The evolution of penal air law

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• Briefly about ICAO
• The evolution of aerial crime; threats and responses
• **The Hijacking Convention**: Hague Convention 1970 and Beijing Protocol 2010
• **The Sabotage Convention**: Montreal Convention 1971
• **The Unlawful Acts Convention**: Beijing Convention 2010
Tokyo Convention (1963)

Convention on Offences and Certain Other Acts Committed on Board Aircraft

- Entered into force in 1969 (186 parties)

- US vs. Cordova, 1950

- Which State has jurisdiction?
Article 1: Scope
- Offences against penal law
- Acts jeopardizing safety or good order and discipline on board

Articles 6, 7: Restrain
- Power of Aircraft Commander to restrain an offender until the next landing
- Crew or passenger to take reasonable preventive measures

Article 8, 12: Power of Aircraft Commander to disembark and deliver offender in the state of landing

Article 10: aircraft commander, crews and passengers, aircraft owner or operator not responsible for actions taken
The Hague Convention (1970)

**Convention for the Suppression of Unlawful Seizure of Aircraft**

- Entered into force in 1971 (185 parties)
- In 1969, number of hijackings had climbed to 82 in one year, highest number ever.

- Criminalization of Hijacking
- Obligation for the States to either extradite or submit the alleged offender to the competent authorities for the purpose of prosecution ("aut dedere aut judicare")

- Jurisdiction
  - State of Registration
  - State of Operator
  - State of Landing
Montreal Convention (1971)

Convention for the Suppression of Unlawful Acts Against the Safety Of Civil Aviation

- Entered into force in 1973 (188 parties)
Montreal Convention, 1971

Offences

Act of violence on board aircraft

Destroy aircraft in service

Place destructive device or substance on aircraft

Destroy or damage air navigation facilities; airport facilities

Communicate false information
Airport Protocol (1988)


- Entered into force 1989 (174 parties)

Attacks at Rome and Vienna airports in late December 1985; sudden awareness that international airports unprotected.

- Expansion of the scope of application to acts of violence at airports serving international civil aviation
  - Must endanger safety at the airport
MEX Convention (1991)

*Convention on the Marking of Plastic Explosives for the Purpose of Detection*

- Entered into force 1998 (153 parties)

- Uniform international system to mark plastic explosives to enhance their detectability
  - Prohibits manufacture of unmarked explosives
  - Prohibits movements in or out of territory except by military or police authorities
Summary of International AVSEC Treaties

- Gradual expansion of acts which are criminalized
- Gradual expansion of protection to civil aviation
- Increase in recognized bases of jurisdiction
New and Emerging Threats

Cyber attacks
MANPAD attacks
Aircraft weapons
Suicide bombings
WMD BCNs