

Penafian: Pandangan dan pendapat yang dinyatakan dalam mana-mana artikel adalah pendapat penulis dan tidak mewakili pandangan ILKAP dan Kerajaan Malaysia

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RESEARCH PROPOSAL

“A legal analysis of travelling with in-cabin pets: A comparative study between Malaysia, United States of America and Saudi Arabia”

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ABSTRACT

The main aim of this research proposal is to find answers on whether or not pets should be allowed to travel in-cabin of an aircraft. In order to succeed in this research proposal, I shall examine the Malaysian legislations with regard to the travelling with in-cabin pets.

It is to be noted that in Malaysia, pets can travel with their owners in cargo but not in the cabin. Based on our reading, it is to be noted that regulation 94 of the Civil Aviation Regulations 2016 stipulates on carriage of live animals highlighting on “no person shall carry any live animals in the cabin and the live animals may be carried in the aircraft cargo in accordance with the International Air Transport Association (IATA) Live Animals Regulations”.

Apart from Malaysia, I am looking into the working models of travelling with in-cabin pets in other countries such as United States of America and Saudi Arabia.

1.0 INTRODUCTIONS

Today, people in general, hold their pets in higher regard than throughout the twentieth century. Most pet owners keep their pets indoors and consider them as part of the owner's family.¹

Mahatma Gandhi once quoted *"The greatness of a nation and its moral progress can be judged by the way its animals are treated"*.²

In Malaysia, as stipulated in regulation 94 of the Civil Aviation Regulations 2016, pets can travel with us but only in aircraft cargo. Pets however, are disallowed to travel with their owners to be placed in a cabin.

As far as carrying of pets in the cargo are concerned, that particular subject is regulated by the International Air Transport Association (IATA)³ Live Animal Regulations ('IATA LAR') in Malaysia. IATA LAR is a global standard and essential guide to transporting live animals by air via in cargo in the most safe, humane and cost-effective manner.⁴ Malaysia decided to be regulated by IATA LAR as to ensure that live animals are transported in the cargo humanely and in compliance with animal welfare standards.

However the travelling of pets via cargo in Malaysia is not the primary concern of this research proposal. Our research proposal is mainly concerned with the carrying of pets' in-cabin of an aircraft.

Despite the fact that some people especially allergens to pet dander may allege that carrying pets in the cabin is irrelevant, the topic had sparked a significant interest in us to go deeper into the matter. This is because throughout the controversy, it has

¹ VPI Pet Insurance, "More Pets Sleeping in Bed with Their Owners, Veterinary Pet Insurance Shows" at <<http://press.petinsurance.com/pressroom/196.aspx>> accessed 22 October 2016.

² Anon, "Animal Rights" at <https://en.wikiquote.org/wiki/Animal_rights> accessed 27 October 2016.

³ International Air Transport Association (IATA) is the trade association for the world's airlines representing some 265 airlines or 83% of total air traffic.

⁴ IATA, "Live Animal Regulation" at <<https://www.iata.org>> accessed 27 November 2016.

not only spur the debate among the allergens, but also spiritual, legal and academic discussions on the matter.

2.0 BACKGROUND (RESEARCH PROBLEMS)

Animals have been transported by air since the early 1930's.⁵ Most airlines transport live animals in airplane hold as cargo in accordance with the procedures as stated in IATA LAR.⁶ IATA LAR provides among others, the requirement on handling, marking, labelling of the container. Notwithstanding there is IATA LAR to regulate the carrying of pets in the cargo, this will not stop the airlines or baggage handlers from causing harm to the pets.

If we think flying is stressful, just imagine how the experience must impact innocent and unknowing pets when packed in the cargo hold of a commercial aircraft. In my literature review, I have identified there are nine writers that wrote on carrying of pets in the cargo may be dangerous and can be life threatening to the pets and none of the writers provided for unfavourable circumstances if the pets were to be carried in cabin. In this regards, pets are safer to be carried in cabin as compared to cargo.

This is supported by the statistic as produced by the Department of Transportation, United States where it was reported that from May 2005 to July 2016, there are 320 animals died, 183 were injured and 53 disappeared during air cargo transportation.⁷ In 2011, a french bulldog died in the cargo holding area of MASKargo, a Malaysian air cargo.⁸ It was reported that the dog was handed over to the MASKargo three hours prior to departure and the dog had its vaccinations, blood tests and health checks.⁹ Therefore, transporting pets as cargo puts them in danger.

⁵ See no 3 IATA

⁶ IATA, "Live Animals" at <<https://www.iata.org>> accessed 12 December 2016.

⁷ Silversmith, Jol.A, "Airline Animal Incident Report", at <<http://www.thirdamendment.com/AnimalReports.pdf>>, accessed 22 October 2016.

⁸ Rosemarie Lentini, "Adored dog dies in a cage at airport", The Daily Telegraph, at <<http://www.amp.dailytelegraph.com.au>>, accessed 18 December 2016.

⁹ Anon, "How and Why I died", at <<http://www.kranskybulldog.wordpress.com>>, accessed 18 December 2016.

One of pet's lover worst nightmares when traveling with their furry companion is when their pets are to be carried in cargo.

Not to mention the anxiety and unsettled feeling knowing your pets is all alone in the cargo. Pet owners will be very fortunate if the airlines allow their pets to be carried into the cabin. As pets are live animals, they should be given the right treatment as how normal human beings deserved to be treated.

Besides that, some medical certified patients clings to their therapy pets, service pets or emotional support pets for physical and emotional supports for them to be able to lead a normal life. There are even life threatening patients that suffers seizures and diabetic are in need of constant monitoring from their service dogs to ensure that any life threatening instances can be avoided.

Accordingly in Malaysia, it is recognized that pets are only allowed in the cargo area. It is our proposal to amend existing Malaysian laws as to allow pets to travel with their owners and be placed in-cabin. The main idea is to avoid any mishaps to the passengers as well as the pets.

3.0 RESEARCH QUESTIONS

The main questions that I intend to give answers to are as follows:

- 3.1 Whether Malaysian laws allows the carrying of pets in the cabin?
- 3.2 Whether there are any international laws which regulates the carrying of pets in the cabin?
- 3.3 Should Malaysia consider amending the existing law to allow the carrying of pets in the cabin? If yes, whether the implementation of carrying of pets in the cabin is feasible in the current local context?

4.0 RESEARCH OBJECTIVE

- 4.1 Currently in Malaysia, no person shall carry any pets in the cabin. However, pets can only be carried in the aircraft cargo in accordance with the International Air Transport Association (IATA) Live Animals Regulations.
- 4.2 Convention on International Civil Aviation or known as Chicago Convention and Montreal Convention for the unification of certain rules relating to international carriage by air does not provide for provisions on carrying of pets in the cabin. Consequently, there are no international legislations which regulates the carrying of pets in the cabin.
- 4.3 The implementation of placing pets in the cabin is feasible in the current local context provided that no mandatory obligations are imposed on all Malaysian airlines to carry pets in the cabin. Taking into consideration the issue of allergens to pet dander and religious concern, Malaysian airlines should be given a flexibility or option to carry pets in the cabin as what has been practiced in the United States of America.

5.0 LITERATURE REVIEW

5.1 The Impact of Carrying of Live Animal in the Cargo

Currently, there are no legal writing in Malaysia which offers a detailed discussion on Malaysian legislations relating to carrying of live animals in the cargo and cabin.

In a book written by Ronald I.C Bartsch, the International Civil Aviation Law: A Practical Guide, it mentions about Convention on International Civil Aviation or the Chicago Convention as the vital instrument of public international aviation law¹⁰. In an article written by Isabella Diedriks-Verschoor titled The Transportation of Animals by Air: Regulatory Aspects, she states that according to the Convention of Warsaw and Montreal, animals are transported as a cargo¹¹. However, none of the above writers provides for any discussion on whether or not the carriage of pets in the cargo or cabin is governed by the Chicago Convention.

Further, referring to a book titled Aviation Law & Regulation: A framework for the Civil Aviation Industry¹² written by Carole Blackshaw, where in United Kingdom the Carriage by Air Act 1961 is the “Act” which give effect to the Convention concerning international carriage by air known as “The Warsaw Convention”. The documents of carriage relates to the three categories of items carried which are persons, baggage and cargo. The writer only mentioned the damaged or loss of cargo but certainly did not cover the possibilities of the animal in the cargo is destroyed as the Warsaw Convention did not give any rule in case the pet is destroyed.

George N.Tompkins,Jr. in the book Liability Rules Applicable to International Air Transportation as Developed by the Courts in the United States: From Warsaw 1929 to Montreal 1999¹³ mentions that Montreal Convention, Warsaw Convention, Hague Protocol, Guadalajara Supplemental Convention and Montreal Protocol gave no such definitions to pets.

Based on these two books, I am of the view that the lack of pets recognition shows that pets are not fully protected and the handling of pets let it be in cargo or cabin are not internationally regulated.

¹⁰ Bartsch, I.C. R, “International Aviation Law: A Practical Guide”, Routledge, United Kingdom (2012).

¹¹ Diedriks-Verschoor,I, “The Transportation of Animals by Air : Regulatory Aspects”, Australian Journal of International Law, 2004, 11 Aust. I.L.J. 36-46.

¹² Blackshaw, C, “Aviation Law & Regulation: A Framework for the Civil Aviation Industry”, Pitman Publishing, United Kingdom (1992).

¹³ Tompkins,JR.G.N, “Liability Rules Applicable to International Air Transportation as Developed by the Courts in the United States: From Warsaw 1929 to Montreal 1999”, Kluwer Law International, Netherland (2010).

Also in the book written by Ronald I.C Bartsch, in *Aviation Law in Australia, Second Edition*¹⁴, where under the tort of negligence, the passenger that is injured in an aircraft accident may only claim against the carrier for the breach of the contract of carriage under the tort of negligence. To categorise as a passenger, one must be the parties in the contract. There is no mention on situations where the pets are involved in an injury or death that the owner may take an action on behalf as animals and pets are not defined as passengers. Again I am of the view that the lack of definitions shows that pets are not fully protected under tort of negligence.

It is to be noted that International Air Transport Association Live Animal Regulations ('LAR Regulations') is the global standard and the essential guide to transporting animals by air in cargo in a safe, humane and cost-effective manner¹⁵.

In an article written by Chris Walsh, the author pointed out that these protections do not prevent baggage handlers from treating pet carriers as cargo and handlers may treat them as roughly as regular cargo¹⁶. I am agreeable with such points as notwithstanding there is a LAR Regulations to regulate the carrying of live animal in the cargo, however, this will not stop the baggage handlers from causing harm to the pets.

There are nine writers that wrote on carrying of pets in the cargo may be dangerous and can be life threatening to the pets. J. Fargen wrote *Cargo-Hold Flying Can Traumatize Animals* and pointed out that airlines may place pet carriers in dark areas or areas with persistently loud noises, and pets may suffer trauma and anxiety¹⁷. A. Bland in *Is Taking Your Pet on an Airplane Worth the Risk* has written that pets traveling as cargo are not just stressful to the pets, it can also be dangerous no matter how smooth the landing and

¹⁴ Bartsch, I.C.R, "Aviation Law in Australia", Lawbook Co., Sydney, second edition (2004).

¹⁵ Live Animal Regulation, at < <http://www.iata.org/publications/store/pages/live-animals-regulation.aspx>> accessed 22 October 2016.

¹⁶ Walsh, C, "Cat's out of the bag on pet risk on planes, Rocky Mountain News", *Stories In The News* (12 July 2005), at <http://www.sitnews.us/0705news/071205/071205_shns_petrisk.html> accessed 22 October 2016.

¹⁷ Fargen, J, "Cargo-Hold Flying Can Traumatize Animals", *Boston Herald* (16 August 2009), at <http://www.bostonherald.com/business/business_markets/2009/08/cargo_hold_flying_can_traumatize_animals> accessed 20 October 2016.

timely the departure¹⁸. He further points out that conditions in the cargo hold of commercial airlines are not always friendly, temperatures can fluctuate wildly, noise can be tremendous and air pressure can drop significantly¹⁹.

An anonymous writer wrote How to Minimize Risk to a Pet in the Cargo Area of an Airplane and stated that the cargo area of a large airline is a controlled environment²⁰, but smaller airline might not be a controlled environment. In other article written by an anonymous writer titled Emergency Travel Alert: Don't Transport Pets by Air, he further points out that the extreme temperatures can cause brain damage or death to the pets in the hold²¹.

Mr. Ed wrote The Safe Air Travel for Animal Act and points out that pets' air transportation in cargo holds can be very dangerous places for them due to a number of factors, namely noise emanating from nearby airline engines, extremely hot or cold temperature and extremely poor ventilation and air flow²².

B. Mosley in an article entitled Short Faced Dogs More Prone to Death in Flight, According to DOT Data has mentioned that according to Department of Transport United States of America, more than 140 pets died and 88 were lost or injured while travelling in cargo between May 2005 and July 2010²³. Between May 2005 and August 2016, Jol.A. Silversmith in an article entitled

¹⁸ Bland,A, "Is Taking Your Pet on an Airplane Worth the Risk", Smithsonian.com (20 March 2013), at <<http://www.smithsonianmag.com/travel/is-taking-your-pet-on-an-airplane-worth-the-risk-6241533/>> accessed 20 October 2016.

¹⁹ See no 18 Bland A

²⁰ Anon, "How to Minimize Risk to a Pet in the Cargo Area of an Airplane", Wikihow, at <<http://www.wikihow.com/minimize-risk-to-a-pet-in-the-cargo-area-of-an-airplane>>, accessed 22 October 2016.

²¹ Anon, "Emergency Travel Alert: Don't Transport Pets by Air", at <<https://msu.edu/~silvar/airplane.htm>>, accessed 22 October 2016.

²² Mr,Ed,"The Safe Air Travel for Animal Act", at <http://www.authorsden.com/categories/article_top.asp?catid=31&id=18499>, accessed 22 October 2016.

²³ Mosley,B, "Short Faced Dogs More Prone to Death in Flight, According to DOT Data", 16 July 2010, at <https://www.transportation.gov/sites/dot.dev/files/docs/Canine_Deaths_Press_Release.pdf>, accessed 22 October 2016.

Airline Animal Incident Report has reported that 322 pets died, 185 were injured and 53 were lost²⁴.

Kirsten Theisen reportedly mentioned in an article written by Morieka Johnson titled Pet deaths continue, airlines pressured to change their ways on situations where families have no choice but to transport their pet by air (for example, when military families are stationed overseas or on remote U.S. posts like Hawaii). In such cases, placing brachycephalic (short-nosed) dogs and cats in cargo hold areas should be avoided at all costs, they should instead travel in the passenger cabin or via a special pet transport service²⁵. This article clearly highlighted on the importance of transportation of pets from cargo to cabin as to avoid continuous death of pets during transportation. Transporting pets via cargo can be risky and harmful to the pets.

Elaborated further in an article written by Isabella Diedriks-Verschoor titled The Transportation of Animals by Air: Regulatory Aspects, the writer mentioned on situations that animals may be injured and suffocate if their containers are not adequately ventilated or when they are exposed to extreme heat or cold during the transportation. Dogs with a pug nose seem especially to suffer from the problem. Dehydration may also be a problem. Occasionally airlines put animals on the conveyor belts used for ordinary luggage, which may terrify or hurt them²⁶. I agreed with the writer that pets are prone to injuries and suffocations if they were to be put in confined place during the transportation. Airlines should take necessary precautions and find measures that can be taken in advance to prevent something dangerous, unpleasant or inconvenient from happening.

²⁴ See no. 7 Silversmith, Jol.A.

²⁵ Johnson, M, "As Pets death continue, airlines pressured to change their ways", at <<http://edition.cnn.com/2013/01/11/living/mnn-pet-airline-deaths/>>, accessed 31 October 2016.

²⁶ Diedriks-Verschoor, I., "The Transportation of Animals by Air: Regulatory Aspects", Australian Journal of International Law, 2004, 11 Aust. I.L.J. 36-46.

In an article written by anonymous writer where, the writer points out that “Ideally all pets would travel in the cabin as passengers on airlines and none would travel in the cargo”²⁷ .

Upon perusal of the above nine articles, I take note that all of the above writers confirmed the hypothesis that carrying pets in the cargo may be dangerous and can be life threatening to the pets. However, none of the above writers incorporated an impact of carrying pets in cabin and provided for unfavourable circumstances if the pets were to be carried in cabin.

In relation to the United States of America, Noreen Lanza has written a journal of air law and commerce entitled Keeping the “Live” in Live Animal Air Cargo Transport and points out that Federal Aviation Administration (‘FAA’) allows each airline to decide whether they will allow transport pets in the cabin and if the airline decides to allow it, therefore such airline must follow the FAA carry-on baggage rules ²⁸.The article only mentions the legislation in the United States of America, without referring to other jurisdiction. Thus, it is constricted to only airlines registered in the United States of America.

In Singapore, the carriage of pets in the cabin is not permitted. Singapore Airlines does not permit pets to travel in the cabin with the exception of medically certified service dogs²⁹ . It is to be noted that there is no legal writing in Singapore which offers a detailed discussion on Singaporean legislations relating to carrying of pets in the cargo and cabin.

However, for Saudi Arabia airlines, the airline allows an in cabin pet only for small cats or birds. Dogs must be put in cargo compartment and the captain must be notified in order to maintain the temperature in the cargo³⁰ . I am of the view that it should be extended to other small pets for example

²⁷ Anon, “Travel Safely with Your Pet by Car, Airplane, Ship or Train”, Humane Society of the U.S, at <http://www.humanesociety.org/animals/resources/tips/why_pets_shouldnt_travel_by_air.html>, accessed 22 October 2016.

²⁸ Lanza, N, “Keeping the “Live” in Live Animal Air Cargo Transport”, Journal of Air Law and Commerce, 76 J. Air L. & Com. 229 2011.

²⁹ Singapore Airline Pet Policies, at <http://www.pettravel.com/airline_pet_rules/singapore_airlines.cfm>, accessed 23 October 2016.

³⁰ Saudi Arabia Airline Pet Policies, at < http://www.pettravel.com/airline_pet_rules/SaudiAirlines.cfm >, accessed 27 October 2016.

small dogs as equal treatment should be given to other small pets. The airline could have laid down such policy due to the sensitivity of Muslims on dogs.

Judith R.Karp wrote in *Will That Be First Class, Business Class or Pet Class? Changing Legal Trends for the Travelling Pet*³¹ discusses on the legislation in United Kingdom in relation to pet entering the United Kingdom. The author mentions that in February 2000, the Pet Travel Scheme (Pilot Arrangements) Order ('PETS') has come into force in United Kingdom. PETS provides rules on vaccination, blood testing, certification and microchip system for pets arriving from twenty two Western European countries and twenty eight additional rabies-free countries³². Furthermore, Peter Reeves wrote in *Animals and the Law*³³ pointed out that upon entering the United Kingdom a pet must have official certificates showing that it has been micro chipped, vaccinated against the rabies and blood tested, treated against ticks and tapeworm between 24 to 48 hours before being checked in for travel to England. However, none of these writers describe or discuss whether the PETS govern the carrying of pets specifically in the cargo, cabin or both.

Additionally, Judith R.Karp³⁴ mentions that with PETS, the pet owners were forced to use the costly services of airline transport programs and animal transport companies, which charged from \$250 to \$1200 to transport a pet abroad a transcontinental flight plus additional fees for board and ground transportation. As I mentioned earlier, pet owners consider themselves as parents or guardians of their pets. In this regard, such pet owners do not mind to pay more to travel safely with their pets.

³¹ Karp,R.J, "Will That Be First Class, Business Class or Pet Class? Changing Legal Trends for the Travelling Pet" Vol. 4: 189 (2003) 4 San Diego Int'l L.J. 189 2003.

³² Andorra, Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Gibraltar, Greece, Iceland, Italy, Liechtenstein, Luxemborg, Malta, Monaco, Netherlads, Norway, Portugal, San Marino, Spain, Sweden, Switzerland and Vatican. Non-European countries and territories of Antigua and Barbuda, Ascension Island, Australia, Barbados, Cayman Island, Bermuda, Fiji, Falkland Islands, Guadeloupe, French Polynesia, Jamaica, Hawaii, Martinique, Japan, Mayotte, Mauritius, New Caledonia, Montserrat, Reunion, New Zealand, St. Kitts & Nevis, St. Helena, ST. Vincent, Singapore, Vanuatu and Wallis & Futuna were included on the PETS on 31st January 2001. Bahrain was included in the PETS on 1st May 2002. The United States of America and Canada were recently included as of 11 December 2002.

³³ Reeves,P, "Animals and the Law", Criminal Law and Justice Weekly, 167 JPN 570(2003).

³⁴ See no 31 J karp

5.2 THE IMPACT OF CARRYING OF PETS IN THE CABIN TO THE ALLERGENS

Judith R.Karp in *Will That Be First Class, Business Class or Pet Class? Changing Legal Trends for the Travelling Pet*³⁵ also has discussed that rabies is a viral disease that primarily infects wild and domestic animals. He further discusses the disease is transmitted to humans by contact with saliva and is fatal to animals and humans. There is no discussion, however, on the transmission of rabies to humans in the cabin if the pets have been medically cleared to be carried in the cabin.

Matthew B.Stranbrook, Thomas Kovesi and Paul C.Hebert wrote *Pets in Airplane Cabins: an unnecessary allergic hazard*³⁶ in relation to carrying of pets in the cargo against a person who has allergies to pet dander. They point out that about 1 in 10 people have allergies to animals and many will fall into an allergic reaction when they are trapped in an enclosed space, often for hours, close to an animal. On an airplane, at high altitude and isolated from access to emergency medical care, the consequences can be much more dangerous. They also mentioned that seating passengers with allergies away from pets is not a realistic alternative. Pet dander remains on seats long after the pet and its owner have gone. Flights are usually filled to capacity, and airlines have not created mechanisms to facilitate last minute seat changes. People with allergies should be able to fly without placing their health at risk and must not be prevented from travelling for fear of being confined close to a pet.

M.Mohrenschlager, J.Ring and R.Lauener in *Possible in-cabin exposure to cat allergen: a 2010 airlines survey on live animal transport and a review of literature*³⁷ wrote after take-off, at high altitude and isolated from access to full emergency medical care, the consequences for an allergic passenger can be even life-threatening.

³⁵ See no 31 J karp

³⁶ Stranbrook, B.M, Kovesi,T., and Hebert,C.P, “ Pets in Airplane Cabins: an unnecessary allergic hazard”, at <<http://www.cmaj.ca>>, accessed 10 October 2016.

³⁷ Mohrenschlager,M .,Ring, J. and Lauener,R., “Possible in-cabin exposure to cat allergen: a 2010 airlines survey on live animal transport and a review of literature”, John Wiley & Sons A/S, (1 April 2010).

There is no discussion on these two articles, however, that some airlines do not allow any pets to travel in the cabin as FAA allows each airline to decide if they will allow pets to be transported in the cabin. For allergens, they can fly on an airline that does not allow pets in the cabin. Admittedly, the person who has allergies to pet dander will still be exposed to pet dander on every flight even without any pets in the cabin because most allergens are carried into the cabin on the clothes of other passengers.

In relation to air carrier liability in regard to airborne disease, Ruwantissa I.R. Aberyratne in the book *Aviation Trends In the New Millennium* wrote about liabilities of an airplanes on the air carrier liability at tort law where any airborne disease where in such cases the air carrier has a two-phased prospect of facing a claim under tort³⁸ . The writer only focused on the aspect of human to human disease and did not mention on the disease that could be spread by animals to humans and also lacking on whether or not it is claimable under tort if a passenger were to contract a disease from animals.

5.3 CARRIAGE OF SERVICE ANIMAL IN THE CABIN

It is to be noted that Noreen Lanza³⁹ points out the Department of Transportation in United States of America does not consider service animals assisting passengers with physical disabilities as pets and allows them in the cabin without any limits or restrictions on all flights. I am of the view that given the growing number of peoples defined as disabled be it a mental or physical as a society, all the States should be working towards further accommodation of persons with disabilities by having a law to allow the carrying of service animal in the cabin.

Curtis D. Edmonds wrote *When Pigs Fly: Litigation under the Air Carrier Access Act*⁴⁰ in 2002 and pointed out that the requirement that airlines allow service animals to travel with passengers who have disabilities

³⁸ Abeyratne, I.R.R, "Aviation Trends In The New Millenium", Ashgate Publishing Limited , England, 2015.

³⁹ See no 28 Lanza N

⁴⁰ Edmonds,D.C, "When Pigs Fly: Litigation Under The Air Carrier Access Act, North Dakota Law Review", 78 N.D.L Rev. 687,2002.

is found in Air Carrier Access Act. However he does not elaborate further on what are service animal and the requirements that need to be fulfilled by the service animal's owner prior to carrying of service animals in the cabin.

Rebecca J.Huss has written an article titled Why Context Matters: Defining Service Animals Under Federal Law⁴¹ . According to her twenty millions families in the United States include at least one individual who has a disability. The article begins with a brief history of service animals and the various ways that humans benefit from service animal is discussed. It continues with an analysis of service animal under Americans With Disabilities Act ('ADA Act') and Air Carrier Access Act ('ACA Act').

The article also evaluates the way service animals are handled under the ACA Act. There is then a short section discussing how various state laws may expand the definition of service animal. The article concludes by arguing that there are rational reasons to have an expansive definition of service animal under the ADA Act. In short, I take note that the article provides a comprehensive provision on carrying of service animal in the cabin.

John Ensminger and Frances Breitkopf in an article titled Evolving Functions of Service and Therapy Animals and the Implications for Public Accommodation Access Rules⁴² recommends that no service animal shall be allowed to be in the cabin unless the service animal's owner has been granted with a licence stating that such animal qualified under the law as a service animal. In this regards, I am agreeable with such recommendation to make the service animal distinguishable from household pets.

In relation to service animal, although much have been written about it, there is no legal writing which offers a detailed discussion on the requirement of carrying of service animal in the cabin under the purview of the Chicago Convention or any other Convention.

5.4. CONCLUSION

⁴¹ Huss,J.R, "Why Context Matters: Defining Service Animals Under Federal Law" ,Pepperdine Law Review, 37 Pepp. L. Rev. 1163 2009-2010.

⁴² Ensminger,J ,Breitkopf,F, "Evolving Functions of Service and Therapy Animals and the Implications for Public Accomodation Access Rules", 6 J. Animal L. 1 2010.

Based on all the materials that I have read and analysed, it can be concluded that the aspect of safety for pets in cabin are not well regulated in Malaysia. The materials only provides for adherence to specific regulations for pets placed inside cargo compartment of a plane. It is entirely the discretion of the States to allow a passenger to carry pets inside the cabin. Furthermore, some writers highlighted the pros and cons of carrying life pets in-cabin as well as in the cargo in their writings. Hence, it is an added advantage for the readers to understand the topic effectively.

However, the transporting of pets through cargo in Malaysia is not the concerned of this paper. This paper is concerned with the carrying of pets in the aircraft cabin.

In view of the lack of legal analysis of Malaysian laws and legislation relating to transporting of pets in the cabin, this paper will explore and examine the other jurisdiction relating to the law of transporting of pets in the cabin.

6.0 SCOPE OF RESEARCH

Our scope is to amend the current Civil Aviation Regulations 2016 to allow any person to carry pets in the cabin of any Malaysian airlines which decides to allow the carrying of pets in the cabin. However the pet owner shall follow all requirements in relation to the methods and procedures in carrying of pets in cabin. In addition, the airlines will be imposed an obligation for not allowing any person to carry such pets in cabin if such person fails to fulfil the said procedures and methods.

Taking into consideration the issue of allergens to pet dander and religious concern, all Malaysian airlines are not obliged to allow the carrying of pets in the cabin. However all Malaysian airlines are allowed to decide if they will allow the carrying of pets in the cabin. Therefore any person which has the religious sensitivity towards certain animal or allergens to pet dander can fly on an airline that does not allow pets in the cabin.

In relation to the methods and procedures in carrying of pets in cabin, I will look into other jurisdiction on what are the best guidelines, regulations and procedures to be imposed on the pet owner. In United States of America, the Federal Aviation Administration allows each airline to decide if they will allow the pet owner to travel with their pet in cabin. If an airline does allow the pet owner to bring his pet into the cabin, the pet owner shall ensure the pet container to follow carry-on baggage rules and comply with policies and procedures as determined by the airlines such as a limited list of the types of pets that he can bring into the cabin, a limit on the number of pets in the cabin, a requirement that his pet be harmless, inoffensive and odourless, a requirement that his pet remain in the container for the entire flight and a requirement that he is able to produce a recently issued health certificate for his pet.

7.0 RESEARCH METHODOLOGY

I would combine both Qualitative and Quantitative methods in order to get more reliable results as follows:

7.1 Library Research

In order to gain a further knowledge in terms of carrying of pets in the cabin, it is important for us to study the Malaysian legislations. Hence, I will be looking into Malaysian legislations and books concerning aviation law in general, as well as the books relating to carrying of pets in the cabin that has been applied in other countries. Additionally, I will similarly look into domestic and international articles.

7.2 Questionnaires

The objective of the distribution of questionnaires is two-pronged:

- a. Firstly to gauge the public's knowledge and understanding on carrying of pets in the cabin; and
- b. Secondly, to determine the quantum of the public who are for or against the carrying of pets in the cabin.

This questionnaire will be distributed to four separate groups, Muslims, non-Muslim, allergens to pet dander and pet lovers.

7.3 Interviews

This method will be adopted to gain the perspectives of regulator, airlines and pet lovers alike. The key person that I intend to interview from the side of regulator is Dato' Sri Azharuddin Azhari, the Director General of Civil Aviation Malaysia and Chief Executive Officers of airlines in Malaysia. One of the major question that will be posted to airlines is in relation to the statistic of any death, injury or loss of pets during the air cargo transportation. Additionally, I will be interviewing pet lovers. Identified is Mr Johan from Johan and his Cats. He buys and sells overseas breed of cats and he would use the airlines services to export his cats from various countries on a constant basis.

Also, I intend to interview people with disabilities that are dependent to service animals. This is to get a firm perspective on their on-board experience with the service animals. Since Malaysian are not well exposed to the idea of service animals, I would then interview disabled people in the United States since service animals are widely accepted there.

7.4 Comparative Studies

Studies will be conducted to determine the feasibility or unfeasibility of the implementation of carrying of pets in the cabin as to catch up with the fast-moving demands of the modern days from the perspective of Malaysians.

Following this, a comparative analysis is to be led between Malaysia and United States of America as well as Saudi Arabia.

I opted for the hybrid method for the reason that this area of law is not common. Furthermore, it is yet to be educated to Malaysians and by combining both methods, it will yield better results.

8.0 LIMITATION OF RESEARCH

8.1 Scope

The limitation of the study is on the scope of carrying of pets in -cabin and not in the cargo. Therefore, I will not be discussing the feasibility of carrying of pets in the cargo in Malaysia or other countries. However, I will be looking into the scenario of carrying pets in the cabin which are implemented in other countries such as United States of America as well as other Islamic country like Saudi Arabia .

Additionally, I focuses on pets traveling in the cabin with the passengers. Pets in this proposal are inclusive of cats, dogs, small animals and birds. Live animals such as aquatic life, farming animals, large sizes animal and others are not covered in this proposal.

8.2 Other restraints

The biggest challenges or restraints that may be faced in conducting this research is the lack of knowledge of the general public relating to carrying of pets in -cabin. For some reasons, most Malaysians, including pet lovers have a very basic understanding and have limited awareness on this issue.

Moreover, Malaysia is a multiconfessional country which most professed religion is Islam. As of 2016, there were approximately 61.3% of the population.⁴³ Islam strongly enjoins Muslims to treat animals with compassion and not to abuse them.⁴⁴ However for Muslim certain pets are very sensitive like pigs are forbidden to eat⁴⁵ and the Islamic legal tradition has developed several injunctions that warn Muslims against contact with dogs.⁴⁶

If the pets are to be allowed in the cabin, I need to look into the best methods and procedures that pets can be placed in-cabin without compromising the safety of pets and passengers on-board. In addition, I may need to draw a definition of pets on which type of pets are allowed to be in the cabin.

Further, in preparing the research proposal, I will be facing with the difficulty of those airline passenger who may be allergens to pet dander. Researchers from the Federal Aviation Administration Civil Aerospace Medical Institute issued a report, published in 2000, titled “The Evaluation of In-Flight Medical Care Aboard Selected U.S Air Carriers: 1996 – 1997”. The study showed that 2.4% of the in-flight medical events were allergic events and there were no deaths associated with these events.⁴⁷

Besides above-mentioned restraints, other restrains would be the unavailability of scholars and experts on the matter. However, this is a minor setback that I am willing to overcome.

9.0 SIGNIFICANT OF RESEARCH

First and foremost, our aim is for the safety of pets on-board of a plane. Pets are domesticated animals which often are not familiar with being separated from their owners for a long period of time. Since there are a lot of foreseeable casualties by

⁴³ Mundi, I, “Malaysia Demographics Profile 2016”,at <<https://www.indexmundi.com>> accessed 27 November 2016.

⁴⁴ Harfiyah Halim, “Animals Rights in Islam”,at <<https://www.docdroid.net>> accessed 27 October 2016.

⁴⁵ See no. 44, Harfiyah Halim.

⁴⁶ PETA, “Dogs in Islam”, at<[https://www.animalsinislam.com/dogs in islam](https://www.animalsinislam.com/dogs-in-islam)> accessed 27 october 2016.

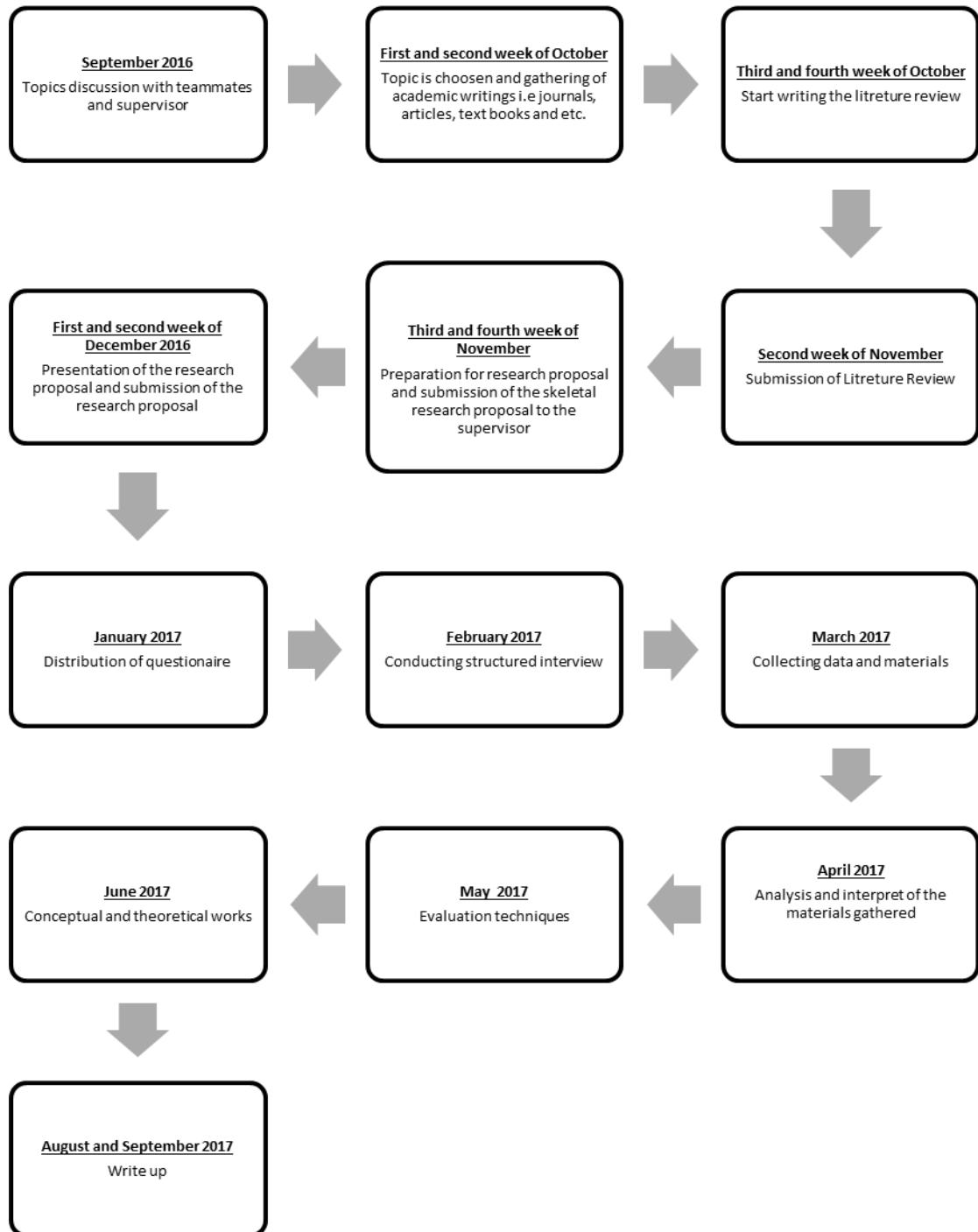
⁴⁷ U.S Department of Transportation, “The Evaluation of In-Flight Medical Care Aboard Selected U.S Air Carriers: 1996 – 1997”, at <<https://www.faa.gov>> accessed 18 December 2016.

putting pets in the cargo, therefore I aim to amend the current legislations in order to allow pet owner to carry their pets in the cabin.

In addition, Malaysia is becoming towards more concern on the welfare of animals when Parliament has passed Animal Welfare Bill 2015 which has been debated in Parliament for the past four years. Animal Welfare Act 2015 [Act 772] promotes animal welfare and responsible ownership of animal. For the first time, pet owner will bear the responsibility of providing a suitable environment, diet and adequate housing. Once Act 772 is put into effect, Malaysia will be at par with member countries of the World Organisation for Animal Health (OIE) such as India, New Zealand, Australia and the United Kingdom.⁴⁸

⁴⁸ Rajaratnam, R, "9 winning points you should know about Malaysia's new Animal Welfare Bill", at <[https://www. says.com](https://www.says.com)> accessed 18 December 2016.

10.0 RESEARCH PLAN



11.0 REFERENCES

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ii) International Conventions/Treaties

International Air Transport Association (IATA) Live Animals Regulations

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