



Written and compiled by:

Christian PW Faust.

Master CAPI License Number: 409442015

MEMBER: APEC

MEMBER: ASC; ANZSOC; ESC

Asc: IA-IP

Grad: Terrorism; Security & Protection;

Grad: Criminology;

Dip: Business (Legal Services);

Cert: III Investigative Services (Private Practice);

FAUST LEGAL SUPPORT SERVICES

ABN: 13 105 381 466

B/Reg No: BN97861946

The call for necessary changes to Civil Aviation Safety Standards

An Introduction to in-operable emergency exit doors

It may be said that a breach of fiduciary duty that leads to negligence can be viewed as a breach of criminal laws. In our societies today common placed people seek the assurances that guide-lines in administering justice are endeavoured to reason the acceptable norms. We attempt to distinguish , define and interpret what is right and what is wrong, what is factually the right thing to do and attempt to evaluate if there is a legal responsibility for us to accept voluntarily.

Many scholars have written about prevailing laws which are already contorted and entwined in a judicial system that is encumbered in a mass of existing uncertainty. Often these laws are complex when issues arise where a state law may conflict with either a national law or even to some extent international laws and/or covenants, and or the implementation of new laws that are directly governed at protecting and preserving life, but what of the law, of common sense?

In most western societies the fundamental ideology of any law is its objective to protect life and property from some type of deviant behaviour. It is the trust in this philosophy which governs the common sense of what is the 'norm'. As such it should be a given that a norm is considered a pre-emptive measure or pro-active measures in matters pertaining to exercising safety behaviour that should be without question and expected by airline passengers?

We all know that normally laws are interjected to an ACT on the basis that any negative behaviour would be curtailed, thus forcing an individual or company to participate comply with a new law that seeks to protect an asset, either life, or property.

Should there be a law that prevents Commercial Airlines companies to depart on a commercially bound Local or International flights under circumstances in which it is known that one or more of the emergency doors is in-operable or defective prior to take-off? The answer to this must be YES.

The relevance of this question is significantly clear when during a flight an aircraft develops other adverse operational problems, such as but not limited to, flaps not working correctly, or engine failure. In such circumstances passengers then become proportionately disadvantaged in the event of any said emergency deployment through emergency exit doors. After all emergency exit doors in commercial airlines were developed and implemented and designed by manufactures specifically with the purpose of providing maximum capacity for evacuation of an aircraft in an emergency.

To compromise or diminish the maximum access to an emergency exit door would compromise the standard and level of possible escape in an emergency. Especially to passengers who are situated/seated in the general area of the aircraft where an emergency exit door is not functioning. As stated already emergency exit doors are/were initially designed to service an emergency evacuation.

As such a serious question arises. That question is. Do the airline carriers, its directors, flight crew, operational managers, technical engineering staff etc, etc, become criminally responsible if a an International or domestic commercial Airliner carrier is allowed to depart on a flight when it is known that an emergency door is defective in any said way. The answer must be YES.

In an event of an emergency landing it is necessary to utilize the access to all emergency doors. It is most likely that in a crash some other doors may become also in-operable which would in itself escalate the emphasis and importance why all aircraft emergency doors should be fully functional prior to take off.

As such, it is my argument that if an airline company is aware prior to take off that an emergency door is not functioning in accordance to the specific design. Which is “the utilization of access to exit in an emergency”? Then the airline company and staff are knowingly negligent in their fiduciary duties.

To allow any aircraft to embark on a flight with known technical issues which primarily reflect on the safety of all passengers and crew is without further mentioning criminal.

Current aviation laws need to be updated and clearly implemented. Laws and regulations should be implemented, that prohibit any airline from embarking on a flight with defective emergency doors. There should be no acceptable risk when it comes to this issue. To assume that an emergency is unlikely to happen is ludicrous. No one can make such a full guarantee to any passengers. Therefore notwithstanding the fact that an airline carrier company had an opportunity to implement a safety measure, such as ensuring that all emergency doors are in working order is not unreasonable request to expect from the airline carriers

Some would argue that additional regulations which would require all emergency doors to be fully operational prior to take off would incur massive financial losses or additional financial burdens on the carriers.

It is true that costs are extremely high and potential revenue losses would be incurred when a plane is taken out of service in the last minutes prior to take off from a schedule flight. However the possible loss of even one human life due to this foreseeable problem would be devastating and even criminal.

As I have stated there should be no such thing as an acceptable risk to depart on a flight with emergency doors not working correctly. The airlines have a fiduciary duty to provide maximum safety for their passengers. Modern day society's acceptance of certain behaviour has changed, and thus the reason for modification or the introduction of new laws is important.

Any behaviour which leads to the acceptance of assuming risk that it is safe to fly an aircraft with in-operable emergency doors is beyond common sense. No such reasoning could be warranted simply because no one knows the value of the emergency exit door until the event of an emergency.

Should society accept that an airline can devalue the importance of fully functional emergency door simply by implying that it is highly unlikely that there will be an emergency? I think not.

If it is a question of money and the action is to compromise safety in order to derive higher profits and avoid what they consider unnecessary expenditures and aircraft servicing costs, then that in itself is already preconceived and absolutely criminal.

In this modern age that safety should never be comprisable. The avoidance to do something; to exercise every avenue and to ensure that all is done that must be done, leaving no behaviour that could diminish responsibility in delivery of absolute safety of flight, to ensure not to avoid doing something that in itself avoids a foreseeable duty of care.

It is therefore urgent that changes are made to existing international safety civil aviation laws. New laws should be implemented that prohibit any airline passenger carrier to depart on flights when aircraft maintenance service records or other information indicated the compromise of an emergency door.

The concluding question will remain, whether the introduction of a new law to prohibit airlines to depart on a flight with non functioning emergency doors would really solve the objectives issue? In most cases people accept that they have moral obligation to abide by a new law, or accept voluntary a standard of change. I would expect that airline carriers at a mass would themselves conclude and agree simply because the general consensus of society is that airliner passengers desire uncompromised safety at all costs.

Any reasonable person would agree with this value and acknowledge that the enactment of a new aviation safety regulation standard, such as a law which prohibits airline carriers to depart on a flight with faulty operating emergency is inevitable and a must.

Emergency landings may not necessarily be exercised due to mechanical failure, they may also be as a results of external mitigating factor. Such as for example:

Philippines Airlines flight 434 in which a terrorist bomb exploded. Ramsay Yousef a terrorist linked to Al Qaeda posed as an Italian by the name of Armaldo Forlani. He took a flight from Manila to Cebu. It was later established that the suspect placed an explosive device under his designated seat, 26K. The plane made a scheduled stop in Cebu, on route to Tokyo. In Cebu the suspect disembarked the flight. Prior to disembarking he triggered the timer. Additional passengers boarded the flight, one of them a 24 year old businessman by the name of Haruki Ikegami, who was assigned, seated in 26K. Sometime after takeoff the bomb exploded, killing Ikegami.

The explosion damaged the aircrafts steering, nevertheless the captain of the flight was able to make an emergency landing at Okinawa, Japan, saving the lives of some 270 passengers and a further twenty odd crew members. On this flight all emergency doors were working, and deployed upon landing when the aircraft came to a stop.

However what if the circumstances had just been a little different. For example; what if one of the emergency doors was known to be in-operable prior to takeoff? What if the plane had caught fire after touchdown? Under such circumstances surely in operable emergency door would be the direct cause to potential loss of life.

A recent Singapore Airlines flight depicts the urgency of reviewing and changing existing aviation safety standards.

On Sunday 27th September 2009 SA Flight SQ333 took off from Paris to Singapore departing around 25 minutes behind schedule.

Around 2 & 1/2 hours after take-off the Captain of the new A380 advised passengers that the plane had developed engine problems and thus was it was decided to return to Paris.

Safety issues concerning the said flight were noticeable prior to takeoff. On the upper deck of the aircraft just behind the left hand side wing an emergency had been tapped off and a sign depicted its inability to be operated.

Singapore A380 Technician later confirmed that the in-operable emergency door had already been in-operable on the aircraft on its previous flight from Singapore, but had not been repaired.

Safety standards should never be compromised. On Flight SQ333 passengers reported seeing a disturbing short burst of smoke coming from the front of right hand side wing immediately seconds after takeoff. The burst of smoke was small and lasted only a few seconds.

Immediately following this discharge of smoke was the obvious periodical shaking of the plane from left to right. Passengers who were frequent travellers confirmed that the shaking of the aircraft could not be confused with turbulence. It was describe more a rattling of the fuselage. In addition to this passenger stated that the brief discharge of grey smoke could not have been confused with the condensation sling of the front of the wing. It had been noticed that the discharge had come from within part of the front of the wing. The suspicion was there that the flight crew continued with the journey for a further two hours when they knew that the plane was experiencing engine failure immediately after takeoff.

It was latter confirmed by the same Singapore Airlines Engineer who advised that the in-operable emergency door on flight SQ333 had already been in-operable prior to its previous flight. That it was confirmed by flight crew that the engine failure was evident immediately

after or within minutes after takeoff.

After the Captain advised passengers that the plane was returning to Paris, a passenger pointed out to an in-flight cabin crew member that there were coloured rings visibly out of place on the right-hand side wing. The cabin crew attendant returned with one of the flight crew who looked at the right-hand side wing and advised his co-worker that the red rings were seals commonly placed where they were, but he added that he noticed that the flaps were not working properly.

Now it is right to conclude that an in-operable emergency door cannot not or highly unlikely would it be cause for the engine failure or any other mechanical problems the aircraft might have or did experience during the flight. However the significance is clear. The safety of the passengers on flight SQ333 was now further compromised due to the mechanical problems.

Flight SQ333 did make it safely some two hours and twenty so minutes later. However the passengers all noted three major things upon landing. That the landing runway was guarded by emergency rescue deployment, such as fire trucks and so on. That the plane was seriously under adverse operating pressure due to the engine mechanical failure, and that the emergency door was in-operable.

The question remains, why Singapore Airlines would assume such a risk, to takeoff with an inoperable emergency door. What if there were complications upon the emergency landing and thus passengers being needed to be evacuated. Then that one in-operable emergency door would have certainly been the cause of panic and possible loss of life. In this day and age that is an unacceptable assumption of risk.

There are many horror stories already in existence about terrible flights which ended in disaster or close calls. The confidence in the new A380 is already diminished. Even if not, additional precaution on flights should at all times be exercised, no matter what.

The A380 is a new aircraft which has had numerous problems which could and may even in the future require the aircraft to make emergency landings. Some examples are clearly evident in the following press articles;

Spiegel Online (16th March 2009). Loss of confidence in the A380 by Emirate Airlines
<http://www.spiegel.de/international/business/0,1518,613773,00.html>

ABC Online (20th February 2008) Singapore Airlines cancels A380 Airbus Flight to Sydney because a fuel pump was defective.
<http://www.abc.net.au/news/stories/2008/02/20/2167250.htm>

Xinhua News Agency (February 11, 2008) Technical problem with its emergency evacuation chute
<http://www.china.org.cn/english/business/242483.htm>

Sydney Morning Herald Online (27th March 2008) A380 from Sydney to Singapore experienced brake failure. An previous month there was a problem with electrical relay powering the pump, which also prompted the cancellation of a flight
<http://www.smh.com.au/news/news/mechanical-defect-grounds-singapore-a380/2008/03/27/1206207260765.htm>

Seattle Times Online (5th October 2005)

[http://seattletimes.nwsourc.com/html/boeingaerospace/2002534201
_airbuswhistleblower02.html](http://seattletimes.nwsourc.com/html/boeingaerospace/2002534201_airbuswhistleblower02.html)

A former employee turned whistle-blower told European aviation authorities that there was a problem with a computer chip on the Airbus A380. The flaws in a microprocessor could cause the valves that maintain cabin pressure on the A380 to accidentally open during flight, allowing oxygen to leak out so rapidly that everyone aboard could lose consciousness within seconds.

End: