

**THE PREVENTIVE MECHANISM ON BOARD AN
AIRCRAFT, IN THE LIGHT OF THE MONTREAL
PROTOCOL OF 2014**

*Pranay Bali & Mihika Gupta**

Abstract

The increasing frequency of air traffic brings with it fresh challenges which need to be analysed with the existing laws. Keeping this in mind the Montreal Protocol 2014 was developed as an amendment to the Tokyo convention of 1963, on offences and certain other acts on-board an aircraft. This paper analyses the introduction of the new provisions in the protocol and the need for the same. Specifically, it first identifies the various jurisdictional limits of the convention, and what bearing the new protocol will have on the exercise of jurisdiction by affected nations. Second, it discusses the increasing importance of In-Flight Security Officers with respect to the problems related to unruly passengers, and how the amended convention provides for the same, throwing new light in this regard. In this context, the loopholes in the original convention of 1963 are identified, and the improvements made by the amendment to the preventive mechanism of aviation security are analysed.

I. INTRODUCTION

In light of the increasing incidents of terrorism and crime, the Convention on Offences and Certain other acts committed on Board Aircraft (hereinafter, the Tokyo Convention) was formulated over 50 years ago in 1963. Due to an increase in the incidence of crimes other than that of hijacking and terrorism, the need to develop a new set of legislation emerged. In the light of this, the Montreal Protocol of 2014, came out as an amendment to the existing provisions of the Tokyo Convention. The Protocol is required to be ratified by a total of 22 states before it comes into force. This paper analyses the main areas that the new provisions of this Protocol deal with.

II. JURISDICTION

Article 3 and 4 of the Tokyo Convention¹ contain the provisions regarding jurisdiction. Briefly, Article 3 grants the state of registration of the aircraft the power to exercise jurisdiction. It does not exclude the criminal jurisdiction, which may be exercised in accordance with the country's domestic penal laws. Article 4 on the other hand grants jurisdiction to any contracting State, which is not the State of registration, in the light of few exceptional circumstances.² However, in order to fully understand the scope of the Tokyo Convention, the various forms of jurisdiction present in international law must also be considered. This is because in order to successfully prosecute a crime, the State's first step must be to acquire jurisdiction.³

*Pranay Bali and Mihika Gupta are students at the National Law University, Jodhpur. The authors may be reached at pranay94@gmail.com.

¹Convention On Offences And Certain Other Acts Committed On Board Aircraft, Tokyo, 14th September 1963, ICAO Doc. 8364 [**“Tokyo Convention”**].

²Tokyo Convention, Art 4.

³Robert F. Klimek, *International Law-Convention On Offenses And Certain Other Acts Committed On Board Aircraft-The Tokyo Convention*, 20 DEPAUL L. REV. 485 (1971).

A. *The Principle Of Nationality*

A person's nationality enables the State to which he belongs, to assert their jurisdiction.⁴ An extension of this rule can be extended to the nationality of an aircraft. The aircraft can be said to have the nationality of the State in which it has been registered.⁵ The idea that aircrafts have nationality goes back to the earliest days of commercial aviation,⁶ and this concept is derived from maritime law. Any vessel flying the flag of a particular nation, is its jurisdictional extension, and therefore any act committed against the vessel has an effect on the territory of that state, thereby giving it jurisdiction.⁷

B. *The Principle Of Territoriality*

This principle implies that a State enjoys sovereignty over its territory, which includes the airspace in its domain. The Paris Convention and the Chicago Convention have also recognized this principle.⁸ The territoriality principle gives the nation state jurisdiction when an event, which has an effect on the State itself, takes place. This principle is used to prove, under maritime law that any vessel flying the flag of a particular nation is an extension of that nation, therefore any act against that vessel is deemed to have an effect on that State.⁹

The Tokyo Convention does not provide for mandatory jurisdiction in any provision. Rather, it allows the coexistence of other recognized bases for jurisdiction, as have been recognized above. In addition to this, the Convention does not contain any system, which gives priority of jurisdiction to any particular nation. It grants jurisdiction equally to the

⁴Mendelsohn, *In-Flight Crime: The International and Domestic Picture under the Tokyo Convention*, 53 VA. L. REV. 509, 511 (1967).

⁵Juan J. Lopez Gutierrez, *Should the Tokyo Convention of 1963 Be Ratified?* 31 J. AIRL. & COM. 3, 7 (1965).

⁶Convention Relating to the Regulation of Aerial Navigation), Paris, 13th October 1919, 11 LNTS 173, Art 6-8.

⁷Mendelsohn, *Supra* note 4, at 511.

⁸Convention Relating to the Regulation of Aerial Navigation), Paris, 13th October 1919, 11 LNTS 173; Convention on International Civil Aviation, Chicago, 7th December 1944, 15 UNTS 295.

⁹Mendelsohn, *Supra* note 4, at 511.

State of registration of the aircraft and to any other contracting State to the Convention. This can very often create conflict as to where the jurisdiction truly rests. There is no system to delimit this jurisdiction among the various nations who may assert it.¹⁰ The contracting states are free to decide which among them shall assert jurisdiction, and the manner in which it will be asserted.¹¹ However, this is also one of the strengths of the Convention, as it ensures that at least one State will eventually prosecute the offender.

C. Weakness In The Jurisdiction Provisions Of The Convention

The French jurist Fauchille in 1902 recommended that the law of the flag, or the nationality of the airplane should govern the jurisdiction of the offences committed on board regardless of the nationality of the offender or the victim.¹² The Tokyo Convention has also recognized this principle.

The State of Registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board, as has been established by the Convention.¹³ It then requires each contracting State to take all necessary measures in its laws to establish its jurisdiction as the State of Registration over offences committed on board its aircraft.¹⁴ The Convention does define what qualifies as a jeopardizing act in Article 1, however it is also left up to the individual State to determine what are or are not criminal acts on board its aircraft.¹⁵

Although jurisdiction is primarily vested in the State of registry, the Tokyo Convention does not exclude any criminal jurisdiction exercised in accordance with national laws.¹⁶ Consequently, due to such provisions,

¹⁰Boyle & Pulsifer, *The Tokyo Convention on Offenses and Certain Other Acts Committed on Board Aircraft*, 30 J. AIR L. & COM. 329 (1964).

¹¹*Id.* at 353.

¹²E. Nys, *Régimejuridique des aerostats, 2. Rapport de M. Nys, second rapporteur sur lerégimejuridique des aérostats*", 19, Institut de Droit International Annuaire 97 (1902).

¹³Tokyo Convention, Art 3(1).

¹⁴Tokyo Convention, Art 3(2).

¹⁵Captain Russell Kane, *Time to put Teeth into Tokyo?*43 ZLW 187 (1994).

¹⁶Tokyo Convention, Art 3(3).

exclusive jurisdiction has not been established by the Convention. Rather a system of concurrent jurisdiction emerges. As the State of registry, a State Party bears a “best efforts” obligation to assert its jurisdiction over criminal offences committed on board aircraft registered by it.¹⁷

Commentators have often contended that the State of Registry does not have any obligation to exercise jurisdiction.¹⁸ The Tokyo Convention does not provide for mandatory jurisdiction.¹⁹ In fact, the State of registry is only obliged to “take measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.”²⁰ The use of the word offences narrows the scope of jurisdiction of the State of registry. Therefore the existence of a legal basis for the State of registry to exercise jurisdiction over acts that are not criminal offences, but nonetheless jeopardize the safety of the aircraft or the good order and discipline on board, can be questioned.²¹ Under the Convention of 1963, this would seem to be optional for States Parties.²²

There are also a few weaknesses in the nationality theory. As Fauchille himself acknowledges that, the theory fails to account for the interests of the State, which might be affected by the criminal incidents on board. In addition to this, passengers in today’s day and age, select airlines on a random basis depending upon the offer they receive on the airline fares. Yet by accepting such a ticket the passenger would be agreeing to the laws and procedures of that country with the exclusion of all others, and the passengers would have no idea that they have done so. For instance a passenger living in country C may want to fly to country A and may book

¹⁷NANCY DOUGLAS JOYNER, *AERIAL HIJACKING AS AN INTERNATIONAL CRIME* (Brill Archive, 1974).

¹⁸ICAO, Report of the Rapporteur Mr. Alejandro Piera ‘*Report Of The Rapporteur Of The Special Sub-Committee On The Preparation Of An Instrument To Modernize The Convention On Offences And Certain Other Acts Committed On Board Aircraft Of 1963*’ LC/SC-MOT-WP/1 7th May 2012 at p.147.

¹⁹JOYNER, *Supra* note 17, at 13.

²⁰Tokyo Convention, Art 3(2).

²¹Christian Giesecke, *Unruly Passengers: The Existing Legal System and Proposed Improvements*, 53ANNALS OF AIR & SPACE LAW 26 (2001).

²²Kane, *Supra* note 15, at 190.

B-airlines which is registered in country B. Thereby any offence which might be committed on board will give country B jurisdiction according to the nationality theory, even though the interests of country A and C are at stake. Therefore this skews the concept of jurisdiction.

The jurisdictional gap that exists due to the above-discussed provisions can be addressed by introducing the jurisdiction of the State of landing. This provides a number of advantages. Very evidently, as has also been noted by Mendelsohn, “When the aircraft lands, all the passengers, ergo, all potential witnesses to the offence, are present.”²³ In addition to closing the jurisdictional gap, it also discourages the occurrence of criminal acts on board aircraft.²⁴ The provision to grant the State of landing jurisdiction was added in the amendment to the Tokyo Convention, that is, the Montreal Protocol, 2014.²⁵ Article IV of the Protocol²⁶ states that the State of landing shall be competent to exercise jurisdiction when the aircraft on board which the offence or act is committed lands in its territory with the alleged offender still on board.

To address the jurisdictional gap identified above as one of the flaws of the Tokyo Convention, the new Protocol combines options contained in The Hague and Montreal Conventions, and in the Beijing instruments.²⁷ Most notably, the Montreal Protocol 2014 recognizes the following jurisdictions: (i) State of registry; (ii) State of the operator; (iii) State over whose territory the offence is committed; (iv) State of the nationality of the offender; and (v) State of landing. Just as for the Tokyo Convention, the new instrument does not exclude any criminal jurisdiction exercised in accordance with national law.²⁸

²³Mendelsohn, *Supra* note 4, at 509.

²⁴Gutierrez, *Supra* note 5.

²⁵Protocol to amend the Convention on Offences and Certain Other Acts Committed On Board Aircraft, Montreal, 4th April 2014, DCTC Doc No. 33 [hereinafter “Montreal Protocol”].

²⁶Montreal Protocol, Art 4.

²⁷ICAO, *Supra* note 18.

²⁸*Id.*

III. UNRULY PASSENGERS

As reported by the International Air Transport Association there have been over 28,000 cases of unruly behaviour on board aircrafts between the years 2007-2013. These cases include violence against crewmembers and other passengers, sexual harassment, failure to follow safety instructions, etc.

The loopholes in the Tokyo Convention allow unruly behaviour to go unpunished. Which is why, one of the main concerns the Montreal Protocol addresses is the problem related with unruly behaviour. It provides a proper definition for the term unruly passengers as, passengers who fail to respect the rules of conduct on board aircraft or to follow the instructions of crewmembers and thereby disturb the good order and discipline on board aircraft.²⁹

The agreed changes give greater clarity to the definition of unruly behaviour (such as including the threat of or actual physical assault, or refusal to follow safety-related instructions). There are also new provisions to deal with the recovery of significant costs arising from unruly behaviour.

The new Protocol provides the aircraft commander with greater deference. In doing so, the commander does not need to have reasonable grounds to believe that a passenger is committing a serious offence according to the penal law of the State of registration of the aircraft. The Protocol only requires him to have reasonable grounds to believe that a serious offence has been committed.³⁰ Such offences could range from terroristic threats, to violent or threatening behaviour against other passengers or crew, to tampering with a smoke detector.³¹

²⁹Guidance Material on Legal Aspects of Unruly/Disruptive Passengers, ICAO, Circular 288 (2002) at p.1.

³⁰Montreal Protocol, Art 8.

³¹William V. O'Connor et al., *Unruly Passengers Beware: ICAO Delivers Montreal Protocol 2014 To Enhance Enforcement Measures Against Unruly Passengers*, MOFO, <http://www.mofo.com/~media/Files/ClientAlert/140429ICAODeliversMontrealProtoco12014.pdf>.

The Protocol also encourages contracting states to take appropriate criminal, administrative, or other measures against any person who commits an in-flight offence, including “physical assault or threat to commit such assault against a crew member” or “refusal to follow a lawful instruction given by or on behalf of the aircraft commander”.³²

IV. IN-FLIGHT SECURITY OFFICERS: THE NATURE AND IMPORTANCE

The events of September 11, 2001, albeit extremely unfortunate, acted as a catalyst for the surge in legislation and regulation in the field of aviation security. Even though the United States had been deploying air marshals on domestic and international flights since the 70s,³³ in the aftermath of the attack it took active steps to pass the legislation that created the Transportation Security Administration and heavily augmented the numbers of air marshals.³⁴ This example was followed internationally as various countries began to deploy air marshals on-board their flights: In Australia, they are appointed under the Air Security Officer program under the Australian Federal Police;³⁵ In Canada, under the Canadian Air Carrier Protection Program, provided by the Royal Canadian Mounted Police, and in India, such officers are provided by the National Security Guard,³⁶ which is one of the eight Central Armed Police Forces of India.³⁷

³²Montreal Protocol, Art 10.

³³JOSEPH M. SIRACUSA, DAVID G. COLEMAN, *DEPRESSION TO COLD WAR: A HISTORY OF AMERICA FROM HERBERT HOOVER TO RONALD REAGAN (PERSPECTIVES ON THE TWENTIETH CENTURY)*(215, Prager, 2002).

³⁴*Federal Air Marshals*, TRANSPORTATION SECURITY ADMINISTRATION, <http://www.tsa.gov/lawenforcement/programs/fams.shtm>.

³⁵*Air Security Officers: Making Our Skies Safe*, 99 AUSTRALIAN FEDERAL POLICE PLATYPUS MAGAZINE, July 2008.

³⁶*Private airlines brace to meet hijack threats*, TIMES OF INDIA, 21st February 2015.

³⁷The National Security Guard Act 1986.

At the most essential level, these nations derive the ability to appoint In-Flight Security Officers from Article 17 of the Chicago Convention, which states that “aircraft have the nationality of the State in which they are registered.”³⁸ This statement is augmented by Article 18 of the same convention, which provides that an aircraft can only be registered in one state at a time.³⁹ Therefore, an aircraft can be said to have the nationality of the state in which it is registered.

It is a well-established principle of commercial aviation that aircrafts have a nationality and in effect, are the national territory of the state of registration.⁴⁰ As a result of this principle of aircraft nationality, the laws of the state of registry apply to every aspect of the functioning of commercial airlines.⁴¹ This includes personnel licensing as well.⁴²

Further, In-Flight Security Officers are officials appointed by the Government of the state of registration by their very definition, as provided by the International Civil Aviation Organization. The ICAO defines an “in-flight security officer” as a “person who is authorized by the government of the State of the Operator and the government of the State of Registration to be deployed on an aircraft with the purpose of protecting that aircraft and its occupants against acts of unlawful interference”. This definition was the first international instance of defining an In-Flight Security Officer, and of the movement towards providing for the same in the Tokyo Convention⁴³. This can be illustrated by the 35th Session of the ICAO Legal Committee, which was held from 6 to 15 May 2013 in Montreal, with the main purpose of furthering the proposal of amendment to the Tokyo Convention.⁴⁴

³⁸Convention on International Civil Aviation, Chicago, 7th December 1944, 15 UNTS 295.

³⁹*Id.* at art 18.

⁴⁰SAMI SHUBBER, JURISDICTION OVER CRIMES ON BOARD AIRCRAFT, The Netherlands, MartinusNijhoff, 109 (1973).

⁴¹*Supra* note 38, Art 32 & 32(a).

⁴²*Supra* note 38, Personnel Licensing, Annex 1.

⁴³*Supra* note 1.

⁴⁴Legal Committee-35th Session, Appendix to working paper LC/35- WP/2-1 and Appendix F to the Draft Report (LC_35_YCR_WP 7-13).

One of the more extensively discussed issues was the possibility of including in the amendment a reference to in-flight security officers. However, due to the status of In-Flight Security Officers as Government officials of the state of registration, most of the delegates of the Latin American countries at the meeting were against the inclusion of any reference to the IFSOs in the draft protocol to amend.⁴⁵ The apprehensions and oppositions were gradually overcome to include In-Flight Security Officers in the Tokyo Convention, as amended by the Montreal Protocol of 2014. It shall now be analysed how the amendment serves to improve the aviation security framework by filling up certain gaping holes in the Tokyo Convention, with respect to In-Flight Security Officers. The deficiencies of the Tokyo Convention of 1963 shall be looked into in this regard.

V. THE NEED FOR INCLUSION OF IFSOs IN THE TOKYO CONVENTION OF 1963

The 1963 Tokyo Convention on Offences and Certain Other Acts Committed On Board Aircraft⁴⁶ was drafted and enacted by the representatives of sixty-one Governments at the International Conference on Air Law convened at Tokyo in August-September 1963 under the auspices of the International Civil Aviation Organization (ICAO), a specialized agency of the United Nations.⁴⁷ It applies in respect of: “a) offences against penal law; and 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.”⁴⁸ Therefore, the primary purpose of the Convention is to ensure the safety of everyone and everything on-board the aircraft. While the

⁴⁵Third Meeting of The Aviation Security And Facilitation Regional Group (Avsec/Fal/Rg/3) Lima, Peru, 19th to 21st June 2013.

⁴⁶*Supra* note 1.

⁴⁷*Supra* note 10, at 349.

⁴⁸ Tokyo Convention, art 1.

aircraft is still in flight, the occurrence of any jeopardising incident is a possibility which has been provided for inadequately by the Convention.

This is so, because in Chapter III of the Convention, titled “Powers of the Aircraft Commander”, the Convention provides the aircraft commander the power to impose measures including restraint against a person who, in his opinion, has committed any act envisaged under Article 1, paragraph 1.⁴⁹ The provision further provides the aircraft commander the power to: “a) require or authorize the assistance of the other crew members; and b) request or authorize the assistance of passengers to restrain any person who he is entitled to restrain.”⁵⁰ This provision is inadequate and incomplete because it leaves out the power of the aircraft commander to require or authorize an In-Flight Security Officer to assist him. The provision goes on to confer upon any crew member or passenger the power to take “reasonable preventive action” even without authorization by the aircraft commander, when such person has reasonable grounds to do so.⁵¹

The fact that this provision of the convention did not include any mention of an IFSO was a serious deficiency when it is taken into consideration that even prior to 1970, four countries—the United States⁵², Russia⁵³, Ethiopia⁵⁴ and Israel⁵⁵, were known to have used armed personnel on board aircrafts to deter hijackers and ensure flight safety. In light of this, the scope of the actions that could be taken by IFSOs was left ambiguous, especially in terms of acts of the nature defined in the Tokyo Convention. The effect this had, was that an IFSO, who should have been in the primary position to take preventive action under the convention, could

⁴⁹*Id.* art 6(1).

⁵⁰*Id.* art 6(2).

⁵¹*Id.*

⁵²JEFFREY C. PRICE & JEFFREY S. FORREST, PRACTICAL AVIATION SECURITY: PREDICTING AND PREVENTING FUTURE THREATS 67 (Butterworth-Heinemann, 2nd edition 2009).

⁵³*Soviet Union: A Dreaded First for Aeroflot*, TIME, 26th October 1970 at p.46.

⁵⁴Aircraft Hijackings and Other Criminal Acts Against Civil Aviation: Statistics and Narrative Reports, Office of Civil Aviation Security at p.60 (1986).

⁵⁵AMI PEDAHZUR, THE ISRAELI SECRET SERVICES AND THE STRUGGLE AGAINST TERRORISM 36(Columbia University Press, 2009).

not restrain a wrongdoer under a literal interpretation of Article 6(2), as he could not be considered to be a member of the crew, nor a passenger.

A. Improvements Brought Forth By The Montreal Protocol Of 2014

The deficiencies in the Tokyo Convention of 1963 with respect to IFSOs, took their toll on civil aviation, as there were over 28,000 reported cases of unruly passenger incidents on board aircraft in flight from 2007-2013. The persistent efforts by the ICAO to bring about an amendment to the Tokyo Convention of 1963 culminated in the Montreal Protocol of 2014⁵⁶, which closes the loopholes in the original convention.

With regard to the inclusion of IFSOs, which was one of the most extensively discussed issues in the drafting process,⁵⁷ the protocol has amended Article 6 of the convention. Paragraph 2 of the Article has been amended and it now reads: “*the aircraft commander may require or authorize the assistance of other crew members, and may request or authorize, but not require, the assistance of in-flight security officers or passengers to restrain any person who he is entitled to restrain.*”⁵⁸

Paragraph 3 has been inserted into the Article, which confers upon an in-flight security officer the power to take a reasonable preventive measure even without the authorization of the aircraft commander, only when he has reasonable grounds to believe that such action is immediately necessary to ensure the safety of the persons and property on board the flight. The provision confers this right upon “*an in-flight security officer deployed pursuant to a bilateral or multilateral agreement between the relevant contracting states.*”⁵⁹ The reason for the same has been elaborated upon in the comments and observations on the draft proposed text of the Tokyo Protocol of 1963, presented by Qatar:

⁵⁶*Supra* note 25.

⁵⁷Boyle & Pulsifer, *supra* note 10.

⁵⁸*Supra* note 25.

⁵⁹*Id.*

*“The issue (of insertion of in-flight security officers in the draft protocol) is not merely limited to endorsing the provision concerning in-flight security officers for implementation. The consequences go well beyond that. The implementation of such a provision requires many arrangements and total coordination among States for the training of in-flight security officers, arming them, deciding on the number and the type of these weapons, on the procedures for their entry into the country, whether they should keep their weapons once they leave the plane and their interaction with the State authorities.”*⁶⁰

The Montreal Protocol, thus, provides for in-flight security officers in clear and unambiguous terms, giving them the powers to take the requisite measures to deal with unruly persons on board aircraft.

B. Unlawful Interference

Another hiccup in ensuring the effectiveness of IFSOs stemmed from the definition of the term itself. According to the ICAO definition, an in-flight security officer is “to be deployed on an aircraft with the purpose of protecting that aircraft and its occupants against acts of unlawful interference”.⁶¹ This raised the question of whether the scope of an IFSO’s power was limited only to acts of unlawful interference, or did it also extend to acts of unruly passengers.

An “unlawful interference” has been defined in the Hague Convention as “an act committed unlawfully, by force or threat, or by any other form of intimidation, to seize, or exercise control of, that aircraft, or attempt to perform any such act.”⁶² Thus, according to this definition of “unlawful interference”, an IFSO will only have the power to act against an attempt to seize control of the aircraft by any person, or in simpler terms, a hijacking.

The Montreal Protocol thus, serves to end all confusion in this regard by expressly providing for IFSOs in Article 6 of the convention. The

⁶⁰Comments and Observations on the Draft Proposed Text of the Tokyo Protocol of 1963, Montreal (26th March to 4th April 2014) DCTC Doc No. 12.

⁶¹*Supra* note 45.

⁶²Hague Convention, art 1.

situation was further clarified by the ICAO, when it provided that the main mandate of the IFSO is to prevent acts of unlawful interference with civil aviation, but the Government may also include in the mandate the duty to assist the crew, if necessary, in dealing with act of unruly passengers in particular those, which endanger the safety of flight.⁶³

Therefore, the position of In-Flight Security Officers has been clarified and cemented by the commendable efforts of the ICAO and the delegates of all the concerned nations by legislating an essential amendment to the Tokyo Convention and adding teeth to its preventive procedure.

VI. CONCLUSION

The new instrument does in various ways fill the void that was evident in the Tokyo Convention in terms of jurisdiction. It provides a wider ambit and expands the scope of prosecution, ensuring that the wrong doers do not go unpunished. However, this could also lead to conflict among various countries if more than one country tries to assert jurisdiction in a given matter. This could lead to unnecessary complications and delay, which could have been avoided, had mandatory jurisdiction been provided for in the Convention.

The clarification of the term unruly passengers, ensures that a certain level of discipline is maintained on board the aircraft. Giving the commander additional powers of deference will also enforce the same. However, restricting the use of the word unruly only to the passengers has been criticised as on many occasions it has been seen that crewmembers at times also indulge in disruptive and hazardous behaviour. Therefore their behaviour should not go unpunished as well. Moreover, additional deference to the commander may at times result in innocent people getting punished. This could be because of faulty judgment on part of the commander in determining what constitutes a

⁶³Montreal Convention, art 6.

“serious offence” without having any guidelines to rely on, in order to identify the same.

In-Flight Security Officers have been an integral part of aviation security for more than fifty years. The need to appoint them to serve on-board international, as well as domestic flights is of paramount importance in the present day, when air travel has reached a peak in terms of the quantum of travellers. With increasing acts of unruly behaviour occurring on-board aircrafts, the Tokyo Convention fell short of providing an effective preventive mechanism, as it ignored the inclusion of IFSOs in dealing with unruly passengers, thereby causing confusion as to the extent of their power to act in such situations.

The Montreal Protocol of 2014 has served to clarify the role of IFSOs in clear and express terms and has paved the way for more effective implementation of the preventive mechanism as envisaged by the Tokyo convention. As a result, the future of commercial air travel looks safer than before.