Meeting the Challenges of Twenty-First Century Civil Aviation: A Review of Nigeria’s Civil Aviation Policy Experience

Umezurike Ikenna Samuel¹ & Adamson Duncan Ganiyu²

¹Department of Public Administration, Faculty of Social Sciences, University of Calabar, Calabar Nigeria
²Department of Political Science, Faculty of Social Sciences, University of Nigeria, Nsukka – Enugu State, Nigeria
ikennaumezurik2011@gmail.com, duncan7457@gmail.com

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Abstract: An examination into Nigeria’s civil aviation policy has become necessary, considering the many challenges facing civil aviation in the country. This situation has questioned the capacity of the legal instruments on aviation to guide the industry. Using qualitative methodology, the study seeks to identify some of the challenges that plague civil aviation in Nigeria and determine whether the Nigerian civil aviation policy and legislation is comprehensive enough to manage these challenges. According to the study, the deregulation policy has done more harm than good by encouraging the sharp practices that exist in the industry. This situation is further exacerbated by many other challenges such as the lack of operational and financial autonomy for the Nigerian Civil Aviation Authority (NCAA), poor funding of the industry, the Nigerian factor of corruption and lack of maintenance culture, shortage of skilled technical manpower, human error, and poor emergency response system. A review of relevant subsisting civil aviation legislation and policy has shown that international standards and best practices have, been domesticated to an acceptable level. Hence, the Nigerian civil aviation policy and regulations are comprehensive enough to manage the aforementioned challenges. The study recommends that full autonomy should be granted the NCAA, not just on paper but in practice; that adequate sanctions should be meted out to any operator or personnel who flouts safety
standards, no matter who is involved; and that international safety provisions not contained in local civil aviation legislation be expressly domesticated.

**Keywords**: Civil Aviation, Aviation Policy, Aviation Challenges, Nigeria

**Introduction**

Civil aviation has indeed played a crucial role in making the world a global village. It is now possible to have breakfast in Lagos, lunch in London and dinner in New York on the same day. The airline industry in Africa is in its infancy but needs to mature rapidly to make its proper contribution to the economic development of the continent. When Dr Olumuyiwa Bernard Aliu from Nigeria was elected president of the Council of the International Civil Aviation Organization (ICAO) on November 18, 2013, he became the first African to occupy this elevated position in over 70 years of the organization’s existence. For many, this development brought Africa into the limelight of global civil aviation. Nevertheless, it has placed a heavy responsibility on Africa to set the pace in the developing world in terms of development and safety of civil aviation (Idrisu, 2004).

Like the rest of Africa, civil aviation has become strategically important to Nigeria. It is a vital, cost effective, and timely means of moving both people and cargo within and outside the country. Since the 1950s, the air transport sector has boosted the Nigerian economy by facilitating trade through the exportation of agricultural produce and importation of finished goods from across the world. Apart from its economic importance, civil aviation in Nigeria has encouraged tourism, created new jobs, and attracted new opportunities for investment. On the social angle, civil aviation has united the country by linking regions, people, and cultures. Clearly, civil aviation has remained an indispensable vehicle for the socio-economic and political development of the nation. There is also no doubt that the development of a safe, efficient, and reliable air transport system is essential for overall economic growth and prosperity.

True, the aviation industry in Nigeria does not have the chequered history of its counterparts like power, manufacturing, and agriculture. However, several challenges hallmarked the regulatory regimes between 1990 and 2006 (Aligbe, 2016). The country recorded its first fatal plane crash on November 20, 1969 when a government-owned DC-10 aircraft crashed in Lagos, killing 87 passengers and crew on board. Furthermore, on average, incidence of air accidents between 1969 and 1989 was one for every 5 years. This rose to one for every year for the next seven years and has since climbed to two for every year in the succeeding ten years from 1996 until 2006.

Apart from the issues of safety and security, Nigerian civil aviation is further plagued by a myriad of other challenges. What are some of these challenges? Is the present civil aviation policy and legal framework...
in Nigeria adequate to confront these challenges?

This study seeks to identify some of the challenges that plague civil aviation in Nigeria, and determine whether the Nigerian civil aviation policy and legislation is comprehensive enough to manage these challenges.

Civil Aviation Policy
Civil aviation is described as all non-military aviation, whether private or commercial. Public policy has been defined as a projected programme of goals, values and practices followed by an actor or set of actors in dealing with a problem or matter of concern (Laswell and Kaplan, 1972; Anderson, 2003). Hence, Civil Aviation policy refers to general principles concerning civil aviation adopted or proposed to be adopted by a government institution.
Noteworthy is the fact that aviation policy is not exactly the same as aviation law. Aviation law is the legal framework that regulates the entry, operation and exit of service providers in the industry (Okoronkwo, 2013), and establishes the basis for safety, security and economic regulation of civil aviation (Shawcross and Beaumont, 2000). Thus, while aviation policy outlines what the aviation ministry hopes to achieve and the methods and principles it will use to achieve such goals, aviation law (enacted by the legislature) provides the necessary institutional and legal framework and sets out standards, procedures that must be followed. Law encapsulates and interprets policy and determines the content and extent of regulations. Regulations (made by the implementing government agency) are law and policy in action. Nevertheless, In terms of legal authority, policy is subordinate to law. A policy cannot function on its own, it must be enforceable or given life through law.

The Chicago Convention forms the primary international aviation law regulating the conduct of international civil aviation. To achieve uniformity, ICAO has established Standards and Recommended Practices (SARPS), which are designed as annexes to the Chicago Convention. Each member state is expected to adopt these standards in their aviation regulations, and consider and work towards accepting the recommended practices. In addition to the SARPs, there are other international air law Instruments including Conventions, Treaties and Protocols adopted in the field of civil aviation that are to be ratified, domesticated and complied with by ICAO Contracting States (Federal Government of Nigeria [FGN], 2013).

Challenges of Nigerian Civil Aviation
A myriad challenges confront civil aviation in Nigeria and globally. Some scholars argue that the deregulation of civil aviation in recent years poses a serious safety challenge to global civil aviation. Moses and Savage (1990) assert that deregulation is the root cause of frequent cases of mid-air collisions and crashes in the United States in the 1980s. According to them, deregulation has created flight congestions, which has
increased the possibility of air collisions. Another study examined data from over 30 domestic airlines in the United States and about 80 international flag carriers between 1979 and 1986, and concluded that while deregulation did not impair the overall safety performance of the airlines, it increased the death risk by 60 percent (Barnett and Higgins 1980). In Nigeria, deregulation policy encouraged the emergence of new but inexperienced airlines into the industry. The increasing rate of air mishaps recorded in the post-deregulation era when compared to the pre-deregulation era when Nigeria Airways alone serviced civil aviation, lends credence to criticisms against deregulation.

Political interference and the lack of regulatory autonomy in the industry present another challenge. For instance, Adekola (2013) noted that the operations of the Nigeria Airspace Management Agency (NAMA) have suffered incalculable damage due to huge political interference. In a similar vein, prior to the 2006 Act, the existing legal framework did not give the Nigerian Civil Aviation Authority (NCAA) the necessary operational and financial autonomy it needed to regulate the industry effectively. The Director General of the agency was a mere figurehead at the time, as operational decisions had to be ratified by the Aviation Minister or Presidency. With the enactment of the 2006 Act the NCAA enjoyed more autonomy, but “occurrences over the years have shown that this independence is largely only existent in the civil aviation Act and not in practice” (Eze, 2016).

Funding of the aviation industry in Nigeria is another challenge. The aviation industry in Africa is grossly undercapitalized, and this lack of capital is responsible for inadequate navigational aids, obsolete ground handling equipment, the use of aged aircraft and poor facilities at the airport (Chikwe, 2002). This is why increased self-funding of the NCAA has been advocated, just like the Civil Aviation Authority (CAA) of the United Kingdom, which is wholly self-funded, and the Federal Aviation Administration (FAA) of the United States, which enjoys partial government funding.

There is also the challenge from the Nigerian factor, which is the inability of operators to follow rules or the predisposition to cutting corners in order to stay afloat, (Osadolor, 2002). The stark reality is that majority of the aircraft flying domestic routes in the country are old, a few having been decommissioned elsewhere. About 73 of them range from between 23 and 35 years (Meggison, 2015). The maintenance of old aircraft is expensive, and due to the absence of viable Maintenance, Repair and Overhaul (MRO) facilities in the country and the high cost of conducting the requisite aircraft maintenance checks abroad, there is the tendency for operators to defer or skip maintenance (Osa-okunbor, 2017).

Related to the above is poor maintenance of the existing airport infrastructure. Maintenance has
remained a national bane as far as public facilities are concerned; both in-house and out-sourced maintenance of the airport facilities is deplorable. For instance, airport facilities at the Lagos and Kano airports have become overstretched owing to the fact that with the increase of passenger and cargo traffic, airport infrastructure has not experienced a corresponding overhaul and expansion over the years (Faajir and Zidan (2016). These airports boasted of world-class equipment at the outset but the reluctance of public officials to sign maintenance agreements with the companies that installed them have contributed to their decay.

Human Error is another unfortunate reality. According to a study conducted by the International Air Transport Association (IATA), 71 percent of all air accidents in the African continent are caused by human error, poor weather and deficiencies in safety management systems (Fadugba, Oluwajana, Busari and Oyedepo, 2015). This situation is evident in poor enforcement of internationally accepted safety standards and practices in the country. Manpower gap is another challenge. For instance, the industry has more than adequate support staff, but there is a shortage of requisite technical manpower such as air traffic controllers, pilots, aeronautical engineers and safety inspectors. One reason for the dearth of core aviators in the Nigerian aviation industry is the retirement or premature disengagement of indigenous senior technical personnel (Eze, 2016).

A study conducted by the American National Transportation Safety Board (NTSB) shows that only 27 percent of air crash casualties die on impact, 73 percent die because of poor emergency response and rescue operation. Unfortunately, the search and rescue operation in Nigeria is at zero level (Mayowa, 2005), as there is no functional search and rescue organization capable of responding to air mishaps at moment’s notice (Fadugba et al, 2015).

Other challenges of the aviation sector in Nigeria include: inadequate airport infrastructure investment over many years, absence of a clear policy to determine tariffs, inadequate participation by the private sector, a lack of clarity in roles of government, public enterprises, operators and regulators, and overlaps in functions of Departments and Agencies of Federal Ministry of Aviation (FGN, 2013).

Some Theoretical Considerations
Analysis of the inception and content of public policies is sometimes hinged on the Institutional Theory and the Policy Diffusion Model. In the past, institutionalism concerned itself with describing the formal structure, legal powers, procedural rules, functions, and activities of governmental institutions. In those days, little was done to explaining how institutions actually operated as opposed to how they were supposed to operate, to analyse public policies produced by institutions, or to discover the relationships between institutional structure and public policies (Anderson, 2003). However, with
research into political institutions shifting from their formal structures to the behaviours of actors within them, the institutional approach today concerns itself with explaining how social groups and government institutions bring their influence to bear on those empowered to take and implement legally binding decisions. No wonder Thomas Dye (1980) described government institutions as structured patterns of behaviour of individuals or groups, which persist over time. These regularised patterns of behaviour often referred to as rules or structures can affect the decision-making and the content of public policy, and therefore cannot be ignored.

Accordingly, the Institutional theory is used to explain the influence government institutions have on the content of public policies. The Institutional theory considers policy as an institutional output. Public policies are formulated, implemented, and enforced by government institutions. Government universally applies policy to all citizens of society and monopolises the use of force in applying policy. Hence, only government can legally impose sanctions on violators of its policies (Sapru, 2004). Thus, Political institutions give legal authority to public policies. The Legislature, Executive, and Judicial branches of government are examples of institutions that give government policy legitimacy. In Nigerian civil aviation today, institutions such as the National Assembly, the Aviation Ministry, its subsidiary agencies, and certain interest groups, play vital roles in the formulation of civil aviation policies.

The Policy Diffusion Model is used to explain the content of civil aviation policy. Policy diffusion refers to the process whereby policy choices in one unit are influenced by policy choices in other units (Maggetti and Gilardi, 2013). Everett Rogers (2003), the proponent of the Diffusion of Innovations Theory considers diffusion as a process in which an innovation is communicated through certain channels over time among the members of a social system. A related term is Policy Transfer. Policy transfer according to Dolowitz and Marsh (2000) refers to “the process by which knowledge about policies, administrative arrangements, institutions, and ideas in one political system (past or present) is used in the development of policies, administrative arrangements, institutions and ideas in another political system” (p.5). Agents or actors of policy transfer include politicians, bureaucrats, global financial institutions, policy entrepreneurs (think-tanks), knowledge institutions, international organizations, academicians and other experts, pressure groups, supranational organizations, and so on (Bender, Keller and Willing, 2014).

Thus Policy diffusion is concerned with the spread of policy between policy units at international, national, and sub national levels (Maggetti and Gilardi, 2013). Bender, Keller and Willing (2014) have identified some common forms of policy diffusion.

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Coercive policy diffusion occurs where political units are forced to adopt certain policies by other actors—States, International, or Supranational Organizations. Another form is Negotiated policy diffusion, where decision makers are compelled to change their policies in exchange for loans or grants. Voluntary policy diffusion is another situation where national political actors examine policies implemented elsewhere for their potential utilization within a political system.

The Nigerian civil aviation policy is made up mostly of domesticated provisions of ICAO conventions, Standards and Recommended Practices (SARPs). Interestingly, most of these provisions have been incorporated into Nigeria’s aviation policy through voluntary policy diffusion. This clearly shows that the degree to which a country is embedded internationally in communication networks or international organisations can influence policy diffusion and transfer processes (Lutz, 2007).

**Nigeria’s Civil Aviation Policy Experience**

In Nigeria, the current guiding policy of the aviation industry is the Nigerian Civil Aviation Policy (NCAP) 2013. The Civil Aviation Act, 2006 serves as the primary legal instrument in the country and the basis for the Nigerian Civil Aviation Regulations (NCARs), 2015.

The 1989 Civil Aviation Policy was the earliest attempt at creating a guiding policy for the industry. However, this policy was reviewed in 1998. The 1998 Civil Aviation Policy created the Nigerian Civil Aviation Authority (NCAA) and the Nigerian Airspace Management Agency (NAMA). The 1998 reviewed policy did not last for ten years because of government privatization and liberalization efforts and some other developments. As a result, The 1998 Civil Aviation Policy was reviewed in July 2001. Since then there have been numerous changes in the economic, political, safety, security, and technological climates globally. Again, some security and safety issues emerged at global and national levels. These factors necessitated the emergence of the 2013 Nigerian Civil Aviation Policy (FGN, 2013).

Accordingly, NCAP 2013 hoped to accomplish, among other goals, the following objectives:

a. To review and amend all existing civil aviation legislations in Nigeria in order to incorporate current ICAO SARPs;

b. Subject to national interest, to ratify, and or accede to all international air law instruments on aviation and incorporate their provisions into the national laws;

c. To ensure that all legislations in the aviation industry are reviewed and revised to be in conformity with the new policy (FGN, 2013).

Clearly, the 2013 Nigerian Civil Aviation Policy contains proposed strategies of the government towards adopting most of the provisions of the 19 Annexes (containing SARPs) of the ICAO. As Table 1 reveals, NCAP 2013 and the Nigerian Civil Aviation...
Regulations (NCAR) 2015 have domesticated majority of the ICAO Annexes in Nigerian Civil Aviation Policy and Regulations annexes. Table 1: Domestication of Annexes

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**Note:** ** Not yet domesticated.

Compiled from FGN (2013), FGN (2015), and ICAO (2006)

Furthermore, a review of the contents of the 2006 Civil Aviation Act shows that Nigeria has complied with and domesticated most of the ICAO international conventions guiding civil aviation, which it had ratified in the past. The domesticated conventions include Convention on International Civil Aviation (Chicago Convention of 1944), domesticated in Section 30 of the Act. The Convention for the Unification of Certain Rules Relating to International Carriage by Air (Montreal Convention of 1999) was domesticated in Section 48 of the Act. The Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention of 1970) was domesticated in Section 56 of the Act. The Convention on International Recognition of Rights in Aircraft (Geneva Convention of 1948) was domesticated in Section 73(1) of the Act. The Convention on International Interest in Mobile Equipment and the Protocol to the Convention on Matters Specific to Aircraft Equipment (Cape Town Convention of 2001) was domesticated in Section 73 (2) of the Act.

Nevertheless, other conventions that are yet to be domesticated include the

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Undoubtedly, the Nigerian civil aviation policy and legislation is comprehensive enough to manage the challenges that confront the industry. The major reason why the country achieved Category 1 Air Safety rating from the United States Government under the Federal Aviation Administration (FAA) International Aviation Safety Assessment (IASA) program a few years back is because it complied with and domesticated most of the ICAO international conventions and SARPs. An IASA Category 1 rating means that a country has the laws and regulations necessary to oversee air carriers in accordance with minimum international standards, and that its civil aviation authority is equivalent to the FAA on aviation safety matters. This also indicates that it has met international standards for technical expertise, trained personnel, record keeping, and inspection procedures. Nigeria is one of six African countries with this rating. Others include South Africa, Cape Verde, Egypt, Morocco, and Ethiopia.

Obviously, the discord between policy formulation and the political will of government to implement such policy is the root of the challenges facing civil aviation in Nigeria (Omoleke, 2012).

**Conclusion**

It has been over ninety years since the first plane landed in Nigeria. From then until now civil aviation has contributed immensely to the overall development of the country. Nevertheless, the balance sheet of aviation in Nigeria shows a huge deficit in the aspect of air safety and security. This is not unconnected to the spate of air crashes, mishaps, and near misses that have characterized our aviation industry.

Although the deregulation policy has brought about an upsurge in aviation activity in the country, it has no doubt contributed to the precarious safety situation we have today. This situation is further exacerbated by many other challenges such as the lack of operational and financial autonomy for the NCAA, poor funding of the industry, the Nigerian factor of corruption and low maintenance culture, shortage of skilled technical manpower, human error, and poor emergency response system.

Moreover, a review of relevant subsisting civil aviation legislation and policy has shown that international standards and best practices have, been domesticated to an acceptable level. Hence, the Nigerian civil aviation policy and regulations are comprehensive enough to manage the aforementioned challenges. The stark reality then is that the problem with Nigerian civil aviation remains implementation and
enforcement of safety and other provisions by all stakeholders.

Some sceptics have predicted that this situation will only get worse. However, this conclusion is ill informed as some countries that experienced this disaster phase have come out stronger and better. For instance, South Korea had one of the world’s worst safety record - 13 crashes in 28 years. Nonetheless, since 1999, the air safety record of the country has remarkably improved; so much so, that Korean Air has not only become a member of the prestigious Skyline Alliance, but also bagged the Phoenix Award by Air Transport World in 2006 in recognition of its transformation. The South Korean experience leaves much hope for Nigeria.

This paper makes the following recommendations:

1. The NCAA should enjoy full autonomy, not just on paper but also in practice. The authority should be allowed to fund itself and expedite major decisions without recourse to the aviation ministry. This will improve its safety oversight capacity.

2. Adequate sanctions should be meted out to any operator or personnel who flout safety rules, notwithstanding the political influence it wields.

3. Other relevant conventions and SARPs of the ICAO not yet contained in local civil aviation legislation should be expressly domesticated and implemented.

References


Chikwe, K. (2002). Aviation in Africa Today and the Challenges for
the Future. Paper delivered at the Meeting of Ministers on Funding of Aviation in Africa, October 25-26, Montreal, Canada.


