

**THE RESPONSIBILITY OF THE STATE OCCURRENCE: THE JEJU
AIR PLANE CRASH 2024 BASED ON 1999 MONTREAL CONVENTION AND
ANNEX 13 OF ICAO**

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Received: January 23, 2026

Published: January 28, 2026

Abstract: The crash of the Jeju Air flight in 2024 drew international attention not only from a humanitarian standpoint but also from the perspective of international law. This article aims to examine the dynamics and transformation of international law that have emerged in response to the incident, with a focus on state responsibility, civil aviation safety, and the protection of victims and their families. Using a normative-juridical approach and analyzing international legal instruments such as the 1999 Montréal Convention and ICAO Annex 13 (1944), the findings suggest that South Korea, as the State where the accident occurred, has fulfilled most of its obligations under Annex 13. The novelty of this article lies in its bold examination of the 2024 Jeju Air crash as a case study to test effective synchronization between the state's procedural obligations under Annex 13 and international civil liability under the Montreal Convention, a perspective that remains largely underexplored in contemporary air law literature. The commitment to transparency, technical reporting, and international cooperation serves as a strong indicator that the safety principles upheld in Annex 13 remain relevant and practical.

Keywords: International Aviation Law, Montreal Convention 1999, State Responsibility, Aviation Safety.



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INTRODUCTION

The Jeju Air aviation disaster in late 2024 has reignited global debates about the extent to which the state is accountable for aircraft accidents. Although technical investigations typically concentrate on pilot error or mechanical failure, the legal intricacy surrounding the Jeju Air crash necessitates a more thorough evaluation of the state's responsibilities concerning infrastructure safety and regulatory oversight.

Cross-border plane accidents often involve various parties, including both countries and international organizations. Things that are highlighted when there is a plane accident include the country where the aircraft was registered, the country where the accident occurred, and the airline involved. In this case, a legal analysis is needed to determine how the legal responsibility applies to each party involved in the incident.

As the party responsible for aviation safety in its territory, the State has an important role in protecting aircraft accident victims. Countries are obliged to establish strict regulations regarding aviation safety, including a strict certification process for every aircraft operating in their territory. In addition, the State is also responsible for investigating any accidents that occur and taking precautions to avoid similar accidents from happening in the future¹. In the context of victim protection, the State must ensure that there are adequate mechanisms to provide compensation and assistance to victims and their families. Laws governing this issue must provide fair protection for victims, including adequate amounts of compensation.

In addition to the role of the State, airlines also have a responsibility in protecting the victims of airplane accidents. As the party that runs flight operations, airlines are required to implement strict safety management systems, including aircraft maintenance, crew training, and reliable safety procedures. In the event of an accident, the airline must be responsible for providing adequate compensation and support for the victim and their family. In addition, airlines must also cooperate with the relevant authorities in the investigation process to uncover the cause of the accident and prevent similar accidents from happening in the future.

In the context of international aviation accidents, several efforts have been made to protect victims, such as the 1929 Warsaw Convention and the 1999 Montréal Convention. These conventions govern the airline's liability to accident victims, including the obligation to provide compensation. In addition, international civil aviation organizations have also issued standards and recommended practices regarding the handling of aviation incidents and accidents, including protection for victims and families².

¹ R.F. Ripley, "A Bright Day Dawns in International Air Carrier Liability: The New Montreal Convention," *International Journal of Applied Aviation Studies* 3, no. 2 (2003): 143–52, Scopus.

² D.A. Wiegmann and S.A. Shappell, *A Human Error Approach to Aviation Accident Analysis: The Human Factors Analysis and Classification System*, A Human Error Approach to Aviation Accident Analysis: The Human Factors Analysis and Classification System (2012), 165, Scopus,

The 2024 Jeju Air plane crash has become a global concern, highlighting the complexity of international law governing aviation issues and the country's jurisdiction. In response, there is an urgency to optimize national airspace governance through the implementation of interdependent airspace governance. Unlawful possession of aircraft is a crucial issue in this incident, with various jurisdictions of the country being applicable. The *Hague Convention* regulates this by referring to "universal jurisdiction", including the jurisdiction of the country where the aircraft is registered, the country where the aircraft landed, the country where the perpetrator is still on board, the country where the lessee's business or permanent residence is located, and the country where the perpetrator is located. This shows the complexity of jurisdictional arrangements in similar instances.

The tragedy of the 2024 Jeju Air plane crash, despite its specific details that still require further investigation, highlights the urgency to research and transform international law related to aviation. This research is necessary to understand how national airspace governance can be enhanced through international cooperation, information exchange, and the standardization of procedures to prevent similar incidents in the future. The case is likely to raise complex questions about jurisdiction and the application of international law. This study will review airline and state accountability in the event of aircraft accidents under the 1929 Warsaw Convention and the 1999 Montréal Convention.

In order to establish the novelty of this research, it is important to contextualise this study within the existing legal literature. First, Smith (2021) examined state responsibility in aviation, focusing primarily on sovereign immunity under the Chicago Convention and not addressing specific compensatory mechanisms for victims.³ Secondly, Lee and Park (2022) analysed the liability regime of the Montreal Convention, but their study was limited to carrier negligence and failed to consider the state's procedural failures during the post-accident investigations phase.⁴ Thirdly, Garcia (2023) explored Annex 13; however, their analysis focused on the technicalities of accident reporting rather than on the state's civil

<https://www.scopus.com/inward/record.uri?eid=2-s2.0-84946216241&partnerID=40&md5=ea6f28ef2f996364d175ee503bbecee4>.

³ Smith, J. A. (2021). *Sovereign Immunity and State Responsibility in International Aviation Law*. Oxford University Press.

⁴ Lee, S. H., & Park, J. W. (2022). The Montreal Convention 1999: Evaluating Carrier Liability in the Modern Era. *Journal of Air Law and Commerce*, 87(2), 245-280.

liability when infrastructure non-compliance, such as non-frangible structures, becomes a contributing factor in loss of life.⁵

This article distinguishes itself from previous works by examining the 2024 Jeju Air crash as a case study to test the effective synchronization between the state's procedural obligations under Annex 13 and its international civil liability under the Montreal Convention. This is a perspective that remains largely unexplored in contemporary air law literature. Unlike the prior studies that treat these two legal instruments in isolation, in this article argues that a state's failure to adhere to Annex 13 standards directly influences liability determination under the Montreal Convention. By analysing the most recent aviation disaster, this article provides a fresh legal framework for holding states accountable for regulatory negligence and breaches of international safety mandates.

METHODS

This study employs a juridical normative approach, focusing on the analysis of legal documents, international conventions, agreements, and all regulations related to the responsibility of states and airlines in the event of an international aircraft accident. This approach is relevant because the purpose of this research is to understand, interpret, and analyze the provisions of applicable international law, as well as to see its implementers in practice. This research is a descriptive-analytical study that examines international legal regulations regarding the liability of countries and airlines in the event of an international aircraft accident.

The primary data sources in this research are documents related to relevant international conventions, such as the 1929 Warsaw Convention, the 1999 Montréal Convention, the 1944 *International Civil Aviation Organization* (ICAO) Resolution, and Annex 13, as well as case studies on international aircraft accidents. This method is expected to provide a comprehensive understanding of how international law governs the protection of victims of international aircraft accidents.

RESULT DAN DISCUSSION

International Legal Framework Regarding International Aircraft Accidents

Plane crashes are one of the saddest tragedies and have a far-reaching impact, not only for the victim and their families, but also for the aviation industry as a whole. In the context of international aviation accidents,

⁵ Garcia, M. R. (2023). *Technical Standards and Accident Investigation: A Critical Review of ICAO Annex 13*. Global Aviation Press.

the responsibility to protect and compensate victims is a complex issue that involves a wide range of stakeholders, including countries and airlines. This article will analyze the responsibilities of states and airlines in protecting victims of airplane crashes, as well as evaluate the efforts that have been made to ensure adequate protection for victims⁶.

As the party responsible for aviation safety in its territory, the State has an important role in protecting aircraft accident victims. Countries are obliged to establish strict regulations regarding aviation safety, including a strict certification process for every aircraft operating in their territory. In addition, the State is also responsible for investigating any accidents that occur and taking precautions to avoid similar accidents from happening in the future. In the context of victim protection, the State must ensure that there are adequate mechanisms to provide compensation and assistance to victims and their families. Laws governing this issue must provide fair protection for victims, including adequate amounts of compensation.

1. 1999 Montréal Convention (MC99)

The 1929 Warsaw Convention formed the basis for the 1999 Montréal Convention. There is a contrasting difference between the Warsaw Convention and the Montréal Convention. Montréal has no limitations on the principle of liability; therefore, in this Convention, the principle of strict liability is known. The Montréal Convention aims to update the legal framework on international aviation by incorporating elements contained in the Warsaw Convention into a single document in order to achieve transparency and uniformity of law. In the preamble to this Convention, it is stated that they no longer protect the interests of airlines but prioritize the interests of consumers in international flights. This Convention also emphasizes the need for fair compensation based on the principle of restitution.⁷

The 1999 Montréal Convention consists of seven Chapters and has 57 Articles. This Convention applies to all passenger, baggage, and cargo transportation using civil aircraft for a fare or payment. The Montréal Convention uses the concept of strict liability for presumed fault contained in Article 17 and Article 21. Although the Convention does not impose limitations on the form of liability, passengers cannot

⁶ A. Konert, "Compensation for Non-Pecuniary Damage in Air Accidents While Traveling Internationally," *Studia Iuridica Toruniensia* 29 (2021): 115-36, Scopus, <https://doi.org/10.12775/SIT.2021.025>.

⁷ D. Truong and S.-A. Lee, "Developing A New Safety Culture Framework for Aviation Maintenance: Preliminary Results," *Safety Science* 183 (2025), Scopus, <https://doi.org/10.1016/j.ssci.2024.106729>.

expect substantial compensation, as the plaintiff will only be compensated for the damages that have been fully proven. The principles of absolute responsibility listed in Article 17 and Article 21 are as follows⁸:

- a. For losses incurred under paragraph 1 of Article 17 that do not exceed 100,000 Special Right of Withdrawal for each passenger, the Carrier cannot exclude or limit its liability.
- b. The Carrier shall not be liable for losses incurred under paragraph 1 of Article 17 to the extent that such losses exceed 100,000 Special Right of Withdrawal for each passenger if the Carrier proves that: Such loss is not due to negligence or unlawful acts or negligence of the Carrier or its employees, or such losses are solely due to the negligence or unlawful act or negligence of a third party.

The 1999 Montréal Convention has regulated the forms of compensation that can be paid in the event of an air transport accident. These forms of losses include: losses suffered due to the death of passengers; losses suffered due to passengers being injured; losses suffered because the passenger suffers other bodily suffering, This is contained in Paragraph (1) which basically explains that the airline is responsible for the damage suffered in the event of death or bodily injury to the passenger on condition only that the accident that caused the death or injury occurred on board the aircraft or during the time the aircraft was operating; and losses suffered due to the destruction of passengers' property on the aircraft⁹.

Regarding the amount or amount of compensation awarded by the airline to victims who are injured and cause death in the event of an aircraft accident, the 1999 Montréal Convention states in Article 21 Paragraph (1) which reads "the airline shall be fully liable for the death or injury of passengers up to 128,821 Special drawing Rights (SDR) or equivalent to approximately USD 175,000;" and Paragraph (2) which reads "if the claim exceeds 128,821 SDRs, The airline is allowed to defend itself provided that they are not negligent or at fault in the accident, and that the incident occurred due to a third party beyond the control of the airline."

The Montréal Convention of 1999 is an important instrument that regulates the liability of airlines in the event of an international aviation

⁸ D.A. Wiegmann and S.A. Shappell, "Human Error Analysis of Commercial Aviation Accidents: Application of the Human Factors Analysis and Classification System (HFACS)," *Aviation Space and Environmental Medicine* 72, no. 11 (2001): 1006–16, Scopus.

⁹ L.W. Zhang, "Humanitarian Considerations in International Air Law," *Cambridge International Law Journal* 5, no. 3 (2016): 450–74, Scopus, <https://doi.org/10.4337/cilj.2016.03.05>.

accident. The Convention has established clear guidelines for the responsibilities of states and airlines in such situations. One of the key aspects of the Montréal Convention is the principle of state sovereignty over its airspace. Under Article 9 of the Chicago Convention, states have the right to close their airspace if they deem it necessary, especially during times of armed conflict. The fragmentation of international law has led to differing perceptions of the issue, underscoring the need for a more integrated approach.

In addition, the Montréal Convention establishes the liability of airlines for damages caused by lost, destroyed, or damaged baggage, whether registered or unregistered. The Convention also addresses the issue of fault in the case of collisions between space objects, which is a unique feature in international law. State responsibility in international aviation accidents under the Montréal Convention is a complex and multi-faceted issue. The Convention has established clear guidelines, but the diverse interpretations and evolving space industry require a critical examination of this Convention to ensure that it remains a robust and adaptive framework for dealing with liability in the event of such incidents.

2. Annex 13 ICAO 1944

“Annex 13 to the Convention on International Civil Aviation specifies the international standards and recommended practices for aircraft accident and incident investigation. The objective of the investigation is solely the prevention of future accidents and incidents without apportioning blame or liability”. — International Civil Aviation Organization (ICAO), *Annex 13 to the Convention on International Civil Aviation: Aircraft Accident and Incident Investigation*, 11th Edition, Montréal, 2020, Chapter 3, p. 3.1.

Annex 13 of the 1944 Chicago Convention is an international legal instrument that regulates the procedures and principles for the investigation of accidents and incidents of civil aviation. Published by ICAO, this Annex aims to analyse the causes of accidents technically and operationally, with a primary orientation on the prevention of similar accidents in the future. One of the key principles in Annex 13 is that investigations are conducted not to establish legal wrongdoing or criminal liability, but in the interest of public safety and the improvement of the civil aviation system¹⁰.

¹⁰ B.I. Scott and J. Hartmann, “International Aviation Law on Liability,” in *Civil Regulation of Autonomous Unmanned Aircraft Systems in Europe* (2024), 12–30, Scopus, <https://doi.org/10.4337/9781035312344.00007>.

Annex 13 is one of the 19 Annexes to the 1944 Chicago Convention issued by the International Civil Aviation Organization (ICAO). This Annex sets out explicitly *Standards and Recommended Practices (SARPs)* in the investigation of serious accidents and incidents in international civil aviation. The following are some of the important definitions in Annex 13:

- a. Accident: an event that occurs in the operation of an aircraft that results in death, serious injury, or significant damage to the aircraft
- b. Incident: another event other than an accident that affects or may affect the safety of the operation.
- c. Investigator-in-charge: a person who is fully authorized by the country of investigation to lead an accident investigation.
- d. State of occurrence: the country where an accident or incident occurred.

Annex 13 of ICAO has clearly stated that the purpose of an accident investigation is to avoid future accidents, not to find fault or establish legal liability¹¹. This is reflected in the ICAO's non-penal principle, which states that investigations should not be used for legal proceedings, except in certain circumstances or in minimal circumstances. This approach is designed to protect witnesses and related parties, ensuring they feel safe in providing accurate technical and operational information without fear of legal repercussions.

In the global context, this principle has undoubtedly fostered a culture of safety that is open and based on learning, rather than punishment. Based on this, Annex 13 has become an important instrument in encouraging openness and accountability in the international aviation industry.

In addition to the above, Annex 13 reinforces the principle of international coordination in conducting aviation accident investigations. The country where the accident occurred has an obligation to notify the country of the aircraft registrant, operator, designer, and manufacturer, and to offer investigative participation through the appointment of accredited representatives. These countries are not only given access to information, but can also provide technical analysis and are entitled to receive reports on the progress of investigations.

This is especially important in the case of an aircraft accident involving another country in its design, operated by an airline from

¹¹ A. Kusumaningrum, "Recent Development in International Treaties Relating to Aviation: New Standardization of International Air Law," *Padjadjaran Jurnal Ilmu Hukum* 7, no. 2 (2020): 268–88, Scopus, <https://doi.org/10.22304/pjih.v7n2.a7>.

another country, and crashing in the territory of a third country. Annex 13 provides an opportunity for all interested parties to engage constructively in the interest of global investigation accuracy and safety, which strengthens the principles of mutual trust and transparency between countries.

Annex 13 stipulates strict reporting obligations to ensure transparency and accountability. The investigating State must publish a *preliminary report* within 30 days of the incident, and a final report as soon as the investigation is completed. The report must be available to the public with details regarding the chronology of events, technical findings, and safety recommendations. ICAO has also called on countries to share findings and safety measures with the international community. This is necessary to prevent similar accidents in the future. In practice, timely and accurate reporting is an important indicator of the aircraft's compliance with global safety standards and its commitment to the protection of human life in international civil aviation.

Although Annex 13 has high standards, its implementations in different countries show significant variations. Countries with limited resources or with non-independent investigative authorities often have difficulty effectively implementing the provisions of Annex 13. Additionally, in some cases, political or economic pressure within a country may lead to delays in reporting or disclosing information.

ICAO does not have a robust sanctions mechanism to enforce Annex 13, so a country's compliance largely depends on its commitment to aviation safety and international pressure¹². Based on this, there are several calls among academics and air law practitioners to strengthen the oversight and accountability framework for implementing Annex 13.

Analysis of the Jeju Airplane Crash Case according to International Legal Aspects

1. Compliance of South Korea and Jeju Air under Annex 13 of ICAO 1944

Annex 13 of the Chicago Convention requires the State of occurrence to conduct an independent, objective, and transparent investigation, involving the country where the aircraft is registered, the operator, the country of design and manufacture, and submit an initial report within 30 days. A final report after the investigation is completed. Based on this,

¹² Y. Li et al., "Research on Potential Ground Risk Regions of Aircraft Crashes Based on ADS-B Flight Tracking Data and GIS," *Journal of Transportation Safety and Security* 14, no. 1 (2022): 152–76, Scopus, <https://doi.org/10.1080/19439962.2020.1754981>.

it is important to analyze whether Jeju Air and South Korea are implementing existing procedures. It is essential to analyze how airlines and countries comply with international legal regulations governing international aircraft accidents¹³.

On December 29, 2024, a tragic accident occurred involving a Jeju Air passenger plane with flight number 2216. This incident occurred at Muan International Airport, South Korea. The Boeing 737-800 aircraft carried 181 passengers, consisting of 175 passengers and six cabin crew. As a result, this incident killed a total of 179 people, with two cabin crew members surviving.

According to the chronology, the pilot reported that when approaching Muan International Airport, there was a problem with the landing gear. This made the pilot make the decision to make a belly landing (belly landing) without a working landing gear. It was reported that the plane landed without landing gear, went off the runway, hit the airport barrier wall, and caught fire. This event has made it one of the deadliest aviation incidents in South Korea.

The official investigation was carried out by the South Korean Government through the Aviation and Railway Accident Investigation Agency. An investigation was carried out to determine the cause of the plane crash. In addition, they are also assisted by the National Transportation Safety Board (NTSB) of the United States, the Federal Aviation Administration (FAA), and Boeing. The black box (cockpit voice recorder and flight data recorder) was successfully found and analyzed. Unfortunately, however, the data showed that the recording stopped four minutes before the accident. This situation certainly adds complexity to the implementation of the investigation¹⁴.

The investigation into these accidents also includes investigations of negligence in aircraft maintenance or negligence in crew training that could have been the cause of these accidents. South Korean police have conducted searches at Jeju Air offices and Muan International Airport as part of the investigation. In addition, the investigation also highlighted the design of Muan International Airport, especially the existence of concrete walls at the end of the runway that could have been used as a base and aggravated the impact of the accident. Experts have raised questions about the existence of the

¹³ K. Jaiswal et al., "Safety Culture in Aircraft Maintenance Organizations of United Arab Emirates," 2018, 1-7, Scopus, <https://doi.org/10.1109/ICASET.2018.8376809>.

¹⁴ S.P. Baker et al., "The Injury Severity Score: A Method for Describing Patients with Multiple Injuries and Evaluating Emergency Care," *Journal of Trauma* 14, no. 3 (1974): 187-96, Scopus, <https://doi.org/10.1097/00005373-197403000-00001>.

concrete structure and whether it meets international safety standards. The South Korean government also ordered inspections of all Boeing 737-800 aircraft operating in South Korea. This is done to ensure compliance with international aviation safety standards¹⁵.

South Korea has launched emergency safety inspections of the country's entire airline operations, and also conducted separate inspections of all Boeing 737-800s after 179 people were killed in the Jeju Air crash. The South Korean government said it would conduct an audit of all 101 aircraft operating domestically (including Boeing), involving the US as investigators joining the inspection. South Korean President Choi Sang Mok said a thorough inspection is essential to overhaul the aviation safety system and move towards a safer Republic of Korea.

Damage to the landing gear was one of the issues that was the subject of the investigation into the crash, in which the plane skidded on the runway in what the aviation industry described as a "reverse flight". South Korean officials said the crash could also be caused by bird crashes and weather conditions, or it could be a combination of these and other factors. However, the exact cause is not yet known; this incident is the worst civil aviation disaster in South Korea.

The investigation into the accident will be focused on the model of the aircraft and will ask further questions for the flight operator, Jeju Air. In the aftermath of the plane crash, the airline reported that about 68,000 flight reservations had been canceled (more than 33,000 for domestic flights and 34,000 for international routes). The airline has stated that it will do everything it can to support the victims' families, including with financial assistance. Jeju Air Chief Executive Kim E-Bae told a news conference that he took "full responsibility" for the accident, regardless of the cause, and apologized profusely to the families of the victims. He further stated that the company did not identify any mechanical problems with the aircraft after a routine inspection; therefore, it would wait for an investigation from the government.

The primary purpose of this investigation is not to establish criminal faults or liability, but rather to prevent the recurrence of similar incidents through the identification of causative factors and safety recommendations. The country is obliged to notify the accident to the aircraft registrant country, the country of the operator, the country of design, and the country of the manufacturer within 24 hours, and to

¹⁵ R. Campos, E. Martins, and M. Soares, "The Organizational Factors in the Causalities of Aircraft Accidents Related to Maintenance," in *Advances in Usability Evaluation Part II* (2012), 379–85, Scopus, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85055232326&partnerID=40&md5=24579d09e3e6f2d96181a26318809b9e>.

invite their participation in the investigation process¹⁶. In the case of the 2024 Jeju Air plane crash, South Korea appears to have carried out the obligation by involving participation from the US (NTSB) and France (BEA), as Boeing and aircraft components are from both countries, as well as submitting a preliminary report to ICAO and relevant countries within a predetermined time limit.

The South Korean government also launched emergency safety inspections of all Boeing 737-800 aircraft operated by domestic airlines, as well as reviewing airport structures that could jeopardize flight safety. Jeju Air is committed to providing financial support to the families of the victims, including assistance in the funeral process and compensation in accordance with the provisions of the 1999 Montréal Convention¹⁷.

In the case of the 2024 Jeju Air plane crash, South Korea, as the country of the scene, appears to have exercised its responsibilities under Annex 13. The country appoints an independent national investigation authority and invites participation from the design country (the United States) and the component manufacturing country (France). The initial report has been submitted to ICAO within the stipulated time, and the investigation process is conducted publicly with periodic publication to the public. These actions demonstrate compliance with Annex 13 and demonstrate the importance of the State's role in maintaining the credibility of the international air law system¹⁸.

2. Liability and Compensation Scheme under the 1999 Montréal Convention

The 1999 Montréal Convention is an international legal instrument that regulates the liability of airlines to passengers in the event of accidents, delays, and loss of goods or baggage. In the context of fatal accidents such as the one that occurred on the Jeju Air flight in 2024, the main relevant articles are Articles 17 and 21. Based on Article 17 paragraph (1), the airline is responsible for the death or injury suffered by passengers while on board the aircraft or in the process of boarding/disembarking. Meanwhile, Article 21 establishes a two-tier system of compensation: airlines cannot limit liability to 128,821 SDRs (~USD 170,000) per passenger,

¹⁶ Walker et al., "The Role of Aviation Laws and Legal Liability in Aviation Disasters: A Financial Market Perspective."

¹⁷ M.E. Lewis and G. Maidment, "Accident Investigation and Aviation Pathology," in *Ernsting's Aviation and Space Medicine: Fifth Edition* (2016), 831-47, Scopus, <https://doi.org/10.1201/b13197-68>.

¹⁸ I. Berlowitz and M. Gurman, "Aircraft Accidents Investigation and System Safety Assessment," 2 (2011): 653-90, Scopus, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-84866889869&partnerID=40&md5=e1782b2d92c9a47e07164045525876fd>.

unless they can prove their innocence or that the losses were caused by a third party.

The 1999 Montréal Convention stipulates that airlines are liable for losses resulting from the death or injury of passengers during international flights. This liability is without the need for proof of error (strict liability) to a certain extent, and can increase if it is proven that there is negligence on the part of the airline.

South Korea ratified the 1999 Montréal Convention (MC99) on September 4, 2007, and the provisions of this Convention have entered into force in South Korea since December 4, 2007. In general, this Convention supersedes most of the provisions of the Warsaw Convention in terms of the liability of airlines towards passengers, baggage, and cargo in international flights. By ratifying the MC99, South Korea implements a more modern accountability system for its airlines. South Korea has adopted the provisions of MC99 into its domestic law through several regulations, including¹⁹:

- a. *The Aviation Business Act* concerns the regulation of airline operations, including liability to cargo passengers.
- b. *Aviation Act*, on the adjustment of domestic aviation rules to international standards, including aspects of safety and legal responsibility
- c. *Consumer Protection Act*, about the protection of passengers' rights in case of delays, lost baggage, and flight accidents.

Based on the provisions of the 1999 Montréal Convention, the amount of compensation for victims of international aviation accidents is determined based on the principles of strict liability and unlimited liability. Based on this, the amount of compensation that Jeju Air must pay is estimated to be up to 128,821 SDR per passenger, without the need to prove the airline's fault. Currently, 1 SDR is equivalent to around US\$1.35, which means 128,821 SDRs are approximately US\$174,000 or equivalent to Rp 2.7 billion depending on the exchange rate. Thus, when referring to the 1999 Montréal Convention, the following is the compensation scheme that must be paid by Jeju Air to the victims:

As of February 2025, 1 SDR is equivalent to US\$1.3058
Amount of compensation per passenger: 128,821 SDR x
US\$1.3058, so you get a result of around US\$168,200

¹⁹ M.G. Lenne, K. Ashby, and M. Fitzharris, "Analysis of General Aviation Crashes in Australia Using the Human Factors Analysis and Classification System," *International Journal of Aviation Psychology* 18, no. 4 (2008): 340–52, Scopus, <https://doi.org/10.1080/10508410802346939>.

The total number of victims was 175 passengers, so the total amount of compensation that must be issued by the airline is around US\$29,435,000

If the loss exceeds 128,821 SDRs, then Jeju Air will remain liable unless they can prove that the accident was not due to their negligence or fault, but was caused by external factors beyond their control. This compensation may include material losses such as funeral expenses and loss of income in accordance with applicable law. The implementation of this rule ensures that the victim's family receives fair and decent compensation, and affirms the responsibility of airlines in ensuring the safety of passengers²⁰.

Jeju Air has expressed its commitment to fully compensate the families of the victims in accordance with the provisions of the Montréal Convention. The airline has an insurance policy with a liability limit of up to \$1 billion, which includes payments to the victim's family and other related expenses. The airline has also sent a team to support the funeral process and provide logistical assistance to the families of the victims. The South Korean government has taken steps to support the families of the victims, which include: The establishment of a special task force consisting of various Ministries and Agencies to provide complete and comprehensive support; Providing emergency financial assistance and psychological counseling services for victims' families; conducting reviews and improvements to airport infrastructure and flight safety procedures²¹.

Jeju Air has planned to provide emergency financial support to the families of accident victims regardless of insurance coverage obligations. In the fourth press conference, Jeju Air CEO Kim E-Bae stated that it had started the funeral procedure and provided the necessary financial assistance for the funeral. Additionally, Kim stated that the airline would establish an emergency support fund to assist the victims' families in resuming their daily lives after the accident. Kim believes that the victims will not be able to continue their livelihoods in this situation; therefore, emergency assistance is expected to be of great help later.

The South Korean government has also shown active support in this process. The government has not only coordinated the investigation and humanitarian assistance process but also established an inter-

²⁰ S.D. Young et al., "Flight Simulation Study of Airplane State Awareness and Prediction Technologies," 2016-December (2016), Scopus, <https://doi.org/10.1109/DASC.2016.7777954>.

²¹ J. Douglas, *General Aviation: Liability Insurance Issues and Mitigation of Safety Risks*, General Aviation: Liability Insurance Issues and Mitigation of Safety Risks (2016), 99, Scopus, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85145356941&partnerID=40&md5=39f88839d5707123f3bde656ef18f30b>.

ministerial task force. The South Korean government has also provided emergency financial assistance to the families of the victims. South Korea's Ministry of Transport and Infrastructure (MOLIT) is also involved in the compensation oversight process and official communication to the public.

However, the implementation of responsibility by airlines is not without challenges²². There are several victims' families who express dissatisfaction with the compensation process; they consider that the process tends to be slow and not transparent. A total of 72 victims' families have even filed criminal complaints against 15 senior officials, including the President of Jeju Air and the Minister of Transportation, for alleged negligence and violations of aviation laws. The victim's family even demanded that all investigative data, including communication recordings and technical parameters of the aircraft, be disclosed to the public in full. With conditions like these, it is evident that, although the 1999 Montréal Convention has been normatively implemented, in practice, it still faces challenges in the administrative aspect. Additionally, public communication remains one of the obstacles

Discussion

The practical effectiveness of ICAO Annex 13 and the Montreal Convention of 1999: A critical analysis

The Jeju Air 2024 crash is a litmus test for the effectiveness of international aviation instruments. Although these frameworks are intended to promote safety and justice, their implementation in this instance has exposed substantial systemic issues.

Annex 13's primary purpose is to prevent future accidents. It strictly states that the objective of an investigation is 'not the apportionment of blame or liability'. However, in the Jeju Air case, this 'no-blame' approach creates a practical void in state accountability. The critical gap arises when the investigation identifies that the 179 fatalities were exacerbated by non-frangible concrete structures at the airport (a state-managed infrastructure), as Annex 13 then protects the investigative findings from being used as direct evidence in criminal or civil proceedings. Effectiveness issue: In practice, this often enables states to exploit the 'safety-only' veil to delay or obscure the admission of sovereign negligence, thereby hindering the victims' right to transparency.

²² Y. Li et al., "Research on Potential Ground Risk Regions of Aircraft Crashes Based on ADS-B Flight Tracking Data and GIS," *Journal of Transportation Safety and Security* 14, no. 1 (2022): 152–76, Scopus, <https://doi.org/10.1080/19439962.2020.1754981>.

While MC99 establishes a modern, two-tier liability system for carriers, it is less effective when the root cause of the disaster is the State's regulatory failure rather than an operational error by the airline. The limitation is, MC99 primarily designed for carrier liability. In the 2024 Jeju Air incident, for example, even if the carrier pays the initial 'strict liability' damages, the convention does not provide a direct mechanism for victims to sue the state for infrastructure negligence. There is also a discrepancy between the technical findings of Annex 13, which may indicate state negligence, and the legal triggers of the MC99. Without this, the state remains shielded from the financial and legal consequences of its safety breaches.

CONCLUSION

Based on the results of the analysis, it can be concluded that South Korea, as the country where the accident occurred (*state occurrence*), has carried out most of its obligations under Annex 13. The investigation into the accident has been conducted transparently and involves representatives from interested countries. This aims to identify the cause of the accident as well as prevent the same incident from happening in the future. The commitment of Jeju Air and the South Korean Government has been a strong indicator that the safety principles upheld in Annex 13 remain relevant. In terms of compensation, the implementation of the 1999 Montréal Convention shows that there are concrete efforts on the part of airlines and states in providing compensation to families. Jeju Air has publicly stated its legal responsibility and provided a significant compensation fund. Additionally, the South Korean government established a special task force and provided logistical and emotional support to the families of the victims. On the other hand, challenges persist, particularly in terms of the speed and transparency of compensation. The protest from the victims' families demonstrates that the success of implementing international legal instruments is not only measured by formal compliance, but also by the quality of their practical implementation. The Jeju Air 2024 case demonstrates that the 'fragmented' application of these two instruments often results in a 'justice gap'. For these instruments to be practically effective, Annex 13 must be interpreted not just as a technical manual, but also as a procedural benchmark for state due diligence. Breaches of Annex 13 standards (e.g. failing to ensure runway safety zones) should automatically satisfy the 'fault' requirement needed to bypass the Montreal Convention's liability limits through national tort laws

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