



Rights and Liabilities in Nigerian Passenger-Air Carrier Relationships

1.0 INTRODUCTION

Altercations between passengers and crew members recently went viral on different social media outlets and ignited both informed and uninformed conversations on the rights and liabilities of passengers and crew members under the Nigerian civil aviation law. On Tuesday, August 7, 2025, a popular Fuji musician known as Wasiu Ayinde (K1 De Ultimate) (the “**K1**”) was captured in viral footage supposedly blocking a ValueJet aircraft from taxiing at the Nnamdi Azikwe International Airport, Abuja.¹ The footage showed that the pilot attempted to take-off notwithstanding the attempt to stop it from doing so. K1 narrated in his clarification video that he was denied boarding the aircraft over his resistance to allowing the cabin crew to inspect the contents of the hand-flask that he had brought into the cabin.²

A few days after this incident, another video footage sparked further “buzz” on social media on Sunday, August 10, 2025, where one Miss Comfort Emmanson (the “**Emmanson**”) was undignifiedly dragged out of an aircraft operated by Ibom Airlines.³ In the press statement released by the airline on August 11, 2025, it was stated that Emmanson was instructed to switch off her mobile phone for take-off in line with standard aviation safety procedure which she refused to do until a fellow passenger took the phone and switched it off for the flight to take off.⁴ The press statement further stated that upon arrival at the point of destination in Lagos, there were further altercations which resulted in Miss Emmanson attempting to assault some of the crew members before she was forcibly removed from the aircraft.

These recent squabbles and the resultant public debates as to the legality or otherwise of the acts of the parties involved in these passenger-crew altercations prompted us to properly examine and analyze the rights and liabilities of passengers, airline operators and crew members under the Nigerian civil aviation law. In this article, we examined the statutory provisions governing airline-passenger rights and liabilities, including the Constitution of the Federal Republic of Nigeria, 1999 (the “**CFRN**”), the Civil Aviation Act, 2022 (the “**CAA**”), and the Nigeria Civil Aviation Regulations, 2023 (the “**NCAR**”).

We conclude that the airline (including its crew) and the passenger each have respective rights and liabilities that accrue from their contractual relationship as well as from statutory provisions. Some of these rights include the passenger’s right to be treated with dignity and non-discrimination, compensation for an unwarranted delay, denial or cancellation of flight, and compensation for a passenger’s injury or death. On the other hand, the airline has the rights to overbook its flight, cancel or even delay a flight. We have expounded further on these rights and the accompanying liabilities in succeeding paragraphs of this Article. The likely ignorance or low awareness of the existence of these rights and liabilities by the relevant parties, in our opinion, contributed to the recent squabbles and resultant varying public reactions.

Notably, this article is subdivided into five parts. The first part is the introduction section, and the next part of the article discusses the nature of the passenger-air carrier relationship under contract. In the third part, we discuss the rights and liabilities of passengers and air carriers under the statute and the contract, while the fourth part contains our commentary on the recent altercations in the industry.

The last part of the article reflects our conclusion and recommendations. These are that both the air carriers and the passengers have rights and liabilities enshrined in the statutes and the carriage contracts signed by the parties. International conventions also provide specific standards for compliance by the relevant stakeholders. It has also become evident from the reactions of the members of the public on these issues that there is indeed a low level of awareness and understanding

¹ Okiki Adeduyite ‘NCAA stops Fuji Star K1 de Ultimate from Flying for Six Months’ (Punch, August 5, 2025) <https://punchng.com/ncaa-to-blacklist-fuji-star-k1-de-ultimate-for-six-months-over-airport-conduct/> accessed on August 17, 2025.

² The clarification video can be accessed at <https://web.facebook.com/watch/?v=4005819849657316> accessed on August 17, 2025.

³ The video can be assessed via <https://www.youtube.com/watch?v=Olfb18uFiRo> accessed on August 17, 2025.

⁴ The press release can be accessed on the X account of Ibom Airline at <https://x.com/ibomairlines/status/1954841363297574930/photo/1> accessed August 17, 2025.

of these rights and liabilities in a passenger-air carrier relationship and a continued sensitization is required.

2.0 PASSENGER-AIR CARRIER RELATIONSHIP UNDER CONTRACT

The aviation industry, like most industries, involves multiple stakeholders such as the regulators, passengers, crew members, airlines, airport authorities, insurers, service providers. In addition to the relevant statutes, there are contracts such as the passenger-air carrier, aircraft charter, air-carrier-cargo owner, aircraft leasing, aircraft mortgage and security, aviation employment and airline-airline contracts that bind one or more stakeholders. In this section of the article, we have focused on the passenger-air carrier relationship as stipulated under the airline contract of carriage by air as impacted by statute and regulation.

A contract of carriage involves an agreement between a passenger and an air carrier (airline) by which the latter agrees to fly the former and/or his baggage from a point of departure to a point of destination. Notably, the contract of carriage becomes binding upon the execution/acceptance of the airline's terms and conditions by the passenger, after which a ticket will typically then be issued to the passenger.⁵ The contract, however, becomes operative upon embarkation, that is, when the passenger boards the aircraft.⁶

In every legal contractual agreement, each party is saddled with rights and liabilities which are enforceable in law. The situation is not different in contracts of carriage by air as both the passenger and the air carrier have their respective rights and liabilities as contained in the ticket,⁷ fare rules, the terms and conditions of the airline and the relevant laws and regulations. In the case of any inconsistency between the condition(s) of carriage and any extant statute or any regulation thereto, the statute/regulation prevails to the extent of the inconsistency.⁸ Moreover, where any particular condition(s) of carriage is invalid under any applicable law, other conditions of the carriage may remain valid and binding so long as they do not contradict any law.⁹

3.0 RIGHTS AND LIABILITIES OF PASSENGERS AND AIR CARRIERS

Generally, the rights and liabilities in passenger-air carrier relationships are stipulated by statutes and contracts. The rights and liabilities contained in relevant statutes are considered implied in any contract of carriage by air. On the other hand, a contract executed by the parties physically or electronically would also give rise to additional rights and liabilities not already provided under the law.

Due to the "superior" position of the air carriers, passengers are in practice typically unable to negotiate the terms and conditions of the carriage contract. In this section, we examine the general rights and liabilities of passengers and air carriers as contained in the conditions of carriage and under relevant statutes.

3.1 Rights of Passengers

To fully examine the rights and liabilities of passengers in Nigeria, recourse must be made to both the relevant contract as well as to the applicable laws. Most of the rights and liabilities under contracts are embedded in the relevant statute. Some of these rights include the rights to be informed, to carriage,

⁵ This contract is usually disclosed in the "Terms and Conditions" section when booking an airline ticket, which must be accepted before the flight booking can be paid for and completed. Accepting these terms signifies that the passenger has read, understood and accepted to be bound by the "contract" for the flight. See also *KLM Royal Dutch Airlines v. Taher* (2014) 3 NWLR (Pt. 1393) 137.

⁶ *Ibid.*

⁷ *Emirate Airline v. Ngonadi (No. 2)* (2014) 10 NWLR (Pt. 1413) 506 at 536A-B.

⁸ E.g. ValueJet, 'Terms and Conditions: Agreement between you and ValueJet' Article 2.4.1 <https://flyvaluejet.com/terms-and-conditions#article-2> accessed on September 20, 2025; IbomAir, 'Conditions of Carriage' Article 2.4 <https://www.ibomair.com/conditions-of-carriage/> accessed on September 20, 2025.

⁹ E.g. ValueJet, 'Terms and Conditions: Agreement between you and ValueJet', Article 2.4.2

to be compensated for delay, to baggage protection, to compensation, to non-discrimination, and of human dignity. Each of these rights is briefly explained below:

3.1.1 Right to Information

A passenger is entitled to be duly informed of the reason(s) for any cancellation, delay or denial of boarding the aircraft. Part 19 of the NCAR requires the passengers to be informed of any cancellation at least twenty-four (24) hours before the scheduled time of departure in the case of domestic flights, or seven (7) days prior in the case of international flights.¹⁰ In further protecting the right of information of passengers, NCAR obligates any operating airline to display a clearly legible notice in a manner that is clearly visible to passengers: *“if you are denied boarding or if your flight is cancelled or delayed for at least one hour, ask the airline officials for a written statement of your right”*.¹¹ Besides, each passenger affected should be provided with a written notice setting out the procedures for compensation and assistance.¹² The procedures for compensation are discussed later in this article.

Where a passenger is illiterate or suffers any disability, appropriate alternative means should be adopted to inform the passenger of his/her rights.¹³ In cases of tarmac delay after the doors of the aircraft are closed for take-off, the reason for the delay and status updates must be provided to the passengers every 30 minutes.¹⁴ A passenger is entitled to information about all documents required to be presented at check-in, check-in deadlines, refund and rebooking policies, and procedures concerning delayed and cancelled flights.¹⁵

The right of information of a passenger also extends to being informed, before purchasing the ticket, of all the terms and conditions of carriage (usually in an airline’s fare rules and terms and conditions). Most airlines require their prospective passengers to accept these fare rules electronically before booking their flights. The format mostly used is *“By clicking this box, I accept the airline’s Fare Rules and Terms and Conditions as relating to my booking and use of my personal information”*.¹⁶

3.1.2 Right to Carriage and Safety

Upon the issuance of the air ticket, the passenger is entitled to be carried safely to his/her place of destination. The right to carriage of the passenger is, however, not absolute as it is always subject to the right of the air carrier to reasonably deny boarding, cancel or even delay the flight. This point was expatiated upon in the Nigerian case of *KLM Royal Dutch Airlines v. Taher*,¹⁷ where the court held that:

“...contracts of carriage by air are peculiar kind of contract because the airline can decide whether to fly or not to fly a passenger and his baggage. Therefore, an air traveller cannot assume that if he holds the air ticket of a particular airline, the airline must honour the flight arrangements. The conditions of carriage make it clear that the airline’s promise to fly in the air ticket is highly conditional and that the passenger cannot legally force the airline to fly him on a particular flight. The conditions of carriage contain the airline’s rights to deny boarding, delay or cancel the flight which apply even after the passenger has checked in ... Therefore, an agreement to carry a passenger or property in air transportation is deemed to include an agreement that the passenger or property will not be carried if the passenger’s documentation is seen as being suspicious or if the passenger does not appear to be in possession of valid travel documents or appear to be fraudulent or otherwise suspicious. The decision by

¹⁰ NCAR 2023, Part 19, regulation 19.7.1.1.

¹¹ *Ibid.*, regulation 19.17.1.1.

¹² *Ibid.*, regulation 19.17.1.2.

¹³ *Ibid.*, regulation 19.17.1.3.

¹⁴ *Ibid.* regulation 19.6.3.

¹⁵ *Ibid.*, regulation 19.21.

¹⁶ ValueJet, ‘Your Trip Details’ <https://flyvaluejet.com/flight-result?requestInfo=dep:%27ABV%27,arr:%27JOS%27,on:%272025-10-15%27,till:%27%27,p.a:1,p.c:0,p.i:0> accessed on October 6, 2025.

¹⁷ (2014) 3 NWLR (Pt. 1393) 137.

an airline to carry a passenger is discretionary based on the given circumstances. The most important aspect of that principle is that the discretion must be exercised reasonably.”[

The right of the airline not to fly is, as earlier mentioned above, also subject to providing the passenger with adequate and timely feedback on that decision as well as paying the stipulated compensation. We now consider the right to compensation.

3.1.3 Right to Compensation for Delay

Compensation is defined by the NCAR as “direct and/or indirect monetary and/or non-monetary benefits offered to passengers whose rights have been infringed upon.”¹⁸ CAA confers on the Nigeria Civil Aviation Authority (the “**Authority**”) the power to make regulations for the payment of suitable compensation to passengers.¹⁹ NCAR provides that any passenger that is denied boarding²⁰ or whose flight is lengthily delayed²¹ or cancelled²² shall be entitled to compensation. The compensation to be received by the passenger is at least 25% of the passenger’s ticket price in the case of a domestic flight, or 30% in the case of international flights.²³

Before a passenger will be entitled to compensation for a flight delay, it must be a lengthy delay, namely where the expected time of departure is more than six (6) hours after the time of departure. The airline may not be liable to pay compensation where the delay is caused by extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.²⁴ Also, the passenger’s right to compensation will not crystallize where the airline informed the passenger of the cancellation at least twenty-four (24) hours before the scheduled time in the case of a domestic flight,²⁵ or seven (7) days in the case of an international flight.²⁶ Notably, the right to compensation also arises where a passenger’s baggage is delayed, lost or damaged.²⁷

3.1.4 Right to Baggage Protection

Baggage refers to the personal property of passengers or crew carried on an aircraft.²⁸ Passengers have the right to the protection of their baggage from destruction, damage and loss.²⁹ Should the baggage of a passenger be destroyed, damaged or lost, the passenger will be entitled to compensation.³⁰ This is explained further in 3.1.6 below.

3.1.5 Right to Non-Discrimination

A passenger should not be discriminated against on any basis, whether as to sex, age, race or otherwise.³¹ The right to non-discrimination is rooted in the CFRN.³² It is based on this that the Authority makes a special regulation for persons with reduced mobility or special needs under regulation 19.12 of NCAR Consumer Protection.

3.1.6 Right to Dignity of Human Person

¹⁸ NCAR 2023, Part 19, regulation 19.1.2.1.

¹⁹ CAA 2022, section 102.

²⁰ NCAR 2023, Part 19, regulation 19.4.

²¹ *Ibid.*, regulation 19.6.

²² *Ibid.*, regulation 19.7.

²³ *Ibid.*, regulation 19.8.1(a) and (b).

²⁴ *Ibid.*, regulation 19.6.1.1(d) - 19.6.1.2.

²⁵ *Ibid.*, regulation 19.7.1.1(c).

²⁶ *Ibid.*, regulation 19.7.1.1(d).

²⁷ *Ibid.*, regulation 19.18.

²⁸ *Ibid.*, regulation 19.1.2.

²⁹ CAA 2nd Schedule, Article 17(2).

³⁰ NCAR regulation 19.18.2.1(a) and (b); CAA, 2nd Schedule, Article 17(2).

³¹ *Ibid.*, regulation 19.12.1.2.

³² CFRN 1999 section 42.

Every passenger has the right to the dignity of the human person, such that (s)he should not be subject to torture or to inhuman or degrading treatment.³³ Though this right is constitutionally rooted in the CFRN, it also applies to the passenger-air carrier relationship. While the breach of this right does not entitle the passenger to any express compensation under the NCAA, an action for breach of fundamental right may be maintained under the Fundamental Rights (Enforcement Procedure) Rules, 2009.

3.1.7 Right to Compensation for Death or Injury

Where an aircraft accident occurs which causes the death or injury of any passengers, each passenger or his/her legal representative is entitled compensation.³⁴ For the right of compensation for death or injury to be due, the death or injury must have taken place while the passenger is on board or while embarking or disembarking.³⁵ Where the damages payable by the air carrier does not exceed USD100,000, there will be exoneration upon sufficient proof of contributory negligence or the wrongful act or omission of the passenger.³⁶ However, where it exceeds USD100,000, the air carrier cannot exclude or limit its liability except the negligence or wrongful act or omission was not from it or its servant or agents, or it was solely due to the negligence or wrongful act or omission of the third party.³⁷

3.1.8 Right to Care

A Passenger shall be entitled to refreshment (water, soft drinks, confectioneries/snacks), a meal, hotel accommodation, and transport between the airport and place of accommodation³⁸ when there is a flight delay for more than two (2) hours,³⁹ or tarmac delay⁴⁰ unless the pilot-in-command determines that food and water service cannot be provided due to safety or security reasons.⁴¹

3.1.9 Right to Cancel Reservation and Refund

For tickets purchased at least seven (7) days before the scheduled departure date and time, a passenger may cancel the ticket reservation no later than twenty-four (24) hours after purchase, and the air carrier is bound to refund the full ticket purchase price or permit the passenger to reserve (place on hold) the ticket for six (6) months.⁴² This right is expressly stated in most conditions of carriage by the airlines.⁴³

3.1.10 Right of Reimbursement or Re-routing

In the event of a delay,⁴⁴ significant change in schedule⁴⁵ or flight cancellation, passengers may also be entitled to reimbursement⁴⁶ or re-routing in some circumstances. Reimbursement is by way of cash which shall be immediately payable for domestic flights or within fourteen (14) days for international flights.⁴⁷ On the other hand, re-routing is expected to be offered under transport conditions comparable to the passenger's destination at the airline's earliest opportunity.

³³ *Ibid.* section 34.

³⁴ CAA section 55(3).

³⁵ CAA 2nd Schedule, Article 17(1); *Harka Air Serv. Nig. Ltd. v. Keazor* (2011) 13 NWLR (Pt. 1264) 320.

³⁶ *Ibid.* Article 20(2).

³⁷ *Ibid.* Article 21(1) and (2).

³⁸ NCAR Part 19, regulation 19.10.

³⁹ *Ibid.*, regulation 19.6.1.1(a).

⁴⁰ *Ibid.*, regulation 19.6.3.1(d).

⁴¹ *Ibid.*, regulation 19.6.3.5(d).

⁴² *Ibid.*, regulation 19.9.2.

⁴³ IbomAir, 'Conditions of Carriage' Article 3.3.2; ValueJet, 'Terms and Conditions: Agreement between you and ValueJet', Article 9.2

⁴⁴ *Ibid.*, regulation 19.6.1.1(b).

⁴⁵ *Ibid.*, regulation 19.6.4.1(b).

⁴⁶ *Ibid.*, regulation 19.15.

⁴⁷ *Ibid.*, regulation 19.9.1.

A passenger may also be entitled to reimbursement within thirty (30) days from the date of travel where the air carrier places the passenger in a class lower than that for which the ticket was purchased. The reimbursement in this circumstance will be the difference between the price of the class purchased and the class given, plus 30% of the price of the ticket for domestic flights payable immediately and 50% of the price of the ticket for international flights payable within 14 days.⁴⁸

3.2 Liabilities of Passengers

Apart from the rights of passengers discussed above, there are also possible liabilities for wrongdoings. Some of these liabilities are briefly discussed below.

3.2.1 Liability of Passenger for Refusing Security Checks

The conditions of carriage require the passenger to permit search and scanning to be carried out both on his person and baggage.⁴⁹ Any passenger who refuses to submit himself or his baggage for security checks before boarding an aircraft commits an offence punishable upon conviction with a fine of at least Five Hundred Thousand Naira (₦500,000).⁵⁰

3.2.2 Liability of Passenger for Forgery or Counterfeiting

Any passenger who willingly and knowingly forges or counterfeits, alters or falsely makes any document issuable by the Authority or airline commits an offence punishable upon conviction to a fine not more than One Million Naira (₦1,000,000) or not more than one year imprisonment, or both.⁵¹

3.2.3 Liability of Passenger for Interfering with Air Navigation

Any person who unlawfully interferes or attempts to interfere with the operation of air navigation and meteorological facilities in a manner that endangers the safety of aircraft in flight is liable upon conviction to a fine of at least Two Million Naira (₦2,000,000) or at least one year imprisonment, or both.⁵²

3.2.4 Liability of Passenger for Hijacking

A passenger commits the offence of hijacking when he onboards an aircraft in service unlawfully and intentionally either by force, threat, coercion or intimidation or by any technological means and seizes or exercises unlawful control of an aircraft.⁵³

3.2.5 Liability of Passenger for Endangering the Safety of an Aircraft

Any person (passengers inclusive) who commits an act of violence against a person onboard during aircraft flight which is likely to endanger the safety of the aircraft and/or its passenger, destroys an aircraft or causes damage to the aircraft in a manner that renders the flight incapable of flying can be convicted of an offence punishable with life imprisonment without option of fine.⁵⁴

3.2.6 Liability of Passenger for Interference with Crew Members

A passenger onboard a flight will be liable for an offence where he interferes with a crew member while onboard which act in turn hinders or prohibits the performance of the crew member's duties. This offence is liable on conviction to a fine of not more than Two Hundred Thousand Naira (₦200,000) or imprisonment for a term of at least two months, or both.⁵⁵

⁴⁸ *Ibid.*, regulation 19.11.

⁴⁹ IbomAir, 'Conditions of Carriage' Article 9.8; ValueJet, 'Terms and Conditions: Agreement between you and ValueJet', Article 8.5.

⁵⁰ CAA 2022, section 48(1)-(3).

⁵¹ CAA 2022, section 80.

⁵² *Ibid.*, section 82.

⁵³ *Ibid.*, section 83(1).

⁵⁴ *Ibid.*, section 84.

⁵⁵ *Ibid.*, section 85(1).

3.2.7 Liability of Passenger for Assault and Battery against Crew Members

A passenger also commits an offence when he assaults, intimidates or threatens any crew member, including attendants, stewards or stewardesses, or engages in an unruly behaviour onboard. The passenger will be liable upon conviction to a fine of at least Two Hundred Thousand Naira (₦200,000) or at least two-months imprisonment or both.⁵⁶

3.2.8 Liability of Passenger for Operating Mobile Phone or any Instrument against the Instruction of Pilot-in-Command

Airlines typically reserve the power to forbid or limit the use of electronic devices.⁵⁷ A pilot-in-command may instruct any person onboard not to use or operate any equipment or device including a mobile phone that may interfere with the aircraft radio frequency or other navigation equipment. Failure to comply with such instruction constitutes an offence punishable upon conviction with a fine of Two Hundred Thousand Naira (₦200,000) or at least two-month imprisonment, or both.⁵⁸

3.3 The Rights of an Air Carrier

3.3.1 Right of Obedience

Air carriers are entitled to have all their instructions obeyed by the passengers. The instruction of the airline includes any instruction given by the crew members, especially the pilot-in-command. For instance, where the pilot-in-command instructs a passenger not to use or operate any equipment or device, including mobile phones, such instruction must be strictly obeyed by every passenger so instructed.⁵⁹

3.3.2 Right to Delay, Cancel or Deny Boarding

It is the airline that decides whether the aircraft should fly or not, depending on weather conditions and other technical reasons. As a result, an air carrier may decide to delay flight take-off subject to the rights of the passengers to information, reimbursement and compensation.⁶⁰ The right of an air carrier extends to denying any passenger of boarding for reasons not limited to oversold flights and non-compliance with screening or boarding protocols.⁶¹ An air carrier may also reasonably cancel a flight subject to the rights of the passengers and its liabilities for such cancellation under the law.

3.3.3 Right to Overbook

The law empowers an air carrier to overbook a scheduled flight in contemplation of the possibility of some passengers not showing up for that flight.⁶²

3.3.4 Right of Refusal

In most conditions of carriage, the airline reserves the right to refuse carriage or/and baggage subject to the passenger's right to be notified and informed duly.⁶³ This right was iterated in the case of *KLM Royal Dutch Airlines v. Taher*⁶⁴ where the court emphasized the right of an airline to refuse flying or to deny any passenger of the carriage. Airlines are entitled to exercise this right when: (a) the refusal is necessary to comply with any applicable government laws, regulations or order; (b) the passenger commits a criminal offence during any of the operations (embarkation or disembarkation); (c) the

⁵⁶ *Ibid.*, section 85(2).

⁵⁷ IbomAir, 'Conditions of Carriage' Article 12.2; ValueJet, 'Terms and Conditions: Agreement between you and ValueJet', Article 17.

⁵⁸ *Ibid.*, section 85(3).

⁵⁹ *Ibid.*, section 85(3).

⁶⁰ *KLM Royal Dutch Airlines v. Taher* (2014) 3 NWLR (Pt. 1393) 137.

⁶¹ *Ibid.*

⁶² Regulation 19.3.1.2 of the NCAR 2023.

⁶³ IbomAir, 'Conditions of Carriage' Article 8.1; ValueJet, 'Terms and Conditions: Agreement between you and ValueJet', Article 7.1.

⁶⁴ *Supra*.

passenger fails to observe safety or security instructions of, or obstruct or hinder, ground staff in the performance of their duties; (d) the passenger uses threatening, abusive, or insulting words or behaves in a threatening, abusive or insulting manner to ground staff or members of the crew prior to or during boarding the aircraft or disembarkation from a connecting flight; (e) carriage of the passenger and/or his baggage may endanger the safety or health of other passengers or members of the crew; (f) the passenger is impaired from alcohol or drugs; (g) the passenger refused to submit himself or his baggage for security checks; (g) the passenger fails to observe instructions with respect to the use of electronic equipment; and so forth.⁶⁵ In any case, the passenger may also be entitled to a refund.

3.4 Liabilities of Air Carriers

The following are some of their liabilities.

3.4.1 Liability to extend ticket to the next available flight or refund

Upon the cancellation or delay of flight by the airline or where the airline omits or is unable to supply the passenger with a confirmed seat, it is liable to extend the passenger's ticket to enable the passenger to travel on the next available flight. Alternatively, the airline is liable to honour the passenger's request for a refund.⁶⁶

3.4.2 Liability for Dangerous Flying

An airline operator may become liable for an offence when the aircraft is operated in a manner that endangers the lives and properties in the aircraft. The liability of the air carrier stands regardless of whether it is operated on land, air or water. In such event, the airline, the pilot and any other person having responsibility for the safe navigation of the aircraft commits an offence which is punishable on conviction by a fine of at least Two Million Naira (₦2,000,000) or imprisonment for a term of at least two years, or both.⁶⁷

3.4.3 Liability for Death and Injury of Passenger

As explained above, a passenger or its legal representative is entitled to compensation in the form of damages upon death or injury sustained on the air carrier's aircraft. Therefore, an airline is liable to make advance payments of the Naira equivalent of at least USD30,000 within 30 days of any aircraft accident to each of the passengers.⁶⁸ However, the airline may be wholly or partly exonerated from such liability to the extent that it is proved that the death or injury was caused, or the negligence was contributed to, by the passenger.⁶⁹ Moreso, where the compensation exceeds USD100,000, the air carrier cannot ordinarily exclude or limit its liability except it is proved that the death or injury was not caused by it, its agents or servants, or was caused by the wrongful act or omission of a third party.⁷⁰

3.4.4 Liability for Delay, Cancellation or Denial of Passengers from Boarding

As discussed above, the air carrier will be liable to compensate passengers for any flight delay, cancellation and for unreasonably denying any passenger from onboarding.⁷¹

4.0 COMMENTARY ON THE RECENT ALTERCATION IN THE NIGERIAN CIVIL AVIATION INDUSTRY

Having provided an overview of the rights and liabilities of passengers and air carriers, it is helpful now to comment on the recent altercations mentioned in the introduction to this paper.

⁶⁵ IbomAir, 'Conditions of Carriage' Article 8; ValueJet, 'Terms and Conditions: Agreement between you and ValueJet', Article 7.

⁶⁶ IbomAir, 'Conditions of Carriage' Article 3.3.2; ValueJet, 'Terms and Conditions: Agreement between you and ValueJet', Article 9.2.

⁶⁷ CAA 2022, section 81(1).

⁶⁸ *Ibid.*, section 55(3).

⁶⁹ *Ibid.*, Article 20(1).

⁷⁰ *Ibid.*, Article 21(1) and (2).

⁷¹ *Ibid.*, Article 19.

4.1 K1 vs ValueJet

The event that unfolded between K1 and ValueJet does not exempt either party from liability. The pilot may be liable for dangerous flying under section 81 of the CAA, especially for taking off in a manner that could endanger the safety of any person or property in the aircraft.

On the other hand, K1 may be liable for refusing to submit his baggage for search contrary to articles 7.1.9 and 8.5.1 of the ValueJet's conditions of carriage and section 45(1) of the CAA. Also, he may be liable for attempting to interfere with air navigation contrary to article 11.1.4 of the ValueJet's conditions of carriage and section 82(1) and (3) of the CAA. However, unlike the popular opinion that the act also constitutes hijacking, we say that hijacking, as defined in section 83(1) of the CAA, will only arise when the person is onboard. From the viral footage, K1 was not on board at all.

Therefore, his act cannot be construed to constitute criminal hijacking or attempting to hijack. Moreso, the fact that K1 was issued an air ticket does not obligate ValueJet to allow him to board the aircraft, because the airline has the right to deny embarkation of any passenger for safety and other reasons, subject to its liabilities for compensation or reimbursement. In view of this, it appears that K1 is liable for breaching the terms of the ValueJet's conditions of carriage and the CAA.

4.2 Emmanson vs IbomAir

A careful perusal of what transpired between Emmanson and IbomAir reveals that Emmanson may be liable for failing to switch off her telephone on the instruction of the Pilot-in-command which violates article 12.2 of IbomAir's conditions of carriage and section 85(3) of the CAA. She may also be liable for assaulting the crew member contrary to article 12.1.1 of IbomAir's conditions of carriage and section 85(2) of the CAA. In fact, her act also constitutes interference with crew members in their line of duty, which is an offence under article 12.2 of IbomAir's conditions of carriage and section 85(1) of the CAA.

However, the physical handling of Emmanson by Ibom Air and FAAN officials which also resulted in the indecent exposure of her body infringes on her right to human dignity, which is a constitutional right. Therefore, Emmanson is entitled to enforce her fundamental human rights as provided under the Constitution. In summary, both Ibom Air and Ms. Emmanson are entitled to seek recourse in court for the violation of their individual rights under IbomAir's conditions of carriage and under the Constitution of Nigeria.

5.0 CONCLUSIONS

The passenger-air carrier relationship under a contract of carriage by air is balanced by the set of mutual rights and liabilities anchored on contractual obligations and statutory provisions. The Nigerian Constitution also contains relevant provisions that balances and safeguards the rights and interest of both parties. However, there is need for a reform to incorporate the constitutional rights into the CAA in a manner that befits the peculiarities of passenger-airline relationship.

Airlines, as commercial carriers, bear a significant responsibility to ensure the safety, timely transportation, and fair treatment of their passengers. Their liabilities may arise from various breaches, including flight delays, cancellations, overbooking, loss or damage of baggage, and, in more serious cases, personal injury or death. Domestic aviation laws and international conventions such as the Montreal Convention outline specific standards and compensation mechanisms that airlines must adhere to. Notably, the 2nd schedule of CAA already incorporates the Montreal Convention with minimal moderations.

On the other hand, passengers also have defined rights, including the rights to information, carriage and safety, compensation for delay, baggage protection, non-discrimination, human dignity, compensation for death or injury, right to care, cancel reservation or refund when applicable. These rights are not only derived from the general law but also often reinforced by the terms and conditions accepted upon booking. However, passengers also carry certain responsibilities and liabilities—such

as complying with airline and airport regulations, respecting safety protocols, and not engaging in disruptive or unlawful behavior.

In essence, while the legal landscape seeks to protect passengers from arbitrary or negligent conduct by airlines, it also imposes a level of accountability on passengers to act responsibly. A fair and functional air travel system depends on the mutual observance of these rights and liabilities, ensuring both safety and justice in the increasingly globalized realm of air transport. Consequently, a breach of the rights of passengers may make the air carrier liable, and *vice versa*.

The recent altercation and resulting public commentaries also indicate that many Nigerian passengers are unaware of these rights and liabilities in a passenger-air carrier relationship. It is therefore recommended that continuous sensitization programmes be implemented across the country by the relevant stakeholders in the civil aviation industry, especially by the civil aviation and airport authorities, to increase the awareness and understanding of these rights and liabilities.

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