

Ruwantissa Abeyratne

# Aviation and International Cooperation

Human and Public Policy Issues



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Ruwantissa Abeyratne  
Global Aviation Consultancies Inc.  
Cote Saint Luc, Québec  
Canada

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# Preface

This book was commenced in December 2014 when the world was celebrating 100 years of commercial aviation and 70 years of the existence of the Convention on Civil Aviation signed at Chicago on 7 December 1944. Now, popularly known as the Chicago Convention, this multilateral treaty created the International Civil Aviation Organization (ICAO) which has, as one of its aims and objectives, to meet the needs of the people of the world for safe, regular, efficient and economical air transport. The Chicago Convention, in its *Preamble* says *inter alia* that the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world. These are the only two references in the entirety of the treaty to people. All other references are to States, aircraft, airports and other component elements of the aviation world. Although passengers are mentioned in other provisions of the treaty, such references are always in association with aircraft or States or other instrumentalities. There is a bewildering and startling lack of focus on or attention to the person affected by aviation, and in particular passenger, let alone his or her rights.

A perceived anomaly in aviation and human rights is the obvious deleterious effect aviation has had on people, despite the exhortation in the Chicago Convention on international civil aviation having a benevolent effect on friendship and understanding among people. On numerous occasions, aviation has been used to attack and bombard whole societies and people. This book will address public policy issues on this subject.

Notably, in early December of 2014, there were numerous ceremonies to mark the 70th Anniversary of the Chicago Convention. Books were written where authors representing industry wrote in the Prefaces that air transport generates 580 million jobs and \$4.1 trillion dollars in economic activity. One commentator noted that for every \$100 earned in aviation an income of \$350 was triggered and that every 100 direct jobs in aviation created over 600 indirect jobs. Some wrote of tremendous leaps of humankind in aviation in the 100 years past. These are incontrovertible facts that we can be proud of. However, the fact that they are

highlighted at the expense of ignoring the consumer of the air transport product is indeed lamentable.

The Chicago Convention is not about people nor airline passengers. Nor is it about the rights of the passengers. It is about regulating States, airlines, airports and other service providers. Another disturbing fact is that there are no major organizations representing the passenger, as there are for airlines, airports and air navigation service providers.

2014 was also the year when Malaysian Airlines Flight MH 17, operated by a Boeing 777-200ER aircraft flying from Amsterdam to Kuala Lumpur on 17 July 2014, and carrying 283 passengers and 15 crew, was shot down by a BUK surface to air missile over Donetsk Oblast in Eastern Ukraine, while at an altitude of 10,000 m. All those on board perished. It was also the year when, earlier, many of us woke up on a Saturday morning to the disturbing news that a Malaysian Airlines plane, which took off from Kuala Lumpur for Beijing at 12.41 a.m. on Saturday, had lost contact with air traffic control two hours into the flight. The Boeing 777-200 carrying 239 people including 12 crew members carried 14 nationalities. At the time of writing, 9 months later, neither the aircraft or parts thereof, nor any of the passengers or their remains had been found.

If those were not enough, on 28 December of 2014, Air Asia flight QZ 8501 crashed into the Java sea on its way to Singapore, killing all 162 passengers and crew on board. It was later reported that the flight did not have authorization to be operated on the route that day.

At the outset of this book, in Chap. 1, this book discusses Flights MH 370 and MH 17 that resulted in the deaths of hundreds of passengers on board as well as touching hundreds of relatives and several States who lost their nationals, purely because the fundamental human right to life, liberty and security of person was adversely affected through aviation. The book also discusses the manner in which aviation has been used to attack whole communities in States; how the airline passenger's rights are identified and demarcated, as well as the rights of the disabled passenger.

No one would deny the fact that there has been little focus on the main protagonist of the air transport product—the passenger. This book, although bearing reference to consumer protection in general in its title, focuses solely on the rights of the passenger from a human rights perspective. In an earlier work,<sup>1</sup> I have addressed the passenger's rights from the perspectives of providing him or her with connectivity, availability of services, reasonable pricing and value for money, which neither the Chicago Convention nor ICAO addresses adequately. In this book, I draw on the international conventions on human rights as the fundamental postulates that lead to specific air passenger rights; steps that have been taken so far in the air transport context; and measures that could be taken to ensure the

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<sup>1</sup> *Regulation of Air Transport – The Slumbering Sentinels*, Springer: Heidelberg, 2013. See also, Ruwantissa Abeyratne, *Aeronomics and Law: Fixing Anomalies*, Springer: Heidelberg, 2012.

implementation of passenger rights appropriately, and in a just and equitable manner.

Therefore, this book also discusses public policy affecting aviation that would bear upon humanity as a whole as well as consumer protection focused on the rights of the airline passenger.

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January 2015

Ruwantissa Abeyratne





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