



# ICAO Air Law Treaty Workshop

MC99 Panel Session - Anita Quy, Head of Aviation, APAC, Kennedys

13 December 2023

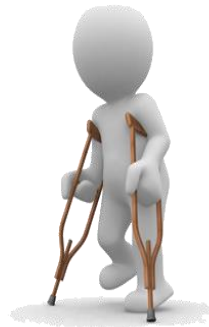
Kennedys

# A day in the life of an aviation insurance lawyer...

Hull recoveries



Passenger claims



Flight Delay Claims

Property Damage  
MRO, Airline, GRH



CARGO



Emergency  
Response,  
Contract reviews



## More serious cases...



# Role of Kennedys - general claims

Advise airlines and insurers on liability exposure

Deal with passengers, cargo or third party claimants on airline's behalf

Negotiate/settle/defend the claims

Report to insurers and request funds to pay claims

# ARTICLE 17 “ACCIDENT”

Has to be “unusual or unexpected” from the normal operations of the aircraft and external to the passenger i.e. not an internal reaction by the passenger

- Collision with meal cart ✓
- Overhead bin locker incidents ✓
- Severe turbulence ✓
- Pax assault ✓
- Coffee spills?
- Sexual assault?
- Heart attack?
- Falls? Tripping over blanket/plastic? Steps?
- Food poisoning/Foreign objects in meals?
- Bites / Syringes / Infectious diseases?
- DVT X



# Asia's Diverse Legal Systems and the need for consistency

Common Law	Civil Law	Mixed	
1. Bhutan	1. Cambodia	1. Bangladesh	- English common law and Islamic law
2. India	2. China	2. Brunei	- English common law and Islamic law
3. Myanmar	3. North Korea	3. Malaysia	- English common law, Islamic and customary law
4. Nepal	4. Indonesia	4. Maldives	- Islamic legal system with English common law influence
5. New Zealand	5. Japan	5. Philippines	- Mixed legal system of civil common and customary law
6. Pakistan	6. Laos	6. South Korea	- Mixed legal system combining European civil law, Anglo-American law and Chinese classical thought
7. Singapore	7. Mongolia	7. Sri Lanka	- Mixed legal system of Roman - Dutch civil law, English common law and Jaffna Tamil customary law
	8. Thailand		
	9. Timor - Leste		
	10. Vietnam		

# Impact of MC99 on insurance claims

- Exclusive remedy - certainty of legal regime and indication of outcome
- No punitive damages, only compensatory
- Liability limits for baggage, delay and cargo some of which are not breakable - cargo claims for example- huge benefit to airlines
- e-AWB benefits - removed requirement for papers, increased efficiency, cost saving, accuracy, environmental sustainability
- Threshold liability for passenger claims
- Moved away from volatile gold francs to SDRs
- Confined jurisdictions
- Limitation period of 2 years
- Domestic and international carriage aligned



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