

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION RULES CONCERNING INTERNATIONAL CIVIL AVIATION ON AIRCRAFT HIJACKING (ETHIOPIAN AIRLINES BOEING CASE STUDY 767-300)

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Abstract

The hijacking of aircraft is a test in international criminal law. Besides of the fact that international conventions also control state authority, this issue is already present in international conventions, but also allows the State full power to enforce its national laws so that it can impose severe penalties on aircraft hijackers. The questions that form the basis of this legal inquiry are: how is the International Aircraft Hijacking Regulation and how to solve cases of Boeing 767-300 aircraft hijacking by Ethiopian Airlines. The empirical approach used in the drafting of this law is the standard legal approach. The analysis parameters used for this study are descriptive-analytical. The details for this analysis are International Convention Materials and Resources for the Library. The findings of the analysis concluded that the 1963 Tokyo Convention, the Hague Convention, the Montreal Convention, and the 1970 Hague Convention were concerned with the hijacking of aircraft. In the end, the suspects were prosecuted based on Ethiopian state authority as an aircraft registrar.

Keywords

Aircraft Hijacking, International Conventions

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Introduction

Along with human needs, there is fast and efficient aircraft transportation to meet the needs of the nation. Until now, the 1944 Chicago Convention has been used as a guide in the drafting of national laws for the ICAO Member States (International Civil Aviation Organizations) in civil aviation organizations. Due to the increasing number of aircraft, of course, there are also more possibilities for the occurrence of crimes on board. One of the crimes in the field of aviation is forced control by aircraft or more commonly referred to as hijacking by aircraft. Air hijacking will continue as long as there are domestic and international commercial flights, regardless of their destination, and whoever is the guilty party (Martono, Pramono & Tjahjono, 2011).

The Tokyo Convention of 1963 regulates Criminal Acts and Other Certain Acts committed in an Aircraft (Tokyo Convention on Offenses and Certain Other Acts Committed on Board Aircraft). The purpose of this convention is to establish a state that has jurisdiction, fills the legal vacuum, protects the flight captain and flight crew, airlines against the threat of civil lawsuits and criminal charges (immunity), protect passengers, aircrew crews and property carried on board the aircraft air to flight safety due to actions against the law and guaranteeing smoothness, order, order and discipline in the aircraft, preventing the occurrence of criminal offenses or crimes that escape sanctions, and conversely not to the risk of double punishment (double jeopardy). The Tokyo Convention of 1963, ICAO made the 1970 Hague Convention as a refinement of the Tokyo Convention of 1963 (Smith, 1971).

The right of a state that has sovereignty to manage all that exists or that is in its territorial territory, whatever concerning air space above its territory. Therefore, the state has the right to determine the rule of law, take decisions on all events concerning the airspace area. (Agrawala, 1973) This authority is referred to as state jurisdiction in international law. Countries which have the power to exercise jurisdiction over crimes committed on aircraft under the Tokyo Convention of 1963 shall be determined by the country in which the aircraft is registered.

The Hague Convention of 1970 specifies that participating countries are expected to include illegal acts in their national criminal law conventions. Therefore, including infringements of criminal law in the area of aircraft hijacking is a country that includes air hijacking in its national legislation (Mankiewicz, 1971). One of the legal measures to deter air hijacking is laid down in Chapter III of The Tokyo Convention of 1963, which requires the flight captain to take such acts in the field of security. In order to offer legal immunity to a flight captain on an airplane, The captain of the flight will not be liable to civil litigation or criminal charges or other administrative penalties as a result of his conduct in the exercise of the authority given by the Tokyo Convention of 1963 (Rahma & Supriyadhie, 2016).

On 17 February 2014, there was an aircraft hijacking carried out on the Ethiopian Airlines Boeing 767-300 on the Addis Ababa flight to Rome. The hijacking was carried out by his aviator named Hailemedhin Abera Tagegn who was an Ethiopian national. The hijacker landed the plane at Geneva Airport, Switzerland. The Ethiopian

information minister said that there was no bilateral agreement regarding extradition between Ethiopia and Switzerland. In its development, the case has received a ruling, namely, the offender was sentenced to 19 years and 6 months in prison according to Ethiopia law. This event will raise the question of which country has the right to exercise jurisdiction. This must be analyzed based on the International Civil Aviation Convention.

Based on this introduction, author has idea to explain on this paper with some problems. This papper will explain about how are international conventions governing aircraft hijacking and how is the implementation of the settlement of the Ethiopian airline hijacking Boeing 767-300. This research will focus on international convention government about aircraft hijacking and analysis about aircraft hijacking from Ethiopian Airlines BOEING 767-300. This research has been studied by several people including Heru Prasetyo with tittle several aspects of international law about aircraft hijacking problems. It's look same but this papper see different with another author who explain about aircraft hijacking because this papper will explain about international conventions governing about aircraft hijacking regulation and analysis about aircraft hijacking from Ethiopian Airlines BOEING 767-300.

Research Method

The approach method used in this study is a normative juridical approach. The term 'approach' is something (action, effort) approaching or getting closer. The juridical approach in this research is the approach in terms of the rules of international conventions. While the normative approach, in this case, is intended as an effort to bring the problem under investigation to the normative nature of law. The normative approach includes legal principles, legal systematics, synchronization (adjustment) of the law, comparative law or history of law (Disemadi & Prananingtyas, 2020).

The specifications used in the discussion of this law are descriptive analytical. The descriptive approach is a problem-solving technique that is saved by analyzing or defining the research object at present on the basis of facts that exist or are recognized. The data analysis method used as the basis for conclusions in this study is qualitative. Legal materials that are arranged systematically can be drawn. Conclusions that can be accounted for are the objectives that are the answers to the problems that exist in this study (Anakotta, Disemadi & Roisah, 2020).

Discussion

1. Regulation of International Conventions Regarding Aircraft Hijacking

As Analogously, the word "aircraft hijacking" is derived from the phrase "ship hijacking" in the Criminal Code, which uses the words "aircraft hijacking, sky-jacking, aircraft hijacking, and aerial hijacking" where this word is not a formal legal phrase, but rather a "daily stamp" directed at an act of violence in an aircraft that is in flight. The sense of the concept of air hijacking is to look at an incident called "aircraft hijacking" (Prasetyo, 1983).

Airplane hijacking is individually regulated by international conventions, namely the Tokyo Convention of 1963 on the convection of offenses and certain other acts committed on board aircraft (violations and certain other actions carried out in aircraft), the 1970 Hague Convention on the suppression of unlawful seizure of aircraft, Montreal Convention on the Prohibition of Criminal Activities against the Protection of Civil Aviation, 1971. Such arrangements shall include:

a. The Tokyo Convention of 1963

The convention on offenses and certain other acts committed on board aircraft or commonly referred to as The Tokyo Convention of 1963 is also known as the Aircraft Hijacking Convention. Conventions governing unlawful actions in flight. Aircraft hijacking is formulated in Article 11 paragraph 1, as follows:

When a person on board has unlawfully committed by force or threat thereof an act of interference seizure or other wrongfull exercise of control of an aircraft in flight or when such an act is about to be committed.

In addition to the above, regulations regarding aircraft hijacking are contained in Article 3 paragraph 1 which states that the state of registration of the aircraft is competent to exercise over offenses and acts committed on board. So this rule authorizes the country where the aircraft is registered to exercise its jurisdiction. In the explanation of Article 3 paragraph 3, it does not rule out the possibility of continuing to run criminal jurisdiction if there are cases that do have criminal motives. Other than that the exercise of aircraft hijacking jurisdiction can be done based on the principles of territorial, active national, passive national, state security, and violation of local aviation legislation and the possibility of implementing its jurisdiction using the fulfillment of multilateral agreements. This is contained in Article 4 of The Tokyo Convention of 1963.

When understood about the Tokyo 1963 convention the convention does not stipulate a single provision regarding jurisdiction, but rather provides several options for determining its jurisdiction (mixed jurisdiction) as the best solution to overcome aircraft hijacking. This Convention does not stipulate an obligation for member states except to the country where the aircraft is registered to exercise jurisdiction. Article 4 is merely permitted to give rise to the responsibility for the countries signing the convention (Tombeng, 2018).

b. The Hague Convention of 1970

Explanations concerning aircraft hijacking in the air in this convention can be known from several explanations in the article therein. Among them are Article 1 which says:

Any person who on board an aircraft in flight: 1). Unlawfully by force or treat thereof or by any other from or intimidation, seizes, or exercise control of that aircraft, or attempt to perform any such act or; and 2). Is an accomplice of a person who performs or attempt to perform any such act. Commite an offence (hereinafter referred it as the offence)

At the 1970 Hague convention, jurisdiction to adjudicate aircraft hijacking is regulated in Article 4, and the 1971 Montreal Convention is regulated in Article 5 which states that:

1. Each contracting state shall take measures as may be necessary to establish its jurisdiction over the offences and any other acts of violence against passenger and crew with the following cases:
 - a) When the offence is committed on board an aircraft registered in that state;
 - b) When aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
 - c) When the offence is committed on board an aircraft leased without crew to lessee who has his principal place of business or if he has no such place of business, his permanent residence of the state.
2. Each contracting state shall take measures as may be necessary to establish its jurisdiction over the offences in the cases where its alleged offender is present in its territory and it does not extradite him pursuant to article 8 to any of the state.
3. This convention does not exclude any criminal jurisdiction exercised in accordance with national law.

The provisions that appear in the above rules are more modern thinking compared to The Tokyo Convention of 1963 because it has had responsibility which is imposed by the convention on member states so that as far as possible take action (shall take such measures) to establish (to establish) jurisdiction against hijacking (Johny, 2008).

c. The Montreal Convention of 1971

What is intended by acts that endanger civil aviation are:

Any person commits an offence if he unlawfully and intentionally:

- 1) Perform an act of violence against a person on board an aircraft in flight, if that act is likely to endanger the safety of that aircraft or;
- 2) Destroy an aircraft in service or cause damage to such an aircraft in which renders it incapable of flight or which is likely to endanger its safety in flight, or;
- 3) Places or caused to be placed on aircraft in service by any means whatsoever, a device or substance which is likely to destroy that aircraft or causes damage to it which is likely to endanger its safety in flight, or;
- 4) Destroy or damage air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight, or;
- 5) Communicate information which he knows to be false, thereby endangering the safety of an aircraft in flight.

Any person also commits an offence if he: 1). Attempts to commits of offences mentioned in paragraph 1 of this article; and 2). Is an accomplice of a person who commite or attempts to commit any such offence

Thus juridically it can be said that aircraft hijacking is an act with the following characteristics:

- 1) Any person who commits, or assists in carrying out (an accomplice of a person), or a person who intervenes to commit an act using violence or threats of violence, or threats in other forms;
- 2) To seize or control aircraft control;
- 3) Accidentally and unlawfully; and
- 4) The act can endanger the safety of passengers, flight crew and aircraft in flight.

d. The Den Haag Convention 1970

The elements of aircraft hijacking based on The Den Haag Convention of 1970 are as follows:

- 1) In-flight;
- 2) Aircraft hijacking only applies to civil aircraft;
- 3) Landing outside the territory of the aircraft registering country;
- 4) An act of assisting violations;
- 5) Acts and Experiments against the law; and
- 6) The act is carried out by anyone on the flight.

Each convention country must take the necessary actions to exercise jurisdiction over crimes and any violence against passengers or flight crew in the case of:

- 1) The incident was carried out on the plane of a country where the aircraft was registered in that country;
- 2) The plane landed in its area and the perpetrator was still on the plane; and
- 3) The incident was carried out on a plane that was handed over to the domiciled tenant or his business activities, or if the lessee did not have the position (address) of his business, then the residence (permanent) in the country.

Airplane hijacking certainly involves the citizenship of some passengers. Therefore the convention regulates the possibility of holding extradition of hijacking. This is done solely to protect its citizens from the possibility of injustice committed in other countries. Because a country should be able to protect its citizens wherever located. Every Policy-makers in the world are looking at ways to tackle about the development of AI (Maheswara Perbawa Sukawa, 2020).

Although the convention of international civil aviation does not provide define regarding extradition. However, some international law experts put forward a

definition of extradition which can be concluded as a request from a state that has jurisdiction over the perpetrators of criminal acts (criminal offenses) to the country where the perpetrators of the criminal acts are to be returned to the country requesting to be tried based on the national law of the country requesting the return. It was mentioned at the outset that under The Tokyo Convention of 1963, which had jurisdiction over the hijacker was the aircraft registering country. The exercise of jurisdiction can only be carried out if the hijacker is returned to the country where the aircraft was registered. Return the hijacker by extradition (Martono, 2017).

The exercise of jurisdiction by states in the international community sometimes has to surrender people who have committed crimes. The submission process is called extradition. Submission through extradition is done formally by one country to another country that is authorized to examine and try the person who has requested information in extradition (Budiarto, 1981). The purpose of extradition is to ensure that the perpetrators of serious crimes cannot avoid criminal prosecution and conduct and facilitate proof of the crime, because the evidence is easier to obtain in the country where the crime was committed, and that country is the most important and easiest to get the truth (Starke, 1972). Legal agreement could not be nullified unilaterally. The agreement binds its parties, and cannot be nullified or canceled unilaterally (Sarfia Nengsih, Eliza Maureen Kristianto and Riski Pebru Ariyanti, 2019). However, on the other hand, the emergence of FinTech products shows that the current financial system is obsolete and cannot keep up with the times that require a system that is faster and easier (Pranoto, Munawar Kholil, Kukuh Tejomurti, 2019).

As an effort to prevent and deal with aircraft hijacking, extradition is a matter that greatly determines criminal conduct in aviation crime. It should be realized because extradition concerns the right and obligation of a country to hand over someone in its territory to the state to be tried and extradition can only be carried out for crimes that have been promised bilaterally or multilaterally (Poulanzas, 1971). FinTech Lending, however, is a real agreement through which the debtors have a registration by completing their personal data including ID, bank account, the slip of the last salary or the statement of salary, Family Statement, and Tax Identification Number (Trisadini Prasastinah Usanti, Anindya Prastiwi Setiawati, Ninis Nugraheni, 2019).

The Tokyo Convention does not set limits on the state's obligation to extradite aircraft hijackers, this is stated in the sound of Article 16 paragraph 2 which states "... nothing in this Convention shall be deemed to create any obligation to grant extradition". This convention has granted Free to the country where passengers are dropped off to the country of origin of the hijackers. This rule also regulates that the country can return the hijacker to the country where he started the activity if the hijacker is not a citizen or does not have a permanent residence in his country.

The provisions of the Hague Convention and the Montreal Convention on extradition are considered to be essential for the destruction of criminal acts committed by aircraft or flight installations. This is found in Article 8 of the two conventions which reads;

The crime shall be considered to be used as an extraditable offense under any extradition arrangement between the Contracting States. Contracting States undertake to include the offense as an extraditable offense in any extradition treaty to be concluded between them.

This means that each Member State is obligated to treat the hijacking of aircraft as an act from which the offenders can be extradited. However, in some cases, hijacking has been denied extradition requests for political reasons. Provisions regarding aircraft hijacking must be made to each member country as crimes that can carry out extradition, although most still depend on interpretations in the international community that is not included in bilateral or multilateral extradition agreements (Martono, 1981).

The state may consider an act of hijacking as a means of escape to the hijackers as a case of political power so that the hijackers can be given political asylum to the hijackers to return to their home country. So that the hijacker can escape the punishment that threatens him. Sentence of "the offense shall be deemed to be included as an extradite offense..." Considering that the convention will obtain maximum results to eradicate aircraft hijacking by recognizing the principle of extradition that is the principle of extradition without exception (mandatory extradition) to all persons accused of aircraft hijacking (Linsitzyn, 1971).

Mandatory extradition is used in cases of commercial aviation management, labor, insurance companies, aviation officials in charge of conducting promotions or making flight regulations and from governments that have different political views such as in the United States and the Soviet Union. Some agree some reject this principle. This opposition is based on human rights, certain political reasons, and good relations between countries.

The agreement with the principle of mandatory extradition explains for the protection of the continuity of international air transportation, and in terms of costs, material losses, disruptions arising from flight schedules, the amount arising from aircraft hijacking is greater than the rights of individuals used as tools to escape from a tyrannical political regime. Therefore aircraft hijacking must be prevented and dealt with for the sake of the continuation of international civil aviation operations as a means of fast and effective international relations. While those who reject this principle explain that the opposition is given that its relationship with human rights that have long been initiated by humans, then these rights will affect the implementation of extradition from criminals. Therefore, the implementation of extradition cannot be carried out directly but must meet existing requirements or principles, especially concerning human rights.

According to Article 8, paragraph 2 of the Hague Convention or the Montreal convention explains if a member state wants an extradition treaty with another country that does not have an extradition treaty with it, then this convention can be used as a legal basis for regulating extradition interests between the two countries in connection with hijacking aircraft. This regulation regarding extradition is a requirement for the

elements to enter into an extradition treaty, but in Article 8 paragraph 3 it stipulates that countries which do not specify extradition requirements for aircraft hijacking or flight crime in the extradition treaty then these countries must recognize acts of aircraft hijacking as criminal acts in which the perpetrators can be extradited and punished by national law from the country receiving extradition. So with the existence of this article, the principle of mandatory extradition does not apply if national law determines the opposite. Furthermore, Article 8, paragraph 4 explains that every hijacker should be extradited not only in the country where the crime was committed but also to the country authorized to exercise jurisdiction at the place where the aircraft was registered, to the country on which the aircraft and the hijacker, the country where the aircraft is chartered or permanent residence. So one of these countries can request extradition from where the hijacker was found. So it can be said that with this regulation there is a possibility that one country will receive extradition from various countries.

Article 8 The Den Haag Convention of 1970 governs the extradition of aircraft hijackers. The Article said that if a country that did not extradite the hijacking, the country where the hijackers were located must hand over the hijackers to the authorities who are authorized to punish and prosecute. The Den Haag Convention of 1970 also requires member states of The Den Haag Convention of 1970 to extradite perpetrators of acts against the law or those accused, if the country concerned does not try them.

Extradition will not take place if no extradition treaty has the principle of reciprocity both bilaterally and multilaterally. Even in this reciprocal agreement must also be explicitly regulated and stated the types of criminal actions that can be carried out extradition to him. In bilateral agreements between countries, extradition agreements must be clearly stated, what crimes are included in the extradition treaty. In this case, crimes that may be extradited must include crime in hijacking on an airplane. However, sovereign states have the right to refuse extradition and have the right to give asylum to hijackers by the national laws of their respective countries.

Just like The Tokyo Convention of 1963, the hijacking was carried out by everyone (cockpit flight crew), in this case, Second in Command (Co-pilot). It has been stated at the outset that based on the provisions of Article 11 paragraph (1) of The Tokyo Convention of 1963, what is meant by air hijacking. According to the article also, what is meant by acts of air hijacking is not only aircraft mastery against the law, but includes an act that disrupts an aircraft as well as acts of control and control against the law, if the pilot in command changes or transfers the direction of flight outside the original flight destination without the consent of the airline, this also includes air hijacking according to The Tokyo Convention of 1963. This also includes when an airplane crew takes over an unauthorized flight or without an order from the flight captain, also includes aircraft hijacking air. The Tokyo Convention of 1963 and The Den Haag Convention of 1970 did not explicitly state whether an event included in Article 11 of The Tokyo Convention of 1963 could include air hijacking or not because the two conventions do not define aircraft hijacking.

The Den Haag Convention of 1970 perfected The Tokyo Convention of 1963 that for every aircraft hijacking, the perpetrators must be extradited based on diplomatic relations between countries (politics). Even though it requires extradition, the implementation depends on the diplomatic (political) relations of the country concerned. Therefore, the 1970 Hague Convention states that each state is obliged to punish with severe penalties for perpetrators who commit unlawful acts or accused in their territory.

Analyzing the definition of air hijacking in general contained in the International Civil Aviation Convention, the authors argue that the case of hijacking an Ethiopian Airlines Boeing 767-300 aircraft has fulfilled all the elements classified in the act as an act of hijacking aircraft both from the Tokyo Convention 1963 as well as The Den Haag Convention of 1970. Thus, the hijacking applies to The Tokyo Convention of 1963 and The Den Haag Convention of 1970, as well as the perpetrators of aircraft hijacking must be punished according to applicable regulations.

The study of international law in terms of jurisdiction is the legal competence of a country that has sovereignty (sovereignty) because the establishment of jurisdiction has to do with administrative, legislative and judicative. Resign from the state, try, and carry out or impose penalties for acts determined by the jurisdiction. Likewise with the explanation of article 4 paragraph 1 of the 1970 Hague convention, and article 5 paragraph 1 and 2 of the 1971 Montreal convention. When a country regulates (to establish) the jurisdiction adopted then that country needs help to discuss what is needed, to try and punish hijacking Aircraft. It is some obligations of the state which from hijacking aircraft cases of liberation (Brownlie, 1966):

1. Authority of the country in which the aircraft is registered

This authority is contained in article 4 paragraph 1 of the 1970 Hague convention and article 5 paragraph 1 b of the Montreal Convention. The basis used in the two rules is based on the principle of territorial jurisdiction which gives authority to all countries to exercise their jurisdiction over people and objects as well as acts that occur within their territory, as well as those that occur above the maritime environment, ships and ports-port. This territorial principle is universally recognized, where this principle raises an important right for the state to exercise sovereignty over its territory, namely the legal authority possessed by a country.

The authority of this territorial principle is divided into two, namely the use of subjective territorial jurisdiction which explains the jurisdiction of a country which try and punish crimes that are committed within the territory of a country but are resolved in other countries or as a result of such acts outside the territory of their country. Whereas the use of territorial jurisdiction objectively explains the jurisdiction of a country to try and punish crimes committed outside the territory of its country but have adverse consequences for public order in the territory of the country.

2. The authority of the country landed by the hijacked aircraft and the hijackers in it

This authority is regulated in Article 4 paragraph 1 b of the 1970 Hague convention or Article 5 paragraph 1 c of the Montreal Convention which states that the countries landed by hijackers are still in it, which is authorized to exercise its jurisdiction regardless of whether the hijacking has occurred within its territory or no. This is based on the principle of territorial jurisdiction that has the authority to exercise its jurisdiction independently and thoroughly (complete and exclusive).

3. Authority of the country where the company renting the aircraft have main place of business or permanent residence

This is regulated in Article 4 paragraph 1 c of the Hague Convention and Article 5 paragraph 1 d of the Montreal convention which explains the country where the company renting an aircraft has the main place of business or permanent residence authorized to exercise its jurisdiction over hijacking occurring on chartered aircraft by companies in the country. This means that if there is an aircraft leased unmanned (dry leased) by the country where the aircraft is registered with a charterer who is in another country, then the country where the aircraft is registered does not have the authority to run its jurisdiction because that country has no direct interest in hijacking.

The reason for the issuance of this jurisdiction is because the aircraft has been leased on a dry leased basis so the flight crew who witnessed the trial must testify in the country where the aircraft charter company is located. It does not in house where the aircraft was registered. The intention is that an act of legal vacuum occurs if there is a case of the jurisdiction of the aircraft being operated with a lease agreement.

4. Authority of the country where the hijacker is found

This authority is regulated in Article 4, paragraph 2 of the 1970 Hague Convention and Article 5, paragraph 2, of the Montreal Convention which explains to give authority to member states to exercise their jurisdiction if a hijacking is found within their territory. The exercise of this jurisdiction has two conditions, namely: 1). The hijacker must be inside the territory of his country; and 2). The country refused to extradite hijacking to other countries.

The principle of establishing jurisdiction is new in international provisions because even though the stipulation of extra-territorial jurisdiction is applied, namely the granting of jurisdiction for acts carried out and the acts were not carried out by its citizens. For hijacking with criminal motives, this convention does not rule out the possibility of applying criminal jurisdiction over hijacking. This can be seen in article 4 paragraph 3 of the Hague Convention and article 5 paragraph 3 of the Montreal Convention. The meaning of this criminal motive is left to national laws of member states. The criminal motive in question is kidnapping, rioting in the plane, robbery, or hijacking against the aircraft of one's nationality.

2. Implementation of the Resolution of the Ethiopian Airlines Boeing 767-300 Aircraft Hijacking Case

On 17 February 2014, air hijacking was carried out on an Ethiopian Airlines Flight 702 Boeing 767-300 on a plane from Addis Ababa to Rome. When this aircraft flew over northern Sudan, the sound of the transponder changed and turned into aircraft hijacking. The aircraft was taken over by SiC (Second in Command) or commonly called the Co-pilot, which then landed the aircraft in Geneva, Switzerland (Abeyratne, 2014).

The incident began when the pilot was in the toilet. The co-pilot then closes himself in the cockpit of the aircraft. Before landing in Geneva, the aviator captain communicated with ATC (air traffic control) to ask about the possibility of hijackers receiving asylum in Switzerland. After landing and parking at the end of the Geneva runway, a few minutes later the Co-pilot surrendered after lowering himself to the ground with a rope through the cockpit window of the aircraft and then approached the police forces by "announcing that he was a hijacking himself," Grandjean said. Luckily, 143 passengers and crew survived without any loss.

The hijacking was carried out by a co-pilot named Hailemedhin Abera Tagegn, a 32-year-old Ethiopian national. In his statement to the Police, the Co-pilot said that he wanted to seek asylum in Switzerland because he felt threatened to live in Ethiopia. One passenger named Francesco Cuomo told the Italian news agency named ANSA that he and other passengers woke up after midnight when the plane began to bounce. "The flight captain threatened (the hijackers) to open the cockpit door and tried to knock it down and was unsuccessful," said Cuomo who is a 25-year-old economist from Italy. The oxygen mask then drops, making everyone on the plane very tense. The pilots then threatened to take in passenger oxygen if they tried to leave their seats. The incident ended with police escorting the passengers who got off the plane one by one, their hands above their heads, and took them to the vehicles that were waiting. Meanwhile, the aircraft remained at Geneva airport for a while. Ethiopia is a country that ratified all International Civil Aviation agreements including Chicago 1944, Tokyo Convention 1963, and the Hague Convention 1970. Therefore, an analysis implementation of International Civil Aviation is based on case studies (Alemayehu & Brocke, 2010).

Based on the above case, there is a problem that the author will further analyze regarding the completion of the aircraft hijacking law and relate it to the regulations that apply to the International Civil Aviation Convention. In a flight today, an airplane is piloted by two crew members called the cockpit crew consisting of a pilot in command and second in command. If we highlight the case of hijacking an Ethiopian Airlines Boeing 767-300 airplane on February 17, 2014, it is necessary to explain in advance what is meant by general hijacking and air hijacking according to applicable international conventions.

Analyzing the Ethiopian Airlines case, it is necessary to elaborate that the countries agreed must comply with the international civil aviation convention. The following is a number that can be concluded by the author:

- 1) Extradition must be carried out by the aircraft registering country;
- 2) Every aircraft hijacking, the culprit must be extradited based on diplomatic relations between countries (politics);
- 3) An extradition agreement can be carried out by a bilateral mutual agreement on aircraft hijacking; and
- 4) Crimes / deciding which cannot be extradited, that is not an act that:
 - a) Approved by public officials;
 - b) Crimes whose decisions have permanent legal force;
 - c) Crimes for which the death penalty is put forth; and
 - d) Crimes committed by citizens.

Therefore, the elements that the authors have stated before, the actions of the hijacking perpetrators absolutely can be applied extradition from the swiss state to Ethiopia. However, concerning the jurisdiction of the country that has the right to adjudicate, it is Ethiopia as the aircraft registrar country that has the right to prosecute the hijacking. In this case, the perpetrators were extradited from Switzerland to Ethiopia. As what was mentioned earlier that the offender was sentenced to prison according to Ethiopian law. The implementation of the legal settlement of this case is by what is regulated in the International Civil Aviation Convention (Manullang, Widodo & Angwarmasse, 2019).

After hijacking of Ethiopian Airlines aircraft, a year later the Ethiopian national law required that the sentence for airplane hijackers be a maximum of 21 years in prison. In its development, the case has received a ruling, namely a prison sentence of 19 years and 6 months in prison according to Ethiopian law. If related to theory, justice theory requires two elements, namely: 1). Fair procedures which are the appearance of procedural fairness; and 2). Just outcome, which is the appearance of substantive justice.

The decision of the hijacking has followed the rules in force in international law (fair procedure). Like, the Swiss state detains the offender and returns the offender to the registrant country and also the offender is tried based on the jurisdiction of the registrant country (Ethiopia) (Joyner, 1974). However, the authors argue that the results of the sentence have not provided a sense of justice to the perpetrators (just outcome). Based on human rights records, Ethiopia is a country that has a bad record. The author believes that the offender's punishment should be reduced. Because based on his confession, he felt threatened to live in his own country. This proves that the country of Ethiopia has not been able to provide a sense of security and comfort to carry on life in Ethiopia. the separation between procedural justice and substantive justice, the law will be fair if both types of justice can be achieved. Because not always a fair procedure will produce a substance (output) that is fair.

Conclusion

The act of hijacking aircraft in international conventions of the Tokyo Convention of 1963 concerning violations and certain other acts carried out on aircraft (violating certain acts and actions carried out on aircraft), The convention that took place in 1970 on the suppression of aircraft deprivation against the constitution, the Montreal Convention of 1971 on the suppression of unlawful actions against the health of civil aviation (eradication of unlawful acts that encourage flight protection). Completion of the aircraft hijacking law and link with the regulations applicable to the International Civil Aviation Convention. In a flight today, an airplane is piloted by two crew members called the cockpit crew consisting of a pilot in command and a pilot in command and a second in command. If we highlight the case of hijacking an Ethiopian Airlines Boeing 767-300 airplane on February 17, 2014, it is necessary to explain in advance what is meant by general hijacking and air hijacking according to applicable international conventions. The decision of the pirate has followed the rules in force in international law (fair procedure). Like, the Swiss state which detains the offender and returns the offender to the registrant country and also the offender is tried based on the jurisdiction of the registrant country (Ethiopia). However, the results of the sentence have not provided a sense of justice to the perpetrators (just outcome).

References

Books:

- Brownlie, I. (1966). *Principles Of Public International Law*, Oxford: Clarendon Press.
- Budiarto, M. (1981). *Eksradisi Dalam Hukum Nasional*. Jakarta: Ghalia Indonesia.
- Joyner, N. D. (1974). *Aerial hijacking as an international crime*. Brill Archive.
- Martono, K. (2017). *Kamus Hukum Dan Regulasi Penerbangan*. Jakarta: PT. Rajawali Pers.
- Martono, K., Pramono, A., & Tjahjono, E. B. (2011). *Pembentukan Angkutan Dan Keselamatan Penumpang*. Depok: Gramata Publishing.
- Starke, J. G. (1972). *An Introduction To Internasional Law Seventh Edition*. London: Butterworths.

Skripsi:

- Prasetyo, H. (1983). *Beberapa Aspek Hukum Internasional Dalam Masalah Pembajakan Pembajakan Pesawat Udara*, (Skripsi, Universitas Airlangga).

Journal articles:

- Abeyratne, R. (2014). "Ethiopian airlines hijacking-the international perspective." *Journal of Transportation Security*, 7(2), pp. 191-198.

- Agrawala, S. K. (1973). "Aircraft Hijacking and International Law." *Journal of Air Law and Commerce*, 39(4), pp. 659.
- Alemayehu, W., & Vom Brocke, J. (2010). "Sustainability performance measurement—the case of Ethiopian airlines." In *International Conference on Business Process Management* pp. 467-478.
- Anakotta, M. Y., Disemadi, H. S., & Roisah, K. (2020). "From Youth for 74 Years of Independence of the Republic of Indonesia (Masohi Militancy: Youth Efforts to Eradicate Radicalism And Terrorism)." *Jurnal Hukum Prasada*, 7(1), pp. 53-60.
- Disemadi, H. S., & Prananingtyas, P. (2020). "Kebijakan Corporate Social Responsibility (CSR) sebagai Strategi Hukum dalam Pemberdayaan Masyarakat di Indonesia." *Jurnal Wawasan Yuridika*, 4(1), pp. 1-16.
- Johny, R. H. (2008). "Pengaruh Perjanjian Internasional terhadap Perubahan-Perubahan Kuhp Berkaitan dengan Tindak Pidana Aerial Hijacking." *Jurnal Dinamika Hukum*, 8(1), pp. 64-68.
- Lissitzyn, O. J. (1971). "International Control of Aerial Hijacking: The Role of Values and Interests." *American Journal of International Law*, 65(4), pp. 80-86.
- Maheswara Perbawa Sukawa (2020). "European Union Policy on Artificial Intelligence Related to Cyber Crime". *Hang Tuah Law Journal*, 4 (1), pp. 40-53. DOI: <http://dx.doi.org/10.30649/htlj.v4i1.169>
- Mankiewicz, R. H. (1971). "The 1970 Hague Convention." *J. Air L. & Com.*, 37, pp. 195.
- Manullang, Y. N., Widodo, H., & Angwarmasse, P. Y. (2019). "Aspek Hukum Internasional Terhadap Yurisdiksi Dalam Mengadili Pelaku Pembajakan Pesawat Udara." *Krisna Law*, 1(3), pp. 109-128.
- Martono, M. (1981). "Pembajakan Udara Dan Extradisi Pembajak." *Jurnal Hukum & Pembangunan*, 11(3), pp. 251-260.
- Nureda, K. R., Pramono, A., & Supriyadhie, H. K. (2016). "Tinjauan Hukum Mengenai Pembajakan Pesawat Udara dalam Implementasinya Berdasarkan Konvensi Penerbangan Sipil Internasional (Studi Kasus pada Pembajakan Pesawat Udara Ethiopian Airlines Boeing 767-300 pada Februari 2014)." *Diponegoro Law Journal*, 5(2), pp. 1-20.
- Poulantzas, N. M. (1971). "The Hague Convention for the Suppression of Unlawful Seizure of Aircraft (December 16, 1970)." *Netherlands International Law Review*, 18(1), pp. 25-75.
- Pranoto, Munawar Kholil, Kukuh Tejomurti (2019). "Fintech Lending: Challenge and Opportunities of the Indonesia's Loan Unbanked to Develop the Inclusive Financial Industry". *Hang Tuah Law Journal*, 3 (2), pp. 105-119. DOI: <http://dx.doi.org/10.30649/htlj.v3i2.134>

- TrisadiniPrasastinah Usanti, Anindya Prastiwi Setiawati, Ninis Nugraheni (2019). "The Legal Principle of Collateralin Fintech Lending". *Hang Tuah Law Journal*, 3 (2), pp. 158-169. DOI: <http://dx.doi.org/10.30649/htlj.v3i2.137>
- Sarfia Nengsih, Eliza Maureen Kristianto and Riski Pebru Ariyanti (2019). "The Analysis on Combination Indemnity Claims Upon the Cancellation Act of Unilateral Agreement". *Hang Tuah Law Journal*, 3 (1), pp. 13-22. DOI: <http://dx.doi.org/10.30649/htlj.v3i1.89>
- Smith, C. L. (1971). "The probable necessity of an international prison in solving aircraft hijacking." *The International Lawyer*, pp. 269-278.
- Tombeg, R. C. (2019). "Tindak Pidana Di Dalam Pesawat Udara Selama Penerbangan Menurut Undang-Undang Nomor 1 Tahun 2009 Tentang Penerbangan." *Lex Crimen*, 8(2), pp.15-25.