



Home Office

# OPERATIONAL GUIDANCE NOTE

## NIGERIA

<b>CONTENTS</b>	
<b>1. Introduction</b>	<b>1.1 – 1.4</b>
<b>2. Country assessment</b>	<b>2.1</b>
<a href="#">Actors of protection</a>	2.2
<a href="#">Internal relocation</a>	2.3
<a href="#">Country guidance caselaw</a>	2.4
<b>3. Main categories of claims</b>	<b>3.1 – 3.15</b>
<a href="#">The Niger Delta</a>	3.16
<a href="#">Fear of cults, gangs and vigilante groups (including fear of juju, student confraternities and bakassi boys)</a>	3.17
<a href="#">Boko Haram</a>	3.18
<a href="#">Religious persecution</a>	3.19
<a href="#">Female Genital Mutilation</a>	3.20
<a href="#">Victims of trafficking</a>	3.21
<a href="#">Forced marriage</a>	3.22
<a href="#">Gay men and lesbians</a>	3.23
<a href="#">Prison Conditions</a>	3.24
<b>4. <a href="#">Minors claiming in their own right</a></b>	<b>4.1 – 4.5</b>
<b>5. <a href="#">Medical treatment</a></b>	<b>5.1 – 5.7</b>
<b>6. Returns</b>	<b>6.1 – 6.4</b>

### 1. Introduction

- 1.1** This document provides Home Office caseworkers with guidance on the nature and handling of the most common types of claims received from nationals/residents of Nigeria, including whether claims are or are not likely to justify the granting of asylum, humanitarian protection or discretionary leave. Caseworkers must refer to the relevant asylum instructions (AIs) for further details of the policy on these areas.
- 1.2** Caseworkers must not base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive.

- 1.3 The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseworkers must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant country of origin information (COI) and any other pertinent data, such as country caselaw.
- 1.4 COI is published by the [Country of Origin Information Service \(COIS\)](#) and is available on the intranet.
- 1.5 Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. Where a claim for asylum or humanitarian protection is being considered, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules.
- 1.6 Where a person is being considered for deportation, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Caseworkers must also consider if the applicant qualifies for discretionary leave in accordance with the published policy.
- 1.7 With effect from 2 December 2005 Nigeria is a country listed in section 94 of the Nationality, Immigration and Asylum Act 2002 in respect of men only and the prima face evidence is that the current underlying situation in the country remains the same or similar to that considered when the country was first designated. Asylum and human rights claims must be considered on their individual merits. However, if, following consideration, a claim from a man who is entitled to reside in Nigeria is refused caseworkers must certify the claim as clearly unfounded unless satisfied that it is not. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail. Nigeria is not listed in section 94 in respect of women. If, following consideration, a claim from a woman is refused, caseworkers may, however, certify the claim as clearly unfounded on a case-by-case basis if they are satisfied that it is.

## **2. Country assessment**

- 2.1 Caseworkers should refer the relevant COI Service country of origin information material. An overview of the human rights situation in certain countries can also be found in the [Foreign & Commonwealth \(FCO\) Human Rights and Democracy Report](#), which examines developments in countries where human rights issues are of greatest concern.
- 2.2 **Actors of protection**
  - 2.2.1 Caseworkers must refer to section 7 of the AI - [Considering the asylum claim and assessing credibility](#). To qualify for asylum, an individual must have a fear of persecution for a Convention reason and be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to seek protection in their country of origin or habitual residence.
  - 2.2.2 Caseworkers must take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so.

- 2.2.3** Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.
- 2.2.4** The National Police Force (NPF) reports to the inspector general of police, who is appointed by the president and responsible for law enforcement operations. An assistant inspector general commands each NPF state unit. The constitution prohibits state and local governments from organising their own police forces; however, state governors may direct federal police for local emergency actions. The State Security Service (SSS) remains responsible for internal security and reports to the president through the national security advisor. Due to the police's inability to control societal violence, the government continues to turn to the army in many cases. For example, throughout 2012 President Jonathan ordered the deployment of military, Joint Task Forces (JTF), or Special Task Force units to Bauchi, Borno, Kano, Kaduna, Plateau, and Yobe states on a continuous basis in response to Boko Haram attacks (see section 3.11 for further information on Boko Haram) and after local police could not contain outbreaks of ethno-religious violence in Jos and Kaduna.<sup>1</sup>
- 2.2.5** The NPF, SSS, and military report to civilian authorities; however, these security services periodically act outside of civilian control. The government lack effective mechanisms to investigate and punish abuse and corruption. The NPF remain susceptible to corruption, commit human rights abuses, and generally operate with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects. The SSS also commit human rights abuses, particularly in restricting freedom of speech and press. In some cases private citizens or the government brought charges against perpetrators of human rights abuses in these units. However, most cases lingered in court or went unresolved after an initial investigation.<sup>2</sup>
- 2.2.6** Police and security forces have authority to arrest individuals without first obtaining warrants, if they have reasonable suspicion a person committed an offence, a power they often abused. By law police may detain persons for 48 hours before charging them with an offence. The law requires an arresting officer to inform the accused of charges at the time of arrest, transport the accused to a police station for processing within a reasonable time, and allow suspects to obtain counsel and post bail.<sup>3</sup>
- 2.2.7** According to Amnesty International's 2009 report, only a fraction of the NPF annual budget reached state and local police stations, and the lack of funding contributed to many police failures. In May and July 2012 the new inspector general of police, Mohammed Abubakar, publicly attributed poor performance and corruption among police to a lack of government support for the personnel, inadequate funding, poor work environment, lack of incentives, and low morale. On 7 August 2012, widows of slain police officers protested outside police

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<sup>1</sup> US State Department, Human Rights Report 2012: Nigeria, Section 1d, 19 April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>2</sup> US State Department, Human Rights Report 2012: Nigeria, Section 1d, 19 April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>3</sup> US State Department, Human Rights Report 2012: Nigeria, Section 1d, 19 April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

headquarters in Abuja over the non-payment of benefits.<sup>4</sup>

- 2.2.8** In 2010, a report produced by the Network on Police Reform in Nigeria (NOPRIN) and the Open Society Justice Initiative concluded that Nigeria's police personnel "routinely carry out summary executions of persons accused or suspected of crime; rely on torture as a principal means of investigation; commit rape of both sexes, with a particular focus on sex workers; and engage in extortion at nearly every opportunity." A Human Rights Watch Report that same year found that "corruption and abusive behaviour within the Nigeria Police Force is endemic." In July 2012, Nigeria's most recent Presidential Committee on Re-organization of the Nigeria Police Force agreed that the force has "officers with corrupt tendencies and bad disciplinary records."<sup>5</sup>
- 2.2.9** Nigeria's police force continues to be implicated in frequent human rights violations, including extrajudicial killings, torture, arbitrary arrests, and extortion-related abuses. Despite promising public statements by the new inspector general of police, corruption in the police force remains a serious problem. The police routinely solicit bribes from victims to investigate crimes and from suspects to drop investigations. Senior police officials embezzle or mismanage police funds, often demanding monetary "returns" from money that their subordinates extort from the public.<sup>6</sup>
- 2.2.10** Government security forces have been implicated in serious human rights violations in response to the Boko Haram violence. During raids in communities where attacks have occurred in 2012, soldiers have allegedly burned homes and executed Boko Haram suspects or residents with no apparent links to the group. Nigerian authorities have rarely brought anyone to justice for these crimes.<sup>7</sup>
- 2.2.11** Police corruption remains rampant. Reports of checkpoint bribery and shooting incidents decreased in February 2012 after newly appointed Inspector General of Police Mohammed Abubakar announced the closure of all police checkpoints across the country; however, illegal checkpoints remained common in some regions. Police routinely stopped drivers who did not commit traffic infractions, refusing to allow them to continue until they paid bribes.<sup>8</sup>
- 2.2.12** The Office of the Inspector General of Police attempted to strengthen the Police Monitoring Unit, which was charged with visiting police stations to search officers for signs of accepting bribes; however, the unit remained ineffective and made no arrests by year's end. Citizens could report incidents of police corruption to the National Human Rights Commission (NHRC); however, the NHRC did not act on such complaints during the year, and no other mechanism existed to investigate security force abuse.<sup>9</sup>

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<sup>4</sup> US State Department, Human Rights Report 2012: Nigeria, Section 1d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>5</sup> Open Society Foundations, Why A New Code May Not Improve Police Conduct in Nigeria, 25 January 2013 <http://www.opensocietyfoundations.org/voices/why-new-code-may-not-improve-police-conduct-nigeria>

<sup>6</sup> Human Rights Watch, World Report 2013; Nigeria, 31 January 2013, <http://www.hrw.org/world-report/2013/country-chapters/nigeria>

<sup>7</sup> Human Rights Watch, World Report 2013; Nigeria, 31 January 2013, <http://www.hrw.org/world-report/2013/country-chapters/nigeria>

<sup>8</sup> US State Department, Human Rights Report 2012: Nigeria, Section 1d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>9</sup> US State Department, Human Rights Report 2012: Nigeria, Section 1d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

- 2.2.13** In September 2012 the Inspector General Police (IGP) presented a new police code of conduct. The code of conduct introduced a list of values with an emphasis on service to the community, building public trust, and respect for personal rights. The code also laid out the primary responsibilities of a police officer and stressed the need for impartial performance of duties, discretion, reasonable use of force, confidentiality, integrity, cooperation with other agencies, professional development, and ensuring an officer's private life does not discredit the police force. While the code offered a general statement on the use of force by police, it did not repeal or make any clarifications in regard to Police Order 237.<sup>10</sup> Police Force Order 237 permits officers to shoot suspects and detainees who attempt to escape or avoid arrest and according to Amnesty International is frequently abused and allows the police get away with murder.<sup>11</sup> At least 7,000 citizens have been unlawfully killed by the police within the last decade, according to New York-based Human Rights Watch.<sup>12</sup>
- 2.2.14** The Police Service Commission is the institution primarily responsible for external oversight; that is, it provides a system of control and supervision of a police institution by an institution independent of it. Established as an executive body under section 153 of the 1999 Constitution, the commission has powers to appoint, promote, discipline and dismiss all officers except the Inspector General of Police. These are far reaching powers that can be used to ensure accountability. But although the commission can take responsibility for approving appointments and promotions, its approach to complaints suggests that it has not taken its responsibility to enforce discipline as seriously as the other components of its work. This is easily discernible from its attitude to complaints.<sup>13</sup>
- 2.2.15** Although the commission has statutory powers to conduct investigations into police misconduct, it more usually forwards complaints about police misconduct to the force itself. This is rather unfortunate considering the investment of resources in the commission's own investigations department and attendant public expectation of performance.<sup>14</sup>
- 2.2.16** There are several other public complaint mechanisms in Nigeria;

-The Public Complaints Commission (PCC), established in 1975, receives complaints against public officials, including police officers. Most complaints against the police are forwarded to the Police Service Commission for processing.

-The Nigeria Police Force – Public Complaints Bureau (PCB), established by the Nigeria Police Force in 1979, is run by the public relations officer at the various levels of the force, but the PCB has been largely ineffective and has no budget to carry out its functions. In 2007, the PCB received only 49 complaints from the public.

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<sup>10</sup> US State Department, Human Rights Report 2012: Nigeria, Section 1d, 19 April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>11</sup> Amnesty International, Eyes on Nigeria- Policing & Justice in Nigeria, undated  
[http://www.eyesonnigeria.org/EON\\_Justice.html](http://www.eyesonnigeria.org/EON_Justice.html)

<sup>12</sup> Bloomberg, Nigeria Police Adopt Code of Conduct to Tackle Abuses, 11 January 2013  
<http://www.businessweek.com/news/2013-01-11/nigeria-police-adopt-code-of-conduct-to-tackle-abuses>

<sup>13</sup> Open Society Foundations, Why A New Code May Not Improve Police Conduct in Nigeria, 25 January 2013  
<http://www.opensocietyfoundations.org/voices/why-new-code-may-not-improve-police-conduct-nigeria>

<sup>14</sup> Open Society Foundations, Why A New Code May Not Improve Police Conduct in Nigeria, 25 January 2013  
<http://www.opensocietyfoundations.org/voices/why-new-code-may-not-improve-police-conduct-nigeria>

-The Code of Conduct Bureau (CCB) was established in 1990 and receives complaints from members of the public against public officials, including police officers, for violating the Code of Conduct for Public Officers.

-The National Human Rights Commission (NHRC), the Nigerian government established the NHRC in 1995. The NHRC received 574 public complaints in 2007 regarding all classes of human rights abuses, including 70 of 'degrading treatment' or 'unlawful arrest and detention' by members of law enforcement agencies. The NHRC can initiate investigations on its own, but lacks independent prosecutorial power. Draft legislation before the National Assembly would empower the NHRC to prosecute cases of human rights violations.

-The Independent Corrupt Practices and Other Related Offences Commission (ICPC), established in 2000, receives complaints from members of the public against public officials, including police officers, for corrupt practices.<sup>15</sup>

**2.2.17** Although the constitution and law provide for an independent judiciary, the judicial branch remained susceptible to pressure from the executive and legislative branches and the business sector. Political leaders influenced the judiciary, particularly at the state and local levels. Understaffing, underfunding, inefficiency, and corruption continued to prevent the judiciary from functioning adequately. Judges frequently failed to appear for trials, often because they were pursuing other sources of income and sometimes because of threats against them. In addition court officials often lacked the proper equipment, training, and motivation to perform their duties, with the lack of motivation primarily due to inadequate compensation. During 2012 Supreme Court judges called for a more independent judiciary.<sup>16</sup>

**2.2.18** The higher courts are relatively competent and independent, but they remain subject to political influence, corruption, and lack of funding, equipment, and training. Certain departments, particularly the Court of Appeals, have often overturned decisions on election challenges or allegations of corruption against powerful elites, raising doubts about their independence.<sup>17</sup>

**2.2.19** Widespread corruption and disregard for due process and the rule of law continued to blight Nigeria's criminal justice system. Many people were arbitrarily arrested and detained for months without charge. Police continued to ask people to pay money for their release from detention. Many detainees were kept on remand in prison for lengthy periods and in harsh conditions. Court processes remained slow and largely distrusted. According to the Executive Secretary of the National Human Rights Commission (NHRC), over 70% of people in detention were awaiting either trial or sentencing. Court orders were often ignored by police and security forces.<sup>18</sup>

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<sup>15</sup> Human Rights Watch, "Everyone's in on the Game" Corruption and Human Rights Abuses by the Nigeria Police Force, August 2010 <http://www.hrw.org/sites/default/files/reports/nigeria0810webwcover.pdf>

<sup>16</sup> US State Department, Human Rights Report 2012: Nigeria, Section 1d, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>17</sup> Freedom House, Freedom in the world 2013; Nigeria, 9 May 2013 <http://www.freedomhouse.org/report/freedom-world/2013/nigeria>

<sup>18</sup> Amnesty International, Annual Report 2013: Nigeria, 23 May 2013 <http://www.amnesty.org/en/region/nigeria/report-2013>

**2.2.20 Conclusion** If the applicant's fear is of ill-treatment/persecution by the state authorities, or by agents acting on behalf of the state, then state protection will not be available. Consideration does need to be given as to whether the fear is based on a localised, random or national threat and whether redress might be available through the courts; though the judiciary is subject to political interference.

**2.2.21** If the ill-treatment/persecution is at the hands of non-state agents, then the provision of state protection may be accessible. Caseworkers must refer to the most up to date country information to ascertain whether in the circumstances prevailing at the time the decision is made, effective protection is available for an individual applicant, taking full account of their personal circumstances.

### **2.3 Internal relocation.**

**2.3.1** Caseworkers must refer to the AI on [Internal Relocation](#) and in the case of a female applicant, the AI on [Gender Issues in the Asylum Claim](#), for guidance on the circumstances in which internal relocation would be a 'reasonable' option, so as to apply the test set out in paragraph 339O of the Immigration Rules.

**2.3.2** It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum.

**2.3.3** Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account.

**2.3.4** Caseworkers must refer to the gender issues in the asylum claim where this is applicable. The fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

**2.3.5** Where a category of applicants' fear is of ill-treatment/persecution by the state authorities, then internal relocation to escape that persecution will not generally be an option. Very careful consideration must be given as to whether internal relocation would be a viable way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents.

**2.3.6** If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unreasonable to expect them to do so, then asylum or humanitarian protection should be refused.

**2.3.7** The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation; however, security officials restricted freedom of movement at times. Despite the Inspector General of Police's (IGP) order for police to dismantle all roadblocks, illegal roadblocks and checkpoints remained, often to help police extort money from travellers. Security officials continued to use

excessive force at checkpoints and roadblocks.<sup>19</sup>

**2.3.8** During 2012 state officials imposed dusk-to-dawn curfews in response to sectarian conflicts. For example, authorities imposed curfews in July and August in areas of Kaduna and Plateau states, following reprisal attacks and ethno-religious violence. At various times throughout 2012 the federal, state, or local governments imposed curfews or otherwise restricted movement in Bauchi, Borno, Kano, Kaduna, Kogi, Plateau, and Yobe states in the aftermath of Boko Haram attacks. Numerous states also imposed curfews or otherwise restricted movement during the January fuel subsidy protests.<sup>20</sup>

**2.3.9 Conclusion** Nigeria is a large country and internal relocation will generally be a viable option for those who fear, or who have experienced ill-treatment at the hands of non state agents. In addition to considering the ability of the persecutor to pursue the claimant in the proposed site of relocation, case workers also need to consider the particular circumstances of the individual concerned including their age, gender, health, ethnicity, religion, financial circumstances and support network of the claimant, as well as the security, human rights and socio-economic conditions in the proposed area of relocation, including the claimant's ability to sustain themselves.

## 2.4 Country guidance caselaw

**[Supreme Court. RT \(Zimbabwe\) & others v Secretary of State for the Home Department \[2012\] UKSC 38 \(25 July 2012\)](#)** The Supreme Court ruled that the rationale of the decision in HJ (Iran) applies to cases concerning imputed political opinion. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Refugee law does not require a person to express false support for an oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution. Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution.

### **[PO \(Trafficked Women\) Nigeria CG \[2009\] UKAIT 00046](#)**

This determination was removed from the Country Guidance list on 22.02.2011.

See **[PO \(Nigeria\) v Secretary of State for the Home Department \[2011\] EWCA Civ 132](#)**. Paragraphs 191-192 remain as interim guidance pending further country guidance from the UTIAC .

Paragraphs 191 and 192 state;

### **“Ability and Willingness of the Nigerian Authorities to offer Protection to Victims of Trafficking**

**191.** Our consideration of the background materials clearly demonstrates to us that in general the government of Nigeria is both able and willing to discharge its own duty to protect its own nationals from people traffickers. In particular:

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<sup>19</sup> US State Department Human Rights Report 2012: Nigeria, Section 2d, 19 April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>20</sup> US State Department Human Rights Report 2012: Nigeria, Section 2d, 19 April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>



(a) The Danish Information Service Report: The Protection of Victims of Trafficking in Nigeria: a Fact Finding Mission to Lagos, Benin City and Abuja, 9/26 September 2007 (April 2008) points out that the government of Nigeria have recognised the problem of traffickers and, since 2003, the legal and institutional foundation for combating trafficking and, equally important, support for victims of trafficking, have been in place in Nigeria.

(b) The National Agency for the Prohibition of Traffic in Persons and other related matters (NAPTIP) is the principal organisation created by the Nigerian government to combat trafficking. The Trafficking in Persons (Prohibition) Law Enforcement Administration Act, 2003 established NAPTIP and was enacted as a direct result of Nigeria wishing to fulfil its international obligations under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

(c) NAPTIP's own Legal and Prosecution Department were said in the April 2008 report, to have concluded six cases and another five were said to be pending. 58 victims of trafficking have been rehabilitated, while another 24 were waiting rehabilitation. We accept that with more funds, NAPTIP could do more to help victims, but the same could be said of any government agency with a finite budget.

(d) The US State Department Report suggests that whilst Nigeria is not complying with minimum standards, it is "making significant efforts" to do so and has "demonstrated a solid commitment to eradicating trafficking". It also spoke of NAPTIP making solid efforts to investigate and prosecute trafficking cases, although the numbers of convicted traffickers remained low. There are clearly several reasons for that, but not, on the evidence before us, any lack of governmental effort or desire.

### **Risk to Victims of Trafficking in being Re-trafficked on Return to Nigeria**

**192.** It must be born in mind, however, that a claimant may still have a well-founded fear of persecution if she can show that the Nigerian authorities know or ought to know of circumstances particular to her case giving rise to his fear, but are unlikely to provide the additional protection her particular circumstances reasonably require. To that end:

(a) A very careful examination of the circumstances in which the victim was first trafficked must be undertaken and careful findings made. If a victim has been told that she is required to earn a particular sum of money ("target earnings") for the trafficker or gang, before being free of any obligation to the trafficker or gang, then, if the victim should escape before earning the target sums, there may well be a risk to the victim that on return to Nigeria she may be re-trafficked if found. The extent of the risk of the trafficking will very much depend on the circumstances in which the victim was originally trafficked.

(b) It must always be remembered that within Nigeria there are gangs of people traffickers operating who generate enormous sums of money from their activities. The evidence seems to us to be clear that where a victim escapes the clutches of her traffickers before earning the target earnings, then the traffickers are very likely to go to extreme lengths in order to locate the victim or members of the victim's family, to seek reprisals.

(c) In the absence of evidence that a trafficked victim has been trafficked by an individual, it should be borne in mind that it is likely that the trafficking will have been carried out by a collection of individuals, many of whom may not have had personal contact with the victim. Within trafficking gangs, individual members perform different roles. One might, for example, be a photographer who takes the photograph which is used within the victim's passport, whether or not the passport is a genuine one. One gang member may, for example, be a forger who is involved in the preparation of false passports or other documents for use by the victim; one might be a corrupt police official, or a border guard, whose role is to assist in facilitating the victim's passage in some way. Gang members may perform any number of different roles but it is essential to bear in mind that if a victim has been trafficked by a gang of traffickers, as opposed to a single trafficker, then the risk of re-trafficking may be greater for someone who escapes before earning the target earnings set by the trafficker, because the individual gang members will have expected to receive a share of the target sum and will, therefore, be anxious to ensure that they do receive that share or seek retribution if they do not."

**[SB \(PSG – Protection Regulations –Reg 6\) Moldova CG \[2008\] UKAIT 00002.](#)**

The Tribunal found that 'Former victims of trafficking' and 'former victims of trafficking for sexual exploitation' are capable of being members of a particular social group within regulation 6(1)(d) of the Protection Regulations because of their shared common background or past experience of having been trafficked.

### **3. Main categories of claims**

- 3.1** This section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Nigeria. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/punishment.
- 3.2** It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, humanitarian protection, sufficiency of protection and internal relocation are set out in the relevant asylum instructions, but how these affect particular categories of claim are set out in the instructions below.
- 3.3** All asylum instructions (AIs) can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at [asylum policy instructions](#).
- 3.4** Each claim should be assessed to determine whether there is a reasonable likelihood that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in the Court of Appeal's judgment in [Karanakaran](#) should be followed when deciding how much weight to be given to the material provided in support of the claim (see the AI '[Considering the asylum claim and assessing credibility](#)').
- 3.5** For any asylum cases which involve children either as dependants or as the main

applicants, caseworkers must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office instruction '[Every Child Matters; Change for Children](#)' sets out the key principles to take into account.

- 3.6** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of humanitarian protection is appropriate. (See AI on [humanitarian protection](#)). Where an application for asylum and humanitarian protection falls to be refused, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules.
- 3.7** They must also consider whether there are any compelling reasons for granting discretionary Leave (DL) to the individual concerned. (See AI on [discretionary leave](#)).

### **Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR**

- 3.8** An assessment of protection needs under Article 15(c) of the Directive should only be required if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR).
- 3.9** Caseworkers are reminded that an applicant who fears a return to a situation of generalised violence may be entitled to a grant of asylum where a connection is made to a Refugee Convention reason or to a grant of humanitarian protection because the Article 3 threshold has been met.

### **Other severe humanitarian conditions and general levels of violence**

- 3.10** There may come a point at which the general conditions in the country – for example, absence of water, food or basic shelter – are unacceptable to the point that return in itself could, in extreme cases, constitute inhuman and degrading treatment.
- 3.11** Decision makers need to consider how conditions in the country and locality of return, as evidenced in the available country of origin information, would impact upon the individual if they were returned. Factors to be taken into account would include age, gender, health, effects on children, other family circumstances, and available support structures. It should be noted that if the State is withholding these resources it could constitute persecution for a Convention reason and a breach of Article 3 of the ECHR.
- 3.12** As a result of the [Sufi & Elmi v UK](#) judgment in the European Court of Human Rights (ECtHR), where a humanitarian crisis is predominantly due to the direct and indirect actions of the parties to a conflict, regard should be had to an applicant's ability to provide for his or her most basic needs, such as food, hygiene and shelter and his or her vulnerability to ill-treatment. Applicants meeting either of these tests would qualify for humanitarian protection.

### **Credibility**

- 3.13** Caseworkers will need to assess credibility issues based on all the evidence available to them from the interview, documentary evidence and country of origin

information. Caseworkers will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'Section 4 – Making the Decision' in the AI ['Considering the asylum claim and assessing credibility'](#).

- 3.14** Caseworkers must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file.
- 3.15** In all other cases, the caseworkers should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.
- 3.16 The Niger Delta**
- 3.16.1** Applicants may make an asylum and/or human rights claim based on the grounds that they fear ill treatment amounting to persecution at the hands of gangs or the security forces working in the interests of the oil companies that operate in the Niger Delta. Such claims are often submitted by young Ijaw males and are based on the individual's fear of the security forces or the oil companies because they refuse to sell or move from sought after land in the region.
- 3.16.2 Treatment.** The federal government's 2009 amnesty program—which saw some 26,000 militants, youth, and gang members surrender weapons in exchange for amnesty and monthly cash stipends—has reduced attacks on oil facilities in the Niger Delta. The government has doled out these financial incentives—some US\$400 million annually—from the additional oil revenue, but it has still not addressed the underlying causes of violence and discontent in the region, such as poverty, government corruption, environmental degradation from oil spills, and impunity for politically sponsored violence. Meanwhile, others want part of the lucrative rewards, and in September 2012 the government announced that an additional 3,642 “ex-militants” would be added to the program.<sup>21</sup>
- 3.16.3** According to BBC News around 30,000 people have been granted amnesty, under the above program, by the Nigerian government. In what is a very expensive commitment, each is supposed to receive 65,000 naira (\$410, £265) per month. Thousands have also been given training for jobs as diverse as pipe welding and learning to become a pilot. The amnesty programme costs close to \$500m a year, but that is small change compared to the extra oil money accrued since the peace deal was struck. Production fell as low as 800,000 barrels a day when the militancy reached its peak. Today officials say 2.4 million barrels are produced each day. But critics say the root causes of conflict have not been addressed.<sup>22</sup>
- 3.16.4** While the 2009 amnesty helped end the general violence against the oil industry and its personnel in the Niger Delta, oil bunkering (oil theft by means of tapping pipelines) has reportedly doubled since the amnesty, costing the government some \$7 billion annually in lost revenue and another \$5 billion for pipeline repairs.

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<sup>21</sup> Human Rights Watch, World Report 2013: Nigeria, 31 January 2013 <http://www.hrw.org/world-report/2013/country-chapters/nigeria?page=2>

<sup>22</sup> BBC News, Has Nigeria's Niger Delta managed to buy peace? 1 May 2013 <http://www.bbc.co.uk/news/world-africa-22357597>

Oil thieves reportedly steal up to 20% (or some 400,000 barrels per day) of the nation's fuel in this dangerous practice. Theft has become so pervasive that, in November 2012, Royal Dutch Shell, which produces roughly 40% of Nigeria's oil, shut down a pipeline in the Niger Delta after finding six theft points on its Imo River trunk line. The firm claimed that sabotage was responsible for 25 of the 26 spills on the Imo River in 2012, which released nearly 3,000 barrels into the river and other waterways, destroying large swathes of the local environment.<sup>23</sup>

- 3.16.5** Niger Delta authorities say civilian armed groups with no formal training are working with Nigerian security forces to quell a spate of violent crimes and kidnappings. Some locals say these groups can be as dangerous as the criminals they hunt. The Niger Delta region has all of Nigeria's oil, which comprises the vast majority of the country's budget. With all that oil there is also a lot of money. But in this land of riches, most people live off of less than \$1 a day. The result is high crime - especially kidnappings for ransom, armed robbery and oil theft. And while security forces try to bring down the crime levels, civilian armed groups are now authorized by the government to do the job.<sup>24</sup>
- 3.16.6** A string of high-profile kidnapping incidents in early 2013 in combination with an increase and geographic expansion of pipeline attacks in the Lagos region (outside the traditional zone of militant activity in the Niger Delta) has raised questions about stability in Nigeria's south and, by proxy, the effectiveness of the 2009 amnesty for militants affiliated with the Movement for the Emancipation of the Niger Delta (MEND). While no specific group is claiming responsibility for the attacks, the activity appears to be related to the same underlying socio-economic problems in the area that spurred the ascension of MEND, which at one point in the late 2000s shut down half of Nigeria's over 2 million-barrels-per-day oil production. As the country receives some 80% of its earnings from oil production, the trends are particularly threatening as no substantive reason exists that any of this activity should abate in the near future. More realistically, such incidents are only likely to continue to worsen and expand.<sup>25</sup>

See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

- 3.16.7 Conclusion.** Whilst applicants from the Niger Delta may face harassment and ill-treatment at the hands of the security forces who work to protect the interests of the oil industry, they are unlikely to be able to establish that they face treatment amounting to persecution based solely on their residence there. Applicants who are able to demonstrate that they face a level of harassment and ill-treatment amounting to persecution at the hands of the security forces in the Niger Delta are unlikely to be able to seek redress from the authorities. Such applicants, however, have the option to relocate internally to another area of the country outside of the Niger Delta where they will not be of continuing interest to the security forces

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<sup>23</sup> Jamestown Foundation, *No End in Sight: Violence in the Niger Delta and Gulf of Guinea*, 8 March 2013, Terrorism Monitor Volume: 11 Issue: 5, <http://www.refworld.org/docid/513d9cd02.html>

<sup>24</sup> Voice Of America, *Civilian Armed Groups Fight Crime, Wreak Havoc in Niger Delta*, 31 December 2012 <http://www.voanews.com/content/civilian-armed-groups-fight-crime-wreak-havoc-in-niger-delta/1574577.html>

<sup>25</sup> Jamestown Foundation, *No End in Sight: Violence in the Niger Delta and Gulf of Guinea*, 8 March 2013, Terrorism Monitor Volume: 11 Issue: 5, <http://www.refworld.org/docid/513d9cd02.html>

feared. Therefore, a grant of asylum or Humanitarian Protection will not be appropriate for this category of claim.

### **3.17 Fear of cults, gangs and vigilante groups (including fear of juju, student confraternities and bakassi boys)**

**3.17.1** Some applicants may make an asylum and/or human rights claim on the grounds that they fear ill-treatment amounting to persecution at the hands of cults, gangs, vigilante groups or those involved with conduction rituals or fetish magic, known as juju (the African phrase for voodoo). Other applicants may express a fear of ill-treatment at the hands of student confraternities, often referred to as student cults.

**3.17.2 Treatment.** The term cult is very freely used in Nigeria, and may refer to any organised group of people where there is some sort of secrecy around the group members' reasons to organise and/or modes of operations. The term also implies a religious dimension, generally linked to practice of juju. Organisations ranging from the famous Ogboni secret society via ethnically based vigilante groups to university fraternities are all referred to as cults in Nigerian media. Cults and secret organisations are common in the south of Nigeria, but considerably less so in the north. Secret brotherhoods operate all the way up to elite levels of society and it is widely believed in Nigeria that people in power form secret networks where conspiracies and abuse of occult powers are a matter of routine.<sup>26</sup>

**3.17.3** Urban cult gangs originate from innocuous cultural groupings of young people that usually grew up together or went to the same school. Over time these evolve into street cult gangs dedicated to the protection of their members and territory and providing them with economic opportunities within their community. Members are bound by an oath and keep their identities secret. These gangs are prevalent in squatter camps and poor, dense neighbourhoods. Urban gangs maintain fluid alliances, merging with confraternity military wings and are often sourced by ethnic militias, politicians, and criminals for specific tasks and activities.<sup>27</sup>

**3.17.4** Cultism and the response to cultism frequently leads to escalations in human insecurity. A recent example in Rivers of such a vicious cycle was the October 2012 lynching of four alleged thieves who were reported to be cult gang members. According to some news sources five young men from the University of Port Harcourt went to Aluu village to collect a debt from another student. As they were attempting to do so, local villagers apprehended them and accused them of stealing a phone and a laptop. As punishment for the offence a vigilante mob beat them and burned four of them alive. In retaliation, students from the university invaded Aluu destroying cars, setting buildings ablaze and looting houses and shops. The university was closed for weeks and people left the village of Aluu for fear of further violence, whether by cultists, student protesters, or police. 'This incident is an example of how the prevalence of cultism and criminality has led to a cycle of vigilantism and security crackdowns, escalating violence in an environment where people have little confidence in the judicial system.'<sup>28</sup>

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<sup>26</sup> Landinfo, Report of Fact-finding trip to Nigeria of March 2006, published August 2006

[http://www.landinfo.no/asset/491/1/491\\_1.pdf](http://www.landinfo.no/asset/491/1/491_1.pdf)

<sup>27</sup> Fund for Peace, Beyond Terror and Militants: Assessing Conflict in Nigeria, 10 December 2012

<http://www.fundforpeace.org/global/library/cungr1215-unlocknigeria-12e.pdf>

<sup>28</sup> Fund for Peace, Beyond Terror and Militants: Assessing Conflict in Nigeria, 10 December 2012

<http://www.fundforpeace.org/global/library/cungr1215-unlocknigeria-12e.pdf>

- 3.17.5** Cult gangs are a serious problem in Rivers state. Attempts by the government to eradicate cults have in several instances temporarily dampened violence only for it to flare up again more ferociously. The cult gang problem highlights several issues underlying the drivers of human insecurity in the Niger Delta. The infiltration of gangs in local politics and police illustrates the corruption of public institutions in the region. In addition, cult gangs have further exposed gaps in police capacity to deal with these issues.<sup>29</sup>
- 3.17.6** Criminal gangs, called “cults” in some parts of the region, copied the methods of more sophisticated militants to amass wealth and power. In a recent trend, kidnapers targeted businessmen, doctors, teachers, religious leaders, foreign residents, and others. Gangs extended their reach beyond the Niger Delta states, where they originated as politically sponsored thugs to intimidate opponents and aid election rigging. Kidnappings committed primarily for ransom increased throughout the country, including in the North. In recent years power struggles between gangs resulted in extensive property damage and hundreds of deaths, including of civilian bystanders.<sup>30</sup>
- 3.17.7** In correspondence with the Immigration and Refugee Board of Canada Research Directorate, a representative of the National Human Rights Commission (NHRC) of Nigeria, stated that the “observation of facts” indicates that as a general rule, cults do not engage in violent activities against those not involved in cult activities. They are however known to attack anti-cult campaigners through clandestine intimidation and physical attacks.<sup>31</sup>
- 3.17.8** According to the National Universities Commission, the federal government has asked the heads of tertiary institutions to take measures to curb cult violence on campuses, including: sanctioning apprehended student cultists, conducting media sensitization campaigns, creating aggressive public campaigns and increasing advocacy efforts.<sup>32</sup>
- 3.17.9** The Nigerian newspaper Leadership, indicates that, according to Nigerians living in Delta state, the federal government, the police, and traditional and religious institutions show a “lack of commitment in addressing the underlying causes of cult-related violence”.<sup>33</sup>
- 3.17.10** According to the Vanguard newspaper, the Edo state Police Commissioner said that the federal government is “doing its best” to tackle the problem of cult violence in Edo state, “but there are areas that still need improvement”. The Edo state Police Commissioner reportedly also said that police are facing a shortage of

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<sup>29</sup> Fund for Peace, Beyond Terror and Militants: Assessing Conflict in Nigeria, 10 December 2012

<http://www.fundforpeace.org/global/library/cungr1215-unlocknigeria-12e.pdf>

<sup>30</sup> US State Department Human Rights Report 2012; Nigeria, Section 1g, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>31</sup> Immigration and Refugee Board of Canada, *Nigeria: The Black Axe confraternity, also known as the Neo-Black Movement of Africa, including their rituals, oaths of secrecy, and use of symbols or particular signs; whether they use force to recruit individuals (2009-November 2012)*, 3 December 2012, NGA104208.E,

<http://www.refworld.org/docid/50ebf7a82.html>

<sup>32</sup> Immigration and Refugee Board of Canada, *Nigeria: The Black Axe confraternity, also known as the Neo-Black Movement of Africa, including their rituals, oaths of secrecy, and use of symbols or particular signs; whether they use force to recruit individuals (2009-November 2012)*, 3 December 2012, NGA104208.E,

<http://www.refworld.org/docid/50ebf7a82.html>

<sup>33</sup> Immigration and Refugee Board of Canada, *Nigeria: The Black Axe confraternity, also known as the Neo-Black Movement of Africa, including their rituals, oaths of secrecy, and use of symbols or particular signs; whether they use force to recruit individuals (2009-November 2012)*, 3 December 2012, NGA104208.E,

<http://www.refworld.org/docid/50ebf7a82.html>

patrol vehicles, adding that no divisional operational department has more than one police vehicle.<sup>34</sup>

**3.17.11** Juju, sometimes known as voodoo or magic, is a significant part of West African culture which is particularly prevalent in the Edo state of Nigeria, alongside other religions such as Christianity. Dr Hermione Harris from the School of Oriental and African Studies explained Juju involved the manipulation of spiritual powers and was feared because of the harm this could bring. "If someone's ill, they die or there's some misfortune in the family, it is thought someone is working against them, they're using the power of Juju to put a curse on them," she said. Associated with Juju are rituals which could be the invention of an individual practitioner who can make a lot of money when people go to them with their problems.<sup>35</sup>

**3.17.12** The Bakassi Boys were created in 1998 by traders in the Nigerian city of Aba who wanted to protect themselves from armed robbers and "hoodlums". Having had success in reducing crime in Aba, the Bakassi Boys became "in high demand" and their activities spread to other cities in eastern Nigeria.<sup>36</sup>

See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

**3.17.13 Conclusion.** Applicants who fear, or who have experienced ill-treatment at the hands of these groups will generally be able to seek protection. However those applicants for whom sufficiency of protection is not available will generally be able to safely relocate within the country to escape such treatment. Therefore, a grant of asylum or Humanitarian Protection will not generally be appropriate for this category of claim.

### **3.18 Boko Haram**

**3.18.1** Some applicants may express a fear of persecution at the hands of Boko Haram, or may fear being caught up in the violence perpetrated by members of Boko Haram.

**3.18.2 Treatment.** The violent religious extremist organization Boko Haram started in northern Nigeria's Yobe and Borno states in 2002 and became a dangerous threat to Nigeria's stability in 2011. Boko Haram (a Hausa- language name meaning western education is a sin, given to the militants by Northern Nigerians) sees the federal and northern state governments, as well as the country's political and

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<sup>34</sup> Immigration and Refugee Board of Canada, *Nigeria: The Black Axe confraternity, also known as the Neo-Black Movement of Africa, including their rituals, oaths of secrecy, and use of symbols or particular signs; whether they use force to recruit individuals (2009-November 2012)*, 3 December 2012, NGA104208.E, <http://www.refworld.org/docid/50ebf7a82.html>

<sup>35</sup> Country of Origin Research and Information (CORI), *CORI Thematic Report, Nigeria: Gender and Age*, December 2012, <http://www.refworld.org/docid/514830062.html>

<sup>36</sup> Immigration and Refugee Board of Canada, *Nigeria: Bakassi Boys; leadership, membership, activities, and treatment by authorities (January 2005 - February 2006)* 14 February 2006, <http://www.unhcr.org/refworld/docid/45f1478b2.html>



religious elites, as morally corrupt. It rejects the West and the secular state and seeks the universal implementation of "pure" Shari'ah law to resolve the ills facing northern Nigerian Muslims. While Shari'ah is already applied in the 12 northern Nigeria states, Boko Haram believes that it has been corrupted by politicians for their own gain.<sup>37</sup>

- 3.18.3** In 2011, the radical Islamist movement Boko Haram became a serious threat to internal security in Nigeria. Whereas it had previously been restricted largely to north-eastern Borno State and focused its attacks on government officials, security forces, and traditional leaders it perceived as complicit with the government, the group increasingly targeted ordinary civilians and moved into new areas. Both the scale and the geographic reach of Boko Haram attacks continued to expand in 2012. In January 2012, coordinated bombings and gunfire in the city of Kano killed some 180 people, and approximately 100 people were killed in Kaduna in June 2012 when Boko Haram bombed three churches. There were more frequent, smaller attacks in the states of Borno, Yobe, Gombe, Adamawa, and Bauchi, though these mainly targeted security forces and other government personnel. The escalation of Boko Haram activity was matched by a harsh and somewhat indiscriminate response from the military and police, reportedly including extrajudicial killings and arbitrary arrests.<sup>38</sup>
- 3.18.4** Boko Haram has grown in numbers in the past two years with scores of economically and politically- marginalised northerners joining the group. Boko Haram is known to receive training from and have connections with al-Qaeda in the Maghreb. The U.S. government designated three of its leaders terrorists in June 2012.<sup>39</sup>
- 3.18.5** Boko Haram targets include police stations, government buildings, churches, politicians, newspapers, banks, and schools throughout northern Nigeria. Tactics include drive-by shootings on motorcycles, the use of improvised explosive devices, and starting in 2011, suicide bombings. In August 2011, individuals claiming to be affiliated with Boko Haram took responsibility for bombing the United Nations' main office in Abuja, an attack that killed 34 people. International Criminal Court prosecutor Fatou Bensouda has said that there is a "reasonable basis" to believe that Boko Haram has committed crimes against humanity in Nigeria.<sup>40</sup>
- 3.18.6** In addition to attacks on state institutions, Boko Haram attacks have targeted the northern Christian population. In 2012, Boko Haram, or people thought to be affiliated with or sympathetic to the group, attacked at least 25 churches, killing and injuring hundreds; three attacks led to Christian reprisals. Boko Haram has attacked churches on Christmas Eve or Christmas day three years in a row from 2010 to 2012. It also killed individual Christians and called on Christians to leave northern Nigeria. It also seeks to further destabilize Nigeria by striking churches in cities with histories of Muslim-Christian tensions to exacerbate that hostility.<sup>41</sup>

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<sup>37</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Thematic Issues: Severe religious freedom violations by non-state actors*, 30 April 2013, <http://www.refworld.org/docid/51826edc27.html>

<sup>38</sup> Freedom House, *Freedom in the World 2013: Nigeria* 9 May 2013 <http://www.freedomhouse.org/report/freedom-world/2013/nigeria>

<sup>39</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Thematic Issues: Severe religious freedom violations by non-state actors*, 30 April 2013, <http://www.refworld.org/docid/51826edc27.html>

<sup>40</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Thematic Issues: Severe religious freedom violations by non-state actors*, 30 April 2013, <http://www.refworld.org/docid/51826edc27.html>

<sup>41</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Thematic Issues: Severe religious freedom violations by non-state actors*, 30 April 2013, <http://www.refworld.org/docid/51826edc27.html>

- 3.18.7** Boko Haram is also responsible, or is suspected of being responsible, for a number of attacks on Muslim clerics critical of the group. Victims include the second most prominent Islamic leader in Nigeria, the Shehu of Borno State Alhaji Ibn Abubakar Umar Garbai Elkanemi and the Emir of Fika. Boko Haram also is believed to have assassinated a number of clerics critical of the religious extremist group in 2012. In efforts to "purify" northern Nigeria, Boko Haram kills those engaged in what it deems un-Islamic behaviour, such as gambling and drinking alcohol in bars.<sup>42</sup>
- 3.18.8** Suspected Boko Haram members have carried out hundreds of attacks, including suicide bombings, across northern and central Nigerian since 2009, killing more than 1,600 people. The group has primarily targeted police and other government security agents, Christians, and Muslims working for or accused of cooperating with the government.<sup>43</sup>
- 3.18.9** The group burned schools, bombed newspaper offices, and assassinated Muslim clerics, politicians, and traditional leaders. In the first 10 months of 2012 alone, more than 900 people died in suspected attacks by the group—more than in 2010 and 2011 combined.<sup>44</sup>
- 3.18.10** Government officials, civil society, and religious leaders on multiple occasions claimed to have initiated a dialogue with Boko Haram, but elements of the sect denied any involvement in such talks.<sup>45</sup>
- 3.18.11** Members of Boko Haram and other extremist groups in Nigeria could face war crimes charges for deliberate acts leading to ethnic and religious cleansing, the top United Nations human rights official said in May 2013.<sup>46</sup>
- 3.18.12** In response to the Boko Haram attacks, President Goodluck Jonathan declared a state of emergency in Borno, Yobe, Niger, and Plateau states on December 31, 2011, allowing the Nigerian army to enter those states. However, rather than stop Boko Haram, the army's use of excessive force exacerbated the problem. Hundreds of suspected Boko Haram members are in detention, with trial dates yet to be determined. The Nigerian government has also entered into failed peace negotiations with the group and on 25 November 2012 announced hundreds of thousands of dollars of rewards for information leading to the capture of suspected Boko Haram leader and U.S.-designated terrorist Abubakar Shekau and other senior commanders. The Nigerian government has also taken steps to try to protect churches, including stationing police and erecting barriers at church entry points. While this has not stopped all attackers, it has prevented a number of them from reaching their targets, thereby reducing the number of deaths and injuries.<sup>47</sup>

**3.18.13** Nigeria's security forces perpetrated serious human rights violations in their

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<sup>42</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Thematic Issues: Severe religious freedom violations by non-state actors*, 30 April 2013, <http://www.refworld.org/docid/51826edc27.html>

<sup>43</sup> Human Rights Watch, *World report 2013, Nigeria*, 31 January 2013, <http://www.hrw.org/world-report/2013/country-chapters/nigeria>

<sup>44</sup> Human Rights Watch, *World report 2013, Nigeria*, 31 January 2013, <http://www.hrw.org/world-report/2013/country-chapters/nigeria>

<sup>45</sup> US State Department Human Rights Report 2012; Nigeria, Executive Summary, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>46</sup> UN News Service, *Nigerian rebels could face war crimes charges for 'population cleansing'* – UN rights office, 17 May 2013, <http://www.refworld.org/docid/519b3bd94.html>

<sup>47</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Thematic Issues: Severe religious freedom violations by non-state actors*, 30 April 2013, <http://www.refworld.org/docid/51826edc27.html>

response to Boko Haram – including enforced disappearance, extrajudicial executions, house burning and unlawful detention. Scores of people were unlawfully killed by the Joint Task Force (JTF) – army, police and other security forces – set up to deal with the violence, or police; others were subjected to enforced disappearance from police or JTF custody. People in at least five communities in Maiduguri had their houses burned down by the JTF, often following raids and arrests in the areas and in some cases seemingly as a punitive measure.<sup>48</sup>

- 3.18.14** Hundreds of people accused of having links to Boko Haram were arbitrarily detained by the JTF. Many were detained incommunicado for lengthy periods without charge or trial, without being brought before any judicial authority, and without access to lawyers. Hundreds of people were detained without charge or trial at Giwa Barracks, 21 Armoured Brigade, Maiduguri, in harsh conditions that may amount to inhuman and degrading treatment. Independent and impartial investigations were rarely carried out into allegations of human rights violations by the security forces and, when they were, the findings were not made public.<sup>49</sup>
- 3.18.15** On 1 May 2012, following a killing by a suspected member of Boko Haram in Kawar Maila, JTF soldiers made women and children living nearby leave their homes before setting approximately 33 houses on fire. An Islamiyya school attended by local children was also burned down by the JTF. The building was unoccupied at the time.<sup>50</sup>
- 3.18.16** Security forces commit abuses with near impunity, and corruption pervades their ranks. Amnesty International has accused military forces currently deployed to quell the terrorist activities of Boko Haram of worsening human rights conditions through extreme, extralegal tactics. In an October 2012 report, Human Rights Watch estimated that Boko Haram attacks accounted for over 1,500 of the roughly 2,800 deaths in the conflict since 2009, suggesting that government forces were responsible for the remainder. In one case during 2012, Amnesty International called for an independent inquiry into the alleged extrajudicial killing of at least 30 young men by security forces in the city of Maiduguri in late October. Many of the tactics used by the military, such as cordon-and-sweep searches, result in other forms of rights abuses in areas where Boko Haram operates, and security forces have engaged in arbitrary mass arrests of young Muslim men in these areas.<sup>51</sup>

**See also:** [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

**3.18.17 Conclusion** Those applicants who fear persecution at the hands of Boko Haram

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<sup>48</sup> Amnesty International, Annual Report 2013: Nigeria 23 May 2013, <http://www.amnesty.org/en/region/nigeria/report-2013#section-108-3>

<sup>49</sup> Amnesty International, Annual Report 2013: Nigeria 23 May 2013, <http://www.amnesty.org/en/region/nigeria/report-2013#section-108-3>

<sup>50</sup> Amnesty International, Annual Report 2013: Nigeria 23 May 2013, <http://www.amnesty.org/en/region/nigeria/report-2013#section-108-3>

<sup>51</sup> Freedom House, Freedom in the World 2013: Nigeria, 9 May 2013 <http://www.freedomhouse.org/report/freedom-world/2013/nigeria>

should be able to seek protection from the authorities and should be able to relocate to an area outside of the North of Nigeria where attacks by Boko Haram are less frequent. Applicants claiming asylum in this category are likely to be refused but caseworkers should remember that each case should be looked at on its individual merits.

### **3.19 Religious persecution**

- 3.19.1** Some applicants may make an asylum and/or human rights claim based on the grounds that they aren't free to practise their religion and that they would face ill-treatment amounting to persecution. Some applicants may express fear of Shari'a courts in northern Nigeria while others may have a fear of Hisbah groups who operate at local level in northern Nigeria to enforce Shari'a.
- 3.19.2 Treatment.** The population is approximately 170 million, according to a U.S. government source. Most observers estimate it is 50 percent Muslim, 40 percent Christian, and 10 percent adherents of indigenous religious beliefs. The predominant Islamic group is Sunni, including Tijaniyah, Qadiriyyah, and Sufi. Growing Shia and Izala (Salafist) minorities exist. Christian groups include Roman Catholics, Anglicans, Baptists, Methodists, Presbyterians, evangelicals and Pentecostals, and The Church of Jesus Christ of Latter-day Saints (Mormons).
- 3.19.3** The constitution and other laws and policies generally protect religious freedom. The constitution mandates that the government not adopt any religion as a state religion. The constitution prohibits state and local governments from adopting a state religion or giving preferential treatment to any religious or ethnic group.<sup>52</sup>
- 3.19.4** Religious freedom is guaranteed by the constitution, though many Nigerians, including government officials, discriminate against adherents of religions different to their own. Religious violence is frequently intertwined with regional and ethnic differences and accompanying competition for land and resources. In recent years, sectarian clashes have erupted in and around the city of Jos, leaving hundreds dead and displacing thousands more. In terms of terrorism, Christians and their houses of worship have been explicitly targeted by Boko Haram, though Muslims still account for the majority of the group's victims.<sup>53</sup>
- 3.19.5** While there were fewer incidents of sectarian conflict during 2012, the government made no progress on prosecuting perpetrators. Despite thousands of deaths in religion-related violence, United States Commission on International Religious Freedom (USCIRF) is aware of no case being prosecuted during the past year, and only 170 individuals having ever been prosecuted for perpetrating such violence. While other causes factor into the violence in areas of conflict, religion is a significant catalyst and is often misused by politicians, religious leaders, or others for political gain. The Nigerian government's failure to address chronic religion-related violence contrasts with its commitment to stop Boko Haram, which at times has resulted in the indiscriminate use of force against civilians and human rights abuses. Other religious freedom concerns in Nigeria include the application of a strict interpretation of Shari'ah (Islamic law) in the criminal codes of several northern Nigerian states and discrimination against local minority communities of

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<sup>52</sup> US State Department, International Religious Freedom Report 2012: Nigeria, 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208182>

<sup>53</sup> Freedom House, Freedom in the World 2013: Nigeria, 9 May 2013 <http://www.freedomhouse.org/report/freedom-world/2013/nigeria>

Christians and Muslims.<sup>54</sup>

- 3.19.6** Federal, state, and local authorities did not effectively address underlying political, ethnic, and religious grievances that led to violence. Recommendations from numerous government-sponsored panels for resolving ongoing ethno-religious disputes in the Middle Belt included establishing truth and reconciliation committees, redistricting cities, community sensitization, and ending the dichotomy between indigenes and settlers. Nationwide practice distinguishes between indigenes, whose ethnic group is native to a location, and settlers, who have ethnic roots in another part of the country. Local authorities grant indigenes certain privileges, including preferential access to political positions, government employment, and lower school fees, based on a certificate attesting to indigene status. The federal government did not implement any recommendations despite urging by a prominent group of northern leaders in May.<sup>55</sup>
- 3.19.7** Christians in northern Nigerian states complain of what they view as discrimination at the hands of Muslim-controlled state governments and say they are treated as "second-class citizens." Their allegations of official discrimination include denials of applications to build or repair places of worship, lack of access to education, failure to make provisions for the teaching of the Christian religion in public schools, failure to allow for Christian religious programs in state-run media, and lack of representation in government bodies and government employment.<sup>56</sup>
- 3.19.8** The State Department continues to report that Muslim communities in southeastern Nigeria echo some of the complaints of minority Christian communities in northern Nigeria. Southern Muslim leaders report official or officially-sanctioned discrimination in the media, education, and representation in government institutions.<sup>57</sup>
- 3.19.9** Sharia-based practices, such as the separation of the sexes in public schools, health care, voting, and transportation services, affected non-Muslim minorities in the north. State governments in Bauchi, Zamfara, Niger, Kaduna, and Kano funded Sharia law enforcement groups called the Hisbah, which enforced Sharia law inconsistently and sporadically. There were no verified reports that Sharia courts illegally heard criminal cases during the year, although they have done so in the past. Sharia courts continued to hear civil cases as permitted by law.<sup>58</sup>
- 3.19.10** In some communities, Muslims or Christians who converted to another religion reportedly faced ostracism by adherents of their former religion. In some northern states, those wishing to convert to Islam applied to the Sharia council for a letter of conversion to be sent to their families, which served to dissolve marriages to Christians, and to request Hisbah protection from reprisals by relatives. Similar procedures did not exist for those converting to Christianity.<sup>59</sup>

<sup>54</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Countries of Particular Concern: Nigeria*, 30 April 2013, <http://www.refworld.org/docid/51826efbf.html>

<sup>55</sup> US State Department, *International Religious Freedom Report 2012: Nigeria*, 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208182>

<sup>56</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Countries of Particular Concern: Nigeria*, 30 April 2013, <http://www.refworld.org/docid/51826efbf.html>

<sup>57</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Countries of Particular Concern: Nigeria*, 30 April 2013, <http://www.refworld.org/docid/51826efbf.html>

<sup>58</sup> US State Department, *International Religious Freedom Report 2012: Nigeria*, 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208182>

<sup>59</sup> US State Department, *International Religious Freedom Report 2012: Nigeria*, 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208182>

- 3.19.11** While the law prohibits religious discrimination in employment and other activities, some businesses continued to discriminate based on religion or ethnicity in hiring. Muslim women in the south reportedly continued to face job discrimination in the private sector, especially when applying for jobs requiring interactions with customers. Advocacy by Muslim groups in the South resulted in three major banks accepting “corporate hijab” into their dress code for the first time. There is no legal restriction against wearing the hijab.<sup>60</sup>
- 3.19.12** Some Nigerian states in recent years have instituted discriminatory practices based on religious precepts or tolerated the societal application of such practices. These include banning the sale and consumption of alcohol and disadvantaging women in education, health care, and public transportation. These practices affect Muslims and non-Muslims alike. The Hisbah, or religious police, as they call themselves, are funded and supported by state governments in Bauchi, Zamfara, Niger, Kaduna, and Kano. The Hisbah enforce their interpretation of Shari'ah in their respective states. In some areas, the Hisbah primarily work as traffic wardens and marketplace regulators, but the Kano Hisbah have focused on enforcing prohibitions against alcohol and prostitution. It is not uncommon for a truck transporting beer to be pulled over by the Kano Hisbah and for its contents to be confiscated, even if the truck was on a federal highway.<sup>61</sup>
- 3.19.13** Since 1999, all 12 Muslim-majority northern Nigerian states established, or announced plans to establish, their interpretation of Shari'ah law in their criminal codes. No new Shari'ah laws were established during the reporting period. Each of these 12 states has sought to extend the jurisdiction of Shari'ah courts beyond personal status matters to include Shari'ah crimes and punishments for Muslims alone. In the past, such punishments included amputation, flogging, or death by stoning. No such sentences were reported in 2012. Trials in Shari'ah courts in these states often fall short of basic international rule of law standards, and defendants have limited rights of appeal and sometimes have no opportunity to obtain legal representation. Women face discrimination under these provisions, especially in adultery cases where pregnancy alone has been used as adequate evidence of guilt. Allegations of rape and sexual violence rarely are investigated.<sup>62</sup>

**See also:** [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

- 3.19.14 Conclusion** The right to religious freedom and expression is enshrined in the constitution and there are no reports of anyone experiencing any problems with the Federal Government in practising their chosen religion. In general those fearing ill-treatment will be able to seek protection from the state or alternatively internally relocate to escape a localised threat. Applicants who express a fear of Shari'a courts have the constitutional right to have their cases heard by the parallel (non-Islamic) judicial system and as such their claims are likely to be unfounded.

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<sup>60</sup> US State Department, International Religious Freedom Report 2012: Nigeria, 20 May 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208182>

<sup>61</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Countries of Particular Concern: Nigeria*, 30 April 2013, <http://www.refworld.org/docid/51826efb.html>

<sup>62</sup> United States Commission on International Religious Freedom, *USCIRF Annual Report 2013 - Countries of Particular Concern: Nigeria*, 30 April 2013, <http://www.refworld.org/docid/51826efb.html>

In general those expressing fear of Hisbah groups will be able to internally relocate to elsewhere in Nigeria where such groups do not operate or have no influence. Caseworkers must refer to the Asylum Instruction on [Internal Relocation](#) for guidance on the circumstances in which internal relocation would be a 'reasonable' option. A claim based on fear of Hisbah groups is unlikely to qualify for a grant of asylum or humanitarian protection.

### **3.20 Female Genital Mutilation**

- 3.20.1** Some female applicants may seek asylum on the basis that they, or their children, would be forcibly required by family members to undergo female genital mutilation (FGM) if they were to return to Nigeria.
- 3.20.2 Treatment** There are laws which criminalise female genital mutilation/cutting (FGM/C), the removal of any part of a sexual organ from a woman or girl, except for medical reasons approved by a doctor. According to the provisions of the laws, an offender is any woman who offers herself for FGM/C; any person who coerces, entices, or induces any woman to undergo FGM/C; or any person who, for other than medical reasons, performs an operation removing part of a woman's or a girl's sexual organs.<sup>63</sup> In Nigeria, [Ejiro Otive Igbuzor, the former executive director of Women Empowerment and Reproductive Health Centre] noted that legislation and enforcement laws are vital though such laws exist in states including Abia, Bayelsa, Cross River, Delta, Edo, Ogun, Osun and Rivers but that the penalties are mild which, according to him, has not hastened the abolishment of the act. He added that in Delta the law stipulates a three months' imprisonment and a fine while in Edo it is six months' imprisonment and a fine of N1000.<sup>64</sup>
- 3.20.3** Currently however, there is no federal law on Female Genital Mutilation in Nigeria, and advocates against the practice presently rely on Section 34(1) (a) of the 1999 Constitution, which states that "no person shall be subjected to torture or inhuman or degrading treatment." Despite the fact that Nigeria was one of the five countries that sponsored a resolution at the forty-sixth World Health Assembly calling for the eradication of Female Genital Mutilation (FGM) in all nations, the practice is still very rampant in the country. Though some states of the federation, including Lagos, Osun, Ondo, Ogun, Ekiti, Bayelsa, Edo, Cross-River and Rivers have enacted FGM laws, implementation of these laws has been a huge challenge. In January 2012 a 15 year old girl died from post-circumcision haemorrhage in Bayelsa state and her 17 year old sister ran away to not face the same fate.<sup>65</sup>
- 3.20.4** Ejiro Otive Igbuzor, speaking on the evils of female genital mutilation pointed out that the practice of FGM is performed in nearly all states in Nigeria. According to him the prevalence in the North is due to early marriages. He revealed that the prevalence of FGM in Nigeria is estimated at 36-60%.<sup>66</sup>
- 3.20.5** The 2008 NDHS reported 30 percent of women in the country suffered FGM/C. While practiced in all parts of the country, FGM/C remained most prevalent in the

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<sup>63</sup> US State Department, Human Rights Report 2012: Nigeria, Section 6, 19 April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>64</sup> The Daily Trust, Women with painful lives - female genital mutilation: the silent killer, 14 February 2012,  
<http://allafrica.com/stories/201202140971.html?viewall=1>

<sup>65</sup> Say no to Violence, Ban FGM in Nigeria, 12 July 2012 <http://saynotoviolence.org/join-say-no/ban-fgm-nigeria>

<sup>66</sup> All Africa, Nigeria: Women With Painful Lives- Female Genital Mutilation: The Silent Killer, 14 February 2012,  
<http://allafrica.com/stories/201202140971.html?viewall=1>

southern region among the Yoruba and Igbo. Infibulation, the most severe form of FGM/C, infrequently occurred in northern states but was common in the South. The age at which women and girls were subjected to the practice varied from the first week of life until after a woman delivered her first child; however, most female victims suffered FGM/C before their first birthday.<sup>67</sup>

- 3.20.6** According to the Unicef report, Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change, in 2011 27% of girls and women aged 15 to 49 years had undergone FGM/C. According to the same source prevalence of FGM/C has dropped by about half among adolescent girls in Nigeria.<sup>68</sup>
- 3.20.7** The federal government publicly opposed FGM/C but took no legal action to curb the practice. Twelve states banned FGM/C; however, once a state legislature criminalised FGM/C, NGOs found they had to convince local government authorities that state laws applied in their districts. The Ministry of Health, women's groups, and many NGOs sponsored public awareness projects to educate communities about the health hazards of FGM/C. Underfunding and logistical obstacles limited their contact with health care workers.<sup>69</sup>
- 3.20.8** Ejiro Otive Igbuzor, noted that legislation and enforcement laws are vital though such laws exist in states including Abia, Bayelsa, Cross River, Delta, Edo, Ogun, Osun and Rivers but that the penalties are mild which, according to him, has not hastened the abolishment of the act. He added that in Delta the law stipulates a three months' imprisonment and a fine while in Edo it is six months' imprisonment and a fine of 1000 Nigerian Naira (approximately £4).<sup>70</sup>

**See also:** [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

- 3.20.9** Whilst protection and/or assistance are available from governmental and non-governmental sources, this is limited. Caseworkers will need to ensure that each case is considered on its own merits, however in general those who are unable or, owing to fear, unwilling to avail themselves of the protection of the authorities, can safely relocate to another part of Nigeria where the family members who are pressurising them to undergo FGM would be unlikely to trace them. Women in this situation would if they choose to do so, also be able to seek protection from women's NGO's in the new location.
- 3.20.10** Women who have not undergone FGM, who are able to demonstrate that they are at serious risk of facing such treatment and are unable or, owing to fear, unwilling to avail themselves of the protection of the authorities should be granted asylum

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<sup>67</sup> US State Department, Human Rights Report 2012: Nigeria, Section 6, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>68</sup> UNICEF, Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change, July 2013 [http://www.unicef.org.uk/Documents/Publications/UNICEF\\_FGM\\_report\\_July\\_2013\\_Hi\\_res.pdf](http://www.unicef.org.uk/Documents/Publications/UNICEF_FGM_report_July_2013_Hi_res.pdf)

<sup>69</sup> US State Department, Human Rights Report 2012: Nigeria, Section 6, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>70</sup> All Africa, Nigeria: Women With Painful Lives- Female Genital Mutilation: The Silent Killer, 14 February 2012, <http://allafrica.com/stories/201202140971.html?viewall=1>



as members of a particular social group (PSG) if they are unable to escape the risk by internal relocation.

**3.20.11** Where applicants are granted asylum the accompanying parents may be eligible for a grant of leave. The act of enforced FGM on a child, where the parents are opposed to the act and where there is a real risk that FGM may be enforced and that FGM is prevalent in that country and where there is no sufficiency of protection could result in mental suffering of the parents such as to amount to persecution. Caseworkers should consider whether, on the basis of the facts, accompanying parents would qualify for asylum on the basis of a well founded fear of persecution as a member of a PSG (accompanying parents of a daughter at risk of FGM) in the Nigeria. Each case however, must be considered on its individual merits.

### **3.21 Victims of trafficking**

**3.21.1** Some victims of trafficking may claim asylum on the grounds that they fear ill-treatment or other reprisals from traffickers on their return to Nigeria. Trafficking in women, most commonly to work as prostitutes overseas, is a widespread and increasing problem in Nigeria. Often victims of trafficking have sworn blood oath to a 'juju shrine' and to the juju priest of their local community. The victims are most likely in debt to a madam who may have sponsored their travels abroad.

**3.21.2 Treatment** While illegal, human trafficking to, from, and within the country for the purposes of labor and prostitution is reported to be on the rise. Forced labor is illegal but common, especially bonded labor and domestic servitude, and the government makes very little effort to combat the practice. Several organizations have reported on an illegal trade in which pregnant teenagers are promised abortions, only to be held until their babies are delivered and sold.<sup>71</sup>

**3.21.3** Nigeria is a source, transit, and destination country for women and children subjected to forced labour and sex trafficking. Trafficked Nigerians are recruited from rural and, to a lesser extent, urban areas within the country; women and girls for domestic servitude and sex trafficking, and boys for forced labour in street vending, domestic service, mining, stone quarrying, agriculture, and begging. Nigerian traffickers rely on threats of voodoo curses to control Nigerian victims and force them into situations of prostitution or labor. Nigerian gangs traffic large numbers of Nigerian women into forced prostitution.<sup>72</sup>

**3.21.4** The Government of Nigeria does not fully comply with the minimum standards for the elimination of trafficking, but is making significant efforts to do so. The 2003 Trafficking in Persons Law Enforcement and Administration Act, amended in 2005 to increase the penalties for trafficking offenders, prohibits all forms of human trafficking. The law prescribes penalties of five years' imprisonment or a fine not to exceed the equivalent of approximately \$645 or both for labour trafficking offenses; these are sufficiently stringent, but the law allows convicted offenders to pay a fine in lieu of prison time for labour trafficking or attempted trafficking offenses, resulting in penalties not proportionate to the crimes committed. The law prescribes penalties of 10 to 15 years' imprisonment for sex trafficking offenses

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<sup>71</sup> Freedom House, Freedom in the world 2013: Nigeria, 9 May 2013 <http://www.freedomhouse.org/report/freedom-world/2013/nigeria>

<sup>72</sup> US State Department, 2013 Trafficking in persons report; Nigeria, 19 June 2013, <http://www.state.gov/documents/organization/210741.pdf>

and a fine of the equivalent of approximately \$1,250, or both. For sentences that include only a fine, penalties are not sufficiently stringent. In 2011, NAPTIP introduced amendments to the anti-trafficking law, which would give prosecutors more authority and restrict the ability of judges to offer fines in lieu of prison time during sentencing; this amendment was awaiting approval by the National Assembly at the end of the 2012.<sup>73</sup>

- 3.21.5** During 2012, the government demonstrated a modest increase in anti-trafficking law enforcement efforts through the conviction of 25 traffickers and the provision of specialised anti-trafficking training to officials by various government ministries and agencies.
- 3.21.6** The National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP) received a slight increase in funding in 2012. Despite these efforts, the government has yet to pass draft legislation that would restrict the ability of judges to offer fines in lieu of prison time during sentencing and the Nigerian Police Force (NPF) continued to experience difficulty identifying trafficking victims. The Ministry of Labour did not make any new efforts to address labour trafficking during the reporting period.<sup>74</sup>
- 3.21.7** The government reported that NAPTIP initiated 117 trafficking investigations, commenced at least 17 prosecutions, and achieved 25 convictions during 2012. Another 143 prosecutions remained pending at the end of 2012. There was a significant decrease in the number of investigations from the previous reporting period's 279 investigations, but this is likely due to the fact that law enforcement officials are now better trained to identify trafficking cases and are not mistakenly referring numerous non-trafficking crimes to NAPTIP for investigation. All prosecutions occurred under the 2003 Trafficking Act, and sentences upon conviction ranged from three months' to 18 years' imprisonment. Of the 25 convictions, 17 resulted in prison sentences without the option of paying a fine. The NPF reportedly also investigated and prosecuted human trafficking offenses; data regarding these cases was unavailable.<sup>75</sup>
- 3.21.8** The government collaborated with law enforcement agencies from the Netherlands, the United Kingdom, Malaysia, Austria, and Taiwan on investigations involving Nigerian nationals during the reporting period. Three of the pending prosecutions involve government officials alleged to have committed child labor trafficking offences.<sup>76</sup>
- 3.21.9** In 2012, NAPTIP continued to operate eight shelters with a total capacity of 293 victims, an increase in capacity from 2011. Through these shelters, NAPTIP provided access to legal, medical, and psychological services, as well as vocational training, trade and financial empowerment, and business management skills. Victims who required additional medical and psychological treatment were provided services by hospitals and clinics through existing agreements with NAPTIP. While all shelter staff received basic training in victim care, NAPTIP

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<sup>73</sup> US State Department, 2013 Trafficking in persons report; Nigeria, 19 June 2013, <http://www.state.gov/documents/organization/210741.pdf>

<sup>74</sup> US State Department, 2013 Trafficking in persons report; Nigeria, 19 June 2013, <http://www.state.gov/documents/organization/210741.pdf>

<sup>75</sup> US State Department, 2013 Trafficking in persons report; Nigeria, 19 June 2013, <http://www.state.gov/documents/organization/210741.pdf>

<sup>76</sup> US State Department, 2013 Trafficking in persons report; Nigeria, 19 June 2013, <http://www.state.gov/documents/organization/210741.pdf>

funded additional specialized training for 50 counselors during 2012 that was conducted by a local university and UNODC. The NAPTIP shelters offered short-term care, generally limiting victims' stays to six weeks, though victims were allowed to extend their stays under special circumstances. If victims needed longer-term care, they could be referred to two shelters operated by the Ministry of Women's Affairs in Kano and Benin City; during 2012, NAPTIP referred 20 victims to these two shelters. Additionally, NAPTIP collaborated with NGO-run shelters, which also provided longer-term care.<sup>77</sup>

**3.21.10** Victims in NAPTIP shelters were not allowed to leave unless accompanied by a chaperone. NAPTIP paid a monthly stipend of the equivalent of approximately \$2,900 to a local NGO-run shelter and provided limited funding, in-kind donations, and services to NGOs and other organizations that afforded protective services to trafficking victims. On occasion, state and local governments also provided in-kind assistance through training and technical support to NGOs. Overall, NAPTIP spent roughly one-fifth of its operational budget, or the equivalent of approximately \$666,000, on victim protection and assistance during 2012.<sup>78</sup>

**See also:** [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

**3.21.11 Conclusion** When a victim of trafficking agrees to give evidence as part of a criminal prosecution, caseworkers must consider if: it is likely to affect the basis of the asylum claim (for example by increasing the risk of retribution), and if they should postpone the decision on the asylum claim until the trial is concluded. The impact of the applicant giving evidence on the likelihood of future risk can then be assessed. It may be necessary to liaise with the police in these circumstances.

**3.21.12** In line with the findings in PO Nigeria at paragraph 191, support and protection from governmental and non-governmental sources in Nigeria are generally available to victims of trafficking. Internal relocation will often also be a viable option for applicants who fear reprisals from traffickers upon return to the country. However, caseworkers should refer to paragraph 192 of PO Nigeria when considering the risk to an individual of being re-trafficked (please see [caselaw](#) section above). Not all trafficked women returning to Nigeria will be able to access the arrangements and facilities available to enable successful re-integration and as such some trafficked women may well be members of a PSG. Where an applicant falls into this category and are able to demonstrate that the treatment they will face on return amounts to torture, inhuman or degrading treatment a grant of asylum will be appropriate.

## **3.22 Forced marriage**

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<sup>77</sup> US State Department, 2013 Trafficking in persons report; Nigeria, 19 June 2013, <http://www.state.gov/documents/organization/210741.pdf>

<sup>78</sup> US State Department, 2013 Trafficking in persons report; Nigeria, 19 June 2013, <http://www.state.gov/documents/organization/210741.pdf>

- 3.22.1** Some applicants may express a fear of persecution as a victim of a forced or proxy marriage.
- 3.22.2 Treatment** The Child Rights Act, as passed by the National Assembly, stipulates a minimum age of 18 years for marriage. Most states, especially northern states, did not adopt the act, and those states did not uphold the federal official minimum age for marriage. The government did not take significant steps to stop traditional practices harmful to children, such as sales of young girls into marriage. According to credible reports, there were incidents of poor families selling their daughters into marriage to supplement their incomes. Families sometimes forced young girls into marriage as early as puberty, regardless of age, to prevent "indecency" associated with premarital sex or for other cultural and religious reasons.<sup>79</sup>
- 3.22.3** There are three types of marriage in Nigeria today: religious marriage, civil marriage, and traditional marriage. A Nigerian couple may decide to take part in one or all of these marriages. Religious marriages, usually Christian or Muslim, are conducted according to the norms of the respective religious teachings and take place in a church or a mosque. Christian males are allowed only one wife, while Muslim men can take up to four wives. Civil official weddings take place in a government registry office. Men are allowed only one wife under a civil wedding, regardless of religion. Traditional marriages usually are held at the wife's house and are performed according to the customs of the ethnic group involved. Most ethnic groups traditionally allow more than one wife.<sup>80</sup>
- 3.22.4** In correspondence to the Immigration and Refugee Board of Canada's Research Directorate, Uju Peace Okeke, a lawyer and sexual-and-reproductive-rights activist, indicated that there is a "high" incidence of forced marriage in Nigeria. Sources indicate that the prevalence of forced marriage is dependent on a number of different factors and Okeke says it depends on culture. In correspondence with the Research Directorate, a project coordinator at Women's Rights Watch Nigeria, a Nigerian women's rights advocacy organisation, notes, in addition to culture, the factors of religion, location, socio-economic status, and ethnic group. Similarly, the Director of Widows for Peace through Democracy (WPD), a UK-based advocacy organization for widows in developing countries, says that factors include tribe and sub-clan, location, education, and income.<sup>81</sup>
- 3.22.5** The Women's Rights Watch Nigeria project coordinator indicated that forced marriage is "very prevalent" in the north of Nigeria, where the population is largely Muslim, and that it is "not common" in the south and among Yoruba communities. The Women's Rights Watch Nigeria project coordinator stated that, in the north, forced marriage is part of the culture and religion. Okeke attributes the higher prevalence of forced marriage in the north to the cultural and religious practice of polygamy. According to the Women's Rights Watch Nigeria project coordinator, in the north, forced marriage is "very prevalent" among the urban and rural poor, but "not very common" among educated populations. Okeke stated that "Nigerians are very religious" and superstitious, and that "there are news reports of people who were trapped into marriages by Juju/African magic".<sup>82</sup>

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<sup>79</sup> US State Department, Human Rights Report 2012: Nigeria Section 6, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>80</sup> EveryCulture, Nigeria Profile, undated <http://www.everyculture.com/Ma-Ni/Nigeria.html>

<sup>81</sup> Immigration and Refugee Board of Canada, *Nigeria: Prevalence of forced marriage, particularly in Muslim and Yoruba communities; information on legislation, including state protection; ability of women to refuse a forced marriage*, 9 November 2012, NGA104207.E, available at: <http://www.refworld.org/docid/50b4ab202.html>

<sup>82</sup> Immigration and Refugee Board of Canada, *Nigeria: Prevalence of forced marriage, particularly in Muslim and Yoruba communities; information on legislation, including state protection; ability of women to refuse a forced marriage*, 9

**3.22.6** Nigeria has signed and ratified the Maputo Protocol which states that; ‘no marriage shall take place without the free and full consent of both parties’..... and it further states that ‘every marriage shall be recorded in writing and registered in accordance with national laws, in order to be legally recognised’.<sup>83</sup>

**See also:** [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

**3.22.7 Conclusion** Forced marriages do still occur in Nigeria and are prevalent in the north of the country. Whilst the government did not take significant steps to stop traditional practices harmful to children and women they have signed and ratified the Maputo Protocol which states that; ‘no marriage shall take place without the free and full consent of both parties’. Applicants should be able to seek protection from the authorities but where they are unable to do so they may be able to internally relocate to escape localised threats from members of their family, careful consideration must be given to the relevance and reasonableness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant.

### **3.23 Gay men and lesbians**

**3.23.1** Some applicants may make asylum and/or human rights claims based on ill-treatment amounting to persecution as gay men, lesbians, and bisexual or transgender persons in Nigeria.

**3.23.2 Treatment** Nigeria’s criminal and penal codes punish consensual homosexual conduct with up to 14 years in prison. Sharia penal codes in many northern Nigerian states criminalize consensual homosexual conduct with caning, imprisonment, or death by stoning.<sup>84</sup>

**3.23.3** The International Lesbian and Gay Association report, ‘State sponsored Homophobia, A world survey of laws prohibiting same-sex activities by consenting adults’, dated 30 May 2012, (ILGA Report 2012), observed that same-sex relations between men were illegal. The same report provided the following details of articles from Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990, relevant to same-sex relations:

Section 214. “Any person who-

- (1) has carnal knowledge of any person against the order of nature; or
- (2) has carnal knowledge of an animal; or
- (3) permits a male person to have carnal knowledge of him or her against the

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November 2012, NGA104207.E, available at: <http://www.refworld.org/docid/50b4ab202.html>

<sup>83</sup> Make every woman count, Maputo Protocol,

[http://www.makeeverywomancount.org/images/stories/documents/AfricanUnion\\_Maputoprotocol\\_July2003.pdf](http://www.makeeverywomancount.org/images/stories/documents/AfricanUnion_Maputoprotocol_July2003.pdf)

<sup>84</sup> Human Rights, World report 2013: Nigeria, 31 January 2013, <http://www.hrw.org/world-report/2013/country-chapters/nigeria?page=2>

order of nature; is guilty of a felony, and is liable to imprisonment for fourteen years.”

Section 215. “Any person who attempts to commit any of the offences defined in the last preceding section is guilty of a felony, and is liable to imprisonment for seven years. The offender cannot be arrested without warrant.”

Section 217. “Any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony, and is liable to imprisonment for three years. The offender cannot be arrested without warrant.”<sup>85</sup>

- 3.23.4** Several Northern Nigerian states have adopted Islamic Sharia laws, criminalising sexual activities between persons of the same sex. The maximum penalty for such acts between men is death penalty, while the maximum penalty for such acts between women is a whipping and/or imprisonment. These laws differ from the federal law, as most of these prohibit also sexual relations between women. The states which have adopted such laws are: Bauchi (the year 2001), Borno (2000), Gombe (2001), Jigawa (2000), Kaduna (2001), Kano (2000), Katsina (2000), Kebbi (2000), Niger (2000), Sokoto (2000), Yobe (2001) and Zamfara (2000).<sup>86</sup>
- 3.23.5** Because of widespread societal taboos against homosexuality, very few persons openly revealed a homosexual orientation. The NGOs Global Rights and The Independent Project provided lesbian, gay, bisexual, and transgender (LGBT) groups with legal advice and training in advocacy, media responsibility, and HIV/AIDS awareness. Organisations such as the Youths 2gether Network also worked under the Coalition for the Defence of Sexual Rights in Nigeria and provided access to information and services on sexual health and rights for LGBT persons, sponsored programs to help build skills useful in social outreach, and provided safe havens for LGBT individuals. The government and its agents did not impede the work of these groups during the year.<sup>87</sup>
- 3.23.6** Gay couples who display "public shows" of affection in Nigeria could be imprisoned for 10 years, under proposed new laws. The measures, passed by Nigeria's House of Representatives, also outlaw any groups supporting gay rights. The bill must now be signed into law by President Goodluck Jonathan, however, it is unclear if he will do so. A 10-year prison term would be given to those showing affection in public and those advocating gay rights. The bill has been condemned by campaigners who say that it will encourage other nations to follow suit and increase or introduce stringent jail terms for homosexuals.<sup>88</sup>
- 3.23.7** On 21 March 2012, an upper area court in Mararba, Nasarawa State sentenced two men to two years in jail without bail and ordered each to pay a fine of 5,000

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<sup>85</sup> International Lesbian and Gay Association, State sponsored Homophobia, A world survey of laws prohibiting same-sex activities by consenting adults, dated 30 May 2012

[http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2012.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2012.pdf)

<sup>86</sup> International Lesbian and Gay Association, State sponsored Homophobia, A world survey of laws prohibiting same-sex activities by consenting adults, dated 30 May 2012

[http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2012.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2012.pdf)

<sup>87</sup> US State Department, Human Rights Report 2012: Nigeria, Section 6, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>88</sup> Sky News, Nigeria: New Law Bans Gay Marriage, 31 May 2013 <http://news.sky.com/story/1097873/nigeria-new-law-bans-gay-marriage>

naira (\$32) for engaging in same-sex relations. The police arrested a 17-year old male and a 32-year-old male on 12 March for engaging in same-sex acts. The presiding judge expressed his hope the sentence would serve as a deterrent to others engaged in same-sex relations. There were also unverified reports of communities rounding up suspected homosexuals, stripping them naked, and parading them through villages.<sup>89</sup>

- 3.23.8** Authorities took no action against persons who stoned and beat members of the House of Rainbow Metropolitan Community Church, an LGBT-friendly church in Lagos, in 2008. The attacks occurred after four newspapers published photographs, names, and addresses of church members. The Lagos church and partner groups cancelled conferences on sexual rights and health scheduled for Lagos and Abuja in December 2011 due to concerns about the safety of conference attendees after the proposed Same-Sex Marriage (Prohibition) bill refocused negative attention on the church.<sup>90</sup>
- 3.23.9** A Voice of America News article of 19 July 2012, 'Nigeria Gay Rights Activists Call for Dignity, Acceptance', noted: 'Nigeria is a dangerous place to be gay. Activists say homosexuals are hunted, threatened and ostracized... In the Nigerian capital, there are no gay bars, clubs or "cruising" strips and many locals will tell you there are also no gay people... But in an unassuming house in an unassuming neighborhood, gay-rights activists say that despite hate messages and death threats via text, email, telephone and Facebook, and the constant fear of being attacked, they want their message to be public... the vast majority of people in Nigeria would never tell people if they were gay... openly gay or even suspected-to-be-gay people could be fired from their jobs or thrown out of their family homes.'<sup>91</sup>
- 3.23.10** An Erasing 76 Crimes report of 16 January 2013, '3 gay men stripped, beaten by Nigerian mob', noted: 'A mob reportedly seized, stripped and beat three accused homosexuals in northern Nigeria on 14 January 2013. Their current condition and whereabouts are unknown. "Only the perpetrators and the community can tell the whole world what has become of these men who were seriously beaten up, stripped naked and paraded around the community bounded together like animals on allegation that they were caught having sex together," said Steve Aborisade, coordinator of the AIDS-fighting group NigeriaHIVinfo. The group urged the governor of Imo state, Rochas Okorocha, to intervene to rescue the men... Aborisade said the group had "reliably confirmed that the men were yet to be released from the location where they are being held in Umuka, Njaba Local Government Area of Imo State." The reported incident occurred in Ekwe, near Umuka.'<sup>92</sup>
- 3.23.11** An International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) report of 11 October 2011 noted developments in connection with blackmail and extortion ('Nigeria LGBT Plan to Expose Extortionists and Blackmailers'): 'Extortion and blackmail continue to be weapons used against LGBT communities.'

<sup>89</sup> US State Department, Human Rights Report 2012: Nigeria, Section 6, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>90</sup> US State Department, Human Rights Report 2012: Nigeria, Section 6, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>91</sup> Voice of America, Nigerian Gay Rights Activists Call for Dignity, Acceptance', 19 July 2012

<http://www.voanews.com/content/nigerian-gay-rights-activists-call-for-dignity-acceptance/1441447.html>

<sup>92</sup> Erasing 76 Crimes, '3 gay men stripped, beaten by Nigerian mob', 16 January 2013

<http://76crimes.com/2013/01/16/report-3-gay-men-stripped-beaten-by-nigerian-mob/>

Such criminal acts are seen as an occupational hazard by gay men in cities such as Lagos, Port Harcourt and Abuja. Now a task force of concerned individuals has set up a new organisation to expose blackmailers and extortionists. They have established a blog '[www.lagosheat.wordpress.com](http://www.lagosheat.wordpress.com)', which exposes the criminals and their strategies. The blog is regularly updated and provides safer dating tips for visiting gay people.<sup>93</sup>

**3.23.12** The modus operandi of blackmailers and extortionists in Nigeria is generally consistent and often related to online dating. Perpetrators will often steal possessions such as laptops and mobile phones from victims and often get in touch later, promising to return the items in the exchange for money. Sometimes however they take the items and disappear. The perpetrators rely on fear amongst the victims. Victims of such crimes fear reporting the case to the police as they cannot be sure if it might backfire and that they will end up being arrested for having engaged in homosexual acts. LGBT rights activists have recently argued that blackmail and extortion are exacerbated by the criminalization of same-sex relationships. The vice is most common in countries, where homosexuality is illegal. The Initiative for Equal Rights – an NGO based in Lagos also documents these abuses.<sup>94</sup>

**See also:** [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

**3.23.13 Conclusion** Societal hostility and discrimination against LGBT persons exists in Nigeria and same sex relationships are illegal. Whilst the law criminalises homosexual relationships, prosecutions are rare and it cannot be said homosexuals are being persecuted as a generality when concrete examples are few. However due to widespread societal taboos against homosexuality some gay men and lesbians may find that they are threatened, ostracized, fired from their jobs or thrown out of their family homes. Where gay men and lesbians do encounter social hostility which puts them at real risk, the individual would be unable to seek effective protection from the authorities. Caseworkers should consider whether the claimant could avoid the risk by relocating elsewhere in Nigeria. Caseworkers must however take into account that the Supreme Court in the case of HJ (Iran) made the point that individuals cannot be expected to modify their behaviour and that internal relocation is not the answer if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.

**3.23.14** Each case must however be examined on its own merits. Where caseworkers conclude that a claimant is at real risk of persecution in Nigeria on account of their sexual orientation and are unable to internally relocate then they should be granted asylum because gay men, lesbians and bisexuals in Nigeria may be considered to be members of a particular social group.

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<sup>93</sup> International Lesbian and Gay Association, Nigerian LGBT Plan to Expose Extortionists and Blackmailers, 11 October 2012 <http://ilga.org/ilga/en/article/nd1j2FF1j9>

<sup>94</sup> International Lesbian and Gay Association, Nigerian LGBT Plan to Expose Extortionists and Blackmailers, 11 October 2012 <http://ilga.org/ilga/en/article/nd1j2FF1j9>



- 3.23.15** If an individual chooses to live discreetly because he/she wants to avoid embarrassment or distress to family and friends, that person will not be deemed to have a well founded fear of persecution and will not qualify for asylum. This is because he/she has adopted a lifestyle to cope with social pressures and not because he/she fears persecution due to their sexual orientation.
- 3.23.16** If an individual chooses to live discreetly because he/she fears persecution if they were to live as openly gay, lesbian or bisexual, then that person will have a well founded fear and should be granted asylum. It is important that gay, lesbian and bisexual persons enjoy the right to live openly without fear of persecution. They should not be asked or be expected to live discreetly because of their well founded fear of persecution due to their sexual orientation.

### **3.24 Prison conditions**

- 3.24.1** Applicants may claim that they cannot return to Nigeria due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Nigeria are so poor as to amount to torture or inhuman treatment or punishment.
- 3.24.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.
- 3.24.3 Consideration.** Prison and detention centre conditions remained harsh and life threatening. Prisoners, a majority of whom had not been tried, were subject to gross overcrowding, food shortages, inadequate medical treatment, and infrastructure deficiencies that led to wholly inadequate sanitary conditions. Reports indicated guards and prison officials threatened inmates with extortion or levied fees on them to pay for the maintenance of the prison and subjected them to physical abuse; in some cases female inmates faced the threat of rape. Female prisoners pregnant at the time of incarceration gave birth to and raised their babies in prison.<sup>95</sup>
- 3.24.4** Domestic and international human rights groups reported the existence of unofficial military prisons, including the Giwa military barracks in Maiduguri, Borno State. Human Rights Watch (HRW) and Amnesty International (AI) catalogued cases of illegal detention, inhumane and degrading treatment, beatings, torture, and extrajudicial killings in these prisons. AI estimated 200 to 500 people were detained at the Giwa barracks. Those interviewed for the reports claimed families and lawyers did not have access to suspects detained in these facilities, and authorities moved detainees frequently and without notice, making it difficult for families or lawyers to locate a detainee. The government claimed Giwa barracks was only used as a military barracks, and did not serve as a detention centre.<sup>96</sup>
- 3.24.5** Boko Haram suspects were reportedly held in inhuman conditions at the Special-Anti-Robbery Squad (SARS) detention centre, also known as the “abattoir,” in

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<sup>95</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>96</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013  
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

Abuja. On November 26, suspected Boko Haram militants attacked the SARS detention centre, freeing an estimated 30 detainees, possibly including Boko Haram members.<sup>97</sup>

**3.24.6** The prison system included 12 maximum-security prisons, 83 satellite prisons, 10 farm centres, two women's prisons, eight zonal offices, and six directorates, all of which held prisoners and detainees. The Nigerian Prison Service released statistics at the end of March indicating the prisons held 50,920 inmates. Of that inmate population, slightly less than 2 percent were females and 1 percent juveniles.<sup>98</sup>

**3.24.7** Overcrowding was a problem.<sup>99</sup> During the audit exercise, undertaken by the National Human Rights Commission, it was discovered that most of the prisons were congested. The congestion was as a result of the number of detainees that were awaiting trial. Comparatively, in all the 173 prisons audited across the Country, the lockup was 50,645 compared to a capacity of 46,024. Despite the congestion of some of the prisons, some of them are sparsely populated.<sup>100</sup>

**3.24.8** Most of the country's 234 prisons, built 70 to 80 years earlier, lacked basic facilities. Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in dangerous and unsanitary conditions. Disease remained pervasive in cramped, poorly ventilated prison facilities, which had chronic shortages of medical supplies. Inadequate medical treatment caused many prisoners to die from treatable illnesses. Prison illnesses included HIV/AIDS, malaria, and tuberculosis. Inmates with these illnesses lived with the general prison population. Although authorities attempted to isolate persons with communicable diseases, facilities often lacked the space to do so. Prison authorities claimed the death rate in prisons was 89 out of 1,500 prisoners per year; no reliable independent statistics existed on the number of prison deaths.<sup>101</sup>

**3.24.9** During a June 22 visit to prisons in Enugu State and Owerri, Imo State, an observer noted cells designed for 20 inmates held 80, authorities conducted no routine screening for tuberculosis, other infectious diseases, or pregnancy, and they had not established isolation wards, adequately equipped clinic facilities, or proper sewage disposal systems.<sup>102</sup>

**3.24.10** Only those prisoners with money, or whose relatives brought food regularly, had sufficient food; prison officials routinely stole money provided for food for prisoners. Poor inmates often relied on handouts from others to survive. Prison officials, police, and other security force personnel often denied inmates food and medical treatment as punishment or to extort money.<sup>103</sup>

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<sup>97</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>98</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>99</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>100</sup> National Human Rights Commission, Harmonized report of 2012 prison audit, 7 August 2013,

<http://www.nigeriainights.gov.ng/resources>

<sup>101</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>102</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>103</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

- 3.24.11** Prisoners with mental disabilities remained incarcerated with the general prison population. Individual prisons made efforts to provide mental health facilities, but most prisons did not provide mental health care. Authorities sometimes held female and male prisoners together, especially in rural areas, and prisons had no facilities to care for pregnant women or nursing mothers. Infants born to inmate mothers usually remained with the mother until weaned. Juvenile suspects were often held together with adult prisoners. Although the law precludes the imprisonment of children, minors, many of whom were born there, lived in the prisons. A report by the African Union on the rights and welfare of the Nigerian child found an estimated 6,000 children lived in prisons and detention centres. Despite a government order to identify and release such children and their mothers, authorities had not done so by the end of 2012.<sup>104</sup>
- 3.24.12** The federal government operated all the prisons but maintained few pretrial jail facilities. Of the total prison population, 72 percent were pretrial detainees. Authorities held political prisoners with the general prison population.<sup>105</sup>
- 3.24.13** The country does not have an ombudsman to serve on behalf of convicted prisoners and detainees in considering such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding; the status and circumstances of confinement of juvenile offenders; or improving pretrial detention, bail, or recordkeeping procedures to ensure prisoners do not serve beyond the maximum sentence for the charged offense.<sup>106</sup>
- 3.24.14** The National Human Rights Commission (NHRC) monitored prisons throughout the year. The Federal Ministry of Justice was also known to monitor prisons under the Federal Government Prison Decongestion Program. However, there were no regular outside monitors of the prisons, and no statistics on the mistreatment of prisoners or availability of food or medical care.<sup>107</sup>
- 3.24.15** The government provided access to prisons for monitoring conditions, although few outside visits occurred. The local Red Cross made attempts to visit prisons but could not maintain a regular visit schedule. Authorities inconsistently maintained records for individual prisoners in paper form but without making them widely accessible.<sup>108</sup>
- 3.24.16** The government did not make widespread improvements to prisons during the year, but individual prison administrations attempted to collect donations from religious organizations, NGOs, and the National Youth Service Corps to benefit inmates.<sup>109</sup>
- 3.24.17** The last known executions in Nigeria were carried out in 2006, when at least seven men were hanged in Kano state in northern Nigeria. According to

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<sup>104</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>105</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>106</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>107</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>108</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

<sup>109</sup> US State Department, Human Rights Report 2012, Nigeria, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204153>

government information, 56 death sentences were imposed in 2012.<sup>110</sup>

**3.24.18 Conclusion** Prison conditions in Nigeria are harsh and life threatening and taking into account the levels of overcrowding and lack of basic facilities have the potential to reach the Article 3 threshold in individual cases. The individual factors of each case should be carefully considered to determine whether the person is at real risk of detention and whether detention will cause a particular individual in his or her particular circumstances to suffer treatment contrary to Article 3, relevant factors being the reasons for detention, the likely length of detention, the likely type of detention facility, and the individual's gender, age and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

#### **4. Unaccompanied minors claiming in their own right**

**4.1** Unaccompanied minors claiming in their own right who have not been granted asylum or HP can only be returned where the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be returned.

**4.2** At present the Home Office does not have pre-approved arrangements in place with NGOs or other organisations in Nigeria to provide alternative adequate reception arrangements in cases where the minor cannot be returned to their family. Those who cannot be returned should be considered for leave as an Unaccompanied Asylum Seeking Children (UASC).

**4.3** Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 imposes a duty on the Secretary of State to endeavour to trace the families of UASC as soon as possible after the claim for asylum is made, while ensuring that those endeavours do not jeopardise the child's and/or their family's safety.

**4.4** Information on the infrastructure within Nigeria which may potentially be utilised to assist in endeavouring to trace the families of UASC, can be obtained from the Country of Origin Information Service (COIS).

**4.5** Caseworkers should refer to the AI: [Processing an Asylum Application from a Child](#), for further information on assessing the availability of safe and adequate reception arrangements, UASC Leave and family tracing. Additional information on family tracing can be obtained from the [interim guidance](#) on Court of Appeal judgment in [KA \(Afghanistan\) & Others \[2012\] EWCA civ1014](#).

#### **5. Medical treatment**

**5.1** Individuals whose asylum claims have been refused and who seek to remain on the grounds that they require medical treatment which is either unavailable or difficult to access in their countries of origin, will not be removed to those countries if this would be inconsistent with our obligations under the ECHR.

**5.2** Caseworkers should give due consideration to the individual factors of each case

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<sup>110</sup> Amnesty International, Death Sentences and Executions in 2012, 10 April 2013, <http://www.amnesty.org/en/library/asset/ACT50/001/2013/en/bbfea0d6-39b2-4e5f-a1ad-885a8eb5c607/act500012013en.pdf>

and refer to the latest available country of origin information concerning the availability of medical treatment in the country concerned. If the information is not readily available, an information request should be submitted to the COI Service (COIS).

- 5.3** The threshold set by Article 3 ECHR is a high one. It is not simply a question of whether the treatment required is unavailable or not easily accessible in the country of origin. According to the House of Lords' judgment in the case of [N \(FC\) v SSHD \[2005\] UKHL31](#), it is "whether the applicant's illness has reached such a critical stage (i.e. he is dying) that it would be inhuman treatment to deprive him of the care which he is currently receiving and send him home to an early death unless there is care available there to enable him to meet that fate with dignity". That judgment was upheld in May 2008 by the European Court of Human Rights.
- 5.4** That standard continues to be followed in the Upper Tribunal (UT) where, in the case of [GS and EO \(Article 3 – health cases\) India \[2012\] UKUT 00397\(IAC\)](#) the UT held that a dramatic shortening of life expectancy by the withdrawal of medical treatment as a result of removal cannot amount to the highly exceptional case that engages the Article 3 duty. But the UT also accepted that there are recognised departures from the high threshold approach in cases concerning children, discriminatory denial of treatment, and the absence of resources through civil war or similar human agency.
- 5.5** The improvement or stabilisation in an applicant's medical condition resulting from treatment in the UK and the prospect of serious or fatal relapse on expulsion will therefore not in itself render expulsion inhuman treatment contrary to Article 3 ECHR.
- 5.6** All cases must be considered individually, in the light of the conditions in the country of origin, but an applicant will normally need to show exceptional circumstances that prevent return, namely that there are compelling humanitarian considerations, such as the applicant being in the final stages of a terminal illness without prospect of medical care or family support on return.
- 5.7** Where a caseworker considers that the circumstances of the individual applicant and the situation in the country would make removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of discretionary leave. Caseworkers must refer to the AI on [Discretionary Leave](#) for the appropriate period of leave to grant.
- 6. Returns**
- 6.1** There is no policy which precludes the enforced return to Nigeria of failed asylum seekers who have no legal basis of stay in the United Kingdom.
- 6.2** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules.
- 6.3** Any medical conditions put forward by the person as a reason not to remove them and which have not previously been considered, must be fully investigated against

the background of the latest available country of origin information and the specific facts of the case. A decision should then be made as to whether removal remains the correct course of action, in accordance with [chapter 53.8 of the Enforcement Instructions and Guidance](#).

**6.4** Individuals can return voluntarily to their country of origin / place of habitual residence at any time in one of three ways:

- leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK
- leaving the UK through the voluntary departure procedure, arranged through the UK Immigration service, or
- leaving the UK under one of the [Assisted Voluntary Return \(AVR\) schemes](#).

**Country Specific Litigation Team  
Immigration and Border Policy Directorate  
Home Office**

**December 2013**