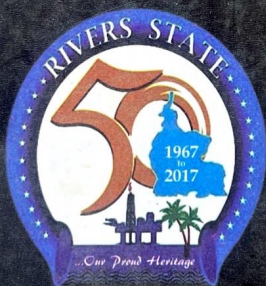


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In Law and Policy

(Current Issues and Trends)



In Commemoration of the Golden Jubilee
of Rivers State (1967 - 2017)

Edited by

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Chapter 33

Civil Aviation Offences under the Nigerian Civil Aviation Act, 2006

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Abstract

Aviation offence is an act of unlawful interference with civil aviation that is punishable by the State. Civil aviation across the globe has suffered from these offences the consequence of which affected the international community as a whole. The paper therefore examines the nature of civil aviation offences under the Nigerian Civil Aviation Act 2006 with a view to knowing what ambivalence(s) are there in the Act. To achieve this aim, the paper adopts doctrinal legal research methodology. It is found that some offences are inexcusably omitted in the Act and that non-inclusion of technological means to commit any of the offences is a grave omission in this 21st century. The paper therefore called for a review of the Act to include these omitted offences so as to be in line with the current Aviation Security Convention, which is 2010 Beijing Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, and Protocol Supplementary to Hague Convention 1970 done at Beijing on 10 September 2010

Introduction

The safety and security of civil aviation against unlawful interference is an obligation *orga omen* of the states of the world. Aviation and its institutions have suffered series of unlawful interferences from the external influence across the globe. Acts such as unlawful seizure of aircraft, sabotage of aircraft, hostage taking of passengers, destruction of airports and their facilities amongst others constitute what is known as Aviation Offences. Aviation offence is an act of unlawful interference with civil aviation that is punishable by the State.

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For the sake of peaceful co-existence and security of air transport and its environ, the States of the World were either adopted the international instruments on Aviation Security¹ and applied them directly, or adopted them and transformed same into their laws for them to be applicable to their local circumstances. In Nigeria, the constitutionality of the adoption and transformation of these international instruments is derived from section 12 of the 1999 Constitution as amended.² In addition, the Constitution goes further to protect individual from being punished for an unwritten or non-existing law, thus, the need for adoption, codification and transformation of these offences into the Nigerian Civil Aviation Act, 2006.³

In this connection, offences such as unlawful seizure of aircraft, sabotage of aircraft, and destruction of airport and its facilities, acts of unruly passengers among others are mentioned in the Act. All these offences are recognised as crimes under the international Conventions on Aviation Security.

In the light of the foregoing, the paper examines all these offences under the Nigerian Act, the elements of each offence and the punishment attached thereto. The paper ends with conclusion and recommendation(s).

Civil Aviation Offences under the Nigerian Civil Aviation Act, 2006

Unlawful seizure of aircraft: This is the most committed of the offences against the international civil aviation. The offence is committed once in Nigeria on June 12, 1993, during Ibrahim Babangida military era. Some of the historical antecedents of the offence are reproduced hereunder.

¹ International Instruments on Aviation Security include Tokyo Convention On Offences and Certain Other Acts Committed On Board Aircraft, 1963, 704 UNTS 219, 20 U.S.T 2941, T.I.A.S No. 6768; Hague Convention for the Suppression of Unlawful Seizure of Aircraft, 1970, 80 UNTS 105, 22 U.S.T. 1641, T.I.A.S No. 7192; Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation 1971, UNTS 177, 24 U.S.T 564, T.I.A.S. No. 7570; 2010 Beijing Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation, and Protocol Supplementary to Hague Convention 1970 done at Beijing on 10 September 2010, 50 ILM 144 (2011).

² See Constitution of the Federal Republic of Nigeria, 1999 as amended, section 12 which is to the effect that all international law must be transformed into Nigeria law before they can be applicable to local circumstance.

³ Nigerian Civil Aviation Act No. 6, 2006, FRN Official Gazette, Vol.93 (No.61) Pp. A 133-A279.

placed called "*Tanjung Kupang*", Jahore, Malaysia. In this incident, 93 passengers and 7 crew members died.²⁴

On 2 March 1981, a Pakistan airline was hijacked and forced to land in Kabul, Afghanistan. The hijackers demanded for the release of 92 political prisoners from Pakistani jail. When the Pakistan government could not meet the hijackers' demand after a week, a passenger was killed and dumped on the tarmac. The aircraft was later flown to Damascus,²⁵ where the hijackers released more than 100 hostages and threatened to blow up the aircraft.²⁶ On 29 September 1981, seven hijackers hijacked Indian Aircraft Boeing 747 with 117 on board and forced it to land at Lahore, Pakistan. All the passengers were held hostage. On the next day, 30th September, 1981, several Pakistani commandos dressed and pretended to be Aircraft maintenance workers gained entrance into the hijacked aircraft and freed all the hostages. All the hijackers were arrested and prosecuted. While three of the hijackers were sentenced to death, two to life imprisonment and the remaining two were acquitted.²⁷

On 22 June 1983, two armed men hijacked a Libyan Aircraft Boeing 707 during its flight from Athens, Greece, to Tripoli, Libya. The hijacked airline was diverted to Rome airport for refuelling before heading way to Larnaca, Cyprus. After several hours of negotiations, the hijackers surrendered and released the aircraft to the authorities. The two hijackers were later prosecuted and sentenced to a prison term of seven years for hijacking and another three years for possession of explosives.²⁸

In 1984, *Shia* gunmen hijacked a Kuwait aircraft and forced it to Tehran for six days. Two American passengers were killed.²⁹ Equally, on 28 August 1984 and 8 September, 1984, two Iranian aircraft, Airbus 300 and Boeing 737, were hijacked during a domestic flight, having stopped to refuel at Bahrain and Cairo respectively. They were diverted to Iraq. The hijackers surrendered and were granted political asylum.³⁰

²⁴ Azuan, "*Remembering the 4th Dec. 1977 Tanjung Kupang Tragedy*"

<<http://www.azuanzahdi.com/index.php/2010/12/04/remembering-the-4th-dec-1977-tanjung-kupang-tragedy/>> (accessed 20 April 2012).

²⁵ In this hijacked incident, a passenger was killed and many hostages were released when the Pakistani government agrees to free more than 50 political prisoners. See BBC News, n.p.

²⁶ Ruwantissa, 104-105.

²⁷ Ibid, 105.

²⁸ Ibid.

²⁹ Note that this aircraft was reclaimed by the Iranian security forces having disguised as aircraft cleaners. BBC News.

³⁰ Ruwantissa, 105.