGAL ANALYSIS OF THE ASEAN MULTILATERAL ON AIR SERVICES (AMAAS) here with attached.

6. National Speaker

Senior Official of Criminal Police Course, in Megamendung, Bogor, on 8 September 2014

7. Others

Resource person for the House of People’s Republic’s Representative (DPR-RI) dealing with Civil Aviation Act Number 1 of 2009. Prof. Martono writes extensively on a variety of aviation law and regulations.

8. Practices.

Prof. Martono also practices as a researcher and testified an aviation expert in such disputes as Cengkareng populations vs JAL C.Ltd (2001), Mochamat Jusuf vs PT Eka Sari Lorena (2007), Daniel Setiawan vs Korean Airlines (2007), Polisi vs Capt.Marwoto (Yogyarta) (2007), Bambang Darwoto (Dir.ut PT Angkasa Pura I) vs Komisi Pengawas Usaha RI (2008), Kejaksaan vs Indera Setiawan (2008), Suciwati vs PT Garuda Indonesia (2008), Sigit Sucahyono vs Singapore Airlines (2008), Jimmy Turangan vs Lion Air (2008), Ario Wibisono vs Lion Air (2008), Polisi vs William Henry Scott-Bloxam (2008), PT Batavia Air vs PT GMF Aero (2008), PT GMF Aero vs PT Metro Batavia Air (2009), Polisi vs Mandala Airlines, PT Garuda Indonesia vs Yul Akhyari (2009), PT Angkasa Pura II vs Direktorat Jenderal Pajak (2009), Boeing vs Mandala Airlines (2010), PT Garuda Indonesia vs Maharani Caroline Salindeho, Temate (2012), Simbolon & Partners Law Firm vs Pilatus Aircraft Ltd , Jakpus (2013), Fredrik J.Pinakunary Law Office vs Ellen Nawawi (Ja karta-July 9, 2013), IAT vs PT Badak Bontang (Sept.2014), Setneg (Kemayoran) vs Penggugat (PN Jakpus) 5 Nop.2014