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# Sexual Hostility a Mile High

*Michelle L.D. Hanlon\**

## I. INTRODUCTION

On October 21, 2016, the United Nations designated “the character of Wonder Woman . . . as Honorary Ambassador for the Empowerment of Women and Girls.”<sup>1</sup> The irony was not lost on United Nations staff who strenuously objected to the elevation and presumed adulation of a comic book character who is most commonly depicted as “a large breasted, white woman of impossible proportions, scantily clad in a shimmery, thigh-baring body suit with an American flag motif and knee high boots—the epitome of a ‘pin-up’ girl.”<sup>2</sup> Sadly, it seems in the eyes of the global community, a fictitious caricature of a woman is more inspiring than, for example, German Chancellor Angela Merkel, Hewlett-Packard Chief Executive Meg Whitman,<sup>3</sup> any of the diverse group of sixty women who have flown in space, or, for that matter, a middle-class working woman like a flight attendant, who trains arduously to assure the safety of the flying public. And just like that, the United Nations ignores a wealth of inspirational women and encourages an entire generation of girls to aspire to the woefully

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1. *Stand Up for the Empowerment of Women and Girls Everywhere*, UNITED NATIONS (Oct. 21, 2016), <http://www.un.org/sustainabledevelopment/wonderwoman/> [hereinafter *Stand Up*].

2. Petition to “Reconsider the Choice of Wonder Woman as the UN’s Honorary Ambassador for the Empowerment of Women and Girls,” CARE2PETITIONS, <http://www.thepetitionsite.com/741/288/432/reconsider-the-choice-of-honorary-ambassador-for-the-empowerment-of-women-and-girls/> (last visited Apr. 10, 2017). Thankfully, the United Nations rather unceremoniously “dropped Wonder Woman as an ambassador” two months later without, of course, publicly admitting any error in judgment. Alice Ross, *One Less Woman in Politics: Wonder Woman Loses Job as UN Ambassador*, THE GUARDIAN (Dec. 13, 2016, 3:15 PM), <https://www.theguardian.com/world/2016/dec/12/wonder-woman-un-ambassador-gender-equality>.

3. For more information on these women, and to review ninety-seven other woman who could have been considered, see *The World’s 100 Most Powerful Women*, FORBES, <http://www.forbes.com/power-women/list/> (last visited Apr. 10, 2017).

unrealistic standards of a “pin-up girl” culture that female flight attendants have worked for decades to eradicate.

This paper considers the current working environment for flight attendants and suggests that while tremendous inroads have been made since the 1950s and 1960s, the airline cabin work environment remains uniquely hostile. This hostility is not only detrimental to all passengers—and women as a whole—it is inherently unsafe and culturally untenable. Ultimately, this paper will argue that the International Civil Aviation Organization should take decisive action to combat the gender discrimination that permeates the aircraft cabin by definitively separating sexual harassment issues from the unruly passenger prevention and management dialog and addressing sexual harassment head on by, among other things, requiring a licensing regime for flight attendants.

## II. A BRIEF HISTORY OF THE FLIGHT ATTENDANT

The history of the flight attendant is a history of the commoditization and commercialization of services provided by women. Though the emphasis in the first ten years of commercial air travel and in-flight service was on safety, that emphasis focused and capitalized on the physical attributes of women and the general impressions of females as the “weaker sex.” After World War II, airlines unabashedly escalated the exploitation of their women staff using the now time-honored tradition of employing sex to sell seats. This manipulation of the female image has deeply and foundationally entrenched a misogynistic cabin atmosphere that permeates every aspect of service and safety in the skies.

### A. THE FLIGHT ATTENDANT IS INTRODUCED IN THE UNITED STATES

Even as flight technology advanced in leaps and bounds in the two decades after Wilbur and Orville Wright’s historic flight at Kitty Hawk, people were not quick to embrace flying as a mode of transportation. People thought of airplanes as “thrilling entertainment,”<sup>4</sup> and not as reliable means of conveyance. In 1925, however, “the [United States] federal government began more purposefully to nurture a passenger-focused airline industry.”<sup>5</sup> In addition to funding “the development of aviation technology and infrastructure,”<sup>6</sup> the government used the mail contract system to encourage and support passenger service.<sup>7</sup> Charles Lindbergh’s historic transatlantic flight also awakened both “public interest and investor confidence in aviation.”<sup>8</sup> Passenger traffic rose from “less than 9,000 in 1927 to more than

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4. KATHLEEN M. BARRY, *FEMININITY IN FLIGHT: A HISTORY OF FLIGHT ATTENDANTS* 2, (Daniel Walkowitz & Barbara Weinstein eds., Duke Univ. Press 2007) (ebook).

5. *Id.* at 3.

6. *Id.*

7. *Id.*

8. BARRY, *supra* note 4, at 3.

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400,000 in 1930, despite the national slide into economic depression.”<sup>9</sup>

Still, people were reluctant to fly. Planes were uncomfortable and small, flew through, and not over, turbulence, and were prone to mechanical failure and cancellations.<sup>10</sup> In order to garner any market share, the emerging airlines had to “woo the affluent traveller who could afford airfare . . . employing cabin attendants to offer the personalized attention and at least some of the creature comforts found on the rails or at sea.”<sup>11</sup> Those first “cabin attendants” were young men,<sup>12</sup> but even with these young men, the nascent airlines failed to make significant inroads in the transportation market.

#### B. ELLEN CHURCH’S FLYING NURSES

The idea of female flight attendants came from a woman who herself yearned to fly. Ellen Church was a nurse and a licensed pilot whose dream to fly “was rebuffed by the airline’s refusal to allow women into commercial cockpits.”<sup>13</sup> Nevertheless, “on 12 February 1930 she paid a visit to Steven Stimpson, a manager at Boeing Air Transport (BAT, a predecessor to United Air Lines), and proposed that nurses could be an asset in cabin service.”<sup>14</sup> Stimpson agreed. In defense of Church’s idea, Stimpson highlighted the fact that “women would provide ‘a neater and nicer method of serving food and looking out for passengers’ welfare.”<sup>15</sup> He particularly sparked to the idea of nurses because they would project a sense of safety and because “the average graduate nurse is a girl with some horse sense and is very practical.”<sup>16</sup> But perhaps what assured the success of the Church/Stimpson model of employing female flight attendants was the public relations and marketing angle.

It strikes me [Stimpson] that there would be great psychological punch . . . to have young women stewardesses or couriers, or whatever you want to call them . . . Imagine the national publicity we could get from it, and the tremendous effect it would have on the traveling public . . .<sup>17</sup>

The fact that the first female flight attendants were also certified nurses

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9. BARRY, *supra* note 4, at 3–4.

10. *Id.* at 4 (citing CARL SOLBERG, *CONQUEST OF THE SKIES: A HISTORY OF COMMERCIAL AVIATION IN AMERICA* 215, Little, Brown 1979).

11. *Id.*

12. *Id.*

13. Suzanne L. Kolm, *Women’s Labor Aloft: A Cultural History of Airline Flight Attendants in the United States 1930-1978* 30 (1995) (Ph.D. dissertation, Brown University).

14. BARRY, *supra* note 4, at 8.

15. Kolm, *supra* note 13, at 31 (citing Memorandum from Steve Stimpson, *reprinted in* Horace Sutton, *Isle-Hoppers, Aisle-Walkers*, *SATURDAY REVIEW*, May 15, 1965, at 37–38).

16. *Id.*

17. BARRY, *supra* note 4, at 8.

was not widely publicized. The “tremendous effect” BAT was trying to achieve was to provide psychological substantiation for the idea that flying was safe, comfortable, and even glamorous. Certainly, if lithe and petite<sup>18</sup> young women were happy, even eager, to fly regularly, traveling passengers had nothing to worry about.

“[O]n 15 May 1930, stewardess service began on the Oakland-Cheyenne-Chicago route . . .”<sup>19</sup> The company received “hundreds of letters from passengers lavishing praise on the new cabin attendants . . . .”<sup>20</sup> Consequently, other domestic airlines were fairly quick to adopt the female flight attendant model, with Eastern debuting its stewardesses in 1931, American in 1933, Western and TWA in 1935.<sup>21</sup> PanAm, the United States’ only international airline at the time, relied on male attendants exclusively until the 1940s.<sup>22</sup>

### C. AT FIRST, SAFETY SELLS

As can be expected, the female flight attendants were used liberally and flagrantly in marketing and public relations. In fact, these women were so “important to selling air travel in these years that some companies put their cabin crews under the authority of their marketing or traffic departments.”<sup>23</sup> The target audience for these ads? The “wife . . . mother, or sweetheart” of the potential passenger.<sup>24</sup> The airlines were not promoting sex, they were promoting safety.<sup>25</sup> Through the 1930s, statements, stories and advertisements celebrated the “bravery and competence of the stewardesses to reassure all passengers that a trained professional accompanied them in the cabin.”<sup>26</sup> After all, “the mere sight of a woman . . . ‘[g]oing about her duties, thousands of feet in the air with a calm, confident manner inspires confidence in the passenger.’”<sup>27</sup> This comforting domesticity and femininity, though designed to promote a sense of safety, “gave shape to the restrictive vision of femininity that airlines would market for decades.”<sup>28</sup>

### D. THEN, AIRPLANES BECAME SAFER

The late 1930s and the 1940s witnessed a significant evolution of the

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18. “To work on the cramped and weight-sensitive planes of 1930, the first stewardesses had to stand about 5’4” and weigh no more than 115 pounds.” BARRY, *supra* note 4, at 14.

19. *Id.* at 9.

20. *Id.*

21. *Id.*

22. *Id.* at 11.

23. Kolm, *supra* note 13, at 49.

24. *Id.* at 46–47.

25. *See id.* at 43 (“Trade journals and traffic managers in 1933 agreed that the key to ‘increasing air travel’ was to sell people on safety.” (footnote omitted)).

26. *Id.* *See also* BARRY, *supra* note 4, at 20 (“Popular romanticizing of air travel and its possible dangers in the 1930s enabled stewardess ‘pioneers’ to stand as exemplars of airborne courage, in fiction and real life.” (footnote omitted)).

27. Kolm, *supra* note 13, at 56 (footnote omitted).

28. BARRY, *supra* note 4, at 24.

airline industry. Relevant to this paper are three events in particular: First, in 1938, the United States federal government determined that “[i]t should be the policy of the United States to maintain a position of world leadership in air transport,”<sup>29</sup> and established a Civil Aviation Authority to, among many other things, regulate routes and fares.<sup>30</sup> Second, technological improvements provided airlines with “larger, safer, and more luxurious aircraft.”<sup>31</sup> And third, the “increase in air traffic engendered by the intensification” of the World War II war effort “helped to remove the fear of flying and give impetus to the public’s recognition of air transportation as an important means of conveyance.”<sup>32</sup> In other words: 1) competition for passengers could no longer be based on fares; 2) technology had made aircraft safer and more comfortable; and 3) familiarity bred of wartime necessity had erased many concerns about aircraft safety. The airline public relations and marketing department, charged with the remit to fill seats, could no longer rely on fares or safety to lure the public.

#### E. AND THE INDUSTRY RESORTS TO SEX

As a result, the “capstone of airline efforts to win over postwar travellers was the promise of stellar service.”<sup>33</sup> And that “stellar service” started and ended with glamorous stewardess. Airlines made no secret of the fact that their flight attendants were prepared and tutored at “charm farms.”<sup>34</sup> Training included substantial time devoted to “learn proper hair-styling, tricks of good grooming, make-up and figure improvement” as well as how “to walk, talk, and think with new poise.”<sup>35</sup> In short, flight attendants became part of the commodity. The airline passenger, along with transport from one place to another, was promised “an experience.”<sup>36</sup> They were not simply purchasing a seat, but a “state of mind.”<sup>37</sup> Flight attendants were expected to “embody the product . . . They [had to] both act *and* ‘look the part’ to meet customers’ expectations and preferences regarding what kind of person performs the service.”<sup>38</sup> Of course, those “customer expectations” were crafted by the airlines themselves who used sex to “signal the kind of service to expect . . . .”<sup>39</sup>

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29. Harvey C. Bunke, *Commercial Aviation and the Civil Aeronautics Act of 1938*, 20 SOUTHERN ECON. J. 356, 356 n.1 (1954) (citing FED. AVIATION COMM’N, S. DOC. NO. 15, at 9 (1st Sess. 1935)).

30. BARRY, *supra* note 4, at 29.

31. Bunke, *supra* note 29, at 362.

32. *Id.*

33. BARRY, *supra* note 4, at 31.

34. *Id.*

35. *Id.* at 35 (footnote omitted).

36. Lu-in Wang, *When the Customer is King: Employment Discrimination as Customer Service*, 23 VA. J. SOC. POL’Y & L. 249, 263 (2016).

37. *Id.*

38. *Id.* at 267 (emphasis in original) (footnote omitted).

39. Wang, *supra* note 36, at 267.

There are “those who think sex sells like mad” and “those who think advertising doesn’t sell anyhow, so why not have a little fun for the money as it goes down the drain.”<sup>40</sup>

Regardless of which camp the advertising executives for the airlines fall in, there is no denying their full-fledged embracement of the overtly and covertly sexual. Nor was it an American phenomenon. As the samples below show, airlines from around the globe had no qualms about sexualizing the flight cabin experience. “The campaigns were wildly misogynistic, hopelessly fantastical, and maybe a little bit racist. But sell seats they did, from Narita to O’Hare.”<sup>41</sup>

Essentially all the airlines proudly imposed weight, age and marriage restrictions on their flight attendants. A common theme of their marketing was to highlight their stringent application and training processes—processes that put heavy emphasis on physical appearance:

- “The fairest are chosen to become Japan Airlines hostesses, a great honor . . . Last year there were over 2000 applicants. Only 30 were selected for training.”<sup>42</sup>
- A photo of nineteen very lovely young women are featured under the headline: “Presenting the Losers.” The body copy on this Eastern Airlines print advertisement notes, among other things: “Sure, we want her to be pretty . . . don’t you? That’s why we look at her face, her make-up, her complexion, her figure, her weight, her legs, her grooming, her nails and her hair.”<sup>43</sup>
- “Delta is run by professionals. Like Kris Conrad, stewardess. Pretty, resourceful, alert, efficient, confident and sociable. Chosen from 25 applicants.”<sup>44</sup>
- Pacific Southwest sought “girls to fill a cute orange mini-uniform . . . girls who smile and mean it . . . girls who give other people a lift.”<sup>45</sup> And only single girls, “18-1/2 to 26” need

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40. CHARLES GOODRUM & HELEN DALRYMPLE, *ADVERTISING IN AMERICA: THE FIRST 200 YEARS* 74 (Harry N. Abrams ed. 1990).

41. Jake Flanigan & Colette Chretien, ‘*Sex Sells Seats*’: *Magazine Airline Ads, 1959-79*, *THE ATLANTIC*, Dec. 22, 2013, <http://www.theatlantic.com/business/archive/2013/12/sex-sells-seats-magazine-airline-ads-1959-79/282564/>.

42. *Id.*

43. Anorak, *Presenting the Losers: Eastern Airlines 1970s Advert for Pretty, Vacant and Sexually Available Airline Stewardesses*, FLASHBAK (Aug. 29, 2013), <http://flashbak.com/presenting-the-losers-eastern-airlines-1970s-advert-for-pretty-vacant-and-sexually-available-airline-stewardesses-11326/>.

44. Flanigan & Chretien, *supra* note 41.

45. Yeoman Lowbrow, *The Groovy Age of Flight: A Look at Stewardesses of the 1960s-70s*, FLASHBAK (Jan. 2, 2015), <http://flashbak.com/the-groovy-age-of-flight-a-look-at-stewardesses-of-the-1960s-70s-28575/>.

apply.<sup>46</sup>

Indeed, the airlines were so selective, they suggested, that their stewardesses would make the perfect wife. At United, “[e]veryone gets warmth, friendliness and extra care. And someone may get a wife . . . (The average tenure of a United stewardess is only 21 months before she gets married).”<sup>47</sup>

As suggestive as the copy might be, the images used in print ads were at best titillating, and at worst, just salacious inches from being pornographic. A 1965 print advertisement for Continental Airlines is described thusly:

The overwhelming visual component of the ad was a posterior view from the waist down of a slender, shapely stewardess bending slightly forward, wearing a snug, above-the-knee skirt and high heels. The accompanying boldface text explained with an implied wink and nudge, “Our first run movies are so interesting we hope you’re not missing the other attractions abroad.”<sup>48</sup>

Campaigns around tag lines like “Fly Me,”<sup>49</sup> “We’ll Fly You Like You’ve Never Been Flown Before,”<sup>50</sup> “We Make You Feel Good All Over”<sup>51</sup> and “Have You Ever Done It the French Way”<sup>52</sup> were not only launched, but proven quite successful.<sup>53</sup>

Between the training protocols, the anti-marriage clauses, the even skimpier outfits, the coy taglines and sexually charged advertising copy, the airlines commercialized the sexuality of their stewardesses and consciously groomed “packaged and present[ed] their women workers for sexual harassment as part of their marketing strategy.”<sup>54</sup> It is really no surprise that these practices created the sexually hostile cabin environment we experience today.

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46. Lowbrow, *supra* note 45.

47. 1966 United Airlines Stewardess Photo Old Maid Vintage Print Ad, EBAY, <http://www.ebay.com/itm/1966-United-Airlines-stewardess-photo-Old-Maid-vintage-print-ad-/31172700011?hash=item48946089cb>. See also Margarita Noriega, *13 Sexist Vintage Airline Ads from the '60s: “Someone May Get a Wife,”* VOX (Aug. 7, 2015), <http://www.vox.com/2015/8/7/9113743/vintage-sexist-airline-ads>.

48. BARRY, *supra* note 4, at 166 (footnote omitted).

49. National Airlines, see BARRY, *supra* note 4, at 168.

50. National Airlines, *see id.*

51. Air Jamaica, *see id.*

52. Air France, *see id.*

53. BARRY, *supra* note 4, at 167. National’s “Fly Me” campaign “raised the carrier’s ‘brand’ visibility, garnered advertising awards, and generated healthy sales of related ‘Fly Me’ products. National offered t-shirts and mugs emblazoned with the slogan, a phonographic recording of the campaign’s theme song, and even a Barbie-like ‘Fly Me’ stewardess doll.” *Id.* (footnote omitted).

54. Wang, *supra* note 36, at 261.

### III. A HOSTILE WORK ENVIRONMENT

The passage of the United States Civil Rights Acts in 1964,<sup>55</sup> and the Act's ban on sex discrimination, gave United States flight attendants a tool to formally protest their treatment and, as a result, their depiction in marketing materials. Kathleen Barry provides a thorough review of this early advocacy in Chapter Six of her book, *Femininity in Flight: A History of Flight Attendants (Radical Perspectives)*.<sup>56</sup> Barry's analysis demonstrates that great inroads against overt sexual discrimination have certainly been made in the law books—both in the United States and around the world. Marketing campaigns have followed suit.

Changing law has required a shift from outright misogyny, while changing dynamics, including the post-deregulation drop in airfares, dictated a need to develop a marketing appeal to a much broader and more diverse target audience. Nevertheless, the industry, and the job of flight attendant, steeped in a tradition of the hyper-feminized and then hyper-sexualized flight attendant, has been able to erode, but not eradicate, the stain of sexism. It can even be argued that the situation today is far worse for both flight attendants and those who fly as the sexual undertones of commercial flight remain just that: undertones—difficult to deal with subtleties that are too easily ignored or rationalized.

#### A. THE FLIGHT CABIN IS THE VERY DEFINITION OF A HOSTILE WORK ENVIRONMENT

The term “hostile work environment” is a juridical one initially created in the United States.<sup>57</sup> Yet, it is particularly evocative of the circumstance it seeks to capture. One can conjure the images of hostility in the workplace even without the United States Supreme Court's considered direction. Nevertheless, the guidance of the court is helpful. A workplace is “hostile” when it is “permeated with ‘discriminatory intimidation, ridicule, and insult,’ that is ‘sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment.’”<sup>58</sup> It is a worryingly precise—though legally unactionable—description of a commercial airline cabin at cruising altitude where multiple elements, delineated below, contribute to the sexual hostility permeating our flights.

##### 1. The Mile High Club

A couple in business class disrobed from the waist down and began having sex in a seat in full view of other passengers. Flight attendants, accustomed to couples retiring to bathrooms or

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55. United States Civil Rights Act, 42 U.S.C. § 2000(e) et seq. (2016).

56. BARRY, *supra* note 4.

57. *Harris v. Forklift Systems, Inc.*, 510 U.S. 17, 21 (1993) (quoting *Meritor Savings Bank, FSB v. Vinson*, 477 U.S. 57, 65, 67 (1986)) (footnote omitted).

58. *Id.*

conducting such affairs under blankets, were so flustered that they summoned the captain from the cockpit. The couple stopped only when the captain yelled at them that the plane was “not a shag house”—South African slang for a brothel.<sup>59</sup>

Nearly every frequent long-haul flyer can recount a “mile high club”<sup>60</sup> story, though perhaps not one quite as flagrant as the above. And indeed, a survey of 1,600 travelers found fifteen percent who said “they have had sex on a plane.”<sup>61</sup> Of 700 British flight attendants, twenty-one percent admitted to “mile high” relations with a colleague, and fourteen percent with a passenger.<sup>62</sup> Many people consider entrance to the mile high club a “bucket list”<sup>63</sup> item and the 35,000 foot consensual ribaldry, while not encouraged, is not aggressively dissuaded.

On a flight to Switzerland a couple of years ago, there was a couple who “mile-high clubbed” a couple of times over the course of the flight. The final time was right before breakfast was being served, and the flight attendant had everyone on the plane give them a round of applause for being the most consistent passengers she had ever seen.<sup>64</sup>

The tolerance for sexual “hijinks” in the cabin—whether in the lavatory or the “empty rows in the back of the plane”<sup>65</sup>—is both a symptom of and contributing cause to the overall hostile work environment. While consensual sex between two adults is outside the realm of legal proscription, the overall willingness to suspend decency and courtesy is endemic of the uniquely rarefied atmosphere of a commercial airline cabin. It is also a direct result of nascent airline campaigns to seduce a once hesitant public with feminism and then sex. And it is a precedent and legacy that is proving as harmful as it is difficult to stem.

## 2. SEXUAL HARASSMENT—PILOTS AND FELLOW CREW

Every flight has a designated pilot-in-command who is “charged with

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59. Asra Q. Nomani, *A New Problem for the Airlines: Sexual Misconduct at 37,000 Feet*, WALL ST. J. (June 10, 1998, 12:01 AM), <http://www.wsj.com/articles/SB897364901819356000>.

60. A “euphemism for in-flight sex . . . .” *See id.*

61. Eric Rosen, *How to Join the Mile High Club – If You Dare*, TRAVEL + LEISURE, <http://www.travelandleisure.com/travel-tips/airlines-airports/tips-for-joining-mile-high-club> (last visited Apr. 10, 2017).

62. *Id.*

63. *Id.*

64. Catriona Harvey-Jenner, *The One Thing You NEED to Know About the Mile High Club*, COSMOPOLITAN UK (May 11, 2016), <http://www.cosmopolitan.co.uk/entertainment/travel/news/a43238/mile-high-club-flight-attendants-open-door/>.

65. Kaitlyn Frey, *14 Absolutely Insane Confessions From Flight Attendants*, COSMOPOLITAN (Apr. 14, 2016), <http://www.cosmopolitan.com/career/a56875/confessions-from-flight-attendants/> (emphasis in original).

the safe conduct of the flight.”<sup>66</sup> That same pilot has the opportunity to set the tone for both the flight and its crew. Unfortunately, that pilot occasionally takes advantage of this position and directs unwanted attention to one or more of his flight crew. The most recent publicly reported incident involves the Canadian airline WestJet. The broad strokes of the complaint filed by Mandalena Lewis on behalf of a proposed class of flight attendants in April 2016 are all too familiar. Lewis alleges, among other things that the flight attendants were exposed to:

unwelcome remarks, jokes, innuendoes, bullying, and offensive and humiliating taunting; sexist jokes and comments . . . ; unwelcome sexual advances, requests or demands for sexual favours . . . (referred to as “midnight knocking” by Pilots in the layover scenarios); unwelcome invitations and requests of a sexual nature; unwelcome physical contact . . . ; derogatory and degrading remarks . . . ; leering and obscene comments and gestures; and verbal threats of a sexual nature.<sup>67</sup>

Similar cases of unwelcome sexual attention have recently been reported in New Zealand<sup>68</sup> and India<sup>69</sup> and remain common in the United States, with sexual assault coming from both pilots and fellow cabin crew.<sup>70</sup> Nevertheless, most airlines do have robust antiharassment and antidiscrimination policies in place, as well as internal processes to deal with violations. As evidenced by the WestJet case, flight attendants may also have recourse against their assaulters and the airline that employs them in court. Such policies are neither global nor uniformly implemented. Moreover, many victims will refrain from complaining either out of fear of putting their own position in jeopardy or because they do not have faith in the system.<sup>71</sup> Similarly, bringing a case to court requires tremendous

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66. See INTERNATIONAL CIVIL AVIATION ORGANIZATION, ANNEX 2 TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION: RULES OF THE AIR 1–5 (10th ed. 2005), definitions.

67. Lewis v. WestJet Airlines, Ltd. [Notice of Civil Claim] No. S-162957, [4 Apr. 2016] Supreme Court of BC, Vancouver Registry, para. 53.

68. A 51-year-old male pilot presented himself at the flight attendant's hotel room and, upon entry, sat on the bed and “touched her on her upper inner thigh in a sexual manner.” Melissa Nightingale, *Airline Pilot Sexual Harassment Claim Back Before Employment Court*, NEW ZEALAND HERALD (Sept. 7, 2016, 7:18 PM), [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11705434](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11705434).

69. A pilot was terminated for sexually harassing an Air Hostess after he demanded his co-pilot exit the cockpit so that he could be alone with the Air Hostess and used “unparliamentary language” with the cabin crew. Indo-Asian News Service, *SpiceJet Sack Pilot for Allegedly Sexually Harassing Air Hostess*, NDTV (Apr. 26, 2016, 5:44 PM), <http://www.ndtv.com/india-news/spicejet-sacks-pilot-for-sexual-harassment-1398640>.

70. See e.g., P. v. Delta Airlines, Inc., 102 F. Supp. 2d 132 (E.D.N.Y. 2000) (cabin flight attendant alleges that she was administered a date rape drug and assaulted by a fellow cabin flight attendant during layover); Nardini v. Continental Airlines, Inc., 60 S.W.3d 197 (Tex. App. 2001) (flight attendant alleges she was assaulted by the First Officer in a hotel room during layover).

71. Though not directly on point, it is instructive to know that in the United States, roughly

emotional and financial investment. Given these circumstances, it is impossible to even estimate how many intra-crew assaults actually occur in a given year.

### 3. SEXUAL HARASSMENT—PASSENGERS AND RANDOM MEN

When sexual assault and harassment come from passengers—the very people the flight attendants have been trained to serve—the reluctance to report the incident is even greater. As author and flight attendant Heather Poole explains:

When a passenger touches me inappropriately, I might wonder if it's worth having authorities meet the flight? . . . Wouldn't I rather just get to the hotel and get some sleep instead of sticking around the airport to file an official complaint—or worse, cause a delay for my next flight because I have less than an hour to run to the next gate before boarding? It's easy to brush this off when you think you'll never see the person again.<sup>72</sup>

Because of this reluctance to provide a formal report, it is nearly impossible to gauge the number of times flight attendants are sexually harassed or assaulted in-flight. One survey, completed by the Hong Kong Equal Opportunities Commission suggests the number remains depressingly, even shockingly, high. Completed in 2014, the “Sexual Harassment and Discrimination in Employment – Questionnaire Survey for Flight Attendants” was distributed to 9,000 flight attendants.<sup>73</sup> While only 392 responded—demonstrating yet again, a general reluctance on the part of the women themselves to address these issues—their responses are instructive. Twenty-seven percent reported that they had been “sexually harassed when they were on duty in-flight in the last twelve months” of those, fifty-nine percent of the

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forty-eight percent of sexual assaults are reported to police. That figure drops down to twenty-seven percent when an offender is a friend or acquaintance. See Timothy C. Hart & Callie Rennison, *Reporting Crime to the Police, 1992-2000*, BUREAU OF JUSTICE STATISTICS (March 2003), <https://www.bjs.gov/content/pub/pdf/rcp00.pdf>. Another study found that in the United Kingdom, eighty-three percent of those who have been raped or sexually assaulted fail to report it. Martin Beckford, *80% of Women Don't Report Rape or Sexual Assault, Survey Claims*, THE TELEGRAPH (March 12, 2012), <http://www.telegraph.co.uk/news/uknews/crime/9134799/Sexual-assault-survey-80-of-women-dont-report-rape-or-sexual-assault-survey-claims.html>.

72. Natasha Wynczyk, *It Was Really Disgusting: What Sexual Harassment Looks Like at 30,000 Feet*, VICE (June 3, 2016), [https://broadly.vice.com/en\\_us/article/it-was-really-disgusting-what-sexual-harassment-looks-like-at-30000-feet](https://broadly.vice.com/en_us/article/it-was-really-disgusting-what-sexual-harassment-looks-like-at-30000-feet).

73. “Sexual harassment is any unwelcome conduct of a sexual nature directed at the victim, in which a reasonable person would anticipate the victim to feel offended, humiliated or intimidated.” Press Release, Hong Kong Equal Opportunity Commission, The EOC Announces Findings of “Sexual Harassment and Discrimination in Employment – Questionnaire Survey for Flight Attendants” (Feb. 20, 2014), <http://www.eoc.org.hk/EOC/graphicsfolder/ShowContent.aspx?ItemID=12071> [hereinafter Hong Kong Press Release].

assaults were by customers.<sup>74</sup> The anecdotes that are reported are squirm-inducing. One flight attendant on a United States carrier relays a few choice encounters:

- “I strapped into my jump seat, and the guy” sitting across from me “says, ‘Isn’t this romantic . . . . It’s dark with all the twinkling lights outside and it’s just you and me.’”<sup>75</sup>
- “This first-class passenger in a suit leans in to me and says in a low voice, ‘That dress is a real ball burner!’ and kept going down the aisle.”<sup>76</sup>
- “Every time I went by him, he would say[,] . . . ‘I think you’re sexy’ . . . as we were deplaning . . . I . . . realize[d] he is going to try to kiss me . . . .”<sup>77</sup>

But it is most definitely not a uniquely American phenomenon.

- In May 2016, it was reported that a female flight attendant for Garuda Indonesia “offered refreshments to a passenger, who said he wanted milk. Meanwhile another passenger sitting next to the first passenger asked ‘the right or left milk.’”<sup>78</sup>
- In April 2016, a passenger asked a flight attendant on an Emirates flight for a picture with her, and as she moved in to pose with him, he hugged her and kissed her neck.<sup>79</sup>

Flight attendants do not even have to be on an airplane to become victims of harassment. When China Airlines’ cabin crew went on strike, many men took the opportunity to openly ogle the women. “‘I have an erection just thinking about the (cabin crew),’” one man posted on Facebook. Another noted, “‘This is the best-looking strike I’ve ever seen,’ . . . while others vowed that they were joining the strike with hopes of ‘sleeping with the girls on the street.’”<sup>80</sup>

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74. Hong Kong Press Release, *supra* note 73.

75. Yahoo Travel, *Tales from the Mile High Club – Confessions of a Flight Attendant*, NEW YORK POST (Aug. 11, 2014, 10:44 AM), <http://nypost.com/2014/08/11/tales-from-the-mile-high-club-confessions-of-a-flight-attendant/>.

76. *Id.*

77. *Id.*

78. Bambang Nurbianto, *Garuda Flight Attendant Suffers Sexual Harassment*, THE JAKARTA POST (May 28, 2016, 2:19 PM), <http://www.thejakartapost.com/news/2016/05/28/garuda-flight-attendant-suffers-sexual-harassment.html>.

79. Salam Al Amir, *Flight Attendant Sexually Assaulted by Passenger, Dubai Court Told*, THE NATIONAL (June 19, 2016), <http://www.thenational.ae/uae/courts/flight-attendant-sexually-assaulted-by-passenger-dubai-court-told>.

80. Katherine Wei, *Blatant Sexual Harassment Crops Up During Taiwan’s First Airline Strike*, THE DIPLOMAT (June 30, 2016), <http://thediplomat.com/2016/06/blatant-sexual-harassment-crops-up-during-taiwans-first-airline-strike/>.

#### 4. Passenger on Passenger Sexual Assault

Perhaps the most troubling trend is passenger-on-passenger sexual assault. In one two-month period in 2016 alone, four cases were publicly reported.

On May 7, 2016, Dana, last name withheld, was awakened on her flight from the United States to Germany to find the man seated beside her “had her left breast in his hand and was pinching her nipple over her shirt.”<sup>81</sup> After being moved to Business Class and offered a number of free amenities, one flight attendant told Dana, “Indian men do this all the time.”<sup>82</sup> The police were not informed in time, and the perpetrator was not apprehended. When Dana went to the police in Cologne, they reportedly told her, “What happened to you here is considered just rude. Just let it go.”<sup>83</sup> On May 8, Heidi Ann McKinney was “charged with touching another woman on the thigh and groin” on a domestic United States flight from Nevada to Oregon.<sup>84</sup>

On May 29, a woman was repeatedly groped by her seat neighbor on a flight from Israel to the United States. In this case, the perpetrator was arrested and charged.<sup>85</sup>

In June, 13-year-old Mackenzie Miller, travelling in American Airlines’ Unaccompanied Minor Program, was “touched inappropriately” by a 26-year-old man seated next to her. According to reports, he took the opportunity to “rub up against [the girl], lean close to her and fondle her body with his hand . . . moving up to the girl’s upper thigh and crotch.”<sup>86</sup>

And those are just the most recent cases that have been widely reported in the United States. Airlines have declined to “share data about sexual assaults on their planes.”<sup>87</sup> What’s more, while courts in the United States and the United Kingdom have recognized that sexual assault by a fellow passenger is “a special risk inherent in air travel,”<sup>88</sup> they have not held the

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81. Nora Caplan-Bricker, *Flight Risk*, SLATE (Aug. 31, 2016, 5:58 AM), [http://www.slate.com/articles/double\\_x/doublex/2016/08/what\\_happens\\_when\\_sexual\\_assault\\_happens\\_on\\_a\\_long\\_haul\\_flight.html](http://www.slate.com/articles/double_x/doublex/2016/08/what_happens_when_sexual_assault_happens_on_a_long_haul_flight.html).

82. *Id.*

83. *Id.*

84. Karen Schwartz, *Recent Incidents Put New Focus on Sexual Assault on Airplanes*, TAMPA BAY TIMES (Nov. 17, 2016, 8:30 AM), <http://www.tampabay.com/features/travel/recent-incidents-put-new-focus-on-sexual-assault-on-airplanes/2303076>.

85. *Id.*

86. Blake Bakkila, *13-Year-Old Who Was Allegedly Groped on Plane by Stranger Speaks Out for the First Time*, PEOPLE MAGAZINE (Nov. 19, 2016, 12:00 PM), <http://people.com/crime/mackenzie-miller-chad-camp-groped-american-airlines-interview/>.

87. Caplan-Bricker, *supra* note 81.

88. *Morris v. KLM Royal Dutch Airlines* [2001] EWCA Civ. 790, Court of Appeal (Civil Division), para. 31. This case involved a 15-year-old girl who fell asleep on a flight from Kuala Lumpur to Amsterdam, waking up to “discover the hand of the man next to her touching her left thigh from the hip to the knee.” *Id.* at para. 2. See also *Wallace v. Korean Air*, 214 F.3d 293 (2d Cir. 2000) (Brandi Wallace fell asleep on a flight from Seoul to Los Angeles, waking up to find her seat neighbor “had unbuckled her belt, unzipped and unbuttoned her

airlines accountable for failing to provide a safe in-flight environment.<sup>89</sup> And so, the reality remains that most sexual assaults will go unreported.

#### 5. Women are Second Class Citizens

Equally troubling, though admittedly not as salacious as outright harassment, is the treatment of women passengers on airlines as second class citizens by unquestioningly accommodating men who refuse to sit next to a female. Again, stories filter through to the public only occasionally belying the ability to determine how often it happens, but at least two stories recently found media attention.

In December 2015, Renee Rabinowitz, 81, “a retired lawyer with a Ph.D. in educational psychology,” was asked to give up her business class aisle seat, in which she had comfortably settled, because her intended seatmate was an “ultra-Orthodox male . . . who did not want to sit next to a woman.”<sup>90</sup> As Ms. Rabinowitz, herself put it: “[H]ere I am, an older woman, educated, I’ve been around the world, and some guy can decide that I shouldn’t sit next to him.”<sup>91</sup> But what is worse is that the airline decided that “some guy” deserved more respect than accomplished, but female, Rabinowitz.

In a similar case in September 2016, the pre-booked seat of Mary Campos, a senior consultant in the oil and gas industry and a million-mile flyer, was taken away from her in order “to make way for two ‘Pakistani Monks’ who did not want to sit next to a woman” because of their “cultural beliefs.”<sup>92</sup> Would a black man have been moved, one wonders, if the “cultural beliefs” of these Monks dictated that they not sit next to men of African descent? A gay man or transgender individual?

#### 6. Overemphasis on Appearance and Demeanor Still Reigns

The final element that rounds out the “mile high” hostile work environment are the many discriminatory restrictions handed down by airlines that flight attendants around the world must adhere to in order to retain their jobs. By way of example, the author offers Qatar and Taiwan.

The process to become a flight attendant for China Airlines, for example,

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jean shorts, and placed his hands into her underpants to fondle her).

89. This is due to the fact that international air travel is uniquely subject to the terms of the Warsaw Regime and the Montreal Convention which assert that passengers will not be able to recover damages unless they can demonstrate they have suffered a “bodily injury.” See The Warsaw Convention for the Unification of Certain Rules for International Carriage by Air, 49 Stat. 3000 article 17; The Montreal Convention for the Unification of Certain Rules for International Carriage by Air, 2242 U.N.T.S 309, article 17.

90. Isabel Kershner, *She Was Asked to Switch Seats. Now She’s Charging El Al with Sexism*, N.Y. TIMES (Feb. 26, 2016), [http://www.nytimes.com/2016/02/27/world/middleeast/woman-81-to-sue-israeli-airline-over-seat-switch.html?\\_r=0](http://www.nytimes.com/2016/02/27/world/middleeast/woman-81-to-sue-israeli-airline-over-seat-switch.html?_r=0).

91. *Id.*

92. Rachel Revesz, *United Airlines Passenger Told to Switch Seats as Pakistani Man ‘Did Not Want to Sit Next to Woman’*, THE INDEPENDENT (Oct. 1, 2016, 1:43 PM), <http://www.independent.co.uk/news/world/americas/mary-campos-united-airlines-pakistani-monks-california-houston-cultural-religious-beliefs-a7340796.html>.

sounds eerily reminiscent of the “charm farms” of the United States in the 1960s.<sup>93</sup> “There is usually an age limit . . . and . . . women . . . are chosen for their education, language abilities, good communication skills, *and their looks*.”<sup>94</sup> Successful flight attendants are “Barbie dolls in uniform that serve passengers with a meek politeness that further encourages disrespect and sexual objectification from men, and a warped sense of how the industry operates.”<sup>95</sup> This commoditization is personified by Chang Shuping, who designs the China Airlines’ uniforms specifically to “inspire people to fantasize about” the flight attendants.<sup>96</sup>

Qatar Airlines, which employs 19,000 migrant workers was accused in 2015 of a number of discriminatory practices.<sup>97</sup> Among other things, the airline 1) reserved and exercised, “the right to terminate employment on the grounds of pregnancy,”<sup>98</sup> 2) imposed a “marriage ban during the first three to five years of service in the company . . . [and then granted] permission to get married . . . at the discretion of the company,”<sup>99</sup> and 3) generally restricted the movement female employees enjoyed during their “rest periods” and exerted control over “private activities while off duty.”<sup>100</sup> These kinds of restrictions severely diminish independence, self-respect and self-confidence—all qualities needed to be able to combat the hostile work environment flight attendants face in the sky.

#### B. ENDURE WITH A SMILE?

The “mile high” cabin, as a workplace, is truly unique. Pervasive sexual hostility exposes both female flight attendants and female passengers to ridicule and insult. Whether witnessing open sexual contact, responding to a “midnight knocking,” battling suggestive banter, being targeted for gender or being outright assaulted, the early sexualization of the flying experience continues to haunt the cabin and embolden lascivious perpetrators.

From a labor standpoint, the work of a flight attendant is often compared to that of a restaurant hostess. It is a service industry in which the “customer is king.”<sup>101</sup> And, like all such service industry workers, flight attendants find it difficult to fight for their rights:

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93. See BARRY, *supra* note 4.

94. Wei, *supra* note 80 (emphasis added).

95. *Id.*

96. *Id.*

97. Report of the Director-General, Governing Body, International Labour Office, Ninth Supplementary Report: Report of the Committee Set Up to Examine the Representation Alleging Non-Observation, by Qatar of the Discrimination (Employment and Occupation) Convention, Report No. 111(1958) made under Article 24 of the ILO Constitution, by the International Trade Union Confederation and the International Transport Workers’ Federation (13 June 2015) GB.324/INS/7/9 at II.A.7.

98. *Id.* at II.A.8.

99. *Id.* at II.A.9.

100. *Id.* at II.A.10 and II.A.11.

101. See Wang, *supra* note 36.

It is hard enough to establish a claim of employment discrimination when an employer discriminates directly against a worker. When the person who discriminates against her in the workplace is someone outside the formal lines of authority, the employee faces even greater challenges in holding the employer accountable.<sup>102</sup>

Compounding these challenges is nearly a century of the sexualization of the women in the flight cabin. Indeed, it seems at times that boarding a commercial aircraft can be likened to going back in time to an era where misogyny was coquettishly celebrated. It is this insulating effect that is the most damaging to women. After all, it's just a flight, lasting fourteen hours at most, and much less on average. Once you get off the flight, you move on. Chances are good you will never see that offensive passenger in seat 24B again. Ever. It is easier, as noted by Heather Poole, in these circumstances, to endure rather than fight.<sup>103</sup> And, really, what can be done is a response to a complaint? Can every passenger that makes a lewd remark be fined or arrested? Cross-culturally this would be challenging as police forces across the globe will struggle with uniformly identifying what is "rude" versus what is harassment as Dana learned at the hands of the German police.<sup>104</sup>

What is worse is that entering this mile high time warp does not just impact the professionals, it impacts every single woman on the flight. And every single woman who has aspirations to advance herself in the world. After all, "[i]n Asia, especially in East Asian countries, cabin crew enjoy high social status and the position is a coveted one for many women because of the high pay and the opportunity to travel the world."<sup>105</sup> Even the most rigorous employment discrimination effort applied most strictly by an airline cannot reverse the 100-year-old legacy of the prurient commoditization and commercialization of the flight attendant.

This is why the International Civil Aviation Organization (ICAO) must act.

#### IV. HOW SERIOUS IS THE GLOBAL COMMUNITY ABOUT ADVANCING WOMEN'S EQUALITY?

When the United Nations Entity for Gender Equality and the Empowerment of Women was formed in 2010, it reiterated the idea that "[g]ender equality is not only a basic human right, but its achievement has enormous socio-economic ramifications."<sup>106</sup> It promised to be "a dynamic and strong champion for women and girls, providing them with a powerful

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102. Wang, *supra* note 36, at 258 (footnote omitted).

103. See Wynarczyk, *supra* note 72.

104. See Caplan-Bricker, *supra* note 81.

105. Wei, *supra* note 80 (footnote omitted).

106. *Meeting the Needs of the World's Women*, UN WOMEN, <http://www.unwomen.org/en/about-us/about-un-women> (last visited Apr. 10, 2017).

voice at the global, regional and local levels.”<sup>107</sup> Perusal of the Web site suggests that the effort has indeed been aggressive and broadly scoped. It seems, however, that the global press corps was not paying enough attention, and, in what—one hopes—can only have been a concerted effort to earn media attention, the United Nations made Wonder Woman an “Honorary Ambassador for the Empowerment of Women and Girls.”<sup>108</sup> Sexy, strong and outfitted with both magic bracelets, a magic lasso and superhuman strength and speed, the scantily clad heroine, first introduced in 1941, sends women back to what should be a bygone era.<sup>109</sup> It is much, in fact, like stepping into an airplane. The misguided gesture, since rescinded, is appreciated, but with little more effort, ICAO can achieve much more.

#### A. ICAO

Formed pursuant to Article 43 of the Chicago Convention, one of the main objectives of ICAO is to “foster the planning and development of international air transport so as to . . . [m]eet the needs of the peoples of the world for safe . . . air transport.”<sup>110</sup> With this remit, ICAO has been instrumental in providing the opportunity for nations to negotiate and debate all manner of issues related to air transport. Nevertheless, ICAO has yet to issue a directive or guideline related solely to sexual assault and harassment. Instead, such incidents are grouped within the rubric of the “unruly passenger” and “unruly behaviour,”<sup>111</sup> treatment of which is framed by the 1963 Tokyo Convention<sup>112</sup> and its progeny. This is a travesty.

Slipping sexual harassment into a description of unruly behaviour obscures a century of devastating misogynistic social history. It obfuscates the underlying cause of such acts and attempts to address the consequences, rather than eliminate the root cause. Moreover, it assures that forward movement on gender equality issues will be slowed by the deeper and much more fraught negotiation of jurisdictional issues which accompany the unruly behaviour protocols. In short, it allows nations to pat themselves on the back without accomplishing anything.

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107. UN WOMEN, *supra* note 106.

108. *See Stand Up*, *supra* note 1.

109. *See Wonder Woman*, DC COMICS, <http://www.dccomics.com/characters/wonder-woman> (last visited Apr. 10, 2017).

110. Convention on International Civil Aviation, Dec. 7, 1944, 15 U.N.T.S. 295, T.I.A.S. 1591, Art. 44 (d) [hereinafter Chicago Convention]. Some may argue that sexual harassment and discrimination are not within the “safety” remit of ICAO. This author strenuously disagrees as ICAO must recognize that women should be afforded the right to air transport without fear of assault or harassment.

111. *See* Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers, Cir 288 LE/1 (June 2002). *See also* International Air Transport Association, Promotion of the Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft Done at Montreal on 4 Apr. 2014 (Montreal Protocol, Working Paper, 2014)” (4 Aug. 2016) A39-WP/139 at ¶1.3.

112. Convention on Offences and Certain Other Acts Committed on Board Aircraft, Sept. 14, 1963, 704 U.N.T.S. 10106.

Sexual assault and harassment incidents must be treated separately from other "unruly behaviours" because they are symptoms of discrimination that should be eradicated proactively rather than dealt with reactively.

B. EMPOWERMENT THROUGH STANDARD AND RECOMMENDED PRACTICES

Flight attendants are among the most visible women in the world. Anyone who boards an airplane or lives or works near an airport will come into contact with these women. They should be extolled for what they are: confident, independent, resourceful, capable and courageous women who have chosen a difficult and deeply responsible vocation that will broaden their horizons and expand their futures both literally and figuratively. And they should be celebrated for their training, not their looks. These are true "Wonder Women" who do not need magic and spangled bodysuits to save lives. But they could use a little support, and the ICAO offers the global community a unique opportunity to: 1) make flights safer; 2) give flight attendants the tools they need to erase discrimination; and 3) empower women around the world by recognizing and celebrating the important role of women in air transport.

First, the nations of ICAO can unite to support and approve a bold and direct statement of the global community's intolerance for any form of sexual harassment in the air transport industry. Ideally, this resolution would recognize the overtly and over-sexualized portrayal of flight attendants throughout the history of commercial flight. Additionally, it would affirm the resolve of each nation to protect female crew and passengers by working aggressively to negate stereotypes imprinted by historic marketing campaigns.

Second, the nations of ICAO must consider protecting flight attendants through the implementation of the organization's lauded standards and recommended practices.<sup>113</sup> As a matter of first instance, flight attendants should be formally elevated to the same level of importance as the rest of the flight crew. This can be achieved by mandating flight attendant licensing through Annex 1 of the Chicago Convention.<sup>114</sup> Licensing prerequisites would focus on safety procedures and knowledge of the aircraft upon which attendants will be serving. This will serve the dual purpose of making air transport safer, and reminding nations, airlines and their crew that the most important role of the flight attendant is not to look pretty and smile, but to keep passengers alive in the event of a disaster.

As part of this licensing procedure, flight attendants should also be trained regarding recognizing and learning to deal firmly with sexual assaults and harassment. By creating a generally uniform response protocol,

113. Chicago Convention, *supra* note 110, at Art 37.

114. Personnel Licensing, Annex 1 to the Convention on International Civil Aviation (July 2011).

perpetrators may quickly realize their sexually hostile actions will not be tolerated.

Third, also in respect of standards and recommended practices, ICAO can also require sexual harassment and assault training as part of any commercial aviation licensing regime. This will remind the pilot-in-command of his or her own responsibility in setting the tone for the entire flight.

And finally, and rather more ideally, ICAO can also undertake to develop a uniform procedure that will take the stigma out of reporting a sexual assault or sexual harassment. However, this would be far more controversial and more difficult to implement as cultural and legal realities remain far from uniform from nation to nation.

Licensing formalities and additions may impose additional costs on airlines. Nevertheless, providing such standards and recommended practices will have the added benefit of educating airlines and their crew, creating a friendlier, and thus more sought after, employment atmosphere and ultimately, perhaps, saving employers court and settlement fees that may be avoided by preventing discriminatory and sexually hostile activity.

## V. CONCLUSION

In flight attendants, we have witnessed an entire career track develop as a hyper-feminized and then sexualized profession. Ironically, it was the need to make flying appear safe—by putting petite young women in the air—that is in part responsible for the fact that flying is so unsafe for women now. And in the coming years, it will only get worse because airlines, driven by the need to fill seats as cheaply as possible, will assure that “[m]ore passengers are being crammed into tinier spaces.”<sup>115</sup> As we “cram hundreds of people into a confined space for hours at a time”<sup>116</sup> we have to expect conflict, and we have to expect that conflict to be directed at the women who have been portrayed, for the better part of a century, at best, as the weaker sex, and at worst, as sexual diversions.

ICAO can help shift the emphasis in the global image of the flight attendant from hostess to protector, from the “weaker sex” to the “equal sex” and thereby empower all women by shifting the paradigm from accessory to partner. Wonder Woman does not exist, but there do exist many paths by which a woman, like nurse and first flight attendant Ellen Church, can make herself a hero. Being a flight attendant is one of those paths. The air transport industry and the entire world would be well-served if ICAO would

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115. “Economy-class seats have gone from an average width of 18in in the 1970s to 16.5in today. Meanwhile “pitch” (basically legroom) has gone from 35in to about 31in.” Arw Mahdawi, *Trump Tantrum: Praise for Delta Shows How Little We Expect from Airlines*, THE GUARDIAN (30 Nov. 2016), <https://www.theguardian.com/us-news/2016/nov/30/donald-trump-delta-tantrum>.

116. *Id.*

force us all to remember that it is the “bravery and competence”<sup>117</sup> of the “trained professional”<sup>118</sup> that passengers should want and expect when they are a mile high.

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117. Kolm, *supra* note 13, at 43.

118. *Id.*