

Need of A Global Aviation Standard Compliance? Air Passenger Rights in Indonesia and Madagascar

Adya Paramita Prabandari*

*Faculty of Law, Universitas Diponegoro, Semarang, Indonesia,
adya_pp@live.undip.ac.id, ORCID ID 0000-0003-0016-0453*

Ramalina Ranaivo Mikea Manitra

*ASTA Research Center, Antananarivo, Madagascar,
manitraramalina@asta.co.mg, ORCID ID 0009-0008-6852-8780*

Abstract. Air passenger right is a crucial aspect of modern aviation law, ensuring the protection of passengers and promoting accountability among air carriers. This research examines the legal framework governing air passenger rights in Indonesia and Madagascar, comparing them to international standards such as the Montreal Convention of 1999 and Core Principles on Consumer Protections of ICAO and IATA. The research method is comparative law method, complemented with normative and conceptual approaches, using secondary data analysed qualitatively to obtain a deductive analysis. While both countries have regulations protecting passenger interests and outlining carrier obligations, Indonesia demonstrates stronger compliance, particularly in compensation provisions and enforcement mechanisms, whereas Madagascar lacks fixed compensation rules and explicit protections for passengers with disabilities. Through a detailed analysis of relevant laws and regulations, this research highlights where national laws fall short of global norms, emphasising the need for greater alignment with international standards to ensure consistency and accountability in air travel. Recommendations include revising Madagascar's legal framework to introduce fixed compensation rules, establish clear complaint-handling procedures, and incorporate explicit protections for passengers with disabilities. For both countries, strengthening enforcement mechanisms and adopting mandatory insurance requirements would improve passenger protection, legal certainty, and alignment with international standards.

Keywords: Air Passenger Rights, Indonesia, International Air Law, Madagascar

Abstrak. Hak penumpang pesawat merupakan aspek penting dari hukum penerbangan kontemporer, yang menjamin perlindungan penumpang dan mendorong akuntabilitas maskapai penerbangan. Penelitian ini mengkaji kerangka hukum nasional yang mengatur hak penumpang pesawat yang berlaku di Indonesia dan Madagascar, dan membandingkannya dengan standar internasional seperti Konvensi Montreal tahun 1999 dan Prinsip Utama tentang Perlindungan Konsumen ICAO dan IATA. Metode penelitian yang digunakan adalah metode hukum komparatif, dilengkapi dengan pendekatan normatif dan konseptual, menggunakan data sekunder yang dianalisis secara kualitatif untuk memperoleh analisis deduktif. Meskipun kedua negara memiliki peraturan yang melindungi kepentingan penumpang dan menguraikan kewajiban maskapai, Indonesia di satu sisi, menunjukkan kepatuhan yang lebih kuat, khususnya dalam ketentuan kompensasi dan mekanisme penegakan hukum; sedangkan Madagascar di sisi lain tidak memiliki aturan kompensasi tetap dan perlindungan eksplisit bagi penumpang penyandang disabilitas. Melalui analisis terperinci terhadap undang-undang dan peraturan yang relevan, penelitian ini menyoroti di mana undang-undang nasional tidak memenuhi norma global, yang menekankan perlunya penyesuaian yang lebih baik dengan standar internasional untuk memastikan konsistensi dan akuntabilitas dalam perjalanan udara. Rekomendasi yang diberikan meliputi revisi kerangka hukum Madagascar untuk memperkenalkan aturan kompensasi tetap, menetapkan prosedur penanganan pengaduan yang jelas, dan memasukkan perlindungan eksplisit bagi penumpang penyandang disabilitas. Bagi kedua negara, penguatan mekanisme penegakan hukum dan penerapan persyaratan asuransi wajib akan meningkatkan perlindungan penumpang, kepastian hukum, dan keselarasan dengan standar internasional.

Kata Kunci: Hak Penumpang Udara, Indonesia, Hukum Udara Internasional, Madagascar

Submitted: 20 September 2024 | Reviewed: 1 November 2024 | Revised: 20 December 2024 | Accepted: 24 January 2025

INTRODUCTION

International Air Law (IAL) has a profound historical foundation, with its genesis tracing back to the early 20th century. The 1910 Paris International Air Navigation Conference marked the first global initiative to establish air navigation standards,¹ setting the stage for subsequent developments. This milestone was succeeded by the 1919 Paris Convention, recognised as the inaugural international multilateral instrument on air navigation, which played a pivotal role in shaping contracting states' domestic laws.² During the interwar period, civil aviation flourished, driven by technological advancements and the increasing commercialisation of air transport. This growth expanded the scope of aviation's civilian and military applications, thereby advancing its technical and operational capacities.³ The Chicago Convention of 1944 emerged as a cornerstone in international law, superseding prior agreements⁴ and establishing the International Civil Aviation Organization (ICAO), a United Nations entity dedicated to IAL.⁵ The Convention, still in effect today, sets out general rules and mediates global civil aviation concerns, underscoring its enduring relevance.

IAL is categorised into public and private domains, each addressing distinct facets of air law. Public IAL deals with air sovereignty, airspace management, and state rights and responsibilities concerning air travel regulation, epitomised by the Chicago Convention of 1944. In contrast, private IAL governs the legal dynamics between air carriers and passengers, encompassing liability, contractual obligations, and consumer protection.⁶ Central legal instruments, such as the Warsaw Convention of 1929, the Hague Protocol of 1955, and the Montreal Convention on 1999 (MC99), form the backbone of private IAL, offering a framework for addressing disputes and

¹ John Cobb Cooper, 'The International Air Navigation Conference, Paris 1910', *Journal of Air Law and Commerce* 19, no. 2 (1952): 123.

² Sand (Germany) Peter H, Jorge de Sousa Freitas (Brazil), and Pratt (U.K) Geoffrey N, 'An Historical Survey of International Air Law before the Second World War', *McGill Law Journal* 7, no. 1 (1952): 33.

³ Benjamin J Johnson, 'From Burma to Berlin: The Development of U . S . Air Transport 1938-1949' (University of Nebraska-Lincoln, 2014), 26.

⁴ Peter H, Jorge de Sousa Freitas (Brazil), and Geoffrey N, 'An Historical Survey of International Air Law before the Second World War', 25.

⁵ Brian F. Havel and Gabriel S. Sanchez, *The Principles and Practice of International Aviation Law* (New York: Cambridge University Press, 2014), 185.

⁶ Havel and Sanchez, 11–13.

ensuring legal consistency in international air travel. These instruments, through amendments and supplements, have evolved to tackle emerging challenges within the aviation industry, reflecting the dynamic nature of air travel.⁷ Private IAL principles aim to balance the interests of both air carriers and passengers,⁸ safeguarding operational safety, service quality, and passenger rights through comprehensive international and domestic regulations.

The interplay between air carrier responsibilities and air passenger rights epitomises the reciprocal framework within private IAL. Air carriers are charged with ensuring flight safety, operational efficiency, and service quality while adhering to rigorous international agreements and domestic safety regulations.⁹ Simultaneously, passengers are entitled to compensation for disruptions, accurate travel information, and adequate assistance, as stipulated under legal frameworks such as the MC99.¹⁰ This reciprocal relationship is rooted in contractual agreements, as defined by Purwosutjipto, where carriers commit to fulfilling transportation obligations in exchange for passenger payment.¹¹ The fulfilment of carrier responsibilities correlates with the realisation of passenger rights, creating a balanced system that promotes safety, accountability, and efficiency in air transportation. This dynamic, as illustrated in **Figure 1**, underscores the interconnected responsibilities and entitlements inherent to aviation law, fostering a fair and equitable system within the global aviation industry.

⁷ Havel and Sanchez, 13.

⁸ Havel and Sanchez, 14 'Although domestic courts are ultimately charged with adjudicating international air carrier liability claims, they do so under the provisions of international instruments'.

⁹ Retno Sariwati, 'Responsibilities of Air Carriers on International Flights', *Jurnal Cakrawala Hukum* 13, no. 2 (1 August 2022): 199–200.

¹⁰ Noura Rouissi and Vincent Correia, 'Global, Regional and National Air Passenger', *Air and Space Law* 40, no. 2 (2015): 123–46; Jennie Small, ed., *The Passenger Experience of Air Travel: A Critical Approach, The Passenger Experience of Air Travel* (Bristol: Channel View Publications, 2022), 140; Havel and Sanchez, *The Principles and Practice of International Aviation Law*, 205.

¹¹ HMN Purwosutjipto, *Pengertian Pokok Hukum Dagang Indonesia Dan Hukum Pengangkutan*, 7th ed. (Jakarta: Djambatan, 2008), 20; Steven Truxal, 'Air Carrier Liability and Air Passenger Rights: A Game of Tug of War?', *Journal of International and Comparative Law* 4, no. 1 (2017): 103–22.

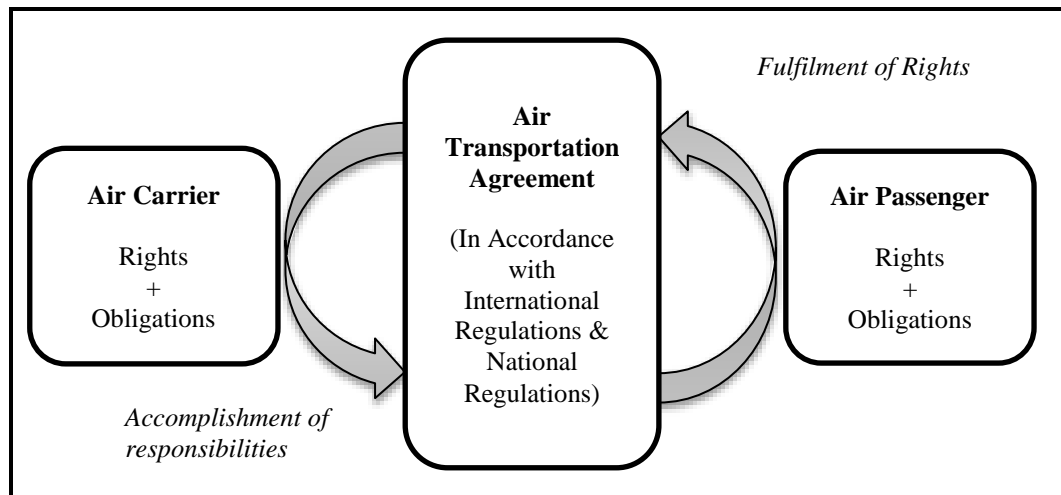


Figure 1. Air Transportation Agreement Mechanism

Source: Author`s analysis

Various international treaties within the realm of private IAL have been signed and ratified by numerous countries worldwide, setting global standards for regulating air travel. MC99, ratified by over 130 countries, including Indonesia and Madagascar, binds them to comply with international aviation standards. In line with this commitment, Indonesia has enacted Law No. 1 of 2009 on Aviation, while Madagascar has established Law No. 2012-011 on Code of Civil Aviation, both complemented by consumer protection laws aimed at safeguarding passenger rights. As developing countries and major tourist destinations in the Indian Ocean region, both nations rely heavily on air transport for economic growth and connectivity.¹² However, despite having legal frameworks in place, violations of air passenger rights remain widespread, particularly in compensation policies, complaint resolution, and enforcement (see Table 1). These violations result in financial loss, inconvenience, and emotional distress, as passengers face uncompensated baggage loss, flight delays, ticketing issues, and discriminatory treatment. The lack of adequate redress mechanisms weakens consumer trust in airlines, discouraging air travel and limiting access to safe, reliable, and fair transportation. Beyond these general similarities, the comparison between Indonesia and Madagascar offers a deeper legal relevance due to their shared commitment to MC99 and their parallel efforts to incorporate

¹² See Bruno Garcia Franciscone, Xiaolong Zou, and Elton Fernandes, 'The Global South Air Transport Belt: A Catalyst for Sustainable Tourism and Economic Growth', *Transport Policy* 159, no. September (2024): 14–27, <https://doi.org/10.1016/j.tranpol.2024.09.018>.

international standards into Civil Law systems shaped by different colonial legacies – Dutch-influenced in Indonesia¹³ and French-influenced in Madagascar.¹⁴ This allows for a unique comparative lens on how international aviation obligations are localised within structurally similar, yet historically and institutionally diverse jurisdictions. Furthermore, unlike many Indian Ocean nations, Indonesia and Madagascar operate under markedly different regional legal frameworks – Indonesia being part of ASEAN and Madagascar under the African Union – thus elevating the comparative study beyond geographic coincidence, towards a purposeful inquiry into how international aviation norms are domesticated across different Global South countries.¹⁵

Table 1. Violation of Air Passenger Rights in Indonesia and Madagascar

Indonesia			Madagascar		
Type of Violation	Cases in Indonesia ¹⁶	Provisions Breached in MC99	Type of Violation	Cases in Madagascar	Provisions Breached in MC99
Loss of Baggage	<i>Lion Air</i> in 2011: a passenger claimed compensation for baggage loss to the company which was responded reluctantly and	Article 17 (1)	Abusive Control and Checking	<i>Air Austral</i> in 2013: an abusive control and checking at the airport has occurred, which led to discomfort for the passengers ¹⁷	Article 17 (1)

¹³ Daniel S Lev, 'Colonial Law and the Genesis of the Indonesian State', in *Law and Society in East Asia*, ed. Christoph Antons, 1st ed. (London: Routledge, 2017), 3–20.

¹⁴ Jacqueline Ravelomanana, 'Droit Français, Droit Malgache: Le Droit Positif Malgache et Ses Problèmes d'application', *Revue Juridique de l'Océan Indien*, no. NS-2005 (2005): 53–64, <https://hal.univ-reunion.fr/hal-02549630/document>.

¹⁵ The authors understand that Global South is a large region however Indonesia and Madagascar will serve as valuable comparative subjects from ASEAN and African Union. For further understanding on civil aviation in the Global South, see the Marie Huber and Waqar H. Zaidi, 'Introduction: Civil Aviation in the Global South', *Journal of Transport History*, 2024, <https://doi.org/10.1177/00225266241293736>. For further understanding on the concept of Global South, see Sylvia Chant and Cathy McIlwaine, *Geographies of Development in the 21st Century: An Introduction to Global South* (Cheltenham and Northampton: Edward Elgar Publishing Limited, 2009).

¹⁶ Ria, 'Lima Kasus Maskapai Penerbangan Yang Dibawa Ke Pengadilan,' Hukum Online, 2015, accessed on March 21, 2024 from <https://www.hukumonline.com/berita/a/lima-kasus-maskapai-penerbangan-yang-dibawa-ke-pengadilan-lt54d046d9261ac/>.

¹⁷ LG, 'Des Fouilles Etonnantes Poussées Pour Un Vol Réunion-Madagascar,' Zinfos974, 2013, accessed on March 21, 2024 from <https://www.zinfos974.com/des-fouilles-etonnantes-poussees-pour-un-vol-reunion-madagascar/>.

	inadequately by the latter				
Flight Delay	<i>Wings Air</i> in 2007: a passenger has undergone 90 minutes delay and was denied compensation at first claim	Article 19	Flight Delays	<i>Tsaradia Airlines</i> in 2023: a transit flight delay causing a lot of passengers to miss their main destination flight, making them rebook ¹⁸	Article 19
Discriminatory Treatment	<i>Lion Air</i> in 2014: a passenger with disability has experienced discrimination due to lack of handicap-friendly facility	Article 19	Flight Cancellations	<i>Air Madagascar</i> in 2020: bilateral France-Madagascar conflict causing the cancelation of Antananarivo-Paris flight; passengers had to pay the loss by themselves ¹⁹	Article 19
Flight Ticket Inadequacy	<i>Lion Air</i> in 2013: the passenger had to go on a different plane that what was convened in the ticket causing arrival delay; the passenger has lost a very	Article 19	Compensation Delay	<i>Air Madagascar</i> in 2020-2021: cancelled flight compensation during Covid-19 for passenger presents an extremely slow and	Article 19

¹⁸ Nicole P, "Tsaradia Airline - Flight Delay," Tripadvisor, 2023, accessed on March 21, 2024 from https://www.tripadvisor.com/ShowTopic-g293808-i9291-k14558213-Tsaradia_Airline_flight_delay-Madagascar.html.

¹⁹ Mandimbisoa R., "Annulation Vol Air Madagascar : L' Ambassade de France Donne Sa Position," Tribune.com, 2020, accessed on March 21, 2024 from <https://www.madagascar-tribune.com/Annulation-vol-Air-Madagascar-1,26248>.

	important contract			untimely process ²⁰	
--	--------------------	--	--	--------------------------------	--

Source: Processed Data from Internet Websites

Previous studies have explored air passenger rights, focusing on different aspects of legal protection and regulatory challenges. Ridha Aditya Nugraha and Lalin Kovudhikulrungsri²¹ examined the legal protection of air passengers in Indonesia and Thailand, highlighting the inconsistencies in compensation policies and the lack of uniform consumer rights regulations within ASEAN, which create legal uncertainty for passengers. Similarly, Annalisa Yahanan et al.²² provided an in-depth analysis of Indonesia's domestic air passenger protection framework, identifying enforcement weaknesses and gaps in regulatory oversight that hinder passengers from effectively claiming their rights. In contrast, Ridha Aditya Nugraha²³ explored the legal implications of airline alliances and codeshare arrangements, discussing how liability issues and competition laws impact consumer protection in the aviation industry. To date, no research has conducted a comparative study between Indonesia and Madagascar, nor has any systematically examined the extent to which their air passenger rights frameworks align with international standards such as MC99. While the absence of prior comparative research is a notable knowledge gap, this study aims not merely to point out the lack, but to offer an analytical framework that probes how two Global South countries with distinct legal traditions and regional affiliations implement shared international commitments.

Therefore, the primary objective of this paper is to critically assess the extent to which the national legal frameworks of Indonesia and Madagascar on air passenger rights comply with international aviation law standards. Through a comparative legal analysis grounded in the evaluative principle, this study also aims to determine which

²⁰ Olivier Chicheportiche, "Comment Les Compagnies Aériennes Trainent Des Pieds Pour Rembourser Les Billet Anullés Pendant Le Covid," *bfmtv.com*, 2023, accessed on March 21, 2024 from https://www.bfmtv.com/economie/entreprises/transports/comment-les-compagnies-aeriennes-trainent-des-pieds-pour-rembourser-les-billets-annules-pendant-le-covid_AV-202304220117.html.

²¹ Ridha Aditya Nugraha and Lalin Kovudhikulrungsri, 'Aviation Legal Issues in Indonesia and Thailand: Towards Better Passengers' Rights in Asean', *Indonesia Law Review* 7, no. 1 (2017).

²² Annalisa Yahanan, Febrian Febrian, and Rohani Abdul Rahim, 'The Protection of Consumer Rights for Aviation Safety and Security in Indonesia and Malaysia', *Sriwijaya Law Review* 1, no. 1 (30 January 2017): 27–34.

²³ Ridha Aditya Nugraha, 'Legal Issues Surroundings Airline Alliances and Code-Share Arrangements: Insights for the Indonesian and Asean Airline Industry', *Indonesia Law Review* 8, no. 1 (2018): 37.

country demonstrates a more effective and coherent integration of these international norms into its domestic legal system, and to identify areas where legal reform may be necessary to strengthen air passenger protection in each jurisdiction. To address this, the discussion will first provide a comprehensive analysis of the legal frameworks governing air passenger rights in both countries, examining the relevant regulations, the specific rights they protect, and the extent to which different types of passenger rights are regulated. The second part will offer an evaluative assessment of these frameworks against global aviation standards, including the MC99, ICAO Core Principles on Consumer Protection (ICAO CPCP), and IATA Core Principles on Consumer Protection (IATA CPCP) and best practices from other jurisdictions.

Theoretical Framework

1. Comparative Law Theory

In comparative legal studies, the evaluative principle offers a critical approach that moves beyond descriptive comparison by assessing the strengths and weaknesses of legal systems in light of best practices and normative standards.²⁴ Rather than simply mapping legal similarities and differences, this principle seeks to identify areas for improvement and reform, making it particularly valuable for legal development. In the context of this study, the evaluative principle is applied to examine the air passenger rights frameworks of Indonesia and Madagascar, with the aim of identifying legal shortcomings and proposing reforms to better align each system with international standards and more effectively protect air passengers.

Building on this comparative framework, Ralf Michaels' theory of the tertiary rule of external recognition asserts that in the 21st century, the development of national legal systems cannot occur in isolation. Legal systems must increasingly take into account not only their domestic norms but also foreign legal models and international legal standards. This theory emphasises openness and adaptability in legal reform, recognising that international benchmarks can enhance domestic legitimacy and effectiveness.²⁵ Additionally, Humberto Ávila's theory of legal certainty underscores

²⁴ Muh. Afif Mahfud, *Buku Ajar Pengantar Ilmu Hukum* (Semarang: Yoga Pramata, 2024), 38–39.

²⁵ Mahfud, *Buku Ajar Pengantar Ilmu Hukum*, 81–82.

three conditions for achieving legal certainty, one of which is normative coherence – the alignment and consistency of domestic law with broader legal principles, including international norms.²⁶ In the context of this research, these theories support the idea that Indonesia and Madagascar should not only assess their compliance with international instruments like the MC99, ICAO CPCP, and IATA CPCP, but also use global best practices as a benchmark for legal development, ensuring both coherence and legitimacy in the protection of air passenger rights.

2. Harmonisation Theory of Law

The relationship between international and national law is often explained through three main theories: monism, dualism, and the mixed theory. Monism sees both legal systems as one, allowing international law to apply directly without further legislation.²⁷ Dualism, in contrast, separates the two, requiring domestic incorporation for international law to take effect.²⁸ The mixed theory recognises that incorporation can vary depending on legal traditions and includes approaches like transformation, delegation, and adoption.²⁹ Within this framework, harmonisation theory emerges as particularly vital, as it advocates for the harmonisation of domestic legal systems with international norms to achieve legal coherence. In the context of this study, harmonisation theory provides a theoretical foundation for guiding legal reform for both countries.

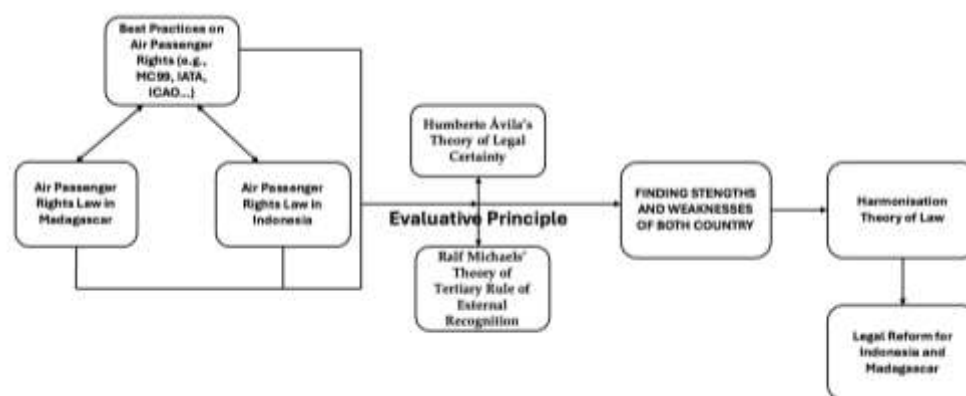


Figure 2. Theoretical Framework

Source: Author`s analysis

²⁶ Mahfud, 49–50.

²⁷ J. G. Starke, *Introduction to International Law*, 10th ed. (London: Butterworth-Heinemann, 1989), 78.

²⁸ Starke, 76.

²⁹ Wayan Parthiana, *Pengantar Hukum Internasional* (Bandung: Mandar Maju, 2003), 308–9.

METHODOLOGY

This research employs a comparative law method, which serves as the core approach for analysing and assessing the legal frameworks governing air passenger rights in Indonesia and Madagascar and comparing them to international best practices.³⁰ The normative approach is also used to examine the content and structure of relevant national and international legal framework, such as aviation laws, consumer protection laws, and the MC99, focusing on the legal norms that regulate passenger rights.³¹ Complementing these two, this research also uses the conceptual approach, which helps clarify fundamental legal principles such as state responsibility and consumer protection within the context of international aviation law.³² The research relies on secondary data, including primary legal materials (e.g., national laws and international treaties), secondary legal materials (e.g., books, journal articles and theses), and tertiary materials (e.g., legal encyclopaedias and dictionaries), gathered through library and online research.³³ The data is analysed through a normative qualitative analysis, which involve interpreting and assessing the legal provisions in both jurisdictions with international best practices in order to obtain a deductive answer to the research question.

RESULT AND DISCUSSION

Legal Framework of Air Passenger Rights in Indonesia and Madagascar

At the core of law lies the fundamental function of safeguarding individuals, particularly those susceptible to exploitation due to imbalanced legal relations.³⁴ Within this purview, air passengers, often overlooked (see Table 1), unequivocally fall under the broader definition of consumers and thus merit protection. In the realm of aviation, passengers engage in transactions with airlines, akin to traditional

³⁰ See Geoffrey Samuel, 'Comparative Law and Its Methodology', in *Research Methods in Law*, ed. Dawn Waktins and Mandy Burton, 2nd ed. (London and New York: Routledge, 2018), 139–40.

³¹ Bachtiar, *Metode Penelitian Hukum*, ed. Oksidelfa Yanto (Tangerang Selatan: UNPAM PRESS, 2019), 81.

³² Bachtiar, 82.

³³ Nur Solikin, *Pengantar Metodologi Penelitian Hukum*, ed. Tim Qiara Media (Pasuruan: CV. PENERBIT QUIARA MEDIA, 2021), 106.

³⁴ Sudiarto Sudiarto and Budi Sutrisno, 'Legal Protection Concerning Domestic Flights Passengers of Air Transport Services', *Unram Law Review* 4, no. 1 (31 March 2020): 76.

consumer-provider relationships, albeit with distinct intricacies. It's imperative to recognise that air travel, while offering convenience and connectivity, also presents unique challenges and vulnerabilities for passengers.

AZ. Nasution's conceptualisation of consumer protection resonates profoundly in this context. According to Nasution, consumer protection encompasses a comprehensive array of principles and regulations designed to shield consumers in their interactions and disputes with goods and service providers.³⁵ This definition transcends conventional notions of consumerism to encompass the aviation sector, underscoring the need for robust legal safeguards to ensure the rights and safety of air passengers. Therefore, comprehending the legal framework surrounding the protection of air passenger rights is paramount.

A. Under Indonesian Law

Indonesia has demonstrated a steadfast commitment to upholding IAL-related conventions, signifying its dedication to ensuring the rights and safety of air passengers. Beginning with the Chicago Convention of 1944, Indonesia has been an active participant in international aviation agreements.³⁶ The Warsaw Convention of 1929, ratified by Indonesia in 1955, established liability limits for airlines in the event of accidents, further safeguarding passenger interests. Particularly significant is the MC99, which Indonesia ratified in 2011, aiming to modernise and harmonise air passenger rights globally. These conventions, alongside domestic regulations such as Law No. 1 of 2009 concerning Aviation and Law No. 8 of 1999 concerning Consumer Protection, underscore Indonesia's commitment to ensuring comprehensive protection for air passengers, both domestically and internationally. As noted by Harris Hedar, despite the presence of foundational legal instruments, Indonesia's aviation consumer protection policies still require further alignment with international standards to ensure more effective and equitable enforcement.³⁷

³⁵ AZ Nasution, *Hukum Perlindungan Konsumen: Suatu Pengantar*, 1st ed. (Jakarta: DayaWidya, 1999), 3.

³⁶ Adya Paramita Prabandari, 'Indonesia`s Air Sovereignty Issues in The Global Era', *Diponegoro Law Review* 4, no. 2 (1 October 2019): 186.

³⁷ Harris Arthur Hedar, 'The Indonesian Government's Policies to Improve Air Travel Consumer Protection', *Asian Journal of Social and Humanities* 2, no. 3 (2023): 1802–11, <https://doi.org/10.59888/ajosh.v2i03.198>.

Further delineating these protections, Article 4 of Law No. 8 of 1999 outlines a comprehensive set of rights aimed at ensuring transparency, fairness, and accountability in consumer transactions, namely:

1. the right to comfort, security, and safety in consuming goods and/or services;
2. the right to choose goods and/or services and obtain said goods and/or services in accordance with the exchange rate, condition, and promised guarantee;
3. the right to correct, clear, and honest information about the condition and guarantee of goods and/or services;
4. the right to be heard on opinions and complaints about goods and/or services used;
5. the right to obtain advocacy, protection, and efforts to resolve consumer protection disputes appropriately;
6. the right to receive guidance and consumer education;
7. the right to be treated or served properly and honestly without discrimination;
8. the right to obtain compensation, compensation, and/or replacement if the goods and/or services received do not comply with the agreement or are not as intended;
9. other rights as regulated in other provisions of laws and regulations.

The aforementioned consumer rights indeed expand to the scope of air passenger rights. That being said, the Indonesian Aviation Law, namely Law No. 1 of 2009 even provides more specific rights to passengers in the context of air law by giving obligations to air carriers towards its passenger. Article 97 of Law No. 1 of 2009 delineates the obligations of scheduled commercial air transport service providers, requiring them to categorise their services into distinct standards: maximum, medium, and minimum. These standards, ranging from full services to no-frills options, ensure transparency and clarity for passengers regarding the services offered during their flights.³⁸

Furthermore, Article 134 of Law No. 1 of 2009 underscores the obligation of commercial air transport service providers to ensure accessibility and accommodation for individuals with disabilities, the elderly, children under 12 years old, and sick passengers. This provision mandates that such passengers receive special treatment

³⁸ Article 97 of Law No. 1 of 2009

and facilities without incurring extra charges. These accommodations include priority seating, boarding and disembarking assistance, onboard facilities tailored for persons with disabilities and children, provision of assistance devices for sick passengers, availability of personnel capable of communicating with these individuals, and the provision of safety and security flight instruction manuals in formats accessible to persons with disabilities, the elderly, and sick passengers. By guaranteeing these accommodations, the law aims to enhance inclusivity and ensure a dignified travel experience for all passengers, regardless of their physical condition or age.³⁹ Research conducted by Adya Paramita has found the existence of provisions addressing special treatment for people with disabilities in the Indonesian aviation law is a form of fulfilment of Indonesia's state obligation under international law.⁴⁰ This aligns with Yahanan et al. emphasis on aviation safety and accessibility as fundamental consumer rights, stressing that such legal obligations must be interpreted and applied to protect rather than exploit passengers, particularly vulnerable groups.⁴¹

Article 140 of Law No. 1 of 2009 outlines the obligations of commercial air transport service providers regarding the transportation of passengers, cargo, and mail. It mandates that such transportation services must be provided only after a transportation agreement has been reached between the service provider and the user. Additionally, the law requires commercial air transport service providers to deliver appropriate services to each user in line with the terms agreed upon in the transportation agreement. Furthermore, the transportation agreement, as stipulated in the law, must be substantiated by passenger tickets and cargo documents, ensuring clarity and accountability in the provision of air transport services. This provision aims to establish a transparent and formalised framework for the provision of air

³⁹ Article 134 of Law No. 1 of 2009

⁴⁰ Adya Prabandari, Rahayu Rahayu, and Elfia Farida, 'The Implementation of Indonesia's State Obligations in Relation to the Rights of Persons with Disabilities in Aviation', in *Proceedings of The International Conference on Environmental and Technology of Law, Business and Education on Post Covid 19, ICETLAWBE 2020, 26 September 2020, Bandar Lampung, Indonesia* (EAI, 2020), 10–14, <https://doi.org/10.4108/eai.26-9-2020.2302706>.

⁴¹ Yahanan, Febrian, and Rahim, 'The Protection of Consumer Rights for Aviation Safety and Security in Indonesia and Malaysia'.

transportation services, safeguarding the rights and interests of both service providers and users.⁴²

The carrier's responsibilities towards Passengers and/or Cargo under Law No. 1 of 2009 in Indonesia encompass various provisions aimed at ensuring accountability and protection for air travellers. These provisions, outlined in Articles 141 to 149, establish the liability of carriers for passenger injuries or fatalities during air transportation and mandate compensation for such losses, particularly in cases of carrier negligence. Additionally, carriers are obligated to transport sick passengers with proper medical clearance and accompaniment, while also assuming responsibility for the loss or damage of checked baggage and cargo during transportation. Delays in transportation must be justified by carriers, who bear responsibility for ensuring passengers are transported according to schedule and providing compensation or provisions in case of delays. However, these regulations do not apply to certain types of transportation, such as postal services or non-commercial air travel. Further specifics regarding time limits for transportation delays are governed by Ministerial Regulations. As Wibowo and Sudiro point out, despite these legal provisions, enforcement remains weak in practice due to liability limitations, the burden of proof, and economic obstacles—highlighting the urgent need for regulatory and procedural reforms to ensure fair and accessible compensation mechanisms for passengers.⁴³

Moreover, when the aforementioned rights are not respected or trespassed, Indonesian law provides a legal framework of compensation for the aggrieved air passengers. The Table 2 below outlines the compensation provisions outlined in Ministry of Transportation Regulation No. 77 of 2011 concerning Liabilities of Air Carriers in Indonesia (Permenhub No. 77 of 2011). These provisions detail the compensation types and corresponding amounts mandated by law in various scenarios, including passenger injuries or death, lost or damaged baggage, cargo issues, flight delays, denied boarding, and third-party losses. Each compensation type is accompanied by the relevant articles within the regulation, offering a

⁴² Article 140 of Law No. 1 of 2009

⁴³ Evan Fernando Agung Wibowo and Amad Sudiro, 'Airline Legal Liability for Lost Cabin Baggage : A Review of Consumer Protection in Air Transportation', *Jurnal Ilmu Hukum Kyadiren* 7, no. 1 (2025): 116–34.

comprehensive overview of air passenger rights and carrier responsibilities as per Indonesian law.

Table 2. Compensation Provisions for Air Passengers under Permenhub No. 77 of 2011

Permenhub No. 77 of 2011	Compensation Type	Amount
Article 2	Compensation for passenger injuries or death	Up to Rp. 1,250,000,000 for death in aircraft accidents
Article 3	Compensation for permanent disability	Up to Rp. 1,250,000,000 for total permanent disability per passenger
Article 3	Compensation for partial disability	As specified in the attached schedule
Article 3	Compensation for passenger injuries requiring treatment	Actual treatment cost up to Rp. 200,000,000 per passenger
Article 4	Compensation for lost or damaged cabin baggage	Carrier not liable unless proven otherwise
Article 7	Compensation for lost, destroyed, or damaged cargo	Rp. 100,000 per kg for lost or destroyed cargo; Rp. 50,000 per kg for damaged cargo
Article 10	Compensation for flight delays	Rp. 300,000 per passenger for delays over 4 hours; 50% refund for re-routing
Article 11	Compensation for denied boarding	Re-routing without additional charge; provision of food, accommodation, and transportation if no alternative flight available
Article 14	Compensation for third-party losses	Rp. 500,000,000 per person for death; Rp. 750,000,000 per person for total permanent disability; Actual treatment cost for injuries up to Rp. 100,000,000 per person; Actual damage assessment for property damage

Source: Permenhub No. 77 of 2011

In summary, Indonesia's commitment to air passenger rights is demonstrated through its adherence to international conventions and domestic laws. These legal frameworks ensure transparency, fairness, and accountability in air travel, guaranteeing special accommodations for vulnerable passengers and establishing carrier responsibilities. Through these provisions, Indonesia aims to uphold safety and protection standards

in its aviation sector, promoting a dignified and inclusive travel experience for all passengers.

B. Under Malagasy Law

Madagascar, like many nations, is committed to upholding IAL-related conventions and ensuring the rights and safety of air passengers. Ratifying key agreements such as the Chicago Convention of 1944, Madagascar has actively participated in shaping international aviation standards. Additionally, adherence to the Warsaw Convention of 1929, which Madagascar ratified in 1962, has established liability limits for airlines, contributing to the protection of passenger interests. Notably, Madagascar's ratification of the MC99 in 2005 aiming to modernise and harmonise air passenger rights globally, reflects its dedication to enhancing air travel safety and accountability. However, as noted by Matthew J. Beck et al., the mere ratification of international treaties is insufficient without robust domestic enforcement mechanisms.⁴⁴ In this light, Madagascar's effort to embed these international norms into national legislation is a commendable step towards effective implementation.

National regulations such as Law No. 2012-011 concerning Malagasy Code of Civil Aviation and Law No. 2015-014 concerning Guarantees and Consumer Protection underscore Madagascar's commitment to safeguarding air passenger rights within its borders and contributing to global aviation safety standards. This echoes the concern raised by Ekanem and Thomas that in many African jurisdictions, aviation consumer protection laws often exist but lack practical application due to institutional weaknesses.⁴⁵ Madagascar's specific reference to consumer rights and regulatory enforcement mechanisms helps address this gap.

The Malagasy State, through Law No. 2015-014, affirms its commitment to safeguarding consumer rights and interests within the national territory, ensuring

⁴⁴ Matthew J. Beck, John M. Rose, and Rico Merkert, 'Exploring Perceived Safety, Privacy, and Distrust on Air Travel Choice in the Context of Differing Passenger Screening Procedures', *Journal of Travel Research* 57, no. 4 (2018): 495–512, <https://doi.org/10.1177/0047287517700316>.

⁴⁵ Etefia Ekwere Ekanem and Ekaobong Akan Thomas, 'Consumer Protection and Carrier's Liability for Flight Cancellations and Delays in Nigeria', *African Journal Of Law And Human Rights* 2 (2018): 152–62.

transparency and accountability in consumer transactions. The consumer rights protected under Article 4 of Law No. 2015-014 are:

1. Right to safety: This right protects consumers against any good, product, or service, production process, or service that may threaten their life or health.
2. Right to information: Consumers must be able to have access to the elements that allow them to make an informed choice and be protected from any misleading information.
3. Right to choose: This right gives consumers access to a variety of goods, products, and services corresponding to their needs and at competitive prices. When competition does not play, this right must guarantee them satisfactory quality at fair prices.
4. Right to be heard: This right allows consumers to be represented at decision-making levels so that their interests are taken into consideration.
5. Right to consumer education: The State ensures that consumers can acquire the knowledge and techniques to enable them to be an informed consumer.
6. Right to redress: This right guarantee consumer a fair resolution of their problems, involving the repair of damages suffered and, if necessary, appropriate legal assistance.
7. Right to access to basic goods and services;
8. Right to a healthy environment.

As noted by Delphine Defossez, effective consumer protection in aviation requires institutional mechanisms that empower passengers to understand and act upon their rights.⁴⁶ The inclusion of the right to consumer education in Madagascar's legislation therefore represents a progressive and often overlooked component of air passenger rights that aligns well with international best practices.

In addition to the consumer protection provisions, the Malagasy Aviation Law through Article L.1.8.1-1 of Law No. 2012-011⁴⁷ also underscores the obligation placed upon air carriers to establish and enforce a policy explicitly designed to safeguard the interests of consumers. This policy serves as a crucial mechanism to ensure that air passengers' rights and welfare are prioritised and adequately addressed throughout their travel experience. Furthermore, the law specifies that the formulation of this policy, including the delineation of minimum passenger rights to be incorporated

⁴⁶ Delphine Defossez, 'I Wish My Mum Was Brazilian: The Regulation of Passenger Liability in the EU and Brazil', *Issues in Aviation Law & Policy Journal* 18, no. 2 (2018): 333–64.

⁴⁷ Article L.1.8.1-1 of Law No. 2012-011

within it, is subject to regulatory oversight. By entrusting regulatory authorities with the task of defining these essential rights, the law aims to establish clear and standardised guidelines for air carriers to adhere to, promoting consistency and accountability in consumer protection measures across the aviation industry. This provision underscores the importance of proactive measures by air carriers to uphold consumer rights and highlights the role of regulatory frameworks in ensuring compliance and accountability within the aviation sector.

Moreover, Article L.1.8.2-1 of Law No. 2012-011⁴⁸ outlines the recourse available to dissatisfied consumers within the realm of civil aviation. In cases where a consumer's grievances remain unaddressed by the air carrier, airport operator, service provider, or the Civil Aviation Authority, the consumer holds the right to submit a written complaint to the designated authority responsible for arbitrating disputes arising from civil aviation activities. This provision underscores the importance of providing consumers with accessible avenues for seeking redress in cases of unresolved disputes, thereby promoting transparency and accountability within the aviation industry. Additionally, the law stipulates that the procedures governing the submission and handling of consumer complaints are to be established through regulatory channels, ensuring standardised and fair processes for addressing consumer grievances. By delineating these procedures, the law aims to streamline the complaint resolution process and facilitate effective dispute resolution mechanisms within the civil aviation sector, ultimately enhancing consumer confidence and protection.

Violation of the provisions under Law No. 2012-011 are subject to penal and administrative sanction. Putting a higher focus on administrative sanctions as relating to violation of passenger rights, Ministry of Transport and Meteorology and Ministry of Finance and Budget Regulation No. 25275/2017 concerning the Violations, Administrative Sanctions, and the Rate of Fines in Civil Aviation (*ARRETE No. 25275/2017*) was established. These violations are classified into three categories: Minor, Major, and Critical.

⁴⁸ Article L.1.8.2-1 of Law No. 2012-011

1. **Minor Category:** These violations do not meet the criteria defined for critical or major violations but still have the potential to affect safety and security. It is advised that corrective actions be taken by the license holder, permit holder, or any other authorised entity.
2. **Major Category:** These violations are considered unacceptable and may not necessarily pose an immediate danger to safety and security. However, swift action is required to prevent potentially hazardous situations.
3. **Critical Category:** These violations have a serious and immediate impact on safety and security, requiring immediate action or intervention.

For each category (minor, major, and critical), there are minimum and maximum penalties established for first-time violations and repeat offenses/recidivist. The penalties are proportionate to the severity of the violation and may include fines, restrictions, revocation, suspension, or withdrawal of licenses, permits, qualifications, certificates, approvals, acceptances, authorisations, or documents. The severity of the penalty is determined based on the assessment of the violations by inspectors, considering the gravity of the offense and the quality and personality of the violator.

Furthermore, specific provisions related to passenger transportation outline various type violations concerning passengers' rights. These include actions such as serving alcoholic beverages to visibly intoxicated individuals, failing to provide safety instructions to passengers, neglecting to ensure that each passenger has a seat and seatbelt, operating without a passenger announcement system, and improper storage of checked baggage. Each of these violations falls under one of the previously mentioned categories and is subject to corresponding penalties as determined by aviation authorities.⁴⁹

While Madagascar's structured classification of violations is detailed, Jeff Sovern cautions that excessive reliance on procedural enforcement without adequate passenger engagement may weaken consumer confidence in regulatory systems.⁵⁰ This suggests that alongside robust sanction regimes, Madagascar must also ensure

⁴⁹ See *ARRETE No. 25275/2017*, pp. 3-4 – For further understanding about the categories of violations, the different types of breach of obligations are explained in this regulation.

⁵⁰ Jeff Sovern, 'Six Scandals: Why We Need Consumer Protection Laws Instead of Just Markets', *Michigan Business & Entrepreneurial Law Review* 11, no. 1 (2021): 1–62, <https://doi.org/10.36639/mbelr.11.1.six>.

that passengers are well-informed and actively encouraged to report violations and seek redress.

The categorisation of violations in air transportation and the corresponding penalties associated with each category is illustrated in Table 3 below.

Table 3. Penalty Categories for Violations in Air Transportation

Violation Categories	1st Offense		Recidivist	
	Minimum Penalty		Maximum Penalty	
	Individual	Legal Entity	Individual	Legal Entity
1st Category : Minor	- Fines: Ariary 200,000 to Ariary 1,000,000 - Suspension: 20 to 40 days	- Fines: Ariary 1,500,000 to Ariary 2,500,000 - Suspension: 30 to 50 days	- Fines: Ariary 1,500,000 to Ariary 3,000,000 - Suspension: 40 to 90 days	- Fines: Ariary 4,000,000 to Ariary 8,000,000 - Suspension: 60 to 100 days
2nd Category : Major	- Fines: Ariary 1,100,000 to Ariary 2,000,000 - Suspension: 40 to 90 days	- Fines: Ariary 2,100,000 to Ariary 3,000,000 - Suspension: 100 days to revocation	- Fines: Ariary 3,000,000 to Ariary 4,000,000 - Suspension: 60 to 100 days	- Fines: Ariary 4,500,000 to Ariary 6,000,000 - Suspension: 150 days to revocation
3rd Category : Critical	- Fines: Ariary 5,000,000 to Ariary 8,000,000 - Suspension: 100 days to revocation	- Fines: Ariary 10,000,000 to Ariary 16,000,000 - Revocation	- Fines: Ariary 10,000,000 to Ariary 20,000,000 - Suspension: 150 days to revocation	- Fines: Ariary 30,000,000 to Ariary 40,000,000 - Revocation

Source: ARRETE No. 25275/2017

It is important to note that the specific amount for personal compensation in case of passenger loss or damage depends on the terms and conditions agreed upon with the airline company. Unlike Indonesia, Madagascar does not currently regulate any specific amount of compensation. Instead, the final compensation amount is determined by the decision of the Competent Authority resolving the dispute between the parties, typically through arbitration. This means that the compensation for passenger loss or damage is subject to negotiation and resolution between the

passenger and the airline, guided by the terms of their agreement and the decision of the competent authority in case of disputes.

Therefore, Madagascar's commitment to air passenger rights is demonstrated through its adherence to international conventions and enactment of domestic laws such as Law No. 2012-011 and Law No. 2015-014. These regulations ensure transparency, accountability, and protection for air passengers. Through mechanisms in its national regulations, Madagascar establishes procedures for complaint resolution and imposes penalties for violations, emphasising compliance within the civil aviation sector. Despite the absence of specific compensation regulations, Madagascar's legal framework ensures a structured approach to addressing disputes and upholding air passenger rights. This reflects what Lucy Budd and Stephen Ison observed in their comparative study of global aviation governance: when countries build layered, accessible consumer redress mechanisms—even without detailed financial compensation thresholds—they create more resilient and responsive passenger rights systems.⁵¹

Comparative Analysis Based on Global Aviation Standard Compliance

Air passenger rights are a fundamental aspect of modern aviation law, ensuring that passengers are protected against unfair treatment, unexpected financial burdens, and service disruptions. These rights are established through various international legal instruments and national regulations that set minimum standards for airline accountability, transparency, and consumer protection. At the global level, the Montreal Convention of 1999 (MC99), the ICAO Core Principles on Consumer Protection (ICAO CPCP), and the IATA Core Principles on Consumer Protection (IATA CPCP) serve as the primary legal frameworks guiding passenger protections. However, some regional and national jurisdictions, including the European Union (EU), the United States (US), and Canada, South Africa and Singapore, have implemented more advanced legal protections that go beyond international

⁵¹ Lucy Budd and Stephen Ison, 'Supporting the Needs of Special Assistance (Including PRM) Passengers: An International Survey of Disabled Air Passenger Rights Legislation', *Journal of Air Transport Management* 87, no. June (2020): 101851, <https://doi.org/10.1016/j.jairtraman.2020.101851>.

standards.⁵² These jurisdictions serve as best practices, ensuring stronger enforcement mechanisms and clearer rights for air travellers.

Criticism based on global standard compliance plays a crucial role in assessing the effectiveness and adequacy of national legal frameworks, particularly in areas such as air passenger rights.⁵³ By evaluating national regulations against international standards and best practices, it becomes possible to identify shortcomings, gaps, or inconsistencies that may hinder the protection of passengers' rights (See Figure 2). These assessments promote accountability, transparency, and fairness within the aviation industry, ensuring that passengers receive adequate redress and protection regardless of their location or the airline they choose. Moreover, constructive criticism based on global standards can drive regulatory improvements, encouraging governments to update and strengthen their laws to better align with international norms and expectations. In this context, international instruments and national regulations serve as global best practices in air passenger protection, offering models for countries seeking to enhance their legal frameworks. Table 4 below presents evaluative assessment of Indonesia and Madagascar's compliance with international best practices in air passenger rights protection.

Table 4: Evaluative Assessment of Indonesia and Madagascar's Compliance with International Best Practices in Air Passenger Rights Protection

Air Passenger Rights	Legal instruments (international and/or national)	Specific Provisions	Legal	Indonesia Compliance	Madagascar Compliance
----------------------	---	---------------------	-------	----------------------	-----------------------

⁵² For further understanding on the choice of these jurisdictions, please see Lydia C. Weaver, 'US Airline Passenger Rights: States' Ongoing Fight for Passenger Protections in the Wake of Cuomo and Insufficient Federal Legislation', *Loyola Maritime Law Journal* 23, no. 2 (2024): 126–44; Sarah Jane Fox and Luis Martin-Domingo, 'EU Air Passengers' Rights Past, Present, and Future: In an Uncertain World (Regulation (EC) 261/2004: Evaluation and Case Study)', *Journal of Air Law and Commerce* 85, no. 2 (2020): 271–308; Jed Chong, 'Air Passenger Rights in Canada and Other Jurisdictions' (Ottawa: Library of Parliament, 2018), <https://bdp.parl.ca/staticfiles/PublicWebsite/Home/ResearchPublications/BackgroundPapers/PDF/2018-09-e.pdf> Rouissi and Correia, 'Global, Regional and National Air Passenger'.

⁵³ Robert Howse and Ruti Teitel, "Beyond Compliance: Rethinking Why International Law Really Matters," *Global Policy* 1, no. 2 (May 7, 2010): 129. The importance of international norms compliance holds three, but not limited to, significances in this article, namely as 'limits of domestic law', 'fundamental normative and/or functional premise', and 'counter to skeptical view on international law'.

Right to Compensation for Flight Delays and Cancellations	MC99	Article 19	Compensation for damages due to flight delays unless airline proves all reasonable measures were taken.	<input checked="" type="checkbox"/> YES (Permenhub No. 77 of 2011, Article 10: Rp. 300,000 for delays over 4 hours, rerouting, or 50% refund)	<input checked="" type="checkbox"/> NO (No fixed compensation; resolved case-by-case by arbitration)
	EU Regulation 261/2004	Article 7	Passengers entitled to €250–€600 based on flight distance for delays beyond 3 hours or cancellations.		
	Canada APPR	Section 19	Compensation from CAD 400 to CAD 1000 depending on delay length and airline size.		
Right to Compensation for Baggage Loss, Destruction, or Delay	Montreal Convention 1999	Article 17(2)	Liability for destruction, loss, or damage of checked baggage unless due to baggage defect.	<input checked="" type="checkbox"/> YES (Permenhub No. 77 of 2011, Articles 4 & 7: Compensation for lost/damaged baggage or cargo)	<input checked="" type="checkbox"/> NO (No fixed compensation; dispute resolution handled by Competent Authority/arbitration)
	Singapore Carriage by Air Act	Articles 18–22	Compensation for baggage loss/damage/delay unless higher value declared and additional fee paid.		
Prohibition of Contractual Waivers Limiting Passenger Rights	MC99	Article 26	Any attempt to limit or waive passenger rights under the	<input checked="" type="checkbox"/> YES (Law No. 8 of 1999, Article 4(8): Passengers entitled to compensation)	<input checked="" type="checkbox"/> YES (Law No. 2015-014, Article 6: Consumers have the

			Convention is null and void.	for unmet contractual obligations)	right to redress and protection against unfair contract terms)
Right to Information Before Purchase	ICAO CPCP	Article 2.1	Clear, accurate, upfront ticket pricing and operating airline disclosure.	✓ YES (Law No. 8 of 1999, Article 4(3): Right to correct, clear, and honest information)	✓ YES (Law No. 2015-014, Article 2: Right to receive full information before purchasing a service)
	IATA CPCP	Article 2-3	Transparent information on fare, taxes, and codeshare disclosure.		
	US DOT Regulations	14 CFR Part 399.85	Full ticket prices must be disclosed, including all taxes and fees.		
Right to Assistance and Compensation in Service Disruptions	ICAO CPCP	Article 3.2	Rerouting, refunds, care, and compensation in the event of delays, cancellations, or denied boarding.	✓ YES (Permenhub No. 77 of 2011, Articles 10 & 11: Compensation for delays and denied boarding)	✓ YES (Law No. 2012-011, Article L.1.8.1-1: Air carriers must establish consumer protection policies)
	IATA CPCP	Article 4	Rerouting, refunds, or assistance when disruption is within airline's control.		
Non-Discriminatory Access for Persons with Disabilities	ICAO CPCP	Article 3.4	Appropriate assistance without discrimination for persons	✓ YES (Law No. 1 of 2009, Article 134: Special	✗ NO

			with disabilities.	treatment for passengers with disabilities, children, and elderly)	
	IATA CPCP	Article 3	Airlines should assist passengers with reduced mobility.		
Clear Complaint Resolution Mechanisms	ICAO CPCP	Article 4.1	Efficient complaint-handling mechanisms for air travel disputes.	✓ YES (Law No. 8 of 1999, Article 4(5): Right to dispute resolution and legal assistance)	✓ YES (Law No. 2012-011, Article L.1.8.2-1: Passengers may file complaints to regulatory authorities if unresolved by airline)
	IATA CPCP	Article 4	Transparent, accessible, and efficient complaint resolution.		
Full and Transparent Ticket Pricing	IATA CPCP	Article 2-3	Airlines must disclose the full ticket price, including taxes and fees.	✓ YES (Law No. 8 of 1999, Article 4(3): Right to correct and honest information, including pricing)	✓ YES (Law No. 2015-014, Article 2: Right to full pricing information before purchase)
	US DOT Regulations	14 CFR Part 399.85	Full fare advertising rule mandates all-inclusive ticket pricing.		
Right to Refund for Cancellations	EU Regulation 261/2004	Article 8	Right to choose refund or rerouting in event of cancellation or denied boarding.	✓ YES (Permenhub No. 77 of 2011, Article 11: Refunds for denied boarding, re-routing at no extra cost)	✓ YES (Law No. 2012-011, Article L.1.8.1-1: Carriers must establish consumer protection policies, including compensation for
	IATA CPCP	Article 4	Refund required in case of disruptions under airline control.		

					disruptions)
Right to Meals and Accommodation During Long Delays	EU Regulation 261/2004	Article 9	Airlines must provide meals, hotel stays, and communication access during long delays.	✓ YES (Permenhub No. 77 of 2011, Article 11: Airlines must provide food and accommodation during extended delays)	✗ NO
	Canada APPR	Section 24	Provision of food, water, and restroom access during long delays.		
Compensation for Denied Boarding Due to Overbooking	US DOT Regulations	14 CFR Part 250	Compensation mandatory for involuntary denied boarding due to overbooking.	✓ YES (Permenhub No. 77 of 2011, Article 11: Re-routing at no extra cost, food, accommodation, and transportation provided)	✗ NO
	EU Regulation 261/2004	Article 4, 7	Entitlement to compensation and assistance in case of denied boarding.		
Tarmac Delay Assistance (Food, Water, Restrooms)	US DOT Regulations	14 CFR Part 259.4	Food, water, and restroom access required after 3 (domestic) or 4 (international) hours on tarmac.	✗ NO	✗ NO
	Canada APPR	Section 24	Provision of food, water, and access to lavatories during delays.		
Right to be protected through mandatory	South Africa Civil	Article 8(5)	Operators must carry insurance to cover	✗ NO	✗ NO

insurance coverage	Aviation Act 2009		passenger damage or loss.		
--------------------	-------------------	--	---------------------------	--	--

Source: Author`s analysis

Table 4 provides a comprehensive assessment of Indonesia and Madagascar's compliance with international best practices in air passenger rights protection, revealing key differences in their regulatory frameworks. Indonesia demonstrates a higher level of compliance, particularly in areas such as compensation for flight delays, baggage loss, denied boarding, and passenger assistance, largely due to the provisions under Permenhub No. 77 of 2011 and Law No. 1 of 2009 on Aviation. The country has also integrated consumer protection laws that reinforce transparency and dispute resolution mechanisms, ensuring passengers have clear rights and avenues for redress. Madagascar, on the other hand, exhibits a more limited level of compliance, as it lacks fixed compensation provisions for delays, baggage issues, and denied boarding, instead relying on case-by-case arbitration for dispute resolution. However, Madagascar's consumer protection laws (Law No. 2015-014) and aviation regulations (Law No. 2012-011) do provide important safeguards such as the right to information, complaint resolution mechanisms, and penalties for airlines that fail to meet their obligations. A major gap in Madagascar's framework is the absence of specific protections for persons with disabilities, a critical area addressed in other best-practice jurisdictions. Both countries lack explicit regulations on tarmac delays and mandatory insurance coverage, which remain an area for future legal development. Overall, while Indonesia's legal framework aligns more closely with global standards, Madagascar still requires significant regulatory enhancements to ensure better alignment with international norms and stronger protections for air passengers.

CONCLUSION

In conclusion, the legal frameworks governing air passenger rights in Indonesia and Madagascar reflect a shared commitment to protecting passengers; however, notable disparities and regulatory shortcomings persist. Indonesia has adopted clearer compensation provisions for flight delays, baggage loss, and denied boarding,

offering a relatively structured approach to dispute resolution. In contrast, Madagascar's framework lacks fixed compensation rules and comprehensive procedures, resulting in legal uncertainty and inconsistent remedies for affected passengers. Moreover, the absence of explicit protections for persons with disabilities in Madagascar's aviation legislation raises serious concerns regarding equality and accessibility in air travel. These deficiencies undermine consumer trust and weaken alignment with international standards such as the Montreal Convention 1999, ultimately limiting the transparency, reliability, and fairness of the air travel experience.

To address these challenges in light of the harmonisation theory, Madagascar should prioritise reforms to establish fixed compensation schemes for service disruptions, introduce clear and accessible complaint-handling mechanisms, and explicitly enshrine the rights of passengers with disabilities in its aviation law. These steps would significantly enhance consumer protection and bring Madagascar closer to international best practices. For both countries, the adoption of legal provisions mandating insurance coverage for air carriers would strengthen passenger safeguards in the event of injury, delay, or loss. Additionally, continued efforts to harmonise national legislation with international instruments – such as MC99, the ICAO CPCP, and IATA CPCP – are essential to ensure legal certainty, reinforce regulatory compliance, and build passenger confidence across the aviation sector.

A limitation of this paper is that it conducts a purely normative comparison of the air passenger rights legal frameworks of Indonesia and Madagascar against global standards, without incorporating empirical data. Future research should explore an empirical comparison between the two countries to assess how these legal protections are implemented in practice, particularly in terms of enforcement, passenger awareness, and satisfaction.

ACKNOWLEDGMENTS

This research is fully supported by the Faculty of Law, Universitas Diponegoro and ASTA Research Center.

COMPETING INTEREST

The authors of this research declare that there is no conflict of interest.

REFERENCES

- Arthur Hedar, Harris. 'The Indonesian Government's Policies to Improve Air Travel Consumer Protection'. *Asian Journal of Social and Humanities* 2, no. 3 (2023): 1802-11. <https://doi.org/10.59888/ajosh.v2i03.198>.
- AZ Nasution. *Hukum Perlindungan Konsumen: Suatu Pengantar*. 1st ed. Jakarta: DayaWidya, 1999.
- Bachtiar. *Metode Penelitian Hukum*. Edited by Oksidelfa Yanto. Tangerang Selatan: UNPAM PRESS, 2019.
- Beck, Matthew J., John M. Rose, and Rico Merkert. 'Exploring Perceived Safety, Privacy, and Distrust on Air Travel Choice in the Context of Differing Passenger Screening Procedures'. *Journal of Travel Research* 57, no. 4 (2018): 495-512. <https://doi.org/10.1177/0047287517700316>.
- Budd, Lucy, and Stephen Ison. 'Supporting the Needs of Special Assistance (Including PRM) Passengers: An International Survey of Disabled Air Passenger Rights Legislation'. *Journal of Air Transport Management* 87, no. June (2020): 101851. <https://doi.org/10.1016/j.jairtraman.2020.101851>.
- Canada Air Passenger Protection Regulations (APPR). SOR/2019-150. Government of Canada.
- Chant, Sylvia, and Cathy McIlwaine. *Geographies of Development in the 21st Century: An Introduction to Global South*. Cheltenham and Northampton: Edward Elgar Publishing Limited, 2009.
- Chicheportiche, Olivier. 'Comment Les Compagnies Aériennes Trainent Des Pieds Pour Rembourser Les Billet Anullés Pendant Le Covid'. [bfmtv.com](https://www.bfmtv.com/economie/entreprises/transports/comment-les-compagnies-aeriennes-trainent-des-pieds-pour-rembourser-les-billets-annules-pendant-le-covid_AV-202304220117.html), 2023. https://www.bfmtv.com/economie/entreprises/transports/comment-les-compagnies-aeriennes-trainent-des-pieds-pour-rembourser-les-billets-annules-pendant-le-covid_AV-202304220117.html.
- Chong, Jed. 'Air Passenger Rights in Canada and Other Jurisdictions'. Ottawa: Library of Parliament, 2018. <https://bdp.parl.ca/staticfiles/PublicWebsite/Home/ResearchPublications/BackgroundPapers/PDF/2018-09-e.pdf>.
- Cooper, John Cobb. 'The International Air Navigation Conference, Paris 1910'. *Journal of Air Law and Commerce* 19, no. 2 (1952): 127-43.
- Defosse, Delphine. 'I Wish My Mum Was Brazilian: The Regulation of Passenger Liability in the EU and Brazil'. *Issues in Aviation Law & Policy Journal* 18, no. 2 (2018): 333-64.

- Ekanem, Etefia Ekwere, and Ekaobong Akan Thomas. 'Consumer Protection and Carrier's Liability for Flight Cancellations and Delays in Nigeria'. *African Journal Of Law And Human Rights* 2 (2018): 152-62.
- European Union Regulation (EC) No. 261/2004. "Establishing Common Rules on Compensation and Assistance to Passengers in the Event of Denied Boarding and of Cancellation or Long Delay of Flights."
- Fox, Sarah Jane, and Luis Martin-Domingo. 'EU Air Passengers' Rights Past, Present, and Future: In an Uncertain World (Regulation (EC) 261/2004: Evaluation and Case Study)'. *Journal of Air Law and Commerce* 85, no. 2 (2020): 271-308.
- Franciscone, Bruno Garcia, Xiaolong Zou, and Elton Fernandes. 'The Global South Air Transport Belt: A Catalyst for Sustainable Tourism and Economic Growth'. *Transport Policy* 159, no. September (2024): 14-27. <https://doi.org/10.1016/j.tranpol.2024.09.018>.
- Havel, Brian F., and Gabriel S. Sanchez. *The Principles and Practice of International Aviation Law*. New York: Cambridge University Press, 2014.
- Howse, Robert, and Ruti Teitel. 'Beyond Compliance: Rethinking Why International Law Really Matters'. *Global Policy* 1, no. 2 (7 May 2010): 127-36. <https://doi.org/10.1111/j.1758-5899.2010.00035.x>.
- Huber, Marie, and Waqar H. Zaidi. 'Introduction: Civil Aviation in the Global South'. *Journal of Transport History*, 2024. <https://doi.org/10.1177/00225266241293736>.
- ICAO Core Principles on Consumer Protection (CPCP)
- IATA Core Principles on Consumer Protection (CPCP).
- Indonesia, Law No. 1 of 2009 concerning Aviation.
- Indonesia, Law No. 8 of 1999 concerning Consumer Protection.
- Indonesia, Ministry of Transportation Regulation No. 77 of 2011 (Permenhub No. 77/2011). "Liabilities of Air Carriers."
- Johnson, Benjamin J. 'From Burma to Berlin : The Development of U . S . Air Transport 1938-1949'. University of Nebraska-Lincoln, 2014.
- Lev, Daniel S. 'Colonial Law and the Genesis of the Indonesian State'. In *Law and Society in East Asia*, edited by Christoph Antons, 1st ed., 3-20. London: Routledge, 2017.
- LG. 'Des Fouilles Etonnamment Poussées Pour Un Vol Réunion-Madagascar'. Zinfos974, 2013. <https://www.zinfos974.com/des-fouilles-etonnamment-poussees-pour-un-vol-reunion-madagascar/>.
- Madagascar, Law No. 2012-011 concerning the Malagasy Code of Civil Aviation.
- Madagascar, Law No. 2015-014 concerning Guarantees and Consumer Protection.
- Madagascar, Ministry of Transport and Meteorology & Ministry of Finance and Budget Regulation No. 25275/2017 (ARRETE No. 25275/2017). "Violations,

Administrative Sanctions, and the Rate of Fines in Civil Aviation.”

- Mahfud, Muh. Afif. *Buku Ajar Pengantar Ilmu Hukum*. Semarang: Yoga Pramata, 2024.
- Mandimbisoa R. ‘Annulation Vol Air Madagascar : L’ Ambassade de France Donne Sa Position’. *Tribune.com*, 2020. <https://www.madagascar-tribune.com/Annulation-vol-Air-Madagascar-1,26248>.
- Montreal Convention of 1999. Convention for the Unification of Certain Rules for International Carriage by Air, signed at Montreal, May 28, 1999.
- Nugraha, Ridha Aditya. ‘Legal Issues Surroundings Airline Alliances and Code-Share Arrangements: Insights for the Indonesian and Asean Airline Industry’. *Indonesia Law Review* 8, no. 1 (2018): 37. <https://doi.org/10.15742/ilrev.v8n1.382>.
- Nugraha, Ridha Aditya, and Lalin Kovudhikulrungsri. ‘Aviation Legal Issues in Indonesia and Thailand: Towards Better Passengers’ Rights in Asean’. *Indonesia Law Review* 7, no. 1 (2017). <https://doi.org/10.15742/ilrev.v7n1.290>.
- P, Nicole. ‘Tsaradia Airline - Flight Delay’. *Tripadvisor*, 2023. https://www.tripadvisor.com/ShowTopic-g293808-i9291-k14558213-Tsaradia_Airline_flight_delay-Madagascar.html.
- Parthiana, Wayan. *Pengantar Hukum Internasional*. Bandung: Mandar Maju, 2003.
- Peter H, Sand (Germany), Jorge de Sousa Freitas (Brazil), and Pratt (U.K) Geoffrey N. ‘An Historical Survey of International Air Law before the Second World War’. *McGill Law Journal* 7, no. 1 (1952): 25–42.
- Prabandari, Adya Paramita. ‘Indonesia’s Air Sovereignty Issues in The Global Era’. *Diponegoro Law Review* 4, no. 2 (1 October 2019): 181. <https://doi.org/10.14710/dilrev.4.2.2019.181-193>.
- Prabandari, Adya, Rahayu Rahayu, and Elfia Farida. ‘The Implementation of Indonesia’s State Obligations in Relation to the Rights of Persons with Disabilities in Aviation’. In *Proceedings of The International Conference on Environmental and Technology of Law, Business and Education on Post Covid 19, ICETLAWBE 2020, 26 September 2020, Bandar Lampung, Indonesia*, 10–14. EAI, 2020. <https://doi.org/10.4108/eai.26-9-2020.2302706>.
- Purwosutjipto, HMN. *Pengertian Pokok Hukum Dagang Indonesia Dan Hukum Pengangkutan*. 7th ed. Jakarta: Djambatan, 2008.
- Ravelomanana, Jacqueline. ‘Droit Français, Droit Malgache: Le Droit Positif Malgache et Ses Problèmes d’application’. *Revue Juridique de l’Océan Indien*, no. NS-2005 (2005): 53–64. <https://hal.univ-reunion.fr/hal-02549630/document>.
- Rouissi, Noura, and Vincent Correia. ‘Global, Regional and National Air Passenger’. *Air and Space Law* 40, no. 2 (2015): 123–46. <https://doi.org/10.54648/aila2015011>.
- Samuel, Geoffrey. ‘Comparative Law and Its Methodology’. In *Research Methods in Law*, edited by Dawn Waktins and Mandy Burton, 2nd ed., 122–45. London

- and New York: Routledge, 2018.
- Sariwati, Retno. 'Responsibilities of Air Carriers on International Flights'. *Jurnal Cakrawala Hukum* 13, no. 2 (1 August 2022): 194–201. <https://doi.org/10.26905/idjch.v13i2.7963>.
- Singapore. Carriage by Air Act 1988.
- Small, Jennie, ed. *The Passenger Experience of Air Travel: A Critical Approach. The Passenger Experience of Air Travel*. Bristol: Channel View Publications, 2022.
- Solikin, Nur. *Pengantar Metodologi Penelitian Hukum*. Edited by Tim Qiara Media. Pasuruan: CV. PENERBIT QUIARA MEDIA, 2021.
- South Africa. Civil Aviation Act 13 of 2009.
- Sovern, Jeff. 'Six Scandals: Why We Need Consumer Protection Laws Instead of Just Markets'. *Michigan Business & Entrepreneurial Law Review* 11, no. 1 (2021): 1–62. <https://doi.org/10.36639/mbelr.11.1.six>.
- Starke, J. G. *Introduction to International Law*. 10th ed. London: Butterworth-Heinemann, 1989.
- Sudiarto, Sudiarto, and Budi Sutrisno. 'Legal Protection Concerning Domestic Flights Passengers of Air Transport Services'. *Unram Law Review* 4, no. 1 (31 March 2020): 74–83. <https://doi.org/10.29303/ulrev.v4i1.106>.
- Truxal, Steven. 'Air Carrier Liability and Air Passenger Rights: A Game of Tug of War?' *Journal of International and Comparative Law* 4, no. 1 (2017): 103–22.
- U.S. Code of Federal Regulations (CFR).
 14 CFR Part 250. "Oversales" (Compensation for Denied Boarding). U.S. Department of Transportation.
 14 CFR Part 259.4. "Tarmac Delay Contingency Plans." U.S. Department of Transportation.
- 14 CFR Part 399.85. "Full Fare Advertising Rule." U.S. Department of Transportation.
- Weaver, Lydia C. 'US Airline Passenger Rights: States' Ongoing Fight for Passenger Protections in the Wake of Cuomo and Insufficient Federal Legislation'. *Loyola Maritime Law Journal* 23, no. 2 (2024): 126–44.
- Wibowo, Evan Fernando Agung, and Amad Sudiro. 'Airline Legal Liability for Lost Cabin Baggage : A Review of Consumer Protection in Air Transportation'. *Jurnal Ilmu Hukum Kyadiren* 7, no. 1 (2025): 116–34.
- Yahanan, Annalisa, Febrian Febrian, and Rohani Abdul Rahim. 'The Protection of Consumer Rights for Aviation Safety and Security in Indonesia and Malaysia'. *Sriwijaya Law Review* 1, no. 1 (30 January 2017): 27–34. <https://doi.org/10.28946/slrev.Vol1.Iss1.7.pp027-043>.