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Techno-Legal Aviation Tribunals In India: Need Of The Hour

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ABSTRACT

Aviation is a word which includes many activities primarily operation of aircrafts whether domestic or international focusing air travel. The author states that the word 'aviation' for the research purposes of this paper, is purely focused on civil aviation but not the military or State-run aircrafts¹. Aviation has become a significant catalyst for international trade, employment, study, business, academic pursuits, and many more generating a USD 53.6 billion contribution to India's economy, underpinning 7.7 million jobs with 1.5% GDP, in the country. Hence, travel accounted for 6.5% in the nation's GDP and 8.9% of total employment in 2023 and now ranks as the third largest air transport market in the world carrying 174 million passengers (approx.).

Even though there is economic growth due to the development of aviation sector in India, still it lacks a forum for speedy dispute disposal system. As the disputes arise out of airport infrastructure, land acquisition, concession agreements, tariffs, environment, charges, construction, airline passenger, regulatory compliance, jurisdictional overlaps, airports and airlines relating to slot allocation etc. competition, workforce, international agreements, bankruptcy and insolvency etc., and as these disputes involve technicality and technology, it is pertinent to note that the forums in India are not able to cater speedy remedy for the aggrieved.

Hence, this research paper focuses the significance of aviation sector; classification of aviation disputes; dispute settlement methods in other countries, and the present position of resolving aviation disputes in India by suggesting a "Techno-Legal Aviation Tribunal" at State/Regional level and National level for a speedy relief instead going to the courts. The author also suggests that DGCA should be an independent body in regulating the aviation sector in India.

Introduction

Aviation is a word which includes many activities primarily operation of aircrafts whether domestic or international focusing air travel. The author states that the word 'aviation' for the research purposes of this paper, is purely focused on civil aviation but not the military or State-run aircrafts². India with a vast demography and diverse cultures has a strong economic growth and is the world's fifth largest economy, paving way for transport system in general and air transport in particular. Today, aviation brings the people together, strengthens social bonds, provides employment opportunities globally. Once, aviation was

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¹ Article 3 Civil and State Aircraft, Chicago Convention, 1944.

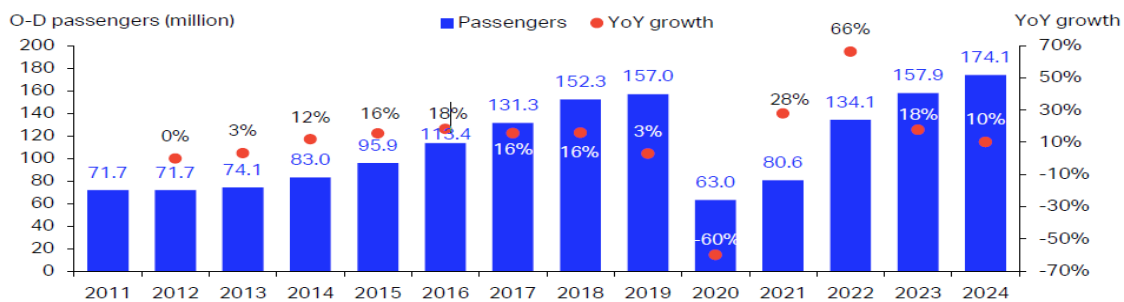
² Article 3 Civil and State Aircraft, Chicago Convention, 1944.

considered as a luxury, but today, due to the advent of liberalization, privatization and globalization; it has become common for a common man to fly to any corner of the world in search of employment etc., may be from a software engineer to a carpenter or from a student flying abroad for higher studies to a businessman spreading his business across the globe.

Aviation has become a significant catalyst for international trade, employment, study, business, academic pursuits, and many more generating a USD 53.6 billion contribution to India's economy, underpinning 7.7 million jobs with 1.5% GDP, in the country³. Additionally, tourism adds USD 27.1 billion to GDP; international tourists contribute USD 29.4 billion annually⁴ through purchases at local market. Hence, travel accounted for 6.5% in the nation's GDP and 8.9% of total employment in 2023⁵ and now ranks as the third largest air transport market in the world carrying 174 million passengers (approx.) (Chart-1) accounting for around 4.2% of the global total (Chart-2).

Chart-1

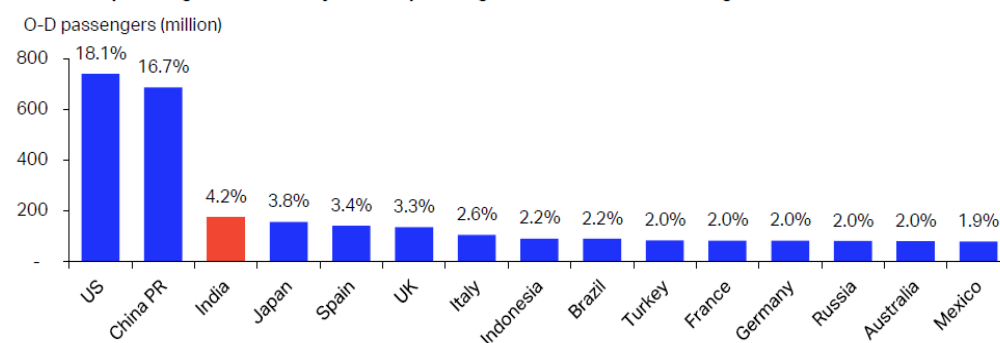
Chart 1: Total departing O-D air passenger traffic from India and % YoY growth (2011-2024)



Source: IATA Sustainability & Economics based on data from DDS

Chart-2

Chart 2: Top 15 largest markets by O-D air passenger traffic and % share of global (2024)



Source: IATA Sustainability & Economics based on data from DDS

Economic Growth in Aviation

The growth of aviation sector was tremendous, that various factors like the global connectivity has led to the expansion of international trade and business, promotion of tourism, important role played during catastrophe or even in conflicts, transportation of passengers domestic as well as international and cargo, establishing the greenfield airports and developing the brownfield airports, entry of low-cost carriers and low-cost airports, inviting the private players under Public-Private Partnership (PPP), travel due to increase in higher household income, increased Foreign Direct Investment (FDI) inflows, increased tourist inflows, development of modern airports with new advanced technologies, and government's supportive policies. The air transport market in India under current trend points to grow by 262% which would result in an additional 370.3 million passenger journey by 2037. And the increased demand would support approximately US\$ 126.7 billion of GDP and 9.1 million jobs⁶.

³ Oxford Economics, 2024.

⁴ IATA, Value of Aviation to India, 2023

⁵ WTTC, India 2024 FactSheet, 2024. URL: <https://researchhub.wttc.org/> (visited on 15-01-2024)

⁶ <https://www.ibef.org/download/Indian-Aviation-Market.pdf> (visited on 5-4-2022).

Chart-3

		Passengers	US\$ GDP	Jobs
2017		141.5 million	35 billion	6.2 million
Current Trends	2037	511.8 million	126.7 billion	9.1 million
Upside		828.3 million	205 billion	15 million
Downside		402 million	99.5 billion	7.1 million



The concept of aviation is majorly a technical area and requires technical and non-technical personnel in judging the facts of crash or cash towards payment of compensation and finally establishing the Techno-Legal Aviation Tribunals a specialized tribunal to deal all the aviation related disputes in India. At global level, there are specialized courts/tribunals with a techno-orientation, though they may not always be explicitly called “Techno-Legal Courts”. Instead, they are specialized benches, tribunals, or divisions within the existing judicial system to handle disputes involving technology, science, or highly technical subject matter. The following are a few examples at global level, where technology courts are functioning:

Techno-Legal Tribunals-An International Perspective

1. **Cyber/Technology Courts:** Today, the **United Arab Emirates (UAE)** and the **China** are handling tech-related commercial disputes and in particular in United Arab Emirates⁷ Digital Economy Courts were launched in 2021 to handle disputes related to Blockchain, Artificial Intelligence, Fintech, Digital Assets and cross border online trade. Digital Economy Courts are established to handle disputes arising from the digital economy i.e. e-commerce, fintech, data filing, virtual hearings, and online dispute resolution mechanisms and also to protect online contracts, digital platforms, cryptocurrency, AI, cybercrime, intellectual property in the digital sphere. Also in China, Internet Courts⁸ were launched dealing with e-commerce, and online contract disputes. They even allow Artificial Intelligence (AI) judges and blockchain-based evidence.
2. **Intellectual Property (IP) Courts:** A few examples from the USA states that, patents, trademarks and other IP disputes are dealt by the Court of Appeals for the Federal Circuit (CAFC) and the trained judges in complex tech/IP related cases are functional through the Patent Pilot Programs of District Courts in the US. Disputes pertaining to patent, biotechnology, high-tech disputes, intellectual property and Domain name dealt by IP Courts/ Benches in Germany, Japan, South Korea, Japan, India, etc.
3. **Data Protection and Digital Rights Tribunals:** In UK, the appeals on Data protection, privacy and surveillance issues are dealt by the Information Tribunal and disputes arising or involving from General Data Protection Regulation (GDPR), AI is an digital competition law are dealt by the Court of Justice of the European Union (CJEU).
4. **Environmental and Technology-Linked Courts:** The areas covering pollution data, climate models, aviation emissions etc., function under scientific and technical evidence, and hence, some environmental courts or tribunals function as techno-legal forums to curb the aforesaid situation and resolve the disputes through the technical based forums. In India, National Green Tribunal and Environment Court in New Zealand are the two examples we find based on technology.
5. **Arbitration and Tech Disputes:** Disputes relating to AI, Blockchain, Aerospace and Telecom which are technology based have special panels in the institutions like the World Intellectual Property Organization (WIPO) Arbitration Centre, London Court of International Arbitration (LCIA) and Singapore International Arbitration Centre (SIAC). In the United Kingdom, it has been

⁷ Dubai International Financial Centre (DIFC) Courts and Abu Dhabi Global market (ADGM) Courts (UAE).

⁸ Beijing, Hangzhou, and Guangzhou.

reforming courts under the His Majesty's Courts and Tribunals Service (HMCTS) Digital Justice System and has introduced Online Courts and Online Dispute Resolution (ODR), especially for small claims and consumer issues arising from online trade. Specialized technology and construction courts in Singapore, has adopted e-litigation and online dispute resolution (ODR) platforms.

Techno-Legal Tribunals-An Indian Perspective

India has a few techno-legal tribunals which are as follows:

National Green Tribunal (NGT); a techno-legal tribunal constituting judicial members, legal expert members i.e. scientists, environmentalists, engineers etc. National Green Tribunal Act was passed in the year 2010. It has jurisdiction in matters of environmental protection, conservation of forests, and other natural resources. The tribunal blends legal reasoning with technical expertise to reach balance decisions dealing with disputes which involve technical evidence like the pollution data, environmental impact assessments, groundwater depletion studies etc. Cases on air pollution, Yamuna River pollution, mining bans, waste management disputes are resolved by the tribunals.

Telecom Disputes Settlement and Appellate Tribunal (TDSAT): Telecom Regulatory Authority of India (TRAI) Act, 1997 was passed to adjudicate disputes and hear appeals in the telecom, broadcasting, and cable sector, which are highly technical and regulated industries. It has the jurisdiction to deal with the disputes between licensor (government) and licensees (telecom operators), service providers and group of consumers; broadcasting and cable services. The Appellate Jurisdiction hears the appeals against orders of the TRAI. The nature of techno-legal tribunals deals with complex technical issues like spectrum allocation, interconnection, tariff regulations, licensing, infrastructure sharing and regulatory compliance. Hence, the said tribunal requires legal as well as technical expertise, involving engineering, telecom technology and regulatory economics.

National Company Law Tribunal (NCLT): NCLT⁹ was established under the Companies Act, 2013. NCLT is composed of judicial members and technical members who are experts from finance, law, accountancy, company law, management or administration. The tribunal's jurisdiction lies in matters of disputes relating to oppression, mismanagement, restructuring, mergers, amalgamations, winding up etc. It also handles cases of class action by shareholders and depositors etc.

Classification of Aviation Disputes

The aftermath of the liberalization, privatization and globalization in aviation sector in India has led to a greater altitude in economic activity, but is not free from various types of disputes at various levels. The author states and foresees that any industry is not free from disputes emanating from a minor to a major nature. The author questions that, even the National Tribunals are established to serve and solve the aviation industry's issues, yet do we have those technical experts to judge and resolve the disputes of a simple air crash investigation? It's the "time" which can be answered. The following are the various dimensions of aviation disputes:

- i. **Disputes Relating to Airport Infrastructure:** Airports and the Airlines are the economic engines which play a vital role for the economic prosperity of any country. The initiation of liberalization, privatization and globalization has led to the establishment of Greenfield airports, Brownfield Airports, Low-Cost Airports in India, with a view to connect every city, region and the State. Whether for establishment or for an expansion of any airport, vertical or horizontal development, domestic or international, requires the basic infrastructure facilities where large public assets or the private assets involving land, construction, regulation under the guise of public-private partnership (PPP) led to disputes involving multiple stakeholders like the Airports Authority of India (AAI), private concessionaires viz., the GMR, GVK, Adani Group etc., airlines, consumers, regulators like the Airports Economic Regulatory Authority (AERA) and the Directorate General Civil Aviation

⁹ Section 408, The Companies Act, 2013.

(DGCA). The aforesaid authorities or the private concessionaires are directly or indirectly involved or engulfed under many issues.

- ii. **Land Acquisition:** Inadequate compensation, delay in payment of compensation, rehabilitation and resettlement issues have emerged from land acquisition for airports whether for domestic or for international or even for world class airports as witnessed in Navi Mumbai, Hyderabad, and Bangalore;
- iii. **Concession Agreements:** Many airports operated under the PPP model through concession agreement are facing issues which have led to disputes pertaining to the revenue-sharing models (passenger charges, user development fees¹⁰, tariff fixation); delay in construction period; breach of contractual obligations¹¹;
- iv. **Tariffs:** Airports Economic Regulatory Authority regulates tariffs for aeronautical services like the landing charges, parking charges, passenger fee; at times disputes arise due to tariff hikes or reductions between the airlines and the airport operators; increase airport charges by which tickets are also sold at a higher price paving way for a dispute between the airport and airline operators;
- v. **Environment:** The establishment of greenfield international airports has led to a conversion of thousands of acres of cultivable fertile agricultural land into a commercial land thereby granting permission for establishment of international airports etc. This, always have an impact on wetland, wildlife and also creating noise pollution. There is always a threat from the NGOs and other groups as seen in Navi Mumbai Airport paving a way for litigation and till the litigation is solved, the project becomes a stand still position.
- vi. **Charges:** Often there are disputes between the airport and the airlines relating to the charges. These charges relate to ground handling, slot allocation, service fee, fuel hydrant, hangar space, parking of aircrafts, maintenance facilities etc. For example; low-cost carriers are compelled to pay higher charges as is evident between the IndiGo and the SpiceJet airlines.
- vii. **Construction:** Delays and disputes in airport construction activities can be curbed by using various clauses while drafting the Built-Own-Operate-Transfer (BOOT) a mechanism under the Public-Private Partnership. For example, the airport operator can state incentives if the project is handed over before the agreed time or a penalty clause will be imposed, if the project is handed after the expiry of the project agreed time. Without this (clauses), there is always, delays in terminal construction, runways, or additional infrastructure often leads to disputes between the operators and the contractors. Due to escalation in prices, taxes, labour charges, the cost overruns and the quality concerns become common dispute area.
- viii. **Airline Passengers:** As the air transport system is blended with passengers whether domestic or international, still there persists some grievances between the airliners (whether domestic or international) and the air passengers (whether domestic or international) taking to the heights of disputes pertaining to delay of flight, cancellation of flights, denied boarding, overbooking, lost-delayed-damaged baggage, refund issues, fare disputes i.e., surge pricing, fuel surcharge, unbundled charges, inadequate amenities or service quality issues like the seating, meals, special assistance for disabled passengers.
- ix. **Regulatory Compliance under DCGA¹², AAI¹³, AERA¹⁴:** Seldom, disputes arise between the airliners and the regulatory bodies. These disputes arise due to safety violation and failure to follow the safety advisories of the DGCA; slot allocation disputes between the airliners and the airport operators over landing slots; tariff regulations i.e. on airport charges, fuel charges with the AERA; and non-compliance of environmental rules pertaining to noise pollution and carbon emissions.

¹⁰ GMR v. Airports Authority of India.

¹¹ AIR (SC) 2022-0-2745.

¹² Directorate General Civil Aviation.

¹³ Airports Authority of India.

¹⁴ Airports Economic Regulatory Authority of India.

- x. **Jurisdictional Overlaps:** As the aviation industry witnesses numerous activities, the disputes also emerge in number, but there is always a confusion to whom the matter is to be referred whether it is the Ministry of Civil Aviation, or the DGCA or the Grievance Cells of various airlines, or the Airports Economic Regulatory Authority (AERA), or any other regulators of the airport operators, Mediation, Arbitration, National Green Tribunal or Consumer Forums, the High Courts or finally the Supreme Court. These jurisdictional issues are emerging day by day and at this juncture, the author suggests for a State level and National level; Techno-Legal Aviation Tribunals demarcating the disputes based on the nature of the claim being made and finally the Supreme Court as an appellate authority.
- xi. **Airports and Airlines:** The airlines in matters of landing, parking, navigation charges, are always in dispute with the Airports Authority of India or at the times with the private airports. Ground handling services and infrastructure usage like delays or unfair allocation of gates, counters, hangars are always a matter of dispute.
- xii. **Competition and Commercial:** The Competition Commission of India (CCI) after a thorough investigation has concluded that there is always a predatory pricing / cartelization; disputes over revenue sharing are the disputes relating to Code-sharing and alliance agreements; leasing and financing of aircraft disputes with lessors at domestic and international; and mergers and acquisitions leading to valuation and integration disputes.
- xiii. **Workforce:** There are two categories of workforce; primarily, employees who are pilots and the second one is the crew where there are an unfair dismissal and non-payment of dues. Disputes over licensing and pay parity of expat pilots are also paving way for disputes. Finally, due to bankruptcy of Kingfisher and Jet Airways has led to the strikes, lockouts, retrenchment or closure of industry under the provision of the Industrial Disputes Act, 1947.
- xiv. **International Agreements:** Air Service Agreements are based on a variety of Freedoms of Air. Freedoms of Air are categorized into Transit Rights and Traffic Rights. These Traffic Rights play a vital role at the time entering into an agreement. These agreements are known as the Bilateral Air Services Agreement taking place between two States and often there is a dispute over traffic rights; code-sharing with foreign countries. Matters related to payment of compensation for death, or bodily injury or baggage loss or damage etc., can be claimed through the Warsaw Convention 1929 or the Montreal Convention 1999.
- xv. **Bankruptcy and Insolvency:** India witnessed some airlines¹⁵ going into bankruptcy which have given rise to the claims by creditors' which had led to the aircraft lessor disputes and finally the passenger refund disputes.

Aviation Disputes Settlement Mechanism in India

- i. **DGCA as a Regulatory Authority:** The DGCA in India is primarily a regulatory body for civil aviation which regulates safety, airworthiness, licensing and economic aspects of civil aviation. Normally, the passengers' complaints like flight delays, cancellation, refund issues, baggage problems are made to the respective airline company. If they are not resolved then the matter may escalate to AirSewa Portal monitored by the DGCA. Then the DGCA examines whether the airline has complied with Civil Aviation Requirements (CARs). If a violation is found, then the DGCA can direct the airline to compensate passengers as per Civil Aviation Requirements (CARs)¹⁶.

¹⁵ Kingfisher Airlines went into bankruptcy on 18 November, 2016.

¹⁶ Civil Aviation Requirement, Section 3, Series M, Part II (Refunds for Cancelled Flights and Denied Boarding).

- ii. **DGCA as an Enquirer:** Matters pertaining to pilot licensing, aircraft safety, maintenance standards, or operational violations, the airlines must comply with the regulatory bodies, and hence the DGCA enquires its compliance. Non-compliance will lead to suspension or cancellation of licences by imposing penalties on operators.
- iii. **DGCA's as an Intervener:** Disputes about the slot allocation, operational permits or adherence to aviation rules, are handled administratively, by issuing directions or orders. Appeals against the DGCA's orders usually lie before the Appellate Authority (Ministry of Civil Aviation) and ultimately before the High Courts or the Supreme Court.
- iv. **Consumer Forums:** The legal aspect of "air passengers" under the Consumer Protection Act, 2019, are treated as "consumers" and hence, any deficiency in service, unfair trade practice or over charging by the Airlines, Airports and Travel Agencies can be challenged before Consumer Forums. Common issues taken up the Consumer Forums, relate to flight delays, cancellations without proper notice or compensation; denied boarding despite valid tickets; loss, delay or damage of baggage; overcharging of fares or hidden charges; non-refund of cancelled tickets; unfair treatment and poor customer service.
- v. **National Company Law Tribunal (NCLT):** NCLT is a quasi-judicial body established under the Companies Act, 2013 to deal with company matters, corporate disputes and insolvency cases. It's a single forum for corporate disputes with specialized expertise with judicial members and technical members having experience in matters of company law, finance, accountancy, management etc for an efficient and informed decisions. NCLT ensures for a speedier resolving of company related disputes.
- vi. **Competition Commission of India (CCI):** Dispute resolution under the CCI follows a quasi-judicial process. CCI is not equivalent to our traditional courts. But they are investigatory in terms of ensuring freedom of trade in Indian markets. The CCI first examines whether a prima facie case exists, if yes, then the matter is reported to the Director General for detailed investigation. Once investigation is complete, a report is submitted to CCI. Finally, after the hearings, the CCI, can issue orders of penalties or structural remedies like modification of agreements etc. Compensation is not awarded by the CCI. Hence, aggrieved parties can approach National Company Law Appellate Tribunal, still further appeal lies to the Supreme Court of India.
- vii. **Jurisdiction of Multiple Bodies:** Multiple bodies deal with the disputes related to Airports in India. Taking some facts, the tariffs and airport charges are referred to AERA¹⁷, disputes pertaining to regulatory compliance are dealt by the DGCA, passenger grievances are dealt by the Consumer Forums, any breach relating to Concession Agreements¹⁸ under the mechanism of Built-Own-Operate-Transfer (BOOT) of Public-Private Partnership (PPP) are dealt by the process of arbitration or the High Courts, during land acquisition, the environmental issues are put before the National Green Tribunal, anti-competitive disputes are referred to Competition Commission of India (CCI).
- viii. **Public Grievance Cell (PGC)¹⁹:** The PGC is an independent authority or office set up to handle complaints and grievances of air passengers, airlines, and other stakeholders in the aviation sector. Its primary role is to provide a fair, speedy, and cost-effective dispute resolution mechanism outside traditional courts.

¹⁷ Delhi Airport (GMR).

¹⁸ Revenue Sharing Disputes relating to Bangalore International Airport Ltd.,

¹⁹ <https://www.civilaviation.gov.in/rti/public-grievance> (visited on 15-05-2022).

Current scenario of Aviation Tribunals in India

Currently, India does not have a dedicated aviation body or authority or ombudsman or a tribunal or a designated court to address various issues or disputes under the umbrella of aviation sector. As seen above, that aviation disputes were settled at many angles by various authorities leading to confusion and commotion. However, there have been proposals to establish an Aviation Ombudsman to provide quicker and more effective redressal, especially since aviation passenger traffic is rapidly increasing in India.

Tribunals Established under various Statutes

In India, in spite of the courts, still we have Tribunals established under various Statutes, but aviation related tribunals are not found under various statutes of aviation like the Aircraft Act, 1934, Aviation Rules 1937, AERA Act 2008, Airports Authority Act 1994, etc. The author states that many enactments have Tribunals being established, why the Tribunals haven't got space in the Statutes. In view of the advent of liberalization, privatization and globalization, the author states that tribunalisation of justice must be a part of the policy in India so as to resolve the disputes at a faster pace instead of relying solely on civil courts and ensuring expertise in technical areas. In India, several statutes expressly create specialised Tribunals or quasi-judicial bodies for dispute resolution instead of relying solely on civil courts. This is part of the policy of *tribunalisation of justice*, aimed at reducing court burden and ensuring expertise in technical areas.

The Parliament in India is empowered to set up Tribunals for service matters, tax, industry, land reforms, foreign exchange, elections, labour etc under Articles 323A and 323B of the Constitution of India. There are many examples of establishing Tribunals like the Administrative Tribunals Act, 1985, Income Tax Appellate Tribunal under the Income Tax Act, 1961, Customs, Excise and Service Tax Appellate Tribunal under the Customs Act, 1962, Securities Appellate Tribunal under the Securities and Exchange Board of India Act, 1992, Appellate Tribunal under Prevention of Money Laundering Act, 2002, Appellate Tribunal for Foreign Exchange under the Foreign Exchange Management Act, 1999, National Company Law Tribunal and National Company Law Appellate Tribunal under the Companies Act, 2013, disputes handled by the National Law Tribunal under the Insolvency and Bankruptcy Code, 2016, Competition Appellate Tribunal under the Competition Act, 2002, Labour Courts, Industrial Tribunals and National Tribunals under the Industrial Disputes Act, 1947, Employees Provident Fund Appellate Tribunal under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, Employees State Insurance Courts/Tribunals under the Employees' State Insurance Act, 1948, District, State and National Consumer Disputes Redressal Commissions under the Consumer Protection Act, 2019, National Green Tribunal under the National Green Tribunal Act, 2010, Debt Recovery Tribunals under the Recovery of Debts and Bankruptcy Act, 1993, Armed Forces Tribunal under the Armed Forces Tribunal Act, 2007, Appellate Tribunal for Electricity under the Electricity Act, 2003, Railway Claims Tribunals under the Railways Claims Tribunal Act, 1987 etc.

In spite of various tribunals which have find space under their respective enactments, aviation tribunals don't find space or place either in Aircraft Act 1934 or the Aircraft Rules, 1937 or the Airports Authority Act 1994 except under the Airports Economic Regulatory Authority Act, 2008, under Section 17 which was stated as "Appellate Tribunal".

Pending Aviation Related Legal Disputes

At present, no comprehensive and centralized figure exists for all aviation-related disputes across India. However, the following were extracted from different sources of information:

1. **Air India Pending Cases:** *A total number of cases pending in Indian courts and international courts against Air India is 2,657.* These cases relate broadly to employee service issues, customer complaints, and commercial matters—not solely aviation, but they do represent a substantial portion tied to aircraft operations²⁰.
2. **SpiceJet Litigation:** There are notable aviation-specific disputes in progress. A Delhi High Court order requiring SpiceJet to pay UST 2.67 million to an aircraft engine lessor as part of a \$6 million debt²¹. There are ongoing execution petitions in lower courts seeking return of aircraft engines, also involving SpiceJet.
3. **Insolvency Proceedings (NCLT/NCLAT):** Insolvency proceedings are being initiated against SpiceJet under Section 9 of IBC, claiming dues totalling USD 12.68 million (about Rs. 110 crores) from three Ireland lessors – NGF Alpha, NGF Genesis and NGF Charlie. Secondly, Go First's liquidation marks a significant moment in India's aviation history, serving as both a cautionary tale and a case study in insolvency resolution. As stakeholders reflect on the airline's journey, the focus shifts to ensuring that lessons learned pave the way for a more resilient future in the aviation sector²².

It's likely that the total number of aviation-related disputes—including ongoing arbitration, consumer forum cases, and airport contract litigations—runs well into thousands, but a precise, up-to-date total isn't publicly available.

Resolving of Aviation Disputes at Global Context

In the **US**, there isn't a specialized "Aviation Tribunal" but are resolved through a mix of Federal Agencies like the (i) Federal Aviation Authority (FAA) regulating civil aviation safety, licensing and enforcement; (ii) National Transportation Safety Board (NTSB) has tribunal-like function whereas (iii) Administrative Law Judges hear disputes from FAA and individuals/airlines; (iv) Department of Transportation (DOT) Office of Aviation Consumer Protection is more of an administrative enforcement mechanism, handling passenger rights disputes like the refunds, misleading advertising, tarmac delays etc.); Federal Courts handling airline liability, consumer claims, accidents; and (v) Private Dispute Resolution where arbitration and mediation becomes common in aviation-related contracts (aircraft leasing insurance, manufacturer liability) and (vi) the Courts. Hence, the US does not have a single, standalone "Aviation Tribunal".

In **Canada**, aviation-related disputes are largely resolved by the tribunals, administrative bodies, and courts. A system of specialized tribunals and regulatory authorities deal with different categories of disputes. Some of the aviation related disputes are resolved by the (i) Canadian Transportation Agency (CTA), a quasi-judicial tribunal and regulator established under the Canada Transportation Act which primarily resolves aviation-related disputes which includes matters pertaining to jurisdiction (air passenger complaints, accessibility complaints, economic regulation, air carrier obligations); (ii) Civil Aviation Tribunal created in 1986 was to hear appeals of aviation enforcement actions like the penalties issued by the Transport Canada. In 2003, its functions were merged into Transportation Appeal Tribunal of Canada (TATC); (iii) Transportation Appeal Tribunal of Canada (TATC) an independent body that hear appeals of administrative

²⁰ https://aviationa2z.com/index.php/2022/03/16/air-india-has-2657-pending-cases-in-international-indian-courts/#google_vignette (visited on 25-06-2022).

²¹ https://www.reddit.com/r/bangalore/comments/yj5exr/spice_jet_is_the_absolute_worst/ (visited on 21-05-2022).

²² <https://www.telegraphindia.com/business/spicejet-faces-fresh-round-of-troubles-as-three-ireland-based-aircraft-lessors-former-pilot-file-insolvency-pleas/cid/2087789> (visited on: 24-07-2022).

and enforcement decisions in the transportation sector including aviation. It hears matters pertaining to suspension or cancellation of pilot or airline licenses by Transport Canada, Monetary penalties imposed for aviation safety or security violations; enforcement actions under the Aeronautics Act; and (iv) the Civil Courts which acts for private law disputes (e.g., airline negligence, injury, breach of contract, insurance claims etc.).

In the **United Kingdom**²³ and European Union; (i) Aviation ADR [UK/EU] – an ADR service is provided under the supervision of the UK Civil Aviation Authority (CAA). It handles disputes like flight delays, cancellations, baggage and accessibility issues; (ii) CEDR²⁴ Aviation Adjudication Scheme (UK); is another ADR body where an independent adjudicator issues binding decisions if accepted by both parties, typically within 90 days²⁵; (iii) UK Civil Aviation Authority (CAA) as ADR Oversight. It regulates and approves ADR providers, ensuring scheme integrity and consumer protections under EU/UK ADR rules²⁶.

In **Australia**, there is no dedicated Aviation Tribunal, however, aviation disputes are resolved through a multi-layered system; i.e., airline complaint mechanism; industry bodies like the Airline Customer Advocate (ACA); regulators (Civil Aviation Safety Authority[CASA], Australian Competition and Consumer Commission (ACCC); Tribunals (Administrative Appeals Tribunals); Fair Work Commission (FWC); and the Federal Court of Australia or the State Supreme Courts handles major aviation disputes involving large contracts, liability or damages and international aviation disputes claimed under Montreal Convention 1999.

In **France**, the *Tribunal des conflits* has ruled that cases involving airlines operating as public utility services (even if private) fall under Administrative Courts (e.g. Air France disputes), rather than civil courts.

In **Malaysia**, there are no courts that deal specifically with aviation disputes. In general, aviation disputes have been adjudicated by the civil courts, in particular the Commercial High Court. However, Malaysian Aviation Commission (MAVCOM), enforced the Malaysian Aviation Consumer Protection Code (MACPC) and provided consumer protection and dispute resolution between airlines, airports and passengers.

Islamic countries do not have a specialized “Aviation Tribunal” as a separate judicial body. Instead, aviation disputes are generally handled under the existing legal system and regulatory frameworks, which may include civil courts, administrative bodies, or specialized authorities. However, some countries like Malaysia, UAE, Qatar and Turkey, being influenced by the European law apply modern civil codes and Sharia law applied mainly affecting family and inheritance, but not commercial aviation.

In **South Korea**, the Aviation and Railway Accident Investigation Board (ARAIB) takes-up the matters relating accident investigations, but not any consumer dispute resolution.

In **India**, there is no specialized aviation tribunal exists. The Consumer Forums function to protect the air passengers. However, disputes related to commercial disputes (aircraft purchase, leasing, financing contracts; agreements between the airlines and the ground-handling or maintenance companies; disputes between the airlines and airport authorities regarding slots, charges, or services); passenger-related disputes (denial of boarding, flight delays, lost baggage); insurance disputes (aircraft insurance claims, liability for accidents); international disputes (cross-border agreements – often under the New York Convention, enforceable through Part-II of the Act) are resolved under the Arbitration and Conciliation Act, 1996²⁷.

²³ aviationadr.org.ukcaa.co.uk (visited on 26-07-2022).

²⁴ Centre for Effective Dispute Resolution

²⁵ cedr.com (visited on 23-07-2022).

²⁶ caa.co.uk+1(visited on 24-06-2022).

²⁷ https://www.mondaq.com/account/register (visited on 05-08-2022).

Current Position in India

At present, India does not have a specialized Aviation Tribunal. Aviation disputes are settled at a multilayered level; e.g., DGCA, AERA, Consumer Forums and NCDRC²⁸; High Courts, Supreme Court and the Alternative Dispute Resolution (Negotiation, Mediation, Conciliation, Arbitration). This fragmented system means passengers, airlines, and airports often face delays, overlapping jurisdictions and paving way for high litigation costs.

Need for a Techno-Legal Aviation Tribunal in India

Aviation sector itself is a technical area which is run by a required qualification, experience, expertise, diligence, and care personnel. As aviation includes airports, airliners, air traffic controlling system, meteorology, ground-handling systems etc., it is always prone for a number of disputes. Hence, aviation disputes require a specialized technical, safety and regulatory knowledge which ordinary consumer forums or civil courts lack. In India, there is a multiple and complex layer of dispute resolving mechanism by which the disputes resolving system becomes slow and the passengers rarely get timely remedies. Due to multiplicity of dispute settlement mechanism, often different forum gives different and inconsistent decisions. At this juncture a “tribunal” can harmonize interpretations of rights and obligations.

India being third largest in aviation market, there is always a rising passenger traffic, and disputes are expected to multiply. There are many types of aviation disputes that could go before a Techno-Legal Aviation Tribunal which includes disputes relating to passenger rights (refunds, cancellations, overbooking, compensation for delay, disability assistance); airline-airport disputes (slot allocation, service charges, ground handling); air cargo issues (damage, loss of cargo, tariff disputes); regulatory appeals against the DGCA or AERA orders; employment and safety issues (pilot licensing, crew disputes safety enforcement penalties).

Hence, India *does need* a more cohesive, specialized dispute resolution mechanism for aviation and given the rapid expansion of civil aviation, rising passenger complaints, and complex technical issues, a “Techno-Legal Aviation Tribunal” would ensure speed, expertise, and fairness in resolving aviation disputes.

Infrastructural Requirement

To establish a Techno-Legal National Aviation Tribunal in India requires the following infrastructure:

1. **Legal and Institutional Infrastructure:** The “Techno-Legal Aviation Tribunal” (TLAT) must be established in the State’s capital as well as at the nation’s capital. At the State it can be termed as for e.g., Maharashtra State Techno-Legal Aviation Tribunal” (MSTLAT) and at India’s capital it could be termed as “National Techno-Legal Aviation Tribunal” (NTLAT). Hence, statutory framework should frame the rules and procedure for jurisdiction, appeal, enforcement of orders, timelines, penalties etc.
The Tribunal structure should consist of Benches (National Bench (HQ)) plus Regional Benches near major airports. The said Tribunal shall consist of judicial members (retired judges), technical members (aviation experts, pilots, aeronautical engineers etc.) and consumer representatives. From STLAT (State) an appeal will lie to the High Court and from NTLAT (National) an appeal will lie to the Supreme Court.
2. **Physical Infrastructure:** The Headquarters i.e. NTLAT should be located in New Delhi which should be within the proximity of DGCA, MoCA, AERA, AAI, etc. The Court rooms should be Digital Court Rooms with modern facilities. At the Regional or State level, Benches, must be established at least in metro cities with major airports (Delhi, Mumbai, Bengaluru, Hyderabad, Chennai, Kolkata). Based on 2-Tier cities, smaller Benches can be established. Physical infrastructure must be blended with support facilities like the library, legal research centre, Online reference section, translation, interpretation services (for international aviation disputes), record rooms, secure evidence storage.

3. **Human Resources:** The said TLAT at National and State/Regional level must consist of judicial staff (Chairperson, judicial members, registry officers); Technical Staff (aviation engineers, safety experts, economics (for tariff disputes)); administrative staff (clerks, stenographers, IT Staff, Case Managers, etc.).
4. **Core Tribunal Infrastructure (CTI):** CTI includes (i) video conferencing systems (for virtual and hybrid hearings high-definition cameras, microphones, speakers, large display panels); (ii) Electronic Case Management System (ECMS) – for e-filing, case tracking, scheduling, and order/judgment uploads; (iii) Digital Courtroom Software (tools like e-hearing platforms with recording, transcription, and document-sharing features).
5. **Evidence and Documentation Handling:** (i) E-filing Portals should be available to secure submission of petitions, affidavits, contracts and aviation-related documents; (ii) Digital Evidence Presentation Tools (e.g., Screens, Projectors, Document scanners and annotation software; (iii) for authenticity of flight data records, maintenance logs, or passenger complaints, Blockchain Technology²⁹ or the Secure Timestamping Tools should be introduced.
6. **Specialized Aviation Data Systems:** The data pertaining to licences, permits, regulatory compliance records must be access by the DGCA or the Ministry of Civil Aviation; (ii) Flight Data Monitoring Systems for technical disputes, tribunals may need access to aircraft Blackbox (FDR/CVR) data or digital summaries; (iii) aviation safety reporting systems to review pilot or the Air Traffic Controller's Reports, safety audits, and incident log books.
7. **Security and Privacy:** Today at a rampant state, there is cyber threat at all levels. (i) Cyber security tools like the Firewalls, VPNs, and Encryption for sensitive aviation data makes the data secure; (ii) Digital Identity Verification like the Aadhaar-based (in India) or other Biometric authentication for lawyers, parties and witnesses is required; (iii) Confidential Data Vaults for commercial airline agreements, passenger data and safety records are to be protected.
8. **Supportive Technologies:** Supportive technologies are required for a (i) quick reference to international aviation conventions, or International Civil Aviation Organization (ICAO) standards and case laws based on Artificial Intelligence (AI) Legal Research Tools; (ii) since aviation law often involves international parties, and for multilingual proceedings, E-Transcription and Translation Systems are required; (iii) to have an access to IAO regulations, Chicago Convention 1944, Montreal Convention 1999 etc.
9. **Digital and IT Infrastructure:** It includes; (i) E-Case Management System will give an opportunity to the aggrieved in Online filing of petitions, complaints and appeals; automated case tracking and cause lists; integration with the DGCA, Airlines and Consumer Commissions' Databases; (ii) arranging virtual hearings through Video-conferencing for complainants, especially passengers from remote areas; Hybrid hearings (physical plus online); (ii) Knowledge Management System (Database of past rulings, ICAO Norms, IATA Practices; AI based legal research support; (iii) Cybersecurity in data protection for sensitive commercial and passenger data.
10. **Financial Infrastructure:** For establishing the TLAT at Regional and National level, budget is to be allocated for establishment and recurring costs (salaries to the staff, IT Systems, Maintenance); (ii) Fee Structure which will be a nominal filing fee for passengers; higher fees for corporate disputes (airlines, airports, service providers); and (iii) Funding sources: Funding sources should be through the Government Grants from the Ministry of Civil Aviation and also possibly levying on airline tickets which will work out similar to the DGCA's fuel surcharge.

²⁹ Blockchain is a shared, immutable digital ledger, enabling the recording of transactions and the tracking of assets within a business network and providing a single source of truth. <https://www.ibm.com/think/topics/blockchain> (visited on 11-08-2022).

11. **Capacity-Building Infrastructure:** It includes a (i) Training Academy for a continuous training for TLAT members in aviation law and technical issues; (ii) Conduct of Workshops and Collaboration with the ICAO, European Union Aviation Safety Agency (EASA), FAA etc. and finally (iii) Consumer Awareness Programmes.
12. **Estimation Approach:** To establish a National Aviation Tribunal or TLAT, the infrastructure must be both legal-institutional and physical-digital so that disputes involving airlines, airports, regulators, and passengers are handled efficiently. However, the aforesaid establishment of TLAT, must have the estimation approach and an hypothetical budget can be structure based on comparable government set-ups:

Component	Cost Estimate (Approx)
Tribunal Infrastructure (Site, Court Room, Offices)	Rs. 50-100 Crores
Staffing (Judges, Legal and Administrative Personnel)	Rs. 10-50 Crores (recurring annual)
Incorporation of Technology, Case Management Systems	Rs. 10-20 Crores
Operational Setup (Training, Regulations, Staffing etc.)	Rs. 20-30 Crores
Tentative Total Initial Outlay (Estimated)	Rs. 90-200 Crores

Conclusion

Aviation industry being a glamorous industry, has two important components i.e., Airports and Airlines. Under the following categories of aviation operations, disputes may crop up by which it must be resolved by the newly coined “Techno-Legal Aviation Tribunal at State and National level in India. Aviation disputes may emanate from any of the following categories by which a robust forum should be established specifically to deal purely with the techno-legal issues instead Courts:

Focusing the airside operation it includes; (i) air traffic control coordination (in coordination with the Air Traffic Controllers); runway and taxiway management (maintenance, lighting, markings, safety); apron management (allocation of aircraft parking stands, gate assignments); aircraft ground handling (towing, marshalling, fuelling, cleaning); safety and emergency services (firefighting, rescue, medical emergency response, aircraft de-icing in colder regions); (ii) landside and passenger services (passenger check-in and claim operations; security screening (passengers check-in and boarding services; baggage handling and claim operations; security screening (passengers, baggage and cargo); customs and immigration control, quarantine, information and assistance desks, and facilities for persons with reduced mobility; (iii) Cargo and Logistic Operations (air cargo handling and warehousing; freight forwarding and customs clearance, cold storage and special cargo handling (e.g., pharmaceuticals, live animals, perishables), mail and courier operations; mail and courier operations); (iv) Commercial and concessions (retail and duty-free outlets, restaurants, cafes and lounges, car rental and transportation services, hotels and conference centres and advertising and sponsorship opportunities); infrastructure and facility management (maintenance of terminals, runways, taxiways, and hangars; utility management (electricity, water, waste, HVAC; parking management; ground transportation); regulatory, safety and administrative functions (compliance issues, environment management, training and licensing of airport personnel, airport revenue management (landing fees, parking charges and retail rentals); and support services which includes medical clinics and first air centres, lost and found services, IT systems and communications, hospitality and VIP protocol services, public relations and customer experience management etc.).

The aforesaid categories blended with air travel growth, at domestic as well as international in India, has led to a variety of disputes pertaining to many issues. Hence, a robust forum known as the “Techno-legal Aviation Tribunal” must be established for a speedy resolving of aviation disputes emanating from the aforesaid categories of aviation.

Suggestions

Taking into cognizance, the Constitution of India under Articles 323A and 323B, it is the need of the hour to set up the so called “Techno-Legal Aviation Tribunals” in India at State and at the National level. Secondly, the DGCA derives its powers and responsibilities from the Aircraft Act 1934 and Aircraft Rules 1937 instead, it, being an independent body. Hence, DGCA must be an independent body to control the whole gamut of aviation sector in India.

