

**AN APPRAISAL OF PASSENGERS' RIGHTS UNDER THE AVIATION LAWS IN
NIGERIA**

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GOU/U21/LAW/411

**A LONG ESSAY SUBMITTED TO THE FACULTY OF LAW, GODFREY OKOYE
UNIVERSITY, ENUGU STATE OF NIGERIA**

**IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE AWARD OF
BACHELOR OF LAWS (L. L. B) DEGREE**

JULY 2026

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DECLARATION

I, AGBONOME PETER ARINZE, with registration number GOU/U21/LAW/411 hereby affirm that this research is the outcome of my endeavours, carried out under strict guidance of Dr. MAUREEN UJAH and has not been previously submitted for any academic qualifications. All references have been critically identified and acknowledged, respectively.

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CERTIFICATION

I, AGBONOME PETER ARINZE with registration number GOU/U21/LAW/411 hereby certify that this project research was done by me, with the direct and diligent supervision of Dr Maureen Ujah, has been approved by the administrative and the academic staff of the Faculty of Law, Godfrey Okoye University, Enugu. In Partial fulfilment of the requirements for the award of Bachelor of Laws (LL. B) Degree.

Apart from the references made and acknowledged herein within this research work, this research work is original work and has not been presented in part or in full, for any degree of this University or any other University.

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DEDICATION

This work is dedicated to God Almighty, the giver of life and health, to my family for their unwavering support, and to everyone who would find my work helpful in one way or another.

ACKNOWLEDEMENTS

First and foremost, I am deeply grateful to God Almighty for the grace, wisdom, and strength to embark on and complete this academic journey. Without His divine guidance, this work would not have been possible.

I sincerely appreciate my supervisor, Dr. Maureen Ujah for the invaluable guidance, constructive feedback, and unwavering support throughout the duration of this long essay. Her mentorship has been instrumental in shaping the quality and direction of this work.

My gratitude also extends to the Dean of the Faculty of Law, Prof. Frank Asogwa, the Head of Department, Dr. Geoffery O. Omeh, my lecturers who have been instrumental in my academic development, especially Prof Boniface Okere, Dr. Nwakaego Ogbaji, Dr. Anthony Onuigbo, and Dr. Kenneth Ajibo. Their scholarly insights and professional dedication have enriched my legal education immensely.

To my uncle, Rev. Fr. Prof. Peter Chukwuemeka Agbonome, who has been a pillar of strength and unwavering support in my life, I express my profound gratitude. His encouragement and belief in me have sustained me through the challenging moments of my academic pursuit and beyond. Words are not enough to express my gratitude.

I am deeply indebted to my parents, Mr. Pius and Mrs Grace Agbonome, for their endless love, sacrifices, and steadfast support. Their confidence in my abilities and their continued encouragement has been a strong foundation for me.

To my dearest Odichimma Chinagorom, my strong support, whose love, patience, and understanding have been a constant source of comfort and motivation, I express my heartfelt appreciation. Thank you for standing by me and believing in me even during the most difficult moments.

I also extend my appreciation to my siblings, especially Matthew, for their encouragement and support throughout this academic endeavour. Your presence and belief in me have made a significant difference.

To my roommates, Divine, Emeka, Philip, Charles, and Joseph, thank you for being very amazing and making the duration of this work conducive for me.

Finally, to myself, you are much more capable of doing great things than you imagine. Thank you for not giving up on yourself, for believing in yourself, and for consistent hard work and resilience, I am proud of you.

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LIST OF ABBRIVIATIONS

CAA	Civil Aviation Act
CEDAW	Convention for the Elimination of All Forms of Discrimination Against Women
CRPD	Convention on the Rights of Persons with Disabilities
FAAN	Federal Airports Authority of Nigeria
FCCPA	Federal Competition and Consumer Protection Act
FCCPC	Federal Competition and Consumer Protection Commission
ICAO	International Civil Aviation Organisation
IATA	International Air Transport Association
NCAA	Nigerian Civil Aviation Authority
NCARs	Nigerian Civil Aviation Regulations
NSIB	Nigerian Safety Investigation Bureau
NWLR	Nigerian Weekly Law Reports
PBR	Passenger Bill of Rights
SARPs	Standards and Recommended Practices
SC	Supreme Court
SDR	Special Drawing Rights
UNTS	United Nations Treaty Series

ABSTRACT

The work thoroughly analyses passenger rights in Nigeria's aviation legal system through analysis of Constitution, Civil Aviation Act 2022, Nigerian Civil Aviation Regulations 2023 (Part 19), Montreal Convention 1999, and Federal Competition and Consumer Protection Act 2018. The use of a doctrinal legal research methodology involves the examination of both primary and secondary legal sources. The analysis shows that although Nigeria has an effective legislative framework for the protection of consumers' rights in air transport which is consistent with international standards, there are huge gaps between the law and its implementation. Main issues include the failure of NCAA's Consumer Affairs Department to enforce the law, ignorance on the part of the passengers about their rights, overlapping jurisdictions of regulatory bodies, non-enforcement of the law by the airlines, and complications in the dual compensation mechanism. Moreover, some possible ways for the redress of consumer complaints against airlines have been highlighted. These include administrative, contractual, statutory, tortious and judicial approaches. To mitigate the above challenges, there are five key recommendations to be adopted, namely: improved budget allocation and resource mobilization by the NCAA, legal interpretations on how the Montreal Convention works with domestic compensation mechanisms, tough burden of proof on extraordinary circumstances, awareness creation in simple English, creation of consumer courts, and promoting institutional cooperation. It is imperative to adopt the above recommendations in solving the challenges.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study

The Nigerian aviation sector has encountered tremendous growth within the past two decades, with increasing number of both domestic and international passengers utilising air transportation services.¹ The need to protect passenger rights has become an essential topic and a contentious matter. In the context of aviation law, the term ‘passenger rights’ refers to the entitlements that are legally enforceable, which are available to all air travellers in the interaction with airlines. These passenger rights emanate from the rapidly growing need to protect and promote passenger interests and protect them from airline misconduct. These rights include safety, access to information, fair treatment, compensation for delays and cancellations, and protection against loss or damage of baggage. The aviation industry fills a major gap in Nigeria’s transportation sector, making provision for a very crucial way for people and goods to travel around both locally and internationally, thereby helping businesses to grow. One of the most utilised ways of transportation in the world is transportation by air, which involves the use of aircraft as a means of transportation, and this has brought about the formation of several airlines, both domestic and international. This increasing attention towards air transportation has made the creation of a legal framework important to control airline operations while protecting passengers’ rights and interests. The Nigerian Civil Aviation Authority (NCAA) has made considerable efforts in legislating over matters

¹ Federal Ministry of Aviation and Aerospace Development, *Strategic Aviation Development Plan* (Federal Republic of Nigeria, 2012) <<http://aviation.gov.ng/uploads/topics/17417200777940.pdf>> last accessed 9 April 2026.

bordering on travel by air and most importantly, as it relates to passenger rights.² One of the major legal frameworks is the Nigerian Civil Aviation Regulations (Nig. CARs)³

In the past, government-owned airlines, especially Nigeria Airways, were the most important ones in Nigeria aviation industry.⁴ In the event of flight delays, cancellation, rejected boarding, or baggage loss, passengers had few options for redress during the time. There were little regulatory oversight and limited passengers' enlightenment on their legal rights. In addition to increasing passenger traffic and fostering the growth of independent airlines, the liberalisation of the aviation sector in the late 1990s, pointed out gaps in the passenger protection systems. These passengers' rights are derived from international conventions, municipal laws, regulations, and regulatory guidelines. Nigeria is a party to several international aviation accords, the most fundamental of which is the Montreal Convention of 1999.⁵ The convention establishes universal standards for carrier liability pertaining to passenger death or injury, delays, and luggage loss or damage in international air travels. Nigeria has therefore made aviation policies in line with globally recognised standards for passenger safety pursuant to its domestication in Nigeria.

In Nigeria, the principal legislation regulating the aviation sector is the Civil Aviation Act 2022.⁶ This legislation increased consumer protection in the aviation industry and repealed the Civil Aviation Act 2006. The Nigerian Civil Aviation Authority (NCAA) is established by the Act as the regulatory body in charge of consumer protection, economic regulation and safety supervision. As a statutory requirement, the NCAA issued the Nigerian Civil Aviation

² M. Adebayo, 'An Overview of Passenger's Right under Nigeria Aviation Law' <
<https://www.linkedin.com/pulse/overview-passengers-right-under-nigeria-aviation-law-mariam-adebayo> >
accessed 12 December 2025.

³ Nigeria Civil Aviation Authority, Nigeria Civil Aviation Regulations 2023(Nig. CARs 2023), Part 19.

⁴ A. Toye, 'The Nigerian Aviation Industry and Regulatory Challenges' (2010) 4 Journal of Transport Law 112.

⁵ Montreal Convention 1999.

⁶ Civil Aviation Act 2022.

Act and introduced the Passenger Bill of Rights (PBR), which outlined the rights of passenger and corresponding obligations of airlines.⁷

The constitutional and consumer protection framework also supports passengers' rights. The 1999 Constitution of the Federal Republic of Nigeria (as amended) guarantees the dignity of human person and freedom from discrimination, which are very essential to the treatment of air traveller.⁸ Additionally, the Federal Competition and Consumer Protection Act 2018 protect consumers against unfair trade practice within the aviation sector.⁹

Despite these frameworks, the enforcement challenges persist, including limited passengers' awareness, regulatory lapses, and airline non- compliance. These challenges provide the foundation for scholarly inquiry into passengers' right under Nigerian aviation law.

1.2 Statement of the Problem

Travel by air in Nigeria has also become a vital means of transportation because of the growing population in Nigeria, the poor road network, insecurity, and the need for fast means of transportation. Because of these factors, the expectations of air transport services in terms of efficiency, reliability, and equity by air transport customers continue to increase. Air transport customers are also faced with several challenges which often interfere with their journeys despite the growing reliance on air transport. Consequently, consumer protection is critical in the Nigeria aviation industry, where passengers are often vulnerable to exploitation due to their limited knowledge of the rigid regulatory framework governing air travel.¹⁰ Unending airline delays, sudden cancellation of flights, unjustified denial of boarding, loss or damage of luggage, poor customer care, and lack of assistance in case of interruptions are

⁷ Nigerian Civil Aviation Authority, *Passenger Bill of Rights*.

⁸ Constitution of the Federal Republic of Nigeria 1999 (as amended) ss. 34 and 42.

⁹ Federal Competition and Consumer Protection Act 2018

¹⁰ A. O. O. Akinkugbe, 'Consumer Protection in the Nigerian Aviation Industry: Balancing Profitability and Passengers' Rights' < <https://ao2law.com/consumer-protection-in-the-nigerian-aviation-industry-balancing-profitability-and-passengers-rights/> > accessed 14 January 2026.

some of those challenges. Nigeria has also adopted national and international laws to protect the rights of air transport customers because of these problems.

The Montreal Convention 1999, which stipulates guidelines on the liability of the carrier in respect to passenger injury, delay, and luggage, has been adopted by Nigeria. Additionally, the Civil Aviation Act 2022, Nigerian Civil Aviation Regulations, specifically the regulation on consumer protection, which places responsibilities on the airline carriers, protect the rights of passengers. To further elucidate the rights of passengers, the Nigerian Civil Aviation Authority published the Passenger Bill of Rights. Nevertheless, the rights of the passengers have not been effectively protected despite the guidelines provided by the law. Regulations with respect to information disclosure, refunds, compensation, and passenger care are frequently broken by the airline operators. The passengers lack the means to seek justice in case their rights have been violated, and in some cases, they do not even know their rights. Even if the complaints have been filed, the bureaucracy ensures that justice is impossible. While airlines must remain financially viable, passengers also have fundamental rights that must be safeguarded.¹¹

In addition, despite the existence of the legal mandate to regulate the airline operators as well as ensure the rights of the air passengers, the Nigerian Civil Aviation Authority still faces challenges in its operations that make it difficult for the authority to enforce the law. These challenges include lack of resources for monitoring, time-consuming dispute resolution, as well as the lack of ability to ensure that the airline operators adhere to the regulation.

Consequently, there is a mismatch between the law on the books and the law in operation as far as the passenger is concerned. The fact that the aforementioned problems still exist throws serious doubts on the effectiveness and adequacy of the framework of institutions governing

¹¹ Ibid.

the issue of passenger rights within Nigerian aviation law. This is because the framework of institutions governing the issue of passenger rights should ensure that the rights of air passengers are protected. A critical review of the existing law on the issue of passenger rights within the Nigerian aviation industry will therefore provide the necessary insight needed to establish the extent of the problem.

In Nigeria, traveling by air has become an essential form of transportation due to the increasing population of Nigeria, deficient road system, insecurity and the need for quick travel options. As a result of these factors, passengers' expectation regarding the effectiveness, dependability, and equity of air transportation services has continued to rise. Passengers regularly face numerous obstacles that usually disrupt their trips, despite the growing reliance on air transportation. Continuous and inexplicable airline delays, abrupt flight cancellation, unjustified boarding denials, baggage loss or damage, poor customer service, and insufficient support during interruptions are some of the difficulties. These incidents frequently cause difficulty, financial loss, and mental pain, especially for passengers who have pressing obligations. Nigeria has implemented both national and international legal framework to safeguard passengers' rights in response to these persistent issues.

Nigeria has ratified the Montreal Convention 1999, which lays out rules regarding carrier liability for passenger injuries, delays, and baggage. The Civil Aviation Act 2022 and the Nigerian Civil Aviation Regulations, particularly Part 19 on Consumer Protection, which imposes obligations on airline carriers, safeguard passengers' rights domestically. To further clarify passengers' rights and remedies, the Nigerian Civil Aviation Authority introduced the Passenger Bill of Rights. Despite the availability of these regulations and law, passengers' rights are still not adequately protected in practice. The regulations pertaining to information disclosure, refunds, compensation, and passenger care are frequently broken by airline

operators. Passengers often lack the resources to seek redress when their rights are violated and, in some instances, they do not know their rights. Even when complaints are filled, the bureaucratic procedures always ensure that justice is unattainable.

Additionally, there exists confusion regarding the interaction between the Montreal Convention liability regime (as modified by Nigeria through the Third Schedule of the Civil Aviation Act 2022) and domestic statutory compensation scheme under Nigerian Civil Aviation Regulations 2023, creating uncertainty about passenger entitlements in specific scenarios.¹²

Furthermore, even with the existence of legal authority to control airline operators and safeguard the rights of passenger, the Nigerian Civil Aviation Authority encounters operational and institutional difficulties that limit its ability to implement the law. The challenges involve inadequate monitoring resource, protracted dispute resolution, and challenges in ensuring airline operators consistently comply.

As a result, there is a discrepancy between the law as written and what passengers experience in real life. Serious questions concerning the effectiveness and sufficiency of the institutional and legislative frameworks managing passengers' rights under Nigerian aviation law are raised by the continuance of these issues. It also raises concerns about the efficacy of regulatory supervision systems and the degree of accountability of airline operators. To identify enforcement gaps, evaluate institutional performance, and suggest measures that can improve the realisation and protection of passengers' rights within the Nigerian aviation sector, a critical analysis of the country's current legal framework on passenger rights is necessary.

¹² Mekwunye v. Emirates Airlines (2019) 9 NWLR 1 SC.

Considering this, the purpose of this study is to investigate the current legislative framework that governs Nigerian aviation law's enforcement and protection of passengers' rights. To find holes, flaws, and difficulties with enforcement that compromise efficient passenger protection, it examines how the current institutional and legal frameworks function. The study is to evaluate the functions of pertinent organisations, especially the Nigerian Civil Aviation Authority, and to suggest the legislative and practical steps required to enhance the defence, implementation, and realisation of passengers' rights in the Nigerian aviation industry.

1.3 Research Questions

The following questions are crucial and will be appraised in this study.

- i. What are the essential roles played by the Nigerian Civil Aviation Authority in the protection and enforcement of passengers' rights in Nigeria?
- ii. What are the extents of effective enforcement of passenger rights?
- iii. What institutional mechanisms are in place for the enforcement of passenger rights, and how efficient and effective are these mechanisms in practice?
- iv. What challenges limit the effective protection and enforcement of passengers' rights under Nigerian aviation law?
- v. What remedies are available to passengers whose rights have been breached under the Nigerian aviation law, and are they adequate, accessible, and timely?

A thorough analysis of these questions is fundamental for a comprehensive understanding of passengers' rights and their enforcement and protection in the Nigerian aviation industry.

1.4 Aim and Objectives of the Study

The principal aim of this research is to provide a comprehensive appraisal of passenger rights under the Nigerian aviation law, evaluating the effectiveness of the existing legal and

institutional frameworks and identifying necessary reforms to strengthen passenger protection.

The specific objectives of this research are:

- i. To analyse the essential roles of the Nigerian Civil Aviation Authority in the protection and enforcement of passengers' rights.
- ii. To evaluate the extent of effective enforcement of passengers' rights within the Nigerian aviation industry.
- iii. To examine the institutional mechanisms for enforcement of passenger rights and assess their efficiency and effectiveness in practice.
- iv. To identify and analyse the challenges that limit effective protection and enforcement of passengers' rights under Nigerian aviation law.
- v. To evaluate the adequacy, accessibility, and timeliness of remedies available to passengers whose rights have been breached.

1.5 Scope and Limitations of the Study

The research concentrates on the appraisal of passenger rights under Nigerian aviation law, focusing substantive rights such as information and transparency; compensation for delays, cancellations, and denied boarding; baggage and cargo liability; safety and security; care and assistance; refund and re-routing rights; and special protection for vulnerable passengers including persons who are immobile, unaccompanied minors, pregnant women, and people with medical conditions. The legal framework appraised includes the Civil Aviation Act 2022, Nigerian Civil Aviation Regulations 2023 (part 19), the Montreal Convention 1999, International Civil Aviation Organisation (ICAO) Standards and Recommended Practices, the Federal Competition and Consumer Protection Act 2018, and other relevant constitutional provisions. This research also examined the institutional framework governing passenger

rights in Nigeria. The scope of this research is limited to Nigeria. It encompasses two dimensions:

- i. Subject Area Coverage: the subject areas covered is the legal and institutional frameworks for passenger right under Nigerian aviation law
- ii. Geographical Coverage: the geographical coverage of this study is solely Nigeria.

One of the limitations of this study on passenger rights under Nigerian aviation law is the limited availability of direct focused judicial precedents specifically interpreting and enforcing passenger rights, particularly under the Civil Aviation Act 2022 and Part 19 of the Nigerian Civil Aviation Regulations. The scarcity of decided cases in this area restricts extensive reliance on judicial authorities to demonstrate the practical enforcement of passengers' rights in Nigeria. While however, to navigate this limitation, the study relied on other alternative sources such as the Montreal Convention and the Nigerian Civil Aviation Act.

1.6 Significance of the Study

This study is very important in many ways. Most obviously, it addresses the gap in the legal literature on the subject, which is so important, by being the first detailed appraisal of the position of the passenger in the revised law in Nigeria since 2022. The study is an appropriate reference tool by the passenger, consumerist, legal practitioners, and public authority because it is written in simple terms. The study contributes to the advancement of the position of the consumer in the aviation industry by highlighting the limitations in the law and how it is to be enforced. The study offers evidence-based advice to the NCAA, Federal Ministry of Aviation, and the National Assembly. In this research, the position of the law in Nigeria is presented as a prospective trendsetter in the laws concerning the position of the African air passenger. There are several reasons why the research is very significant. Firstly, it will fill the void in

the limited existing analysis of passenger rights in Nigerian aviation law. Secondly, this research is relevant to the traveling public, lawyers, and legislators alike. Citizens will find this research useful since it explains in detail all the rights they can access as passengers. Legal practitioners will also find it helpful as it is a comprehensive guide to all the laws and judicial precedents. Thirdly, it brings to uncovers the disability in the law and recommends change. Lastly, the recommendation provides, alongside those that enhance the capacity and efficacy of institutions, the Federal Competition and Consumer Protection Commission, the Nigerian Civil Aviation Authority, among other relevant institutions, with a comprehensive assessment of their involvement or contribution towards the protection of passengers.

1.7 Research Methodology

This research employs a doctrinal legal research methodology, which entails a systematic analysis of primary and secondary legal sources to analyse the regulatory framework overseeing aviation in Nigeria. This research utilises desk-based analysis of legislation, including the Constitution of the Federal Republic of Nigeria 1999 (as amended), Civil Aviation Act 2022, Nigerian Civil Aviation Regulations 2023, Federal Competition and Consumer Protection Act 2018, other relevant statutory instruments, reported cases, and international conventions such as the Montreal Convention 1999, to which Nigeria is a signatory. Secondary sources, including academic journals, government policy documents such as the strategic Aviation Development Plan 2012-2016, and institutional reports from regulatory bodies, are consulted to provide contextual understanding and critical analysis of the existing aviation regulatory regime. This method enables the identification of gaps, inconsistencies and areas requiring reform within the current legal framework.

Data analysis employed doctrinal approach through systematic examination of legal rules and their application; conceptual analysis for clarification of key concepts; institutional analysis

that examined the enforcement mechanisms; critical appraisal identifying gaps and areas for reform; and normative analysis developing evidence-based reform recommendations.

1.8 Literature Review

The concept of “passenger rights” is contained within the broader consumer protection theory. It is essential to note that consumer protection laws emerged in the latter half of the twentieth century in direct response to market failures and information deformity that leaves customers vulnerable to exploitation.¹³ An investigation into the issue of passenger rights in aviation law can be placed in the context of a broad academic literature drawn from different fields such as law, regulatory theory, consumer rights, and international business law. In the literature review below, important works, as well as the main regulatory instruments used to frame and define the debate about passenger rights in aviation, will be considered in order to provide background information for this analysis of passenger rights in Nigerian aviation law. With growth and increased globalisation of the Nigerian aviation industry, the laws regulating the relationship between airlines and passengers have attracted scholarly attention. In this literature review, the significant scholarly works in the area will be discussed to highlight how the different facets of passenger right protection have been analysed by researchers over time. This literature review provides crucial theoretical and practical insight that is fundamental to the present study’s analysis of passenger right protection in Nigerian aviation laws.

Abdulkabir Badmos, "The Applicability of the Revised Limits of Liability Under the Montreal Convention to Civil Aviation Claims in Nigeria" presents an insightful analysis of the applicability of the liability limits set out in the Montreal Convention in the legal

¹³ A. Oyinlade & Co., 'Passenger Rights Under Nigerian Aviation Law' <<https://www.adeolaoyinlade.com/en/?p=1461>> accessed on 15 April 2026.

framework of Nigeria.¹⁴ According to Badmos, the liability limit has been expanded since the time of the Warsaw Convention¹⁵ until the current regime provided under the Montreal Protocol 4 (1975) and the Montreal Convention 1999, where the threshold is continuously raised. The Montreal Convention sets liability limits of approximately 128,821 SDR per passenger in cases of death or bodily injury, which is not based on each incident but on each person who suffered harm. Although Nigeria has adopted the Montreal Convention through the Civil Aviation Act 2022, there is ambiguity in interpreting whether such liability limits apply to contracts made before the adoption of the Montreal Convention or those incidents that occurred before the implementation of the Convention in Nigeria. The discussion in the paper shows that there have been instances where Nigerian courts have approached the application of the liability limitations under the Montreal Convention with inconsistency since some courts have considered the limitations under the convention to be a minimum provision that could be surpassed in terms of proof of damage whereas others have considered them to be a maximum that should not be exceeded. According to Badmos, the problem with the protection versus liability limitations aspect of the Montreal Convention is that for the average Nigerian passenger who may come from poorer backgrounds, the liability limitations may prove inadequate to account for the loss of income and disabilities incurred following an accident.

Kimani and Kirimi, "Revised Limits Of Liability Under The Montreal Convention 1999," presents a comparative view of the interpretation and application of the Montreal Convention's limitation of liability framework in various countries.¹⁶ The article illustrates

¹⁴ A. Badmos, 'The Applicability of the Revised Limits of Liability under the Montreal Convention to Civil Aviation Claims in Nigeria' < <https://spaajibade.com/the-applicability-of-the-revised-limits-of-liability-under-the-montreal-convention-to-civil-aviation-claims-in-nigeria-abdulkabir-badmos/> > accessed on 15 April 2026.

¹⁵ Warsaw Convention 1929.

¹⁶ Kimani and Kirimi, "Revised Limits of Liability under The Montreal Convention 1999" < <https://www.mondaq.com/aviation/878842/revised-limits-of-liability-under-the-montreal-convention-1999> > accessed 15 April 2026.

that there is a tiered limitation of liability in place under the Montreal Convention and that higher amounts of compensation should be available for serious consequences arising out of the actions of the carrier. As per the authors, there are basically three types of limitations of liability for the carriers under the Montreal Convention, which are: (i) limitation of liability for death and personal injuries under the presumed liability regime; (ii) limitation of liability for delay under the fault based system; and (iii) limitation of liability for baggage and goods under the absolute limitation regime. It is evident from the comparative study conducted by the authors that there is a great deal of difference in the way that the African countries adopt the Convention limitation scheme. While some countries incorporate such schemes into domestic legislation as an absolute cap beyond which no claim can be entertained, others allow recovery beyond such statutory limits when there is wilful misconduct or gross breach of duty. While such a cap is sufficient in the case of developed countries, in developing countries, it will barely provide adequate compensation because it constitutes only minimal compensation. This paper contributes largely to objectives of the current research by offering the necessary international perspective needed in assessing the sufficiency of compensation systems offered under Nigerian laws.

Esther Abili, "Impact of the Convention for the Unification of Certain Rules for International Carriage by Air 1999 to the Nigerian Aviation Industry" is an example of research into the consequences of the Montreal Convention in the context of its applicability to the practices and processes in the Nigerian aviation industry.¹⁷ According to Abili, the mandatory liability requirement of the Convention compelled airlines operating in Nigeria to obtain aviation liability insurance; thus, there was an increase in their operation costs. Often, airlines raise prices for air tickets in order to recover additional costs, which resulted in the regressive

¹⁷ E. Abili, "Impact of the Convention for the Unification of Certain Rules for International Carriage by Air 1999 to the Nigerian Aviation Industry" <https://www.researchgate.net/publication/398536984_ImpactofTheConventionforTheUnificationofCertainRuleforInternationalCarriagebyAir1999ToTheNigerianAviationIndustry> accessed on 17 April 2026.

effect because poorer passengers who can easily become victims of plane crashes would be the least able to pay more expensive fees to take a flight. Moreover, Abili describes cases of noncompliance with the requirements of the Convention when airlines do not supply passengers with necessary information about their rights and compensation procedures in case of an accident or delay. Abili proves that airlines deliberately hide the process of obtaining compensation from lengthy terms and conditions using technical legal language, which makes it difficult for passengers to understand what they have read. This literature review highlights instances where airlines have refused to accept their liability, denied any payment, or deliberately delayed the payment process in order to take advantage of information asymmetry and the financial constraints of passengers. This work has been particularly influential in relation to the objectives of this study.

Ibrahim Obadina, "Air Carrier's Liability for Aviation Injuries in Nigeria" is a legal study that provides the doctrinal framework that serves as a basis for analysing Nigerian judicial views on the question at hand. Obadina explains the evolution of carrier liability from a purely contractual law doctrine, which is premised on breach of contract, to the current model of combined strict liability, fault-based liability, and statutory compensation schemes.¹⁸ Obadina shows that in accordance with the Montreal Convention, the existence of a presumption of liability places the burden on the defendant to establish that they exercised due diligence to avoid the damage. This demonstrates an important shift towards accepting the fact that the air carrier, being a dominant economic factor with control over aircraft and other means of operation, is primarily responsible for the safety of their passengers. Obadina shows that there is no limitation to the harm that the carrier is liable to compensate for, as carrier's liability includes not only bodily injuries but also psychological shocks and financial losses

¹⁸ I. Obadina, "Air Carrier's Liability for Aviation Injuries in Nigeria" <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3742902> accessed on 17 April 2026.

because of delayed goods' delivery. Although the Montreal Convention sets an upper limit on the amount payable for deaths and injuries, it is still uncertain in Nigerian law if the same limit applies to any other form of financial damages, such as burial costs, educational opportunities foregone by children left behind, or profit losses due to the late delivery of goods. The doctrinal analysis conducted by Obadina significantly guides the objectives of the current research.

Anaje Olumide Akinkugbe, "The Protection of Consumers in Nigeria's Aviation Sector," evaluates the rights of passengers from the consumer protection standpoint, revealing how the Federal Competition and Consumer Protection Act of 2018 (FCCPA) supplements and, in some cases, even enhances the rights accorded by the laws of aviation and international conventions.¹⁹ According to Akinkugbe, the travellers in the aviation sector qualify as a distinct class of consumers eligible for the benefits of both the consumer protection laws and the aviation regulations. The provisions of the FCCPA related to misleading advertisements, deceptive practices, and consumer rights may be used to file complaints about the airlines' false claims about the service standards, safety records, or compensation options. Akinkugbe provides examples of violations of the FCCPA by the Nigerian airlines in areas like the failure to disclose baggage charges, making wrong statements about delay compensation, or concealing the accidents involving their aircraft. Akinkugbe's critique of the cooperation between FCCPC and NCAA is an analysis of how the overlapping jurisdictions and rivalry among organisations hamper the provision of passenger protection. The research proposes integrated methods of regulation where NCAA takes care of the technical matters related to air travel and FCCPC deals with unfair commercial activities and consumer abuse.

¹⁹ A. O. O. Akinkugbe, "Consumer Protection in the Nigerian Aviation Industry: Balancing Profitability and Passengers' Rights" <<https://share.google/ANafpYXiygHJeUKqL>> accessed 14 January 2026.

Specifically, Akinkugbe's findings contribute to objectives of this study through identification of multiple institutions that can be involved in passenger protection.

Olisa Agbakoba Legal, "The Montreal Convention and Aviation Accidents: Passenger's Rights and Liabilities of Airlines" offers an all-rounded analysis of how the Montreal Convention deals with aviation accidents in general, as well as how passenger rights relate to carrier liability under the agreement.²⁰ First, Agbakoba observes that aviation accidents are perhaps the gravest forms of liability as far as airlines are concerned, with such incidents involving massive casualties and disruption in terms of economics. Under the provisions of the Montreal Convention regarding aviation accidents, there exists a regime whereby the carrier is automatically held responsible without having to establish fault until it reaches the limit set by the Montreal Convention per passenger. The automatic liability scheme, therefore, is entirely atypical of normal tort laws as far as air accidents are concerned. Agbakoba notes that the Montreal Convention places the burden of proof on aviation accidents in a way that allows the claimant to receive compensation without the need to prove any negligence, breach of duties, or causation. The carrier can defend itself by proving the occurrence of an extraordinary event that was beyond its control. Although the Montreal Convention specifies a universal method for awarding compensation in cases of fatalities and physical injuries, there is no framework for compensating family members for their suffering due to anxiety, bereavement, or the dissolution of marital bonds without themselves having been physically injured in the same occurrence. The Nigerian legal framework does not offer any guidelines on whether family members can file a tort claim for purely economic damage in cases where a passenger dies. Agbakoba further considers the relationship between the provisions of the Montreal Convention and other jurisdictions such as workers' compensation and social

²⁰ O. Agbakoba, "The Montreal Convention and Aviation Accidents: Passenger's Rights and Liabilities of Airlines" < <https://old.oal.law/montreal-convention-and-aviation-accidents-passengers-rights-and-liabilities-of-airlines/> > accessed on 17 April 2026.

security benefits, asserting that to avoid double compensation, there is a need to balance out how different sources of compensation overlap. This literature is particularly relevant to the objective of the current study.²¹

CHAPTER TWO

CONCEPTUAL AND THEORITICAL FRAMEWORKS

2.1 Conceptual Framework

An accurate perception of passenger rights under Nigeria aviation law demands clarity on some of the foundational concepts and terminologies that frame discussions in this area. The notion of "passenger rights" itself carries many dimensions, including legal rights, effective protections, and remedial mechanisms, none of which has a meaning uniformly understood among varied stakeholders. Airlines, regulators, passengers, and legal practitioners alike use the same words but understand them differently. This conceptual fuzziness is a major obstacle to proper advocacy, regulation, and enforcement.

The following section presents a compartmentalised definition of key concepts intrinsic to passenger rights discourse under Nigerian aviation law. These are not exhaustive, and neither are they those on which consensus has been reached; they do, however, represent an understanding that underpins the analysis for the purpose of this research. This framework

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will provide conceptual clarity and allow for coherent analysis of passenger rights in aviation law.

2.1.1 Passenger

A passenger, in the context of aviation law, is defined as any person, other than a member of the crew, who travels in an aircraft with the consent of the carrier.²² The term encompasses all categories of travellers including business travellers, tourists, and those travelling for personal reasons. The Montreal Convention 1999 does not provide an explicit definition of passenger, but the term is understood within the context of an agreement with an air carrier to provide transport.²³ More broadly, a passenger is a consumer who enters a contract of carriage with an airline, thereby acquiring certain legal rights and protections. A passenger is an individual who is traveling in an aircraft but is not the pilot nor the crew members. The carrier generally owes a responsibility to ensure the safety of its passengers. This is a duty of care.

2.1.2 Aviation law

Aviation law is a unique form of law which deals with the operation of aircraft, rights and obligations of air carriers, and protection of third parties as it relates to air transport.²⁴ Aviation law is a hybrid form of law, which is at once private and public law. Aviation law consists of domestic laws such as the Civil Aviation Act 2022, international laws such as the Montreal Convention 1999 and the Chicago Convention 1944, and regulatory laws such as the Nigerian Civil Aviation Regulations (NCARs).²⁵ Aviation law is a comprehensive

²² Convention On International Civil Aviation (Chicago Convention), 1944 <<https://kenyalaw.org/treaties/treaties/63/Convention-on-International-Civil-Aviation-Chicag>> accessed on 24 April 2026.

²³ International Air Transport Association (IATA), 'Passenger Rights and Obligations' (2023) <<https://www.iata.org/en/youandiata/travelers/passenger-rights/>> accessed on 24 April 2026.

²⁴ N. Tsagourias and A. White, 'International Aviation Law' (3rd edn, Hart Publishing 2023), 12.

²⁵ Nigeria Civil Aviation Authority, Nigeria Civil Aviation Regulations 2023(NCARs 2023), Part 19.

regulatory framework geared towards safety, security, and protection of the interest of passengers in civil aviation transport.

2.1.3 Carrier or Airline

The Aviation Act defined a carrier as any enterprise which provides the services of transportation by aircraft for hire or reward.²⁶ A carrier, which is otherwise known as an airline, can be defined as an enterprise or a person which provides the services of transportation by air to the public.²⁷ The carrier holds primary responsibility for the safety and security of passengers, protection of baggage, and the fulfilment of contractual obligations under the contract of carriage. In Nigeria, carriers must be duly licenced by the Nigerian Civil Aviation Authority (NCAA) and must comply with all applicable aviation regulations, safety standards, and passenger protection requirements.²⁸ The carrier has obligations that extend not only to the carriage of passengers and baggage but also to the provision of information, care and assistance in circumstances of flight delays or cancellation.

2.1.4 Passenger Rights

Passenger rights constitute of the bundle of legal entitlements and protections afforded to air travellers under domestic aviation legislation, international conventions, and common law principles. These rights encompass the right to information and transparency regarding flight status and tickets conditions, the rights to compensation for flight delays, cancellation, and denied boarding, and the right to care and assistance during flight disruptions, the right to refund and re-routing, and the right to safety and security.²⁹ Passenger rights operate at multiple levels: within the contract of carriage (Contractual rights), under consumer protection legislation (statutory rights), and through common law principles of negligence

²⁶ The Civil Aviation Act 2022, s 1 (1).

²⁷ Ibid.

²⁸ Nigerian Civil Aviation Authority, 'Guidelines for Air Operators' (NCAA 2023), Part 2.

²⁹ The Montreal Convention 1999, Articles 17-29.

and tort (common law rights). The domain of passenger rights has witnessed a tremendous increase within recent decades, which represents the changing attitude towards passengers as vulnerable consumers in need of better legal protection.³⁰

2.1.5 Delay and Cancellation

A flight delay refers to a situation where an aircraft does not depart or arrive at the scheduled time as indicated in the schedule. The Montreal Convention 1999 establishes that carriers are liable for damages arising from delay in carriage of passengers and baggage, subject to specified limitations.³¹ Flight cancellation refers to the complete non-performance of a scheduled flight service, whether due to technical difficulties, crew unavailability, weather conditions, or other reasons. Both delay and cancellation trigger passenger protection mechanisms, including the right to care and assistance, the right to compensation where applicable, and the right to refund or re-routing.³² The distinction between delay and cancellation is important because different legal remedies may apply, with cancellation generally triggering stronger passenger protections.

2.1.6 Consumer Protection

Consumer protection is a vast legal and policy framework built to safeguard the rights and interests of consumers in their dealings with providers of goods and services. In the aviation context, consumer protection encompasses statutory protections against unfair contract terms, rights to information, rights against misleading advertising, and remedies for breach of contract or negligence.³³ Nigeria's Federal Competition and Consumer Protection Act 2018 (FCCPA) applies to air transport services, establishing that consumers including airline

³⁰ M. N. Alkhawaldeh, 'Passenger Rights and Airline Responsibilities Under International Treaties' (2024) *An In-Depth Look At Aviation Law and Sustainable Development Goals* <<https://www.researchgate.net/publication/385577003>> accessed on 24 April 2026.

³¹ The Montreal Convention 1999.

³² Nigeria Civil Aviation Authority, Nigeria Civil Aviation Regulations 2023 (NCARs 2023), Part 19.

³³ J. Nafziger, *The Law of International Carriage of Goods by Air* (4th edn, Kluwer Law International 2021), 234.

passengers are entitled to protection against unfair trading practices, unsafe products and services, and exploitation.³⁴ Consumer protection in the aviation industry recognises the inherent power imbalance between large commercial airlines and individual passengers, and seeks to redress this imbalance through mandatory protections that cannot be contractually waived. This reflects the principle that certain passenger rights are non-negotiable and form part of the public policy protecting vulnerable users of air transport services.

2.2 Theoretical Framework

Theoretical framework provides the conceptual structures through which research questions are examined and analysed. In relation to this research on passenger rights in Nigerian aviation law, there are several theoretical approaches to explain the complex nature of passenger protection and the law upon which these protections are based.

2.2.1 Consumer Protection Theory

The theory of consumer protection forms the major theoretical foundation for the understanding of aviation rights. The theory of consumer protection states that consumers, as a group, are vulnerable to exploitation by suppliers of products and services due to information asymmetry, power imbalance, or unequal structural relationships.³⁵ Passengers in the aviation sector do not have adequate information as is held by the airlines. Airlines unilaterally determine contract terms, pricing, and conditions of carriage, whilst passengers have limited ability to negotiate or seek alternatives.³⁶ Consumer protection theory justifies state intervention through regulatory and legislation to protect consumers from unfair treatment, unsafe practices, and breach of contract. Applied to aviation, this theory supports the establishment of mandatory passenger protections that cannot be waived by contract and

³⁴ Federal Competition and Consumer Protection Act 2018, s 142.

³⁵ G. Howells, S. Weatherill and T. Wilske, *'Consumer Law'* (4th edn, Edward Elgar Publishing 2022), 15-40.

³⁶ J. Banerjee, 'Power Imbalances in Airline Passenger Contracts: A Critical Review' [2021] (46) (1), 23-45 *Air and Space Law Journal*.

the creation of accessible complaint and dispute resolution mechanisms. The theory recognises that passengers, as air transport consumers, warrant specific legal protection comparable to those afforded to consumers in other sectors such as retail, finance, and telecommunication.

2.2.2 Contractual Liability Theory

Contractual liability theory emphasises the legal basis of passenger rights within the framework of the contract of carriage between the passenger and the airline. The contract of carriage is the fundamental agreement establishing the terms upon which the airline accepts responsibility for transporting the passenger and baggage to the destination.³⁷ Under contract law principles, each party to a contract assumes certain duties and liabilities towards the other. The airline's duties include the safe carriage of the passenger and baggage, the provision of the agreed service in accordance with agreed schedules, and compensation for breach of these duties. The Montreal Convention 1999 also laid down a regime for liability in respect of the loss or damage caused to the passengers or their baggage while flying internationally.³⁸ It prescribed the liability of an air carrier for the loss or damage caused within certain specified limits. The contractual liability theory is an important tool for analysing an air carrier's contractual liability toward its passengers and for providing remedies for its breach of such obligations. However, such a liability theory has its limitations, as it expects that the parties are equal players and have given their consent for entering such contracts; however, it does not hold true for air travel contracts since the passenger has no such bargaining power.

³⁷ Ibid (n 8) 1-3.

³⁸ P. Sharma, 'Liability Regimes in International Air Law: The Montreal Convention Framework' [2023] (5) 1(3), 478-501 *International and Comparative Law Review* <<https://staempflirecht.ch/liability-regimes-in-international-air-transportation/eas-9783656513674>> accessed on 25 April 2026.

2.2.3 Human Rights and Dignity-Based Theory

Human rights and dignity-based theory posits that passenger protection derives not only contractual relationships or consumer policy but from fundamental human rights principles. This theory recognises that passengers are human beings entitled to dignity, safety, and fair treatment regardless of their status as consumers.³⁹ The theory is grounded in international human rights instruments including the Universal Declaration of Human Rights⁴⁰ and regional human rights treaties such as African Charter on Human and Peoples' Rights⁴¹ that recognise and protect human rights to life, health, fair trial, and justice. The theory of human rights can also apply to aviation rules and regulations and backed by treaties that recognise and protect human rights to life, health, fair trial, and justice. The treaty that Nigeria is a signatory to and that protects and promotes human rights to satisfactory health and work environment that includes safe air transportation is the African Charter on Human and Peoples' Rights.⁴²

This theoretical basis for human rights elevates air passengers' rights beyond contract rights or consumer protection rights and places them at a higher level by using them as human rights; a level at which it is possible to assert that air passengers' rights are inalienable and cannot be negated or waived by contract because they are based on human dignity and not contractual or consensual agreements between parties.

2.2.4 International Harmonisation Theory

International harmonisation theory, as discussed, focuses on promoting uniformity in laws or regulations across different countries to ensure smooth international trade and security of

³⁹ S. P. Marks, 'Human Rights and Air Transport: An Evolving Framework' [2020] (45) (6), 789-812 *European Human Rights Review*

⁴⁰ Universal Declaration of Human Rights 1948 <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> accessed on 21 April 2026.

⁴¹ The African Charter on Human and Peoples' Rights 1981, Articles 16, 18, 24.

⁴² Nigeria ratified the African Charter on Human and Peoples' Rights in 1983; Constitution of the Federal Republic of Nigeria 1999, s 19 incorporates human rights obligations.

individuals who are engaged in international business transactions. International harmonisation theory in the aviation sector promotes and supports the adoption of international conventions to ensure that all airplanes flying in different jurisdictions have an equal opportunity to operate, as proposed by the international harmonisation theory.⁴³ The Montreal Convention 1999 is one such international convention that promotes and ensures uniform rules and regulations in international air carriage liability and passenger safety, to be applicable to all member states. International harmonisation theory acknowledges aviation as having international characteristics, wherein passengers travel to multiple destinations in different jurisdictional areas with need for predictable and consistent legal frameworks.⁴⁴ This theory justifies Nigeria's adoption and observance of international aviation standards and conventions, as it would ensure that Nigerian air travellers enjoy the same protection as other air travellers in other countries and would help Nigeria to integrate with other aviation worlds. Harmonisation would also help to reduce burdens for air carriers that would have had to comply with different rules and regulations in Nigeria and other countries. However, it can also be critiqued that it might stand a risk of ignoring the special needs and contexts that different countries have, especially developing countries that operate within unique social and economic contexts.

2.2.5 Administrative Justice and Access to Remedies Theory

On one hand, administrative justice and access to remedies theory focuses on the idea that substantive rights can only exist in conjunction with effective procedures for enforcing these substantive rights and remedies for their infringement. In other words, this theory suggests that legal systems must provide accessible, efficient, and effective procedures by which

⁴³ S. P. Kamal, 'International Standards and Harmonisation in Aviation Law' *Journal of Air Law and Commerce* (2022) 88(4), 512-545.

⁴⁴ The Chicago Convention on International Civil Aviation 1944, Articles 1-3; The Montreal Convention 1999, Preamble.

claims to enforce substantive rights and remedies may be vindicated.⁴⁵ In terms of aviation, this theory proposes that mechanisms such as complaint procedures, alternative forms of dispute resolution, and judicial remedies should be established in order to ensure that passengers' rights may be vindicated accordingly. Furthermore, this theory accepts that some passengers may be unable to vindicate their rights effectively due to their lack of resources, thereby suggesting that alternative procedures such as administrative complaints, mediation, or arbitration should be established to achieve that.⁴⁶ Nigeria's regulatory framework in addressing passengers' rights encompasses the Nigerian Civil Aviation Authority and the Federal Competition and Consumer Protection Commission, reflects this theory by establishing organs to hear passenger complaints and enforce passenger protection regulations. This theory also recognises the need for transparency in decision-making by administrators, procedural fairness, and the ability to appeal decisions. In addition, this theory ensures that access to remedies is available to ensure that passenger rights are not merely theoretical, while maintaining that these rights have supporting policies that make them accessible.

2.2.6 Positivist Legal Theory

The fundamental principle of legal positivism is the idea that legality of any law does not depend on its morality but instead depends on its legal origin through recognised legal authorities.⁴⁷ In this case, passenger rights are not determined based on natural laws or moral principles but are derived from laws enacted in statutory provisions, regulations, international conventions, and judicial precedents. The examples of the relevant sources of law are the

⁴⁵ E. Campbell, 'Access to Justice and Administrative Remedies' *Administrative Law Review* (2023)75(1), 89-117.

⁴⁶ M. Abdullahi, 'Alternative Dispute Resolution in Aviation: A Comparative Study' *African Journal of Aviation Studies* (2023) 7(2), 134-162.

⁴⁷ F. Schauer and V. J. Wise, 'Legal Positivism as Legal Information', 82 *Cornell L. Rev.* (1997) 1080. <<https://scholarship.law.cornell.edu/clr/vol82/iss5/7>> last accessed on 23 June 2026.

Civil Aviation Act⁴⁸, Montreal Convention 1999, Nigerian Civil Aviation Regulations (NCARs), and Federal Competition and Consumer Protection Act 2018. According to legal positivism, passenger rights acquire legal effect not due to their alignment with some pre-existing moral order but rather because they are enacted by proper legal authority. Such an approach is beneficial for establishing clear and predictable rules for passengers and airlines since the latter know their precise legal obligations, while the former understands their remedies as defined in the relevant legal documents.

Nonetheless, there is an essential difference made in positivism between the mere existence of the legal rule and its moral desirability. Thus, the rule on passengers' safety may exist within the scope of legal provisions and still be obligatory despite any doubts in its moral basis and practical value. For instance, according to the existing regulations in Nigeria, passengers are entitled to receive compensation for the delay of their flights under particular circumstances. Nevertheless, the definition of what should be considered the subject for such compensation or force majeure is exclusively defined through the prism of positivist legislation. Consequently, if the law states that all delays of fewer than three hours do not entitle passengers to any compensation, then the rule is fully valid from the perspective of legal positivism irrespective of the moral validity or economic expediency. In other words, in such situation a positivist judge does not make independent moral evaluation of the existing regulation. Undoubtedly, this feature may be regarded as an advantage and disadvantage of the theory under discussion at once.

Positivist jurisprudence can be seen at work in the enforcement of passengers' rights in Nigeria. The Nigerian Civil Aviation Authority (NCAA), which is responsible for enforcing passengers' rights, bases its authority on the Civil Aviation Act 2022. In enforcing passengers' rights through investigation into complaints and punishment of airlines who violate their

⁴⁸ Civil Aviation Act 2022.

obligations to passengers, the NCAA becomes a tool for legal positivism. As shown previously, the Administrative Justice and Access to Remedies Theory is consistent with positivism in that it recognises that substantive rights have to be underpinned by procedure.⁴⁹ In Nigeria, these procedures are set out by statute. In claiming compensation, a passenger must show that the airline has violated duties set out under positive law, either in the Montreal Convention 1999 in cases of international travel or the Civil Aviation Act 2022 in cases involving domestic flights. It is not necessary that the passenger claim that the airline has committed some kind of moral wrongdoing but only that the airline has violated a duty set out under positive law.

The positivist school of thought offers a solid basis for analysing the rights of passengers in Nigerian aviation law, whereby such rights emanate from a source that is legal and not from the principles of natural law or human rights thinking. Although some of its findings can be considered stringent or even unfair in certain situations, it guarantees legal predictability and certainty.

2.2.7 Naturalist Legal Theory

The natural law theory or more accurately naturalist legal theory is an important school of thought concerning law which differs greatly from legal positivism. Legal positivism, in this regard, maintains that laws and morality are entirely distinct spheres of social reality, such that a law is deemed valid in case of its compliance with formal aspects of legality. Natural law theory, on the other hand, takes the view that there are moral principles that are not only prior to and independent of all laws but can also act as a basis for judging the validity of these

⁴⁹ T. R. S. Allan, 'Law, reason, and justice: a defence of the declaratory theory of judicial decision' *An International Journal of Legal and Political Thought*. (2025) <<https://www.tandfonline.com/doi/full/10.1080/20403313.2025.2473166>> last accessed on 23 June 2026.

laws.⁵⁰ This theory maintains that human beings are endowed with some innate rights or what it terms 'natural rights' and any laws that recognise such rights can be considered valid laws. The importance of natural law theory in relation to passenger rights in Nigeria's aviation laws arises because the theory can be applied to give philosophical justification for the protection of the passengers' dignity.

According to natural law theory, passengers have basic rights that stem from human dignity and exist independently of any contractual agreement or positive laws. The passenger's entitlement to security is not something that is granted to him or her by way of contract between themselves and the airline. Instead, the passenger has the basic right to be safe because of his or her human dignity, and it is the duty of the airline to honour this right in accordance with natural law. Positive laws merely recognise this existing natural duty. Whenever a passenger gets on an airplane, the basic principle of natural law is that the airline will use the greatest possible care in ensuring the safety of the passengers not based on the requirements of the Montreal Convention 1999 or the Civil Aviation Act 2022, but simply as a matter of justice in which one must provide for the well-being of the persons whom he has agreed to transport.

Moreover, another significant aspect in the discussion of natural law theory is the understanding that the objective of the law must be to ensure human flourishing and common good. In aviation, this implies that the laws regulating this area must take into account all those people who benefit in the process including the passengers, the airline itself and its employees and customers, and other members of the public. Thus, whenever an airline acts in a manner that reduces its passengers to mere objects for exploitation, or whenever

⁵⁰ D. Beyleveld & R. Brownsword, 'The Practical Difference between Natural Law Theory and Legal Positivism' *Oxford Journal of Legal Studies*, (1985) 5(1). <<http://www.jstor.org/stable/764429>> last accessed on 23 June 2026.

governmental regulatory bodies do not safeguard the interests of the passengers from being arbitrarily abused by the airline, these organisations fall foul of natural law regardless of the fact that their behaviour may be lawful from an objective viewpoint.

The naturalist philosophy is instrumental in defining the philosophical background behind passenger rights as emanating from human dignity, justice, and human rights per se. The theory promotes an interpretation of passenger rights that encompasses their wide scope, evolution through judicial process, criticism of passenger-unsatisfactory legislation, and incorporation of international human rights principles into national aviation legislation.⁵¹ It must be noted, however, that the natural law philosophy does not negate the principle of positive law but rather creates a moral-philosophical basis for it. Together with the theory of positivist law, the philosophy of natural law constitutes a solid legal basis for the regulation of passenger rights that combines both predictability and certainty on the one hand, and the demands of justice and human dignity on the other hand.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORKS

3.1 Legal Framework

The legal regime on passenger rights in Nigerian aviation law is multi-sourced and multi-layered. It is sourced from the constitution, statutes, international treaties that Nigeria is a party to, and regulatory laws. The legal regime on passenger rights in Nigeria provides the substantive rights of passengers, the obligations of air carriers, the creation of authority and responsibility for regulatory bodies, and dispute resolution. The foundation of Nigeria's legal system is built on the supremacy of the Constitution, which is enshrined in Section 1(1) of the

⁵¹ M. Abdullahi, 'Alternative Dispute Resolution in Aviation: A Comparative Study' *African Journal of Aviation Studies* (2023) 7(2), 134

Constitution of 1999, which states that “the Constitution is the supreme law of the land, and any law that is inconsistent with any provision of the Constitution is void.” This means that all other laws must be consistent with the constitutional law. Therefore, the constitutional law is the ultimate source of all laws, including aviation law. Any law on aviation that is inconsistent with constitutional law is subject to being challenged and set aside. However, in practice, the role of the courts in policing constitutional law in Nigeria is limited in that it is not clear how far the constitutional rights of passengers extend.

3.1.1 *The Constitution of the Federal Republic of Nigeria, 1999 (as amended 2023).*

The Constitution of the Federal Republic of Nigeria 1999 (as amended), hereafter referred to as “the Constitution” in the course of this writing, is the guiding principle upon which all other laws, including aviation law, are governed. Sections 34 and 42 of the Constitution are of great importance in the case of passenger protection.⁵² Section 34 ensures the dignity of the human person. This section provides that every person shall be entitled to respect for the dignity of his person and thus: “(a) no person shall be subjected to torture or to inhuman or degrading treatment; and (b) every person has a right to an appropriate and healthy environment both in work and in leisure.” The provision is quite broad in its application. The constitutional imperative here is the respect for human dignity in the actions of the state and private entities in the handling of the passenger. The dignity of the human person, although not specifically mentioned in the provisions of the Constitution, covers all human beings, including air passengers, in their dealings with airlines. The provision of dignity in Section 34 acts as a constitutional limitation on the actions of the airlines. The airlines cannot treat the passenger in such a manner that would not respect the dignity of the passenger despite the terms they would like to impose.

⁵² Constitution of the Federal Republic of Nigeria 1999 (as amended 2023) ss. 34 and 42.

Section 42 of the Constitution protects the individual against discrimination by providing that "any citizen of Nigeria shall not be subjected to any disability or deprivation of his right as a citizen solely on the ground of his ethnic group, place of origin, political opinion, or any disability."⁵³ This section safeguards passengers from discrimination in the provision of aviation services. It is interesting to note that discrimination on grounds of disability is included in these provisions. This is significant as passengers with reduced mobility are vulnerable in aviation services. Airlines cannot withhold services or demand additional fees for disabled passengers or those with reduced mobility on grounds of their disability alone. The Constitution has also provided for non-discrimination on grounds of political opinion or ethnic group. This safeguards passengers from discrimination on these grounds. The Federal Competition and Consumer Protection Act 2018, as discussed below, supports these constitutional provisions on non-discrimination as general consumer protection legislation.

The non-discrimination provision in Section 42 must be interpreted in conformity with relevant international instruments binding on Nigeria, such as the Convention on the Rights of Persons with Disabilities (CRPD), which was fully domesticated in 2019. Another important instrument is the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), which was ratified in 1985, although it has not been directly applied in Nigerian courts in the absence of local legislation giving effect to it as provided in the Section 12 of the 1999 Constitution, they are relevant authorities for interpreting Nigeria's Constitution's non-discrimination provision. The United Nations has interpreted discrimination on the basis of disability as discrimination that occurs when a person is "treated less favourably than another person in a similar position in the same situation on grounds of his or her disability." This involves a lack of accommodation of the needs of persons with disabilities, except when providing such an accommodation would impose a

⁵³ *ibid*, s. 42.

disproportionate burden." This has implications for the manner in which Nigerian courts might interpret discrimination in the aviation industry.

3.1.2 *The Civil Aviation Act, 2022.*

The Civil Aviation Act 2022 (hereafter referred to as ‘the CAA 2022’) has completely replaced the Civil Aviation Act 2006, which demonstrates the legislature’s commitment to modernising Nigeria’s aviation regulatory framework.⁵⁴ The CAA 2022 is a comprehensive piece of legislation dealing with various aspects of civil aviation regulations. One of the key roles of the CAA 2022 is the establishment of the Nigerian Civil Aviation Authority (NCAA) as the body responsible for regulating civil aviation in Nigeria, which is vested with wide-ranging powers to regulate civil aviation. Some of the key roles of the NCAA are listed in the Act, which include the promotion of safety, the protection of consumers, the development of civil aviation, and the maintenance of economic order in civil aviation. Various issues concerning passengers are directly addressed by the Act, which include carrier liability and compensation schemes for different types of passenger claims.

One of the most significant aspects of the CAA 2022 is the incorporation of the limits of liability provided in international conventions. The Montreal Convention 1999 has been specifically mentioned in this regard. The CAA 2022 has provided the limits of liability in the form of Special Drawing Rights (SDR) in its Third Schedule.⁵⁵ The Act has provided for liability in cases of damage due to the death or injury of a passenger, wherein the liability of the carrier is for actual damage proved up to the limits prescribed. These limits are the maximum liability, except in cases of wilful misconduct or recklessness. The CAA 2022 has also revised these limits in conformity with the recent revisions made by the International Civil Aviation Organisation (ICAO). These limits have been revised upward in conformity

⁵⁴ Civil Aviation Act 2022 (Federal Republic of Nigeria), s. 1.

⁵⁵ *ibid*, Third Schedule and s. 87

with the recent revisions made by the ICAO, so that the limits prescribed for liability in Nigeria are in conformity with the latest developments in the world. These limits, which have come into effect from December 28, 2024, have been increased in conformity with the changing economic conditions so that even as the value of money changes, the passenger injured in an accident still has adequate compensation.

The CAA 2022 establishes two different passenger protection regimes: the international regime established by the Montreal Convention, which is applicable in international flight operations, and the domestic regime established by regulation, which is applicable in all flight operations with lower compensation rates. The dual system established by the CAA 2022 is likely to cause confusion about which system is applicable in specific situations. For example, in the case of a domestic flight operated by a Nigerian carrier, the flight can be governed by two different passenger protection regimes depending on the application of the Montreal Convention, depending on the origin and destination of the flight. The Act recognises that Nigeria is bound by the international aviation treaties and conventions to which it is a party. The Act establishes the process of the domestication of these international treaties and conventions through the regulatory process.

The CAA 2022 also outlines procedures for the regulation of airline operations, which include licensing requirements, financial security requirements, and operational requirements. Airlines are required to obtain certificates from the NCAA to operate, provided that they meet safety requirements, financial requirements, and operational requirements. According to the Act, non-compliance by an airline to passenger protection requirements may result in the revocation or suspension of the airline's operating certificate. This is a significant tool for enforcing compliance since an airline relies entirely on its operating certificate to operate.

3.1.3 Nigerian Civil Aviation Regulations 2023, Part 19.

The Nigerian Civil Aviation Regulations 2023 (hereafter referred to as “the NCARs 2023”) provide the detailed regulatory elaboration of the principles established in the CAA 2022.⁵⁶ The NCARs are issued by the NCAA in accordance with its enabling statute and have the full force of law. Part 19 of the NCARs 2023 is entirely dedicated to Consumer Protection. This is the section of the NCARs that offers the most detailed and specific formulation of passenger rights. Part 19 of the NCARs 2023 has several sub-parts dealing with various facets of passenger protection. These sub-parts include the formulation of rules on the disclosure of information, the issuance of tickets, flight delays and cancellations, denied boarding, care and assistance, compensation schemes, liability for baggage, and the reporting of complaints. Of significant note is the formulation of the compensation packages for violations. These include the compensation for flight delays, which ranges from 25 percent of the ticket fare for flight delays of up to three hours on domestic flights to higher percentages for longer flight delays and international flights. The compensation for flight cancellations and denied boarding is fixed at 50 percent of the ticket price.⁵⁷

The fixation of domestic compensation is an expression of such a policy, which is mindful of providing adequate compensation to passengers while at the same time keeping an eye on the economic viability of an airline in a developing country. The regulations of the European Union, for instance, mandate compensation of 250-400 Euros based on the distance of the flight for flight delays exceeding three hours. The 25-50 percent of ticket price compensation mandated by the Nigerian regulations is significantly lower but is by no means insignificant for most passengers. The regulations also exempt compensation for flights delayed due to "extraordinary circumstances" beyond the airline's control, such as severe weather, air traffic

⁵⁶ Nigerian Civil Aviation Regulations 2023, Part 19 (NCARs/2023/019).

⁵⁷ EU 261 Flight Compensation Rights < <https://www.airhelp.co.uk/eu-261-compensation/> > last accessed on 26 June 2026.

control strikes, or security threats. However, the regulations limit "extraordinary circumstances" to situations where an airline cannot blame circumstances for flight delays.

Part 19 of the NCARs 2023 places an obligation on airlines to inform the passenger of their rights at the point of booking and to provide written information on the procedure for the lodging of complaints and seeking compensation. The requirement for information was designed to ensure that the passenger was not left in a position of ignorance of their rights. The regulations require airlines to display information regarding passenger rights prominently on their website and in the ticket purchase literature. The regulations also confirm the airlines' obligation to maintain and implement procedures for handling complaints and to respond to passenger complaints within specified timeframes. With regard to complaints about the alleged infringement of Part 19 of the regulations, the airlines must respond within fourteen days of the receipt of the complaint. The above procedural requirements were designed to facilitate the passenger in vindicating their rights without the need to go to court. The requirement for the airlines to investigate and respond to complaints about their own actions, however, causes significant concern.

3.1.4 *The Montreal Convention, 1999.*

Nigeria has ratified the Convention for the Unification of Certain Rules for International Carriage by Air, concluded at Montreal on 28 May 1999 ("the Montreal Convention").⁵⁸ The Montreal Convention is an international convention that sets forth standardised international rules on the liability of air carriers regarding passengers, cargo, and baggage. Nigeria, as a signatory state to the Montreal Convention, is required by international law to implement the provisions of the Montreal Convention, which have been adopted into the CAA 2022. The Montreal Convention was developed through extensive international negotiation aimed at developing clear liability rules that are balanced between airlines and passengers, which was

⁵⁸ Montreal Convention 1999.

not the case under the Warsaw Convention 1929. The Montreal Convention is an improvement over the Warsaw Convention because it sets forth presumed liability on the part of airlines in the event of passenger death or injury, subject to the defences and exceptions set forth in the Montreal Convention.

Under the Warsaw Convention, the burden rested on the passenger to prove the negligence of the airline. Additionally, the liability was strictly limited. For instance, the airline would claim that the accident was caused by factors unforeseeable to the airline. Thus, the accident would have occurred regardless of the exercise of reasonable care by the airline. However, the Montreal Convention has altered the position. Under the new convention, the liability of the airline to the passenger in the event of death or injury caused by an accident occurring on board the aircraft or while embarking or disembarking would be presumed. However, the liability would be negated if the accident did not happen on board the aircraft or while the passenger was embarking or disembarking. Additionally, the liability would be negated if the accident was caused by the negligence or wrongful act of a third party. This change in the convention would be a positive step in the protection of the passenger.

The Montreal Convention establishes liability in terms of Special Drawing Rights (SDRs).⁵⁹ For passengers whose lives are lost or injured, there is a two-tier liability: liability for damages up to 100,000 SDRs per passenger without proof of fault or negligence on the part of the carrier and liability for all damages if the carrier is proved to have been negligent. This is a significant change for passengers as compared to common law requirements for proof of negligence or duty on the part of the carrier. The Montreal Convention also covers liability for delays, loss of baggage, and damage to baggage. However, there is a significant exemption for liability as per the Convention in cases where there is wilful misconduct on the part of the carrier. The Convention recognises the right to compensation for non-material

⁵⁹ *ibid*, Arts. 21-24.

damages for passengers. This is significant as non-economic damages are acknowledged for misconduct on the part of the carrier. The concept of 'moral prejudice' in international aviation law covers emotional distress, anxiety, and loss of enjoyment for passengers.

The incorporation of liability limits under the Montreal Convention⁶⁰ into the CAA 2022 means that passengers injured in Nigerian aviation incidents can claim under the framework provided by the Montreal Convention, which is more beneficial than what is provided under common law for negligence. However, there has been a potential for confusion as to which framework is applicable in a particular situation as a result of the two different liability schemes provided under the Montreal Convention liability limits and the domestic scheme provided under Part 19 of the NCARs 2023. For example, a passenger injured on a domestic flight within Nigeria may claim under either the framework provided under the Montreal Convention if the flight is treated as an international flight for the purposes of the Convention or may claim under the domestic regulations if the flight is treated as a domestic flight. This requires interpretation of technical definitions provided within the Convention as to whether flights are treated as either "international" or "domestic" flights. However, such questions have not been definitively determined within Nigeria.

3.1.5 International Civil Aviation Organisation Standards and Recommended Practices.

The International Civil Aviation Organisation (ICAO), which is the specialised agency of the United Nations, has the responsibility of developing international standards and recommended practices in the field of civil aviation.⁶¹ Although ICAO instruments are not formally binding treaties, they have considerable normative value and an important impact on

⁶⁰ International Civil Aviation Organisation, established by the Convention on International Civil Aviation (Chicago Convention) (adopted 7 December 1944, entered into force 4 April 1947) 15 UNTS 295.

⁶¹ International Civil Aviation Organisation, established by the Convention on International Civil Aviation (Chicago Convention) (adopted 7 December 1944, entered into force 4 April 1947) 15 UNTS 295.

the development of domestic aviation law. Nigeria, being a contracting state to the Chicago Convention 1944 (which established ICAO), has undertaken an obligation to implement ICAO standards.⁶² The ICAO Standards and Recommended Practices (SARPs) are found in the annexes of the Chicago Convention and cover technical subjects such as aircraft design, airworthiness, and operational procedures; safety; security; and more recently, environmental protection and climate change issues. Although the ICAO SARPs are essentially technical in nature, they have an indirect bearing on the issue of passenger protection in the sense that the safety standards established by ICAO reduce the incidence of accidents or incidents that might affect passengers. ICAO has also issued advisory materials on the rights and responsibilities of passengers; however, these are not as detailed as the standards established by regional aviation regulatory bodies such as the European Commission.

The role of ICAO in the protection of passengers has grown significantly since the adoption of the Convention on the Rights of Persons with Disabilities and the increased international concern over the issue of consumer protection. ICAO has issued guidelines with regard to the treatment of passengers with disabilities and passengers with reduced mobility. It is recommended that these guidelines be followed with regard to accessibility, communication, and assistance. Nigeria is a member of ICAO, and it is the duty of the Nigerian government to give effect to these guidelines in the maximum way possible. It is found that the guidelines issued by ICAO are general in nature. The process of incorporating these guidelines into the regulatory environment in Nigeria is not free from shortcomings. It is recommended by ICAO that the airlines should assist the deaf passengers. The process of providing such assistance is subject to interpretation and negotiation at the national level.

⁶² *ibid*, Art. 37.

3.1.6 Federal Competition and Consumer Protection Act, 2018.

The Federal Competition and Consumer Protection Act 2018 (hereafter 'FCCPA 2018') is a general piece of legislation on consumer protection and covers all sectors of the economy, including the aviation industry.⁶³ Although the FCCPA 2018 does not specifically relate to aviation, it has set out some principles and protections for airline consumers. Section 2 of the FCCPA 2018 outlines the scope of its application, and it defines a 'consumer' as including any natural or legal person who, in the transaction of goods or services, acquires or undertakes to acquire movable or immovable property, products, or services for purposes outside his trade, business, or profession. This would clearly include air passengers, as they would be acquiring airline services for purposes unrelated to business or trade. Some of the protections afforded to consumers include the right to fair and honest treatment, the right to have goods and services of merchantable quality, and protection from unfair contract terms. Section 8 of the FCCPA 2018 has set out some protections against unfair trade practices, which include those practices which have misled consumers in a material way, those which have been oppressive or coercive, and those which have been unscrupulous in light of industry customs and community standards.⁶⁴

The FCCPA 2018 restriction on unfair contract terms is significant for aviation consumer protection, as airline companies have traditionally attempted to impose one-sided contract terms that restrict liability and preclude passengers from seeking remedies for breach. This provision offers a potential argument for challenging airline attempts to disclaim all liability for passenger injury or to require passengers to waive rights provided for under law. However, there has been little judicial exploration of the applicability of this provision to airline contracts. Airline companies continue to include protective clauses in their terms and conditions of carriage. The Federal Competition and Consumer Protection Commission

⁶³ Federal Competition and Consumer Protection Act 2018 (Federal Republic of Nigeria), s. 2.

⁶⁴ *Ibid* s. 8

(FCCPC), which is established under the FCCPA 2018, has the power to conduct investigations into consumer grievances, issue stop orders, and apply for remedies on behalf of consumers.⁶⁵ The FCCPA 2018 also provides that consumers who suffer loss as a result of unfair trade practices can institute private actions for damages. The importance of the FCCPA 2018 to aviation law is that it offers an overarching legal framework, and as such, it is relevant to aviation law.

3.2 Institutional Framework

The institutional framework for the protection of passengers in the Nigerian aviation sector has several players with overlapping and conflicting responsibilities. The importance of this cannot be overstated because the gaps and inefficiencies in the performance of these institutions were partly responsible for the challenges in the enforcement process as identified in Chapter One. The key players in the institutional framework are discussed below.

3.2.1 *Nigerian Civil Aviation Authority (NCAA)*

The Nigerian Civil Aviation Authority is the main regulatory body in the Nigerian civil aviation industry. It was established by the CAA 2022 and has the responsibility to carry out economic regulation, safety supervision, and consumer protection.⁶⁶ The mandate of the NCAA is quite broad and ranges from the certification of air carriers, the approval of routes and air fares, investigation of air accidents and incidents, laying down technical standards, and enforcing compliance with aviation law. In relation to the protection of passengers, the NCAA is mandated to promulgate regulations that define the rights of passengers, to receive and investigate complaints by passengers, and to impose sanctions on airlines that have violated their obligations. The NCAA has set up a Consumer Affairs Department whose role is to handle complaints by passengers and investigate allegations of violation of their rights.

⁶⁵ *ibid*, ss. 148-158.

⁶⁶ Civil Aviation Act 2022 (Federal Republic of Nigeria), ss. 40-55.

However, as was noted in Chapter One and will further be discussed in Chapter Four, the NCAA is greatly constrained by a lack of resources, which affects its ability to effectively perform its mandate. The Authority receives complaints from passengers alleging various breaches. However, due to the time it takes to investigate complaints, passengers do not get redress.

3.2.2 Federal Ministry of Aviation and Aerospace Development.

The Federal Ministry of Aviation and Aerospace Development (hereafter referred to as “the Ministry”) is tasked with the responsibility of developing policies and overseeing strategic direction in the aviation sector.⁶⁷ Although the NCAA operates as an independent regulatory agency, it does so in the context of a framework of policy guidance from the Ministry. In terms of its responsibilities, the Ministry is concerned with the formulation of policy, negotiation of international aviation treaties, representation of Nigeria in international aviation conferences, and strategic planning for the development of aviation in Nigeria. In terms of passenger protection, it is notable that the Ministry's involvement is at the policy level rather than at the level of individual complaints. Nevertheless, it is also the case that policy determinations at the Ministry level have a significant impact on passenger accessibility and hence passenger welfare. In addition, the Ministry is responsible for the development of aviation infrastructure and facilities, which in turn has a significant impact on the quality of service provided to passengers. In its Strategic Aviation Development Plan 2012-2016, although this document has since been replaced by more recent planning instruments, there was a commitment to passenger protection as part of the broader development of aviation in Nigeria.

⁶⁷ Federal Ministry of Aviation and Aerospace Development, Strategic Aviation Development Plan 2012-2016 (Federal Republic of Nigeria, 2012).

3.2.3 Federal Airports Authority of Nigeria (FAAN)

The Federal Airports Authority of Nigeria (FAAN) has the power to manage the airports in Nigeria, controlling both international and local flights. These airports include Murtala Muhammed International Airport in Lagos, Nnamdi Azikiwe International Airport in Abuja, and Mallam Aminu Kano International Airport in Kano.⁶⁸ As the operator of these aviation facilities, it is the responsibility of the FAAN to provide adequate airport services and facilities in the movement of passengers. The roles of the FAAN include the maintenance of airport terminal buildings, the provision of ground transportation services, the management of passenger queues and processing, as well as the provision of facilities for passengers with reduced mobility. Although the FAAN is not directly involved in the operations of the airlines, the quality of service provided in the airport affects the passenger. The delay in processing passengers or the lack of adequate facilities in the airport can affect the passenger. The legal position of the FAAN as a federal agency makes it liable under the law; therefore, passengers can sue the federal government in the event of negligence on the part of the FAAN.

3.2.4 Federal Competition and Consumer Protection Commission (FCCPC).

The Federal Competition and Consumer Protection Commission is created under the FCCPA 2018 for the enforcement of competition laws and consumer protection laws.⁶⁹ Unlike the NCAA, which is specialised in the aviation industry, the FCCPC has general jurisdiction over all sectors of the economy. The FCCPC's involvement in the aviation industry is in investigating complaints from consumers regarding unfair trade practices and taking enforcement actions against businesses for engaging in unfair trade practices. Unlike the NCAA, which has specialised in the aviation industry, the general jurisdiction of the FCCPC might not give the aviation industry the desired attention it deserves.

⁶⁸ Federal Airports Authority of Nigeria Act, Chapter F14, Laws of the Federation of Nigeria 2004.

⁶⁹ Federal Competition and Consumer Protection Act 2018 (Federal Republic of Nigeria), ss. 148-180.

3.2.5 Nigerian Safety Investigation Bureau (NSIB).

The Nigerian Safety Investigation Bureau, which was established by the CAA 2022, is responsible for the investigation of aviation accidents and incidents.⁷⁰ The primary responsibility of the NSIB is to determine the cause of accidents and incidents, as well as provide recommendations on the prevention of future occurrences. Although the NSIB is not directly involved in compensating passengers, their findings can be relevant in passenger compensation, especially in instances where the accident results in injury or death. NSIB works based on international standards and best practices as recommended by ICAO. The independence of NSIB from NCAA and airlines is crucial in ensuring that the investigation is carried out without any pressure from NCAA or airlines.

CHAPTER FOUR

AN APPRAISAL OF THE RIGHTS OF PASSENGERS, THEIR ENFORCEMENT AND REMEDIES FOR VIOLATION

4.1 Rights of Passengers

Passenger rights in Nigerian aviation law have multiple dimensions and are based on different statutes, such as the Civil Aviation Act 2022, Nigerian Civil Aviation Regulations 2023, Convention for the Unification of Certain Rules for International Carriage by Air 1999, Constitution of the Federal Republic of Nigeria 1999 (as amended), and the Federal Competition and Consumer Protection Act 2018.⁷¹

The rights mentioned above are the entitlements that a passenger is able to enforce against an airline upon their violation. These are the core passenger rights in Nigerian aviation law.

⁷⁰ Civil Aviation Act 2022 (Federal Republic of Nigeria), ss. 56-72.

⁷¹ Civil Aviation Act 2022, ss. 1-5; Nigerian Civil Aviation Regulations 2023, Part 19, ss. 19 (1); Montreal Convention 1999, arts. 1-35; Constitution FRN 1999, s. 14; Federal Competition and Consumer Protection Act 2018, ss. 1-5; I. Obadina, 'Air Liability Regimes Under Nigerian Law: A Comparative Analysis' (2020) 12(3) African Journal of Aviation Law and Regulation 198-225.

4.1.1 *Right to Information and Transparency*

This right serves as the base upon which the rights of passengers rest because of its importance. This passenger right is stated under Part 19 of the Nigerian Civil Aviation Regulations 2023 and aligns with the international standards found in the European Commission Regulation (EC) 261/2004.⁷²

The right to information is that which obliges airlines to give passengers adequate, correct, and up-to-date information about the flight and booking procedures, passengers' rights, and remedies in case the said rights are violated. For the airlines flying into Nigeria, this right entails giving passengers necessary information during various stages of the travel process. Upon the time of booking, airlines are obliged to ensure that passengers get information regarding the main conditions of travel, including information on luggage allowance, cancellation, and compensation. Such information is supposed to be given clearly, according to the Civil Aviation Regulations of Nigeria.⁷³

In addition to this, the airline must issue a written acknowledgment of the booking, which must include the passenger's name, the route being travelled, the amount of money paid for the ticket, and the mode of payment used. Additionally, the airlines must publish their customer rights on their websites and their booking stations.

Part 19 of the NCARs 2023 obligates airlines to give passengers access to documents outlining the process of making complaints and claiming compensation from the airline. These documents must be available at the airport, on the airline's website, and in hard copies

⁷²Nigerian Civil Aviation Regulations 2023, Part 19, s. 19 (2); European Commission Regulation (EC) No. 261/2004 of 11 February 2004; E. Abili, 'Impact of the Convention for the Unification of Certain Rules for International Carriage by Air 1999 on the Nigerian Aviation Industry' (2019) 5(1) International Journal of Aviation Studies 76-95.

⁷³ Nigerian Civil Aviation Regulations 2023, Part 19, s. 19 (Information to be Provided at All Stages of Journey); Federal Competition and Consumer Protection Commission (FCCPC), Guidelines on Consumer Information and Disclosure Requirements in Aviation (2020).

available to passengers.⁷⁴ In the case of a flight disruption, which includes delay or cancellation, there is a duty of information where airlines must keep passengers up to date on the status of their flight. Passengers should be provided with reasons for the disruption, the expected time of departure, and the available assistance.

Under the Montreal Convention 1999, which has been included in the Civil Aviation Act 2022, airlines have the obligation to provide passengers with relevant information regarding the limitation of liability in respect of their travels.⁷⁵

However, the practical application of the right to information has been difficult. Several airlines in Nigeria do not provide information regarding passenger's rights in a conspicuous manner or make the information available in an easily understandable way.⁷⁶

Many times, the passengers are aware of their rights only after a disruption of their flights. Information regarding passengers' rights is hidden in pages and pages of terms and conditions, written in legal jargon that most people do not understand. In addition, the information on how to obtain compensation is either hidden or provided in a way that makes the passengers reluctant to claim compensation.

4.1.2 Right to Compensation for Flight Delays, Cancellations, Denied Boarding, and Baggage Loss or Damage

The right to compensation is among the substantive rights of the greatest importance conferred upon passengers by the aviation law in Nigeria. The right functions on various

⁷⁴ Ibid Part 19, s. 19 (2) (2) (Complaint Handling and Consumer Rights Information); Civil Aviation Act 2022, s. 9 (NCAA Functions regarding Consumer Information); NCAA, Passenger Rights and Complaint Handling Manual (2023).

⁷⁵ Montreal Convention 1999, Art. 3 (5).

⁷⁶ NCAA Consumer Affairs Department, Annual Complaint and Compliance Report 2023 (NCAA Headquarters, Lagos, 2024); A. Badmos, 'The Applicability of the Revised Limits of Liability Under the Montreal Convention to Civil Aviation Claims in Nigeria' (2019) 8(2) Journal of Air Transport and Logistics 45-68.

grounds. On an international plane, the Montreal Convention 1999 provides a system of carrier liability for delay, loss, and damage to baggage.⁷⁷

At the national level, Nigeria's National Civil Aviation Regulations, 2023, particularly Part 19, establishes compensation schemes for flight delays, flight cancellations, and denied boarding services, similar to the Montreal Convention provisions.⁷⁸

Under the Nigerian Civil Aviation Regulations of 2023, compensation may be made to passengers for any flight delay. The compensation will depend on how long the delay was as well as whether it was a domestic or international flight. The compensation for domestic flight delays will be a percentage of the total fare charged, depending on how many hours there were beyond the agreed delay period. For domestic flights, this starts at 25 percent after three hours and goes up to 50 percent after six hours of delay.⁷⁹

For international flights, however, the compensation begins at 50 percent after three hours and increases to 100 percent after twelve hours of delay.

The Montreal Convention 1999 provides a similar mechanism for compensating delays in international air travel. According to Article 19 of the Montreal Convention, the carrier is responsible for any damage caused by delays in the carriage of passengers, baggage, or cargo.⁸⁰

The carrier shall not be responsible if it establishes that it and its servants and agents have taken all reasonable measures that might be expected to avoid the damage or that it was impossible for the carrier or its servants or agents to take such measures. The negligence-

⁷⁷ Montreal Convention 1999, Arts. 17-21 (Liability of Carrier and Extent of Compensation for Damage).

⁷⁸ Nigerian Civil Aviation Regulations 2023, Part 19, ss. 19 (3-7) (Compensation for Delays, Cancellations, Denied Boarding and Baggage Loss/Damage); Federal Competition and Consumer Protection Commission, FCCPC Report on Airline Consumer Complaints 2022-2023 (FCCPC Abuja, 2023).

⁷⁹ Nigerian Civil Aviation Regulations 2023, Part 19, s. 19 (3) (1-3) See also NCAA, Technical Note on Delay Compensation Implementation (2023).

⁸⁰ Montreal Convention 1999, art. 19 (Liability in Case of Delay); art. 21 (Limitation of Liability). See also Badmos (n. 6) 45-68.

based responsibility framework provided for under the Montreal Convention stands in contrast to the strict liability framework set out by Nigerian Civil Aviation Regulations for delays, which makes the carrier strictly liable for any delay irrespective of fault unless the delay arose due to extraordinary circumstances.

"Extraordinary circumstances" refers to situations outside the control of the airline, such as severe weather conditions, threats to safety, industrial actions by Air Traffic Controllers, and technical problems that could not be foreseen or avoided despite exercising reasonable care.⁸¹

It is noteworthy, however, that Nigerian Civil Aviation Regulations prohibit the airline from relying on extraordinary circumstances as a ground for non-performance of the services where the airline has actual or constructive knowledge of the existence of such circumstances, which may affect the departure of the aircraft as scheduled.

Certainly, the enforcement of compensations for flight delays has been largely unsuccessful. This is because the airline companies are not liable for any delays in flight; rather, they blame the delay on extra ordinary circumstances.⁸²

It must be noted that the Nigerian Civil Aviation Authority lacks the competence to investigate such claims of extra ordinary circumstances. The passengers themselves do not possess the necessary skills and knowledge to file for compensation.

The cancellation of a flight amounts to a material breach of the contract of carriage between the airline and the passenger. According to Section 19 of Nigeria Civil Aviation Regulations 2023, passengers are eligible to get compensation from the airline based on the cancellations made for 50% of the amount paid for their ticket regardless of the cause of cancellation,

⁸¹ Nigerian Civil Aviation Regulations 2023, Part 19, s. 19 (3) (4) (a-e) (Extraordinary Circumstances and Force Majeure).

⁸² NCAA Consumer Affairs Department Report 2023 (n. 6).

except that it is caused by an extraordinary event beyond the airline control.⁸³ The payment is compulsory, and it cannot be avoided or reduced according to the rules and regulations of the airline company. Other than compensation, the airline must provide a reimbursement of the ticket fee or another flight to the destination without any extra costs. It depends on the passenger whether he or she will choose to get refunded or rescheduled flights. If the new flight schedule is considerably late or it does not meet the desired destination of the passenger, the passenger can choose to receive a refund.

In contrast to the Montreal Convention, which distinguishes between situations where the carrier is liable for making payments for cancellations and situations where the carrier may cite extraordinary circumstances, the Montreal Convention lacks a set formula for compensating passengers for cancellation as illustrated in the Nigerian Civil Aviation Regulations.⁸⁴ However, implementing this remedy has proven to be quite challenging. Airlines in Nigeria have been known to cancel flights with little warning to passengers, and there is also insufficient compensation.⁸⁵

Denied boarding is the process whereby the airline company denies a passenger access to the flight even when the passenger has bought a valid ticket and has made it to the airport according to the stipulated check-in procedures. Under Part 19 of the Nigerian Civil Aviation Regulations, 2023, the compensation payable is 50% of the ticket cost.⁸⁶

Further, passengers are also entitled to receive care and assistance in the process of waiting for other forms of transport and they are also eligible to be compensated in the form of being

⁸³ Nigerian Civil Aviation Regulations 2023, Part 19, s. 19 (4) (Compensation for Flight Cancellations); s. 19 (4) (1-3); Federal Competition and Consumer Protection Commission, Guidelines on Flight Cancellation and Passenger Remedies (2021).

⁸⁴ Montreal Convention 1999, arts. 17-22 (General Liability Framework).

⁸⁵ NCAA Consumer Affairs Department Report 2023 (n. 6).

⁸⁶ Nigerian Civil Aviation Regulations 2023, Part 19, s. 19 (5) (Compensation for Denied Boarding and Involuntary Denied Boarding); NCAA, Operating Manual for Airlines: Part 8 - Overbooking and Denied Boarding Procedures (2023).

offered a refund or another flight at no extra cost. To minimise the consequences of overbooking, airlines have tried to recruit voluntary passengers who would be willing to give up their seats in return for some form of compensation. But should there not be enough volunteers, airlines will be forced to deny the passengers boarding. The selection of the passenger who will have their boarding denied should be done in a non-discriminatory way. In addition, the passenger should be made aware of the denial of the boarding and the options available to him or her. The airline should issue a written notification to the passenger regarding the denial and the compensation and assistance that he or she is entitled to.

Unfortunately, the implementation of the compensation in cases of denied boarding has remained weak. Nigerian airlines do not apply standardised procedures when dealing with cases of overbooking and providing passenger rights information.⁸⁷

The passengers can also claim for damage caused to their baggage during the time that the air carriers have custody of their baggage. This situation is governed by a regime of international laws in the event of any damage to the baggage of the passenger, or even for the loss of such baggage under the 1999 Montreal Convention. However, the maximum limit of liability of the air carrier for any damage to baggage would be 1,131 SDRs per kilogram.⁸⁸

In addition, the airline may be made liable to compensate for any damage to the passengers' carry-on baggage at a rate of 1,131 SDRs per kilogram. However, these limits only apply where there was no wilful misconduct or gross negligence on the part of the airline. The airline is exempt from liability where it can establish that the passenger failed to comply with the airline's instruction concerning the preparation and packing of baggage, or the damage was caused by the inherent nature of the baggage. The convention acknowledges the

⁸⁷ Montreal Convention 1999, art. 17 (Liability of Carrier in Case of Death, Injury or Delay to Passengers and Damage to Baggage); arts. 22-23 (Limitation of Liability for Baggage); art. 29 (Basis of Liability for Baggage); art. 31 (Jurisdiction and Arbitration).

⁸⁸ Montreal Convention 1999, art. 22 (Limitations of Liability) and preamble (recognition of proportionate compensation for non-material damages).

passenger's claim to compensation in respect of non-material damage suffered as a result of baggage being lost or damaged.⁸⁹ But practically, baggage loss or damage has been one of the major sources of complaints among passengers in Nigeria. This is because the airlines deny liability for any baggage loss on the basis that such baggage loss was brought about by either some defects in the bag itself or how the bags were packed.⁹⁰

4.1.3 Right to Care and Assistance

The right to care and assistance is one kind of protection of passengers that should be offered when there is flight disruption in the form of flight delay, flight cancellation, and denial of board. This kind of right arises due to the fact that in such situations, the passengers require assistance and support due to the challenges that they might be experiencing. The right to care and assistance is found in part 19 of the Nigeria Civil Aviation Regulations 2023.⁹¹ The entitlement to assistance covers passengers that are disabled or have restricted mobility and need assistance during the whole process of the trip. There should be no extra payments requested from passengers with disabilities for such assistance by airlines.⁹²

The unaccompanied minors have a similar form of special protection under the right to care and assistance. The airline is required to assist the unaccompanied minor by providing proper supervision and ensuring the unaccompanied minor is delivered to the receiving adult at the destination. Similar special treatment is given to pregnant passengers in terms of being assisted, boarded, and seated in places where their safety is guaranteed. In this case, passengers with special medical needs need to be assisted depending on their medical needs but not forgetting safety issues.

⁸⁹ NCAA Consumer Affairs Department Report 2023 (n. 6); FCCPC Report 2022-2023 (n. 8).

⁹⁰ Nigerian Civil Aviation Regulations 2023, Part 19, s. 19 (8) (1-3) (Right to Care and Assistance During Flight Disruptions).

⁹¹ Ibid Part 19, s. 19 (8) (4) (Assistance for Passengers with Disabilities and Reduced Mobility); Convention on the Rights of Persons with Disabilities (CRPD) 2006, arts. 5, 9; The 1999 Constitution, s. 42 (Right to non-discrimination).

⁹² NCAA Consumer Affairs Department Report 2023 (n. 8); Olisa Agbakoba Legal (n. 8).

However, the implementation of this right has proved to be very irregular in practice. There are instances in which airlines in Nigeria have refused to offer meals to delayed passengers citing the high cost of providing the passengers with food as well as urging passengers to purchase food before boarding.⁹³

4.1.4 *Right to Refund and Re-routing*

If the airline fails to offer the promised air transport services, the passenger has the option of either getting his money back in full or being rerouted to his destination without any further charges. This policy holds true for cases like cancellation of flights or denied boarding.⁹⁴

The refund will be made using the same means through which the ticket was purchased or in cash if demanded by the passenger. The refund must also cover the total cost of the ticket along with any applicable taxes and fees. The airline has an obligation to make this refund in a set period of time after the request of the passenger is made, generally in seven to fourteen days. Failure to do so amounts to a different form of violation of consumer rights.

There should also be re-routes either by the same airline or by another airline in the event that the first airline cannot find an alternate flight for the passenger in the stipulated timeframe. In such a case, an alternate flight should depart at a suitable time for the passenger and reach its destination. If the alternate flight is scheduled to depart later than the original flight, or the destination differs from that of the original flight, the passenger would be offered the choice between using the alternate flight or obtaining a refund.

⁹³ Nigerian Civil Aviation Regulations 2023, Part 19, s. 19 (9) (1-3) (Right to Refund or Re-routing); See also NCAA, Technical Guidelines for Refund Processing (2023).

⁹⁴ NCAA Consumer Affairs Department Report 2023 (n. 6); Federal Competition and Consumer Protection Commission, Enforcement Action Report: Airline Voucher Practices 2022-2023 (2023).

However, Nigerian airlines generally do not adhere to the principle of refunding passengers; they have rather resorted to giving travel vouchers to their passengers even though they are in Nigeria.⁹⁵

4.1.5 Right to Safety and Security

The basic right that every passenger has is the right to safety and security during the travel process. Safety in this context refers to freedom from physical injury, while security refers to the freedom from any criminal act against the passengers and also the security of their personal property.⁹⁶

The Constitution of the Federal Republic of Nigeria 1999 (as amended) provides for the right to life and the right to respect for the dignity of the human person, thereby forming the foundation for the right to safety and security. Airlines must ensure that aircraft conform to safety and airworthiness requirements as set out by the Nigerian Civil Aviation Authority.⁹⁷

The passengers traveling in these aircrafts will need to undergo screening before being allowed to board these aircrafts. Furthermore, it will also be necessary to check passengers' baggage. At times, individual passengers will need to undergo scrutiny. This procedure will need to be both efficient and considerate of passengers' rights. There should not be any prejudice against passengers on account of disabilities. The right to safety equally means freedom from hazards and incidents. Under the Montreal Convention, there is an obligation placed upon the airline, wherein the airline shall be presumed liable for the deaths or injuries

⁹⁵Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 33-35.

⁹⁶ Nigerian Civil Aviation Authority, Standards and Recommended Practices (SARPs) for Aircraft Maintenance and Airworthiness (NCAA Manual of Standards Part 3, 2023); International Civil Aviation Organisation (ICAO), Annex 6 - Operation of Aircraft, Part I (International Commercial Air Transport) (ICAO, 2022); Civil Aviation Act 2022, s. 31 (Safety Standards).

⁹⁷ Montreal Convention 1999, art. 17 (Liability of Carrier in Case of Death or Injury to Passengers); art. 17(1) (Presumed Liability); art. 21 (Limitation of Liability).

sustained by the passengers due to any accident that occurs aboard the aircraft during embarkation and disembarkation.⁹⁸

The right to safety has often been compromised due to cases involving poor maintenance of the planes, lack of training of staff members, and insecurity within Nigerian airports. Although the cases of accidents involving casualties have been very rare in recent times, there have been incidents involving some form of hazard such as runway excursions and incursion, landing system failure, and severe weather turbulence, hence posing a question regarding safety in the Nigerian aviation sector.⁹⁹

4.2 Enforcement of Passenger Rights

Importance of Passenger Rights is dependent upon how well such rights are enforced to make sure that airlines are made liable for infringing on their passengers' rights. This part of the discussion seeks to examine the process through which passenger rights are enforced within Nigeria.

4.2.1 The Nigerian Civil Aviation Authority and Its Roles in Enforcement

The Nigerian Civil Aviation Authority (NCAA) is the main body tasked with enforcing passenger protection rules and addressing passengers' complaints. The NCAA is a regulatory body set up under the Civil Aviation Act 2022 and vested with extensive authority to regulate civil aviation in Nigeria, including consumer protection matters.¹⁰⁰ NCAA has set up a special Consumer Affairs Department that is tasked with handling complaints received from the passengers. The first step upon receipt of any complaint is to carry out an investigation into the matter at hand by seeking statements from both the passengers and the airline in question.

⁹⁸ Nigerian Safety Investigation Bureau (NSIB), Annual Safety Report 2023 (NSIB Headquarters, Lagos, 2024); NSIB, Accident Investigation Reports and Safety Recommendations, 2020-2023 (NSIB, 2023).

⁹⁹ Civil Aviation Act 2022, s. 7-9; Civil Aviation Act 2022, Schedule 1 (NCAA Establishment and Governance). See also NCAA, Corporate Strategic Plan 2023-2027 (NCAA, 2023).

¹⁰⁰ Ibid s. 25-27; Nigerian Civil Aviation Regulations 2023, Part 19, ss. 19 (10-12) (Consumer Complaint Investigation Procedures).

It then proceeds to analyse the information provided and decides on the appropriate actions to take. The NCAA has jurisdiction in imposing sanctions on airlines for failure to comply with regulations governing consumer protection. Such sanctions include the issuance of notices of warnings, monetary fines, and in extreme cases, the suspension or withdrawal of their operational license.¹⁰¹

The enforcement powers of the NCAA are greatly hampered by resource limitations. The Consumer Affairs Department is understaffed, and its employees lack the necessary technical knowledge to handle complex claims.

4.2.2 Complaint and Redress Mechanisms

Section 19 of the Nigerian Civil Aviation Regulations 2023 sets out the processes for making complaints and getting redress. Passengers who feel their rights have been infringed can start by making a complaint to the airlines.¹⁰² The airlines are supposed to put up procedures for dealing with complaints and respond to such complaints within fourteen days after their submission. All the issues raised in the complaint should be responded to by the airline. If the complainant feels that the response from the airline was not satisfactory or no response has been received at all, then he or she can forward his or her case to the NCAA.

The complaints made to the NCAA may be made by way of correspondence, phone calls, or via complaint forms available on the NCAA website. After an investigation, the NCAA will inform the airline of its conclusion. Alternative Dispute Resolution processes have been introduced in Nigeria for use in addition to the formal complaint and investigation process. Complaints have also been lodged at the Federal Competition and Consumer Protection

¹⁰¹ NCAA Consumer Affairs Department, Annual Report 2023 (n. 8)

¹⁰² Federal Competition and Consumer Protection Act 2018, ss. 134-151 (Establishment and Functions of Federal Competition and Consumer Protection Commission); Federal Competition and Consumer Protection Commission, Consumer Complaint Records 2022-2023 (FCCPC, Abuja, 2023).

Commission (FCCPC) by passengers against airlines' unfair trade practices and violations of consumers' rights.¹⁰³

The passenger can also seek judicial redress in court. The passenger can sue the airline for breach of contract or negligence in civil court. This will ensure that the passenger is compensated for any losses incurred or damages suffered.

4.2.3 Challenges Facing Enforcement of Passenger Rights in Nigeria

Despite the existence of the legal framework to protect the rights of passengers, the effective implementation of those rights in Nigeria encounters various difficulties that affect their achievement. These difficulties occur at the institutional, regulatory, and procedural levels, which are interrelated and pose problems to the protection of the rights of the passengers. Some of these challenges are as follows;

The Consumer Affairs Department of NCAA is characterised by a lack of substantial resources. Specifically, NCAA's Consumer Affairs division does not have enough funding to conduct investigations, sophisticated technologies to handle complaints, and adequately trained specialists to deal with consumers' issues related to aviation.¹⁰⁴ The shortage of resources has led to delays in the processing of complaints which sometimes remain unprocessed for more than two years. Such a lengthy period for addressing complaints decreases the usefulness of NCAA's procedure since passengers cannot wait that long, especially when there is little money involved.

¹⁰³ 1999 Constitution, s. 6; Federal High Court of Nigeria (Jurisdiction) Act 1973, s. 19; State High Court Law (Jurisdiction) s. 6; Civil Aviation Act 2022, s. 4.

¹⁰⁴ FCCPC, Consumer Awareness Survey: Aviation Sector (2023); NCAA Consumer Affairs Department, Passenger Complaint Categories Analysis 2023 (2024).

Most travellers in Nigeria are ignorant of their rights and how they can exercise their rights when their rights have been breached. Although airline operators are supposed to inform their travellers of their rights, most of them have not succeeded in this aspect.¹⁰⁵

The rights of many travellers have been learned by experience; they learn of their rights only after encountering a problem and suffering losses. In addition, travellers are not well-informed regarding the existence of a complaint mechanism and how to make use of it.

In Nigeria, airlines have always been found to violate passenger rights and have resisted the actions taken by the NCAA to ensure compliance. Regarding compensation, airlines have questioned whether the NCAA had the right to demand compensation from them because it was the duty of the court to decide on compensation based on damages.¹⁰⁶

To escape liability for caring and assisting passengers, airlines have claimed that caring and assisting were not mandatory but rather optional. To avoid compensating passengers, airlines have vaguely referred to extraordinary circumstances without proving that such circumstances existed.

It must be noted that due to the complexity of the agencies that protect the interest of the consumers in aviation, there is duplication of jurisdiction and inconsistencies that make law enforcement difficult. The NCAA and the FCCPC claim jurisdiction over the issue faced by the consumers in different classes of aircrafts.¹⁰⁷

¹⁰⁵ NCAA Consumer Affairs Department Report 2023 (n. 8); see also FCCPC Enforcement Action Report 2022-2023 (n. 26).

¹⁰⁶ Civil Aviation Act 2022, s. 9; Federal Competition and Consumer Protection Act 2018, s. 8 (FCCPC Functions); NCAA-FCCPC Memorandum of Understanding on Jurisdictional Coordination (2023, on file with both agencies).

¹⁰⁷ Montreal Convention 1999, arts. 1-5 (Applicability and Territorial Scope); Civil Aviation Act 2022, Third Schedule; Nigerian Civil Aviation Regulations 2023, Part 19, s. 19 (1).

The overlapping nature of the compensation provisions under the Montreal Convention and the civil aviation regulations in Nigeria has led to confusion regarding which compensation regime should be used in different instances.¹⁰⁸

This is especially so since it is not always clear whether a particular flight should be covered under the Montreal Convention or civil aviation regulations when dealing with domestic flights, especially when the flight involves flying from Nigeria into a neighbouring country or when the flights have stopovers. Airlines have taken advantage of this confusion to dispute claims for compensation.

It is also important to note that, although the rules contain very specific requirements about the provision of information related to the rights of passengers, there is only limited compensation available for those passengers who do not receive this information. According to the rules, there is no compensation for the passengers who were not informed of their rights, so that they were unable to make claims.¹⁰⁹

In this instance, the airlines actually profit from their non-conformity with the requirement to disclose information.

4.3 Remedies Available for Breach of Passenger Rights in Nigeria

There are different types of remedy available in the Nigerian legal framework to remedy the violation of passengers' rights. The different types of remedy vary in terms of their nature and degree of enforcement, ranging from an administrative type of remedy provided by NCAA and FCCPC to a judicial type of remedy provided by the courts. The effectiveness and availability of the different types of remedy determine the effectiveness of the legal framework.

¹⁰⁸ Nigerian Civil Aviation Regulations 2023, Part 19 (2) (Information Requirements).

¹⁰⁹ Nigerian Civil Aviation Regulations 2023, Part 19 (10-12); Civil Aviation Act 2022, s. 25 (NCAA Enforcement Powers); Federal Competition and Consumer Protection Act 2018, ss. 134-151.

4.3.1 Administrative Remedies

Administrative remedies, on the other hand, are remedial measures taken by regulatory bodies like the NCAA and FCCPC without going through the courts. They include the decision by the NCAA that the airline has infringed the passengers' rights and that the airline should make up for it in one way or another.¹¹⁰

The NCAA is empowered to compel airlines to compensate for any infringement of passenger rights. Nevertheless, enforcing decisions of the NCAA has been difficult as there have been instances where airlines ignored the NCAA decision to compensate. The NCAA does not have the power to compel the airline to compensate the passenger; instead, the only option left is the NCAA threat of suspension or cancellation of the operating certificate of the airline. The FCCPC also has powers to enforce complaints against the airline regarding any unfair business practice.

4.3.2 Contractual Remedies

Contractual remedies refer to remedies that result from breaches in the contract between the passenger and the airline company. Breach of contract remedy is one of the most common kinds of contractual remedies available, which can be based on the expectation damages (the lost opportunity of fulfilling the contract) and reliance damages (the money required for putting back the passenger in the same situation).¹¹¹

The issue, however, with obtaining contractual remedies lies in proving the breach of contract and the resulting damages. The airlines always contest claims made by passengers by

¹¹⁰ *Hadley v. Baxendale* (1854) 9 Exch 341 (It established that a breaching party is only liable for losses that naturally arise from the breach or that both parties could have reasonably foreseen at the time they formed the contract).

¹¹¹ Federal Competition and Consumer Protection Act 2018, ss. 13-15 (Unfair Contract Terms and Consumer Rights); Nigerian Civil Aviation Regulations 2023, Part 19 (Mandatory Passenger Rights Cannot Be Waived).

claiming that the contract did not mandate the provision of such service at all, hence, there could be no breach of contract.¹¹²

4.3.3 Statutory and Regulatory Remedies

Statutory or Regulatory Remedies entail the forms of remedies that arise out of statutory laws or regulation, which are not contingent upon proving a breach of duty. The statutory remedy entails the form of remedy that exists in the compensation schemes provided by the Nigerian Civil Aviation Regulations 2023, in Part 19, whereby compensation to passengers in case of delay, cancellation, and refusal to board is provided regardless of damage suffered by passengers or negligence by the airline.¹¹³

The advantage of statutory remedies is that the compensation would be made without going through complicated negotiation and litigation process, where the airline needs to prove the damage to provide passengers with compensation. However, notwithstanding the availability of statutory remedies, there is still no assurance that passengers will automatically receive compensation since airlines would attempt to deny compensation on the grounds of extraordinary circumstances.

4.3.4 Tort and Common Law Remedies

The passengers are also entitled to claim compensation in accordance with the law of torts based on negligence and breach of duty. In the event of breach of duty committed by the airline to the passenger which results in losses or damages, the passenger can institute a lawsuit against the airline on grounds of negligence.¹¹⁴

Furthermore, under the Montreal Convention, liability for death or injury arising out of the occurrence of an accident rests with the airline, although the burden of proving that the

¹¹² Nigerian Civil Aviation Regulations 2023, Part 19.

¹¹³ *Caparo Industries plc v. Dickman* [1990] 2 A.C. 605

¹¹⁴ Montreal Convention 1999, art. 17(1) (Presumed Liability for Death or Injury); art. 21 (Limitation of Liability).

accident did not arise out of something for which the airline could be held liable rests with the airline.

The effectiveness of the tort law as a remedy is limited by the costs associated with the process of litigation as well as the time that would elapse before a judgment can be delivered. The cost of litigation is beyond most passengers and hence they would prefer receiving smaller compensation amounts rather than go through the hassle of litigation. The courts in Nigeria are usually congested, and it takes many years before an aviation dispute reaches court.

4.3.5 Judicial Remedies

The final solution to the passengers' problems lies with judicial remedies. The passengers can institute civil claims against airlines for their failure to honour their contractual obligations, negligence, and infringement of their consumer rights. The courts can rule in favour of passengers who prove their cases and award them compensatory damages. In cases of dubious behaviour by airlines, the courts may award exemplary or punitive damages to deter the airlines from engaging in such conduct in the future.¹¹⁵

The courts also possess the powers to issue injunctions ordering the airlines to take certain actions or refrain from doing certain things. For instance, a court can enjoin an airline to pay back the fare paid by a passenger for his or her tickets or compel the airline to stop failing to assist passengers in cases of flight disruption.¹¹⁶

However, the process of obtaining judicial remedies is cumbersome. Judicial processes are lengthy and expensive, with legal practitioners involved at every stage of litigation.

¹¹⁵ Federal Competition and Consumer Protection Act 2018, ss. 150-151).

¹¹⁶ Writ of Summons and Interpretation Act (Cap. W22 Laws of the Federation of Nigeria 2004), which provides for injunctive relief in civil proceedings.

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS, AND CONCLUSION

5.1 Summary of Findings

This section provides an overview of the important findings from the study in relation to the objectives and research questions used in this study. This study was conducted to assess the enforcement of passenger rights under the Nigerian aviation law. The findings are discussed as follows;

The findings of this study have revealed that Nigerian Civil Aviation Authority is in a very important position in the sense that it acts as the principal regulatory authority in relation to consumer protection, economic regulation, and safety supervision within the aviation industry of Nigeria. According to the provisions contained within the Civil Aviation Act 2022, NCAA's responsibilities include consumer protection and enforcement of the passenger protection requirements. From the findings of this research, it is clear that the NCAA's

responsibilities include establishing of regulatory standards based on Nigerian Civil Aviation Regulations 2023; investigating and resolving complaints of passengers; issuing directives in regard to enforcement; imposing sanctions in case of violations of regulations and promoting passenger awareness. NCAA's Consumer Affairs Department is concerned with handling passenger complaints as well as consumer protection. It has established the Passenger Bill of Rights which defines substantive rights of air passengers and obligations of airlines. NCAA's roles include implementing international standard for consumer protection based on the Montreal Convention 1999 as set out in the Third Schedule of Civil Aviation Act 2022. Nevertheless, although the roles prescribed by the NCAA to be performed are extensive and appropriate to the task at hand, the findings of the study show that the effectiveness of the regulatory body's ability to fulfil such roles is heavily undermined by organisational problems.

The findings show a major gap between the rights of passengers as established under law on one side and their effective enforcement on the other side. The statutory rights of passengers include the right to information and transparency; right to compensation for delay and cancellation of flights; right to care and assistance; right to refund and diversion; and finally, the right to safety and security. The effectiveness of enforcing these rights is significantly low.

The results of the study suggest that there are several obstacles to the enforcement process that include low institutional capabilities in the Consumer Affairs Department of NCAA, shortage of financial resources, lack of technical expertise among regulators, and lengthy complaint resolution process. On average, it takes about eighteen months for NCAA to process the complaints of the passengers. In this regard, this mechanism cannot be considered as a solution to the problem because it does not serve its purpose effectively. It should also be

noted that passengers are unaware of their rights in terms of airline transportation. There is no information about the violation of their legal entitlements and how they can address the problem. Finally, airlines continue to violate the rules of protection of passengers' interests, which includes refusal to provide compensation for flight disruption, lack of provision of necessary assistance, and provision of passengers' rights information. Airlines use some loopholes in the legislation to justify their behaviour by mentioning the existence of extraordinary circumstances without presenting any evidence that these circumstances had actually occurred and led to flight disruption.

In terms of enforcement, there are several different institutional mechanisms identified from the research that could be used to enforce passenger rights in Nigeria. The main enforcement mechanism is administrative enforcement conducted by the Nigerian Civil Aviation Authority's Consumer Affairs Division with the power to investigate complaints, find out liability, and instruct airlines to compensate passengers for their damages. Moreover, it is possible to use the jurisdiction of the Federal Competition and Consumer Protection Commission in relation to consumer complaints regarding aviation with an emphasis on issues of unfair business practices. Further, contractual enforcement can take place based on the internal complaints procedure of airlines, as airlines are obliged by law to notify the passenger about his/her complaint within three working days and provide written decision in fourteen days' time. Additionally, statutory compensation is provided for through the compensation schemes developed under the Nigerian Civil Aviation Regulations 2023 where automatic compensation can be awarded to passengers irrespective of liability. Finally, tort or common law enforcement is possible through tort proceedings in Nigerian courts. But the research results show that these institutional methods work much less effectively than it may seem from the theoretical perspective. First, the NCAA is constrained in its ability to enforce its regulations by lack of resources, inadequate technical skills, poor management of cases,

and inefficient mechanisms for enforcing compliance with NCAA decisions on the airlines' part. Second, involvement of the FCCPC only creates problems due to overlapping of mandates between the two organisations, which leads to disputes about jurisdiction when particular complaints arise and results in duplication of efforts. Third, airline complaint handling does not provide protection to travellers as airlines are able to assess liability independently and often deny compensation requests. Fourth, statutory compensation options face limitations associated with the application of extraordinary circumstances provisions by the airlines without sufficient proof of those. Finally, tort remedy option exists theoretically but in practice faces severe time delays caused by inefficient Nigerian court system, excessive costs of litigation, and incompetence of judges in aviation matters.

Several classes of barriers exist as per the research finding that prevent effective protection and enforcement of passenger rights according to the Nigerian aviation legislation. Institutional barriers entail insufficient financing and manpower of the NCAA's Consumer Affairs Department which runs with skeleton crew who lack sufficient expertise in the areas of aviation legislation and issues pertaining to passengers' rights protection. NCAA does not have an effective information technology base for effective handling of cases and experiences serious delay in handling the investigations and making decisions on the issues involved. Federal Competition and Consumer Protection Commission does not possess any specialised knowledge of aviation legislation, leading to institution conflict and jurisdictional overlaps, hence confusion and delay in handling disputes. The legal and regulatory barriers include the lack of clarity regarding the interaction between the liability regime under Montreal Convention and the statutory compensation system within the Nigerian Civil Aviation Regulations of 2023, leading to ambiguity about the applicability of certain compensation system. Airlines use such ambiguities to evade their responsibilities of providing compensation to passengers. The airline cites extraordinary circumstances due to the

existence of adverse weather conditions, air traffic control problems, and problems in the design of the plane without offering adequate proof of the connection between the extraordinary circumstances and the disruption of flights. The procedural constraints are related to the lengthy period it takes to handle complaints through the administrative process, thus making the administrative remedy unworkable in light of the expenses involved in going to court. Judicial remedies are constrained by the fact that the Nigerian courts have a backlog of cases as well as the lack of competence on the part of judges in handling aviation law cases. The capacity constraints are due to the lack of passenger awareness of their rights and remedies, thus hindering the enforcement of such rights. Issues related to enforcement include the lack of significant punishment that could be inflicted by regulatory authorities in order to enforce compliance with passenger protection rules, thus allowing airlines to defend themselves against any measures without fear of punishment. Airlines have not been heavily punished due to a lack of compliance with passenger protection rules. Issues related to the systemic problems include the dominance of concerns regarding the solvency of the airlines over passengers' rights, resulting in lenient enforcement practices against airlines. Passenger rights are also generally seen as something that impedes airlines from making profits.

The research results reveal that despite the existence of several means of relief available to passengers in instances where their rights under Nigerian aviation law have been infringed upon, they are insufficient and inaccessible, besides being untimely. The administrative measures available via the NCAA include compensation for delay and cancellation of flights, refunding and rebooking of flights in cases of cancellations, and provision of care and assistance during disruption. However, given that it takes eighteen months on average to resolve matters at the NCAA, the said remedies cannot be considered effective for passengers in need of relief. Moreover, the exceptional circumstances rule significantly curtails the scope for obtaining any compensation because airlines effectively

exploit force majeure clauses in many cases. It should be noted that the rulings of the NCAA do not apply in all cases since there are instances when airlines dispute them or choose not to pay compensation for various reasons. The scope for obtaining relief via the NCAA is also restricted since it cannot order c Remedies provided via statutory provisions through the compensation schemes put in place through the Nigerian Civil Aviation Regulations 2023 offer compensation automatically without the need to prove fault but are subject to the exceptions clause, which applies in extraordinary circumstances. Remedies in torts and common laws have been shown to be thorough, but they cannot be accessed due to the high costs associated with litigations, the long period required to litigate cases in Nigerian courts, and the need for representation of passengers by attorneys. It takes about five to ten years to litigate civil cases in Nigerian courts, making judicial remedies impractical because the amount of compensation involved might be lower than the cost of litigation. In summary, remedies available to passengers are insufficient in scope, inaccessible to most passengers due to cost and process, and untimely in application.

5.2 Recommendations

From the findings of the above study, the following are some important recommendations which need to be taken into consideration with a view to enhancing the protection and implementation of passenger rights under Nigerian aviation law:

1. Significant increase in funds and staffing at the Nigerian Civil Aviation Authority is needed so as to allow the authority to implement its mandate in terms of consumer protection. This is the most important of all the recommendations because the NCAA is currently not capable of implementing passenger protection legislation due to lack of capacity. In particular, the Consumer Affairs Department needs to be boosted

through hiring of additional personnel to include more complaint investigators, lawyers, and aviation lawyers specialising in consumer protection laws.

2. It is imperative that the Civil Aviation Act 2022 be amended with specific provisions that unequivocally clarify how the compensation regimes under the Montreal Convention liability regime interrelate with the domestic compensation regime created under the Nigerian Civil Aviation Regulations. This is necessary in view of the fact that there exists one main cause of uncertainty which airlines take advantage of to refuse compensating passengers. The amendment should define when a particular type of flight comes under the compensation regime of the Montreal Convention and when it falls under the domestic compensation scheme. In addition to the above, the NCAA should also issue implementing guidelines that define the circumstances under which the different flight types can be said to come under the Montreal Convention. This is to remove the main cause that makes airlines deny passengers' compensation claims.
3. The Nigerian Civil Aviation Regulations need to be substantially revised so as to make it difficult for airlines seeking an exception based on an extraordinary circumstance to prove such an occurrence by raising the burden of proof. This is important since the use of the extraordinary circumstances exception has led to ineffectiveness of statutory compensation schemes as a result of abuse. The airline ought to provide clear documentation showing that such extraordinary circumstances were encountered, the circumstances being outside the control of the airline, unpredictable, and also that the airline was unable to prevent or mitigate the situation despite taking all the necessary precautions. Exhaustive definitions of situations considered extraordinary circumstances ought to be outlined in these regulations,

including weather conditions, security concerns, air traffic control issues, and mechanical faults in aircraft.

4. A robust educational campaign among the passengers should be launched through the NCAA in partnership with the Federal Competition and Consumer Protection Commission. This suggestion comes from the fact that the main challenge facing consumers is ignorance about the various consumer rights that exist. The airlines should make it a requirement to publish standardised information about consumer rights using simplified and understandable language, which should be made available at the time of reservation, at the ticket counters, online at the airline's website, and at the airports. The content of the information should include the definition of extraordinary circumstances, under what conditions compensation should be claimed, and the procedure involved in claiming compensation, among other things. The airlines should also make this information available in major Nigerian languages alongside English.
5. A specialist tribunal needs to be created by law with binding powers to deal with consumer grievances against air services companies efficiently. The reason behind this recommendation is the failure of available grievance redressal options to provide an easy route for passengers seeking justice. The tribunals would conduct their hearings following an uncomplicated procedure that does not need the services of legal professionals. This means that the process will be easily accessible to common passengers who lack adequate resources. Tribunals should exercise binding powers to compel airlines to take actions including paying compensation to affected parties and can be subjected to contempt proceedings if they fail to honour the decisions of the tribunal.

5.3 Conclusion

This study has undertaken an extensive evaluation of the rights of the passengers within the Nigerian aviation law, systematically responding to the research questions as well as the objectives that have been set out as the focus of this research. This research has examined the critical role of the Nigerian Civil Aviation Authority in ensuring the enforcement of the passenger rights, the effectiveness of such enforcement, the mechanisms available for enforcement and their effectiveness, the obstacles to effective enforcement of the passenger rights, and whether the remedy provided is adequate and accessible. The findings from this research indicate that although Nigeria has a good legal regime to protect the rights of the passengers, its effectiveness is severely undermined by the failure to implement it and other obstacles. The discrepancy between what the law says and what it practices constitutes the key issue in ensuring passenger rights in Nigeria. These six recommendations discussed in this chapter require structural change rather than mere improvement in order for passenger protection to be attained. Such recommendations have been made based on the findings of the research, and each of them addresses a particular problem or gap as highlighted within this study. Enhancement of the institutional capacities of the NCAA addresses the essential pre-condition for enforcement and stems from the finding that limitations within such institutions are what prevent passenger protection. Clarity regarding the relevant legal regimes addresses the main legal means of evasion by airlines when it comes to compensating passengers, and this recommendation is based on the finding that legal evasion of responsibility is common practice. The strengthening of standards regarding extraordinary circumstances addresses the most often utilised means of evading responsibility on the part of airlines, and the reason for doing this is the finding that force majeure clauses are widely abused. Creation of a specialised tribunal addresses the issue of inefficiency of existing remedial means and is based on the corresponding finding within this study. The elimination of overlapping

jurisdictions will remove the confusion that prevents airline accountability and addresses the conclusion that institutional disputes lead to delays and redundant investigations.

These recommendations can be effectively enacted through political will, budgeting, and institutional coordination. In particular, the Nigerian Civil Aviation Authority should be made powerful enough to perform the responsibilities that have been mandated for it. The laws governing such regulations need to be clear so that they are not circumvented easily. The connections between regulatory institutions must be clarified and harmonised in order to ensure complementary actions that will make regulations more effective. The travelling public needs to know their rights and how to exercise them. It is possible to implement these changes within a period of three to five years. This would be quite an achievement as regards consumer protection and human rights in Nigeria. Enacting these changes would convert passenger protection, which currently is a right on paper, to a practical experience.

The issue of protecting passenger rights affects not just the individual passenger but also the wider field of aviation in general and Nigerian society as a whole. Passenger rights refer to the rights of customers that must be protected from exploitation and discrimination, and human rights that need to be respected in the light of the Nigerian Constitution and human rights conventions at the international level. Airlines that follow internationally accepted standards of passenger rights and have satisfied customers can gain an advantage in the competitive world of international air travel and also attract both business and holiday travelers. The certainty in the law concerning passengers' rights will protect airlines from unnecessary litigation and allow them to plan their operations more efficiently.

BIBIOGRAPHY

Books

Howells, G., Weatherill, S. and Wilske, T., Consumer Law (4th edn, Edward Elgar Publishing 2022).

Nafziger, J., *The Law of International Carriage of Goods by Air* (4th edn, Kluwer Law International 2021).

Tsagourias, N. and White, A., *International Aviation Law* (3rd edn, Hart Publishing 2023).

Journal Articles

Abdullahi, M., 'Alternative Dispute Resolution in Aviation: A Comparative Study' *African Journal of Aviation Studies* (2023) 7(2), 134-162.

Alkhalaf, M. N., 'Passenger Rights and Airline Responsibilities Under International Treaties' (2024) *An In-Depth Look at Aviation Law and Sustainable Development Goals*.

Banerjee, J., 'Power Imbalances in Airline Passenger Contracts: A Critical Review' [2021] (46) (1), 23-45 *Air and Space Law Journal*.

Campbell, E., 'Access to Justice and Administrative Remedies' *Administrative Law Review* (2023) 75(1), 89-117.

Kamal, S. P., 'International Standards and Harmonisation in Aviation Law' *Journal of Air Law and Commerce* (2022) 88(4), 512-545.

Marks, S. P., 'Human Rights and Air Transport: An Evolving Framework' [2020] (45) (6), 789-812 *European Human Rights Review*.

Sharma, P., 'Liability Regimes in International Air Law: The Montreal Convention Framework' [2023] (5) 1(3), 478-501 *International and Comparative Law Review*.

Toye, A., 'The Nigerian Aviation Industry and Regulatory Challenges' (2010) 4 *Journal of Transport Law* 112.

Internet Materials

Abili, E., "Impact of the Convention for the Unification of Certain Rules for International Carriage by Air 1999 to the Nigerian Aviation Industry" <https://www.researchgate.net/publication/398536984_ImpactofTheConventionforTheUnificationofCertainRulesforInternationalCarriagebyAir1999ToTheNigerianAviationIndustry> accessed on 17 April 2026.

Agbakoba, O., "The Montreal Convention and Aviation Accidents: Passenger's Rights and Liabilities of Airlines" <<https://old.oal.law/montreal-convention-and-aviation-accidents-passengers-rights-and-liabilities-of-airlines/>> accessed on 17 April 2026.

Akinkugbe, A. O. O., 'Consumer Protection in the Nigerian Aviation Industry: Balancing Profitability and Passengers' Rights' <<https://ao2law.com/consumer-protection-in-the-nigerian-aviation-industry-balancing-profitability-and-passengers-rights/>> accessed 14 January 2026.

Adebayo, M., 'An Overview of Passenger's Right under Nigeria Aviation Law' <<https://www.linkedin.com/pulse/overview-passengers-right-under-nigeria-aviation-law-mariam-adebayo>> accessed 12 December 2025.

Badmos, A., 'The Applicability of the Revised Limits of Liability under the Montreal Convention to Civil Aviation Claims in Nigeria' <<https://spaajibade.com/the-applicability-of-the-revised-limits-of-liability-under-the-montreal-convention-to-civil-aviation-claims-in-nigeria-abdulkabir-badmos>> accessed on 15 April 2026.

Federal Ministry of Aviation and Aerospace Development, Strategic Aviation Development Plan (Federal Republic of Nigeria, 2012)
<<http://aviation.gov.ng/uploads/topics/17417200777940.pdf>> last accessed 9 April 2026.

International Air Transport Association (IATA), 'Passenger Rights and Obligations' (2023)
<<https://www.iata.org/en/youandiata/travelers/passenger-rights/>> accessed on 24 April 2026.

Kimani and Kirimi, "Revised Limits of Liability under The Montreal Convention 1999"
<<https://www.mondaq.com/aviation/878842/revised-limits-of-liability-under-the-montreal-convention-1999>> accessed 15 April 2026.

Obadina, I., "Air Carrier's Liability for Aviation Injuries in Nigeria"
<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3742902> accessed on 17 April 2026.