

# Liability Regime from Islamic Law Point of View; and Efforts to Update the Rome Convention

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# Liability Regime from Islamic Law Point of View

## Introduction

- Islamic Law & Conventional Law
  - Sharia and Islamic Law.
  - Difference between Sharia and Conventional Laws
- Basic terminology
  - Personal Injury (Diyah and Irsh)
  - Damages to Objects. (Daman Alayn)



# Liability Regime from Islamic Law Point of View

## Basic Principles of Diyah

- Nature of Diyah.
- Limits of liability defined by formula rather than numbers.
- Unifying contractual and extra-contractual liability for personal injury.
- Can it be used to compensate victims?



# Liability Regime from Islamic Law Point of View

## Basic Principles of Daman-Alayn

- Nature of Daman-Alayn.
- Actual damages defined by formula.
- Unifying contractual and extra-contractual liability for damage of property.
- Can it be used to compensate victims?



# Modernization of Rome Convention 1952

## Rome Convention 1952

- Extra-contractual liability.
- Low limits at height of debate for higher limits of Warsaw.
- Low number of ratifications.



# Modernization of Rome Convention 1952

## Main Points of Consideration

- Overlap between Law, Politics and Economy.
  - Internationality
  - Definition of Unlawful Interference.
  - State's vs. operator's liability.
- Insurance and reinsurance
  - Uncertainty. (risk exposure, premium, liability level)
  - Extended liability (Manufacturers, financiers, lessors, owners and service providers)
- Determining limits of liability
  - Modernity efforts distracted by concentrating on unlawful interference and ignoring regular cases.
  - Weight of aircraft.
  - Distribution of compensation.
  - Where to litigate.



# Modernization of Rome Convention 1952

## How Can Diyah Help?

- Drawing balance between carriers and victims
  - Strict Liability.
  - Limits of liability based on victims rather than type of aircraft.
  - Sufficient compensation while keeping certainty. (formula)
- Drawing balance between contractual and non-contractual victims
  - Applying the same rules to Montreal 1999 and Rome 1952.
- Expeditious litigation process



# Thank You

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