

## CHAPTER V

### CONCLUSION

#### A. Conclusion

Based on the results of this research, it can be concluded several things, namely:

1. Legal regulation of civil aviation safety based on air law is divided into two levels, namely international and national. At the international level, civil aviation safety is regulated in the 1944 Chicago Convention and nineteen annexes manifested in Standards and Recommended Practices (SARPs) established under Article 37 of the 1944 Chicago Convention. At the national level, each member state of ICAO is required to develop civil aviation safety regulations in the form of acts, regulations, or other legal instruments. These regulations must be in line with the SARPs established by ICAO. If a state develops and implements aviation safety regulations that differ from the ICAO provisions, then the state is required to notify the difference to ICAO, as stipulated in Article 38 of the 1944 Chicago Convention. For example in Malaysia, there are two regulations regarding civil aviation safety, namely Malaysia Regulation Act Number 3 Year 1969 on Civil Aviation and Malaysia Civil Aviation Regulation 2016.
2. Malaysia's handling of the missing of Malaysia Airlines aircraft flights MH370 based on air law not fully complied with the SARPs established by ICAO, specifically in Annex 12 on Search and Rescue, Annex 13 on Aircraft Accident and Incident Investigation, Annex 19 on Safety

Management, and Malaysia Civil Aviation Regulation 2016. This non-compliance can be seen from various shortcomings in the handling of this case, such as lack of coordination between states, slow response to emergency situations, lack of training and preparation, and limited information and data provided by Malaysia to the investigating states. In addition, inadequate communication and aircraft tracking systems also hindered the smooth progress of the investigation. As a result, Malaysia is considered to have failed to protect the rights of its citizens, especially the right to life as stipulated in Article 3 of the 1948 Universal Declaration of Human Rights (UDHR) and Article 6 of the 1966 International Covenant on Civil and Political Rights (ICCPR). Under the principle of strict liability and the 1999 Montreal Convention, Malaysia Airlines as the operator of flight MH370, is liable for the missing of aircraft. However, this responsibility can be transferred to Malaysia because Malaysia Airlines acted as an entity under the supervision and authority of the state, as stipulated in Article 23 of the ILC Articles on Responsibility of State for Internationally Wrongful Acts of 2001. Malaysia cannot use force majeure as a basis to be absolved of liability for the missing of MH370 as the exact cause is not yet known, while liability remains inherent under the principle of strict liability and has been recognized through the provision of compensation to the families of the victims. The case has had major legal, economic and international reputation implications for Malaysia and Malaysia Airlines. Malaysia faced criticism for the lack of transparency in

the investigation and lawsuits from victims' families in various states. The case also prompted ICAO to update global aviation safety standards, including stricter aircraft position tracking requirements.

## **B. Recommendations**

Based on the discussion and conclusions above, suggestions can be given, namely:

1. In handling the missing aircraft case, Malaysia should pay attention to the aviation safety provisions contained in the 1944 Chicago Convention and SARPs of ICAO. Malaysia also needs to conduct periodic evaluations of the implementation of SARPs, improve the aviation safety system to obtain more detailed data, and strengthen training for SAR personnel, aviation authorities, and investigation teams. In addition, it is necessary to update the regulations in the Malaysia Regulation Act Number 3 Year 1969 on Civil Aviation and Malaysia Civil Aviation Regulation 2016 by adjusting the provisions in the SARPs of ICAO.
2. Member states of ICAO, whether or not involved in an aircraft accident and incident investigation, should respond quickly in the event of an accident in their vicinity. In addition, member states also need to improve coordination by sharing data and information they find relevant to support the investigation process.
3. The International Civil Aviation Organization (ICAO) as the organization responsible for international civil aviation regulations needs to revise the

provisions of SARPs, especially in Annex 12 on Search and Rescue and Annex 13 on Aircraft Accident and Incident Investigation. This revision aims to avoid confusion in the division of responsibilities during the search and investigation process, so as to increase effectiveness and efficiency in handling aviation accidents.

