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THE CONSTITUTIONALITY OF INDIA'S ANTI-HIJACKING POLICY

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ABSTRACT

The objective of this article is to talk about and analyse the lawful component of airplane hijacking wrongdoing from global understandings and Turkish legitimate framework perspectives. The way that there are holes in security strategies of nations and the disciplines not being impediment in airplane capturing acts; influence numerous individuals, districts, and nations. Expanding psychological militant acts in the most recent years; acts like airplane capturing by fear monger bunches make it important to apply widespread standards, punitive authorisations, and security systems. This investigation specifies the issues made by the relationship of airplane seizing wrongdoing with political occasions. As an answer, it proposes forcing sanctions on nations that make this affiliation and making it necessary to have police in planes.

INTRODUCTION

Hijacking is defined as the unlawful seizing of any aircraft, vehicle, or a ship which is in transit. Airplane hijacking, is the unlawful seizure of an airplane by an individual or a gathering. Dating from the soonest of hijackings, most cases include the pilot being compelled to fly as indicated by the ruffian's requests. Be that as it may, in uncommon cases, the criminals have flown the airplane themselves and utilized them in self destruction assaults; most outstandingly in the September 11 assaults, and in a few cases, planes have been captured by the official pilot or co-pilot.

In contrast to carjacking or ocean theft, an airplane seizing isn't normally dedicated for burglary or robbery. People driven by close to home addition regularly occupy planes to goals where they are not wanted to go. Some seizing circumstances plan to utilize traveler's or team as prisoners, either for money related payment or for some political or managerial concession by specialists. Different thought processes have driven such events, for example, requesting the arrival of certain prominent people or for the privilege of political refuge (strikingly Flight ET 961). Hijackings including prisoners have delivered brutal showdowns among thieves and the specialists, during arrangement and settlement. On account of Lufthansa Flight 181 and Air France Flight 139, the criminals were not fulfilled and demonstrated no tendency to give up, bringing about endeavors by unique powers to safeguard travelers.

In many locales of the world, airplane commandeering is deserving of life detainment or a long jail sentence. In many wards where capital punishment is a lawful discipline, airplane commandeering is a capital wrongdoing, remembering for China, India, and the U.S. conditions of Georgia and Mississippi.¹

HISTORY OF AIR HIJACKING

1910- HungaryAustria March–July 1919: Fleeing from the Hungarian Soviet Republic, Franz Nopcsa von Felső-Szilvás held onto a plane at gunpoint in Budapest to travel to Vienna.

1930-The first ever hijack took place in Arequipa, Peru.1947-A household Romanian departure from Bucharest to Craiova was commandeered by three armed force officials looking for political haven from socialist Romania. The plane arrived at Çanakkale in Turkey. During capturing the flight repairman, Mitrofan Bescioti, was shot by lieutenant Aurel Dobre.

March 24,1950 - Three Douglas DC-3s from Czechoslovakia were all the while captured by previous Czech Royal Air Force pilots looking for haven in the West. The vast majority of the thieves were the team of every one of the three airplane. Each of the three planes arrived at the US Air Force Base at Erding, West Germany. 26 of 85 travellers remained in West Germany to escape from the Communist system in Czechoslovakia. This was the principal episode of mass commandeering in flying history.

July 19, 1960: In Australia's first commandeering, a man took steps to explode Trans Australia Airlines Flight 408, yet he was incapacitated by an individual from the team and a passenger.

February 6, 2000: Ariana Afghan Airlines Boeing 727 was seized on an inward trip inside Taliban-controlled Afghanistan, and wound up at London Stansted Airport, where a large portion of the travellers asserted political refuge.

¹ Basic information of hijacking available at <https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/air-india-gets-a-hijack-threat-airports-put-on-high-alert/articleshow/68126955.cms?from=mdr> accessed on 19 th May ,2020 at 11:30 hrs

Feb 24, 2019: Biman Bangladesh Airlines Flight 147 was seized by a 26-year-old male traveler during the primary leg of a departure from Dhaka, Bangladesh, to Chittagong and Dubai. The criminal was shot and slaughtered by Bangladesh Army Para-Commando Brigade.

History and even the recent past shows the number of hijackings that have happened and the threat human lives have experienced India and abroad.²

INDIA'S HIJACKING POLICY

The common flying service has advised another enemy of capturing law which incorporates capital punishment for thieves. "Rules under enemy of seizing act have been advised on fifth of July," said an aeronautics service official who didn't wish to be named.

The law enables concerned security powers to immobilize an airplane or forestall its take-off.

The Indian Air Force can likewise scramble its warriors to catch a commandeered airplane and power it to land. It can likewise kill a threatening plane if there is proof that it could be utilized as a rocket to hit an indispensable establishment. The Anti-Hijacking (Amendment) Bill, 2010, was presented in the Rajya Sabha in August 2010 and cleared in 2014.³

THE ANTI-HIJACKING BILL 2014:

BACKGROUND:

The Anti-Hijacking Bill, 2014 was presented in the Rajya Sabha by the Minister of Civil Aviation, Mr. Ashok Gajapathi Raju on December 17, 2014. The Anti-Hijacking Act, 1982 was not extensive enough to manage cutting edge capture methods, didn't punish people who made bogus seize

² History of hijacking available at <https://economictimes.indiatimes.com/industry/transportation/airlines/-/aviation/air-india-gets-a-hijack-threat-airports-put-on-high-alert/articleshow/68126955.cms?from=mdr> accessed on 19 th of may ,2020 at 11:30 hrs

³ Tarun Shukla , New anti-hijack rules came into force in India (2017) available at <https://www.livemint.com/Politics/fUSUsNs97KXSZBJpynnrK/New-antihijack-rules-come-into-force-in-India.html> last seen on 19th May 2020.

dangers, and had powerless punishments that didn't fill in as adequate hindrance to potential robbers.^{4 5}

OFFENCES & PUNISHMENT AND JURISDICTION

The Bill incorporates a few demonstrations inside the meaning of commandeering including: (I) endeavor and abetment of seizing; (ii) making a solid danger to submit capturing; (iii) arranging or guiding others to submit capturing; (iv) concurring with another to submit the offense, and following up on the understanding; and so on.

The Bill accommodates: (I) capital punishment, where the offense brings about death of prisoner or security staff; (ii) life detainment in every other case; and (iii) moveable and immoveable property of the blamed might be reallocated. For any demonstrations of viciousness submitted regarding the commandeering, the blamed will be rebuffed with a similar discipline as gave under the laws in power.

Indian courts can practice locale on a few grounds including where the offense is submitted: (I) in India; (ii) against an airplane enrolled in India; (iii) on board an airplane which arrives in India with the denounced still ready; (iv) by or against an Indian resident; (v) by an individual who is available in India and isn't removed by the focal government, and so forth.⁶

SANCTIONS AND ARRESTS

The Bill necessitates that approval must be taken from the Chief government before indicting a charged for commandeering or related offenses. The focal government may give forces of examination, capture and arraignment on any official of the focal government or the National Investigation Agency. A researching official can arrange seizure or connection of property which is identified with the offense, and is probably going to be covered or discarded by the denounced.

⁴ Rajagopal, Krishnadas (16 February 2018). "[Dealing with hijacking](#)". *The Hindu*. Retrieved 20 May 2018.

⁵ Available at https://en.wikipedia.org/wiki/Anti-Hijacking_Act,_2016#External_links last seen on 19th of May 2020

⁶ PRS Legislative Research , The Anti-Hijacking Bill 2014 available at <https://www.prsindia.org/billtrack/the-anti-hijacking-amendment-bill-2014-3500> last seen on 19th of May 2020.

The open investigator has had a chance to contradict the discharge; and (ii) if the discharge has been restricted, the assigned court is fulfilled that there is motivation to accept the denounced is honest and is probably not going to submit any offense while on bail.

The blamed individual will be attempted by a Sessions Court which is told to be an assigned court by the concerned state government.⁷

THE REASON BEHIND THIS BILL (Anti-Hijacking Policy)

While trying to make Indian skies more secure, the two places of parliament passed the Anti-Hijacking Bill, 2014. While it was passed in the Lok Sabha on May 9, the Rajya Sabha affirmed it on May 4. This shows how genuine India is tied in with handling this fear. All things considered, India was the objective of a significant seize route back in December 1999 when IC-814, an Indian Airlines plane, was commandeered by the an aggressor gathering,, from Kathmandu. It was traveled to Amritsar, Lahore and Dubai before at long last arriving in Taliban nation in Kandahar, Afghanistan. The Indian government had to discharge three aggressors as an end-result of the travelers. The assault left one traveler dead and many damaged.⁸

THE ANTI-HIJACKING ACT 2016

The Anti Hijacking Act, 2016 (Act No. 30 of 2016) got President's consent on thirteenth May, 2016 and expects to offer impact to the Convention for Suppression of Unlawful Seizure of Aircraft and for related issues. A portion of the significant Sections of the Act are talked about beneath⁹:

Section 3(1) characterizes the offense of commandeering and associated offenses that whoever unlawfully and purposefully seizes or practices control of an airplane in administration of power

⁷ PRS Legislative, The Anti-Hijacking Bill 2014 available at <https://www.prsindia.org/billtrack/the-anti-hijacking-amendment-bill-2014-3500> last seen on 19th of May 2020.

⁸ By Shobha Jain , Anti-Hijacking Bill- Tackling Terror in the skies available at <https://www.indialegallive.com/top-news-of-the-day/aviation-articles/anti-hijacking-bill-tackling-terror-in-the-skies-11343> last seen on 19th of May 2020.

⁹ Published by Editor on May 21, 2016, The Anti Hijacking Act 2016 available at <https://www.scconline.com/blog/post/2016/05/21/anti-hijacking-act-2016-no-30-of-2016/> last seen on 19th Of May 2020.

or danger or by compulsion or by some other type of terrorizing including some other innovative methods, submits the offense of capturing.

"hijacking": One of the most significant corrections that have been referenced in the Act is in Section 3; which changes the meaning of "capturing." It is just because that in this bill the expression "mechanical signifies" has been utilized. The law currently characterizes capturing as "Whoever unlawfully and deliberately seizes or practices control of an airplane in administration forcibly or danger thereof, or by compulsion, or by some other type of terrorizing, or by any innovative methods, submits the offense of hijacking"¹⁰

Section 4 indicates the discipline for seizing for such guilty party to be that of – (I) demise where such offense brings about death of any individual not associated with commission of such offense coming about as an immediate outcome of commandeering; or (II) life detainment and seizure of all the property of Section 7(1) manages Jurisdiction of Court.

Section 12 arrangements with arrangements as to bail and gives that offenses under this Act would be non bailable except if the Public Prosecutor has been allowed a chance to restrict the application for such discharge; and where Public Prosecutor contradicts the application, the Designated Court is fulfilled that there are sensible justification for accepting that he isn't liable of such offense and that he isn't probably going to submit any offense while on bail.

Section 14 presents controls on Central Government to get certain airplane be enrolled in show nations. Segment 15 accommodates the need of past approval of focal government for any arraignment.

Section 21 cancelations the Anti-Hijacking act 1982 without influencing certain rights, benefit, commitments or any activities taken in compatibility of the said demonstration or any legitimate procedures and cure, punishment, relinquishment and any such examination, punishment, relinquishment or cure might be forced as though the said Act had not been revoked¹¹.

¹⁰ Published by Pranav Rudresh , Anti-Hijacking Amendment Bill 2016 available at <https://blog.iplayers.in/anti-hijacking-amendment-bill-2016/> last seen on 20th of May 2020

¹¹ Published by Editor on May 21, 2016, The Anti Hijacking Act 2016 available at <https://www.scconline.com/blog/post/2016/05/21/anti-hijacking-act-2016-no-30-of-2016/> last seen on 19th Of May 2020.

Jurisdictional Amendments: Another significant revision remembered for the Anti-commandeering Act, 2016 is the difference in locale of the law. The law presently covers arrangements against hijacking of airplane's enrolled in India or comprising of Indian travelers or hijack submitted by an Indian anyplace on the planet. As per the law, if the robber is an inhabitant of India, or if the commandeered airplane is enrolled in India or if any remote enlisted airplane arrives in India with the supposed wrongdoer still ready or when the airplane is seized anyplace on the planet, and an Indian resident is ready, procedures under Anti-capturing Act might be pertinent upon the ruffian. It has been referenced in Section 7 of the revised demonstration¹².

CONCLUSION

The Anti-Hijacking Amendment Act, 2016 spreads a lot of enhancements contrasted with the demonstration of 1982 or the revisions made in 1994. With the execution of this demonstration, the Indian enactment doubtlessly fixes its remain against episodes identified with capturing as it carries both innovation and labour to cooperate all the more carefully for the security of travellers. India has seen 19 hijacks up until this point and each time it has cost us something. Usage of this law will affect India's solid remain against occurrences like high jacking. There are as yet certain focuses to be secured to make this law significantly more grounded, for example, to permit the security powers to kill an airplane which might be utilized as a rocket or the ability to concerned specialists or security powers to forestall take off for suspected flights. The new act has likewise been surrounded by the Beijing Protocol, 2010 which makes it noted all around the same number of nations outline their common flying laws by this convention¹³.

¹² Published by Pranav Rudresh , Anti-Hijacking Amendment Bill 2016 available at <https://blog.ipleaders.in/anti-hijacking-amendment-bill-2016/> last seen on 20th of May 2020

¹³ Published by Pranav Rudresh , Anti-Hijacking Amendment Bill 2016 available at <https://blog.ipleaders.in/anti-hijacking-amendment-bill-2016/> last seen on 24th of May 2020