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OPERATIONAL GUIDANCE NOTE

NIGERIA

CONTENTS

1. Introduction

1.1 This document provides UK Border Agency case owners 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. Case owners must refer to the relevant Asylum Instructions for further details of the policy on these areas.

1.2 Case owners 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. The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and case owners must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant COI Service country of origin information and any other relevant information.

COI Service information is published on Horizon and on the internet at:

http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

1.3 Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main

applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instruction on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

2. Country assessment

2.1 Case owners should refer the relevant COI Service country of origin information material. An overview of the country situation including headline facts and figures about the population, capital city, currency as well as geography, recent history and current politics can also be found in the relevant FCO country profile at:

http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/

2.2 An overview of the human rights situation in certain countries can also be found in the FCO Annual Report on Human Rights which examines developments in countries where human rights issues are of greatest concern:

http://fcohrdreport.readandcomment.com/wp-content/uploads/2011/02/Cm-8339.pdf

2.3 Actors of protection

2.3.1 Case owners must refer to the Asylum Policy Instruction on 'considering the protection (asylum) claim' and 'assessing credibility'. To qualify for asylum, an individual not only needs to have a fear of persecution for a Convention reason, they must also be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to avail themselves of the protection of their home country. Case owners should also 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. 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.

2.3.2 The Nigerian Police Force (NPF) is a federal organisation. It employs approximately 371,800 staff with a ratio of one policeman for every 377 citizens. Approximately a quarter of the NPF staff perform personal protection and guard duties. The NPF was established under Section 214 of the 1999 Constitution. The Police Act (1990) describes the function, structure and operation of the NPF. The Act was originally drafted in 1943, and was last reviewed in 1967. The President of Nigeria holds operational control of the NPF and appoints the Inspector-General of Police (IGP), who is responsible for the command of the police, subject to the directive of the President, and for public safety and public order. The administrative, financial and logistic management of the NPF falls under the authority of the Federal Ministry of Police Affairs. The NPF headquarters, 12 zonal commands and 36 state commands all have Criminal Investigation Departments (CIDs), responsible for criminal investigation. There are several Special Forces, such as the paramilitary Mobile

Police (MOPOL), the Special Anti-Robbery Squad (SARS) and the Swift Operation Squad (SOS). The X-Squad is the body responsible for investigating police corruption.[1]

2.3.3 The NPF is the largest institution in Nigeria and also the country's largest employer. By the end of 2008, the Nigeria police force comprised 5,515 police stations, 1,115 Police divisions, 123 Area Commands, and 36 State Commands and one Federal Capital Territory Command. The headquarters of the force is located in Abuja, in the Federal Capital Territory. Known as the Force Headquarters, this is also the operational and administrative base of the IGP [Inspector General of Police]. The Force Headquarters is also known as Louis Edet House, named after the first Nigerian IGP. The Force Headquarters is organised into six departments, each headed by a deputy inspector-general (DIG) of police.[2]

2.3.4 Corruption within the NPF is rampant. Commercial drivers pay to go through police roadblocks; suspects pay to be released from custody; and detainees pay to improve the conditions of their detention. In 2008, the Presidential Committee acknowledged the severity of the problem. In the course of their duties, some Police officers harass and intimidate members of the public. They also go further to extort money from accused persons and complainants before they serve them. Those who do not cooperate usually suffer unlawful arrest and detention.[3]

2.3.5 As in previous years, the undisciplined Nigeria Police Force was implicated in frequent human rights violations, including extrajudicial killings, torture, arbitrary arrests, and extortion-related abuses. The police routinely solicit bribes from victims to investigate crimes and from suspects to drop investigations. Embezzlement of police funds is rife among senior police officials who also often demand monetary "returns" from money extorted from the public by their subordinates. Meanwhile, soldiers were implicated in several attacks on villages in Plateau State in August and September 2011, and in extrajudicial killings in response to Boko Haram attacks in Maiduguri.[4]

2.3.6 In addition to the police, however, other law enforcement agencies exist in Nigeria. These include the State Security Service, the National Drug Law Enforcement Agency, the Economic and Financial Crimes Commission, the Federal Road Safety Commission, and the Nigerian Security and Civil Defence Corps. Both the Immigration Service and the Customs and Excise department also have powers of investigation, arrest, and detention under the laws governing them. Like the police, these are all federal institutions established by law and are empowered to undertake investigation and prosecution.[5]

2.3.7 The Nigeria Police Force has set up various mechanisms for the public to file complaints against police misconduct. These include the Public Complaints Bureau, complaint boxes or telephone hotlines at police stations, and human rights desks. The Nigerian government has also established various external mechanisms where members of the public can report police abuses. Depending on the nature of the complaint, members of the public can file complaints against the police at no fewer than eight government agencies; however, most of these complaint mechanisms

[1] COIS Nigeria Country Report January 2012 (para 8.04) http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[2] COIS Nigeria Country Report January 2012 (para 8.05) http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[3] COIS Nigeria Country Report January 2012 (para 8.07) http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[4] Human Rights Watch, World Report 2012; Nigeria http://www.hrw.org/world-report-2012/world-report-2012-nigeria
[5] COIS Nigeria Country Report January 2012 (para 8.02) http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

lack the resources to investigate the complaints.[6]

2.3.8 There are several public complaint mechanisms in Nigeria;

-The Police Service Commission (PSC) is an independent body established in 1960, is responsible for police discipline. In 2008, the PSC's Department of Police Discipline received 129 complaints from the public—29 of which involved cases of police corruption or extortion. Most of these cases were referred back to the police force to investigate because of lack of resources in the department.

-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.

-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.[7]

2.3.9 In July 2011 the attorney general's office filed criminal charges against five police officers, including three assistant commissioners of police, for the 2009 extrajudicial killing of the Boko Haram leader Mohammed Yusuf and his followers. But the authorities have still not prosecuted members of the police and military for the unlawful killing of more than 130 people during the November 2008 sectarian violence in Plateau State, the soldiers who massacred more than 200 people in Benue State in 2001, or the members of the military involved in the complete destruction of the town of Odi, Bayelsa State, in 1999.[8]

2.3.10 Human Rights Watch report that Nigeria made only limited progress with its anti-corruption campaign in 2011. The Economic and Financial Crimes Commission

[6] COIS Nigeria Country Report January 2012 (para 8.26) http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[7] COIS Nigeria Country Report January 2012 (para 8.27) http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[8] Human Rights Watch, World Report 2012; Nigeria http://www.hrw.org/world-report-2012/world-report-2012-nigeria

(EFCC) at the end of 2011 had arraigned 35 nationally prominent political figures on corruption charges since 2003, including in 2011 a former federal minister, four former state governors, and a former speaker and deputy speaker of the House of Representatives. But executive interference with the EFCC, a weak and overburdened judiciary, and the agency's own failings have undermined the effectiveness of its work. At the end of 2011the commission had only secured four convictions of senior political figures, and they faced relatively little or no prison time. The EFCC has failed to prosecute other senior politicians widely implicated in corruption, and the political elite continues to squander and siphon off the country's tremendous oil wealth, leaving poverty, malnutrition, and mortality rates among the world's highest.[9]

2.3.11 Nigeria's judiciary continued to exercise a degree of independence but was dogged by public allegations of corruption. Meanwhile, many of the corruption cases against senior political figures remained stalled in the courts. Foreign partners took some important steps to confront endemic corruption in Nigeria, but appeared reluctant to exert meaningful pressure on the government over its human rights record.[10]

2.3.12 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.[11] The higher courts are relatively competent and independent, but they remain subject to political influence, corruption, and inefficiencies. 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.[12]

2.3.13 Amnesty International report that Nigeria's criminal justice system remained under-resourced, blighted by corruption and generally distrusted. When investigations occurred, they were often cursory and not intelligence-led. The security forces often resorted to dragnet arrests instead of individual arrests based on reasonable suspicion. Suspects were regularly subjected to inhuman and degrading treatment in detention.[13]

2.3.14 Court processes were slow, resulting in most detainees being kept in lengthy pre-trial detention in appalling conditions. Seventy per cent of Nigeria's 48,000 prison inmates had not been tried. Many had awaited trial for years. Few could afford a lawyer. In August 2011, the Federal Government set up a Committee on the Implementation of Justice Sector Reforms to draft legislation, guidelines and recommendations and implement these within 24 months.[14]

2.3.15 State governments in 12 northern states apply Sharia law as part of their criminal justice systems, which include sentences—such as the death penalty, amputations, and floggings. Evidentiary standards in the Sharia codes applied in these states discriminate against women, particularly in adultery cases.[15]

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[9] Human Rights Watch, World Report 2012; Nigeria http://www.hrw.org/world-report-2012/world-report-2012-nigeria
[10] Human Rights Watch, World Report 2012; Nigeria http://www.hrw.org/world-report-2012/world-report-2012-nigeria
[11] COIS Nigeria Country Report January 2012 (para 12.03) http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[12] COIS Nigeria Country Report January 2012 (para 12.04) http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[13] Amnesty International Annual Report 2012; Nigeria http://www.amnesty.org/en/region/nigeria/report-2012#page
[14] Amnesty International Annual Report 2012; Nigeria http://www.amnesty.org/en/region/nigeria/report-2012#page
[15] Human Rights Watch, World Report 2012; Nigeria http://www.hrw.org/world-report-2012/world-report-2012-nigeria

2.4 Internal relocation.

2.4.1 Case owners must refer to the Asylum Policy Instructions on both internal relocation and Gender Issues in the asylum claim and apply the test set out in paragraph 339O of the Immigration Rules. 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. 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, but the fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

2.4.2 Very careful consideration must be given to whether internal relocation would be an effective way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. 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 unduly harsh to expect them to do so, then asylum or humanitarian protection should be refused.

2.4.3 The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation; however, security officials restricted freedom of movement at times by enforcing curfews in areas experiencing ethno-religious violence. They also routinely set up roadblocks and checkpoints, sometimes every few miles, to extort money from travellers. Security officials continued to use excessive force at checkpoints and roadblocks.[16]

2.4.4 During 2011 state officials imposed dusk-to-dawn curfews in response to sectarian conflicts. For example, authorities imposed curfews in August and September in areas of Kaduna State and Plateau State, following ethno-religious violence. In some cases state and local governments, such as Yobe State and Maidugiri, Borno State, imposed curfews or otherwise restricted movement in the aftermath of Boko Haram attacks.[17]

2.5 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

[16] US State Department Human Rights Report 2011; Nigeria, Section 2
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[17] US State Department Human Rights Report 2011; Nigeria, Section 2
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229

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 (Nigeria) v Secretary of State for the Home Department [2011] EWCA Civ 132 (22 February 2011)
This determination was removed from the Country Guidance list on 22.02.2011. Paragraphs 191-192 remain as interim guidance pending further country guidance from the UTIAC.

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. The Tribunal emphasised, however, that, in order for 'former victims of trafficking' or 'former victims of trafficking for sexual exploitation' to be members of a particular social group, the group in question must have a distinct identity in the society in question (paragraph 112).

EE (Nigeria – Snake worshippers) Nigeria [2005] UKIAT 00058. The Tribunal found that the appellant's problems were only of a local nature and that there were no facts before the Tribunal which indicated that 'it was unduly harsh to expect a resourceful widowed single woman (who has been capable of coming to the other side of the world and beginning her life again) to take the much smaller step of relocating internally within Nigeria to an area where she will be out of range of the snake worshippers in her own village'.

WO (Ogboni cult) Nigeria CG [2004] UKIAT 00277. The Tribunal found itself in agreement with the conclusions of Akinremi (OO/TH/01318), which found that the power of the Ogboni had been curtailed and that it had a restricted ambit. It also found the Ogboni to be an exclusively Yoruba cult and that should an appellant be fearful of local police who were members, there would clearly be some who were non-members.

JO (internal relocation–no risk of re-trafficking) Nigeria [2004] UKIAT 0025. The Tribunal found that there would be a real risk of serious harm if this appellant were to be returned to her home area. However, internal flight is a viable option. The Tribunal also stated that trafficked women do not qualify as a particular social group within the terms of the 1951 Refugee Convention.

PI (Relocation - Osu-Igbo - Christian) Nigeria CG [2002] UKIAT 04720. The appellant was a member of the Igbo tribe and a Christian. The IAT find that although there have been religious riots in Lagos there is nothing to show that Christians in general are not able to live in peace there or elsewhere in the south-west.

BL (Ogboni Cult, Protection, Relocation) Nigeria CG [2002] UKIAT 01708. The claimant who feared being initiated into a cult called Osugbo which was described as a demonic cult which uses ritual sacrifice, cannibalism and other rituals. The Tribunal found that there was no Convention reason for the alleged persecution; and that the published background objective material does not support the conclusion that the police or authorities in Nigeria failed to act against traditional religious cults, or support the proposition that cults are non-state agents of

persecution in that the police or authorities will not or cannot exercise control and/or refuse to investigate or deal with satanic/ritualistic ceremonies which include cannibalism. The Tribunal found that there is not a real risk of mistreatment were the claimant to return to Nigeria where he could safely remain.

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. 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.

3.2 Each claim should be assessed to determine whether there are reasonable grounds for believing 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 Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instruction on 'considering the protection (Asylum) claim' and 'assessing credibility').

3.3 If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.

3.4 All Asylum Instructions can be accessed via the on the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:

http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/

3.5 Credibility

3.5.1 This guidance is not designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'establishing the facts of the claim (material and non-material facts)' in the Asylum Instruction 'considering the protection (asylum) claim' and 'assessing credibility'. Case owners 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. In all other cases, the case owner should satisfy themselves through CRS database checks that there is no match to anon-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.

3.6 The Niger Delta

3.6.1 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.

3.6.2 **Treatment.** The Niger-delta region, Nigeria's oil belt has been the site of a generalised ethnic and regional struggle for self-determination since 1998, the location of often violent confrontations between local ethnic communities and agents of the Nigerian state and oil companies involved in the extraction and exploitation of oil in the area.[18]

3.6.3 Although the Niger Delta produces the bulk of Nigeria's oil and gas wealth, it remains one of the least-developed parts of the country. This paradox has triggered a conflict that has lingered on for five decades. This conflict has recently been manifested through huge militarisation of the region, militia insurgency, hostilities between youth militias and the Nigerian military, militia attacks on the oil industry and consequent huge disruptions, the theft of oil by syndicates, and militias and intra- and inter-ethnic, community and militia conflicts. Since the late 1990s, militia groups such as the *Niger Delta People"s Volunteer Force* (NDPVF), *Movement for the Emancipation of the Niger Delta* (MEND), and *Niger Delta People"s Salvation Front* (NDPSF) have been conducting hostilities against the military and transnational oil companies.[19]

3.6.4 The 2009 amnesty—which saw a few thousand people, including top militant commanders, surrendering weapons in exchange for cash payments—has reduced attacks on oil facilities, but kidnappings, mostly of family members of wealthy Nigerians, continued in the Niger Delta and south-eastern Nigeria. The government made little effort to address the environmental damage from oil pollution, state and local government corruption, and political sponsorship of armed groups, which drive and underlie violence and poverty in the oil-rich region.[20]

3.6.5 Sustaining the progress recorded under the Federal Government amnesty programme for former members of armed militant groups in the Niger Delta is important for lasting peace in the oil producing region…[It was] said a total of 12,917 former members of various Niger Delta armed militant groups participated in the demobilisation and integration process through non-violent and conflict resolution programmes, while an additional 6,166 others enlisted last December [2010]…Kingsley Kuku, the new special adviser to the president on Niger Delta Affairs, and former spokesman, Ijaw Youth Council (IYC), pledged his commitment to sustain the amnesty programme. Mr. Kuku said 13, 043 former militants were successfully demobilised in 11 batches between June and December last year. About 11,000 of the demobilised ex-militants were posted to various institutions for training, with 38 sent to South Africa, 34 currently in training in the country, while

[18] COIS Nigeria Country Report January 2012 (para 10.04)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[19] COIS Nigeria Country Report January 2012 (para 10.05)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[20] Human Rights Watch, World Report 2012; Nigeria http://www.hrw.org/world-report-2012/world-report-2012-nigeria

212 are in Ghana for a similar training.[21]

3.6.6 In November 2011 All Africa reported that following the amnesty violence has diminished, and oil revenues - which dropped at the height of the conflict - have increased. However, analysts argue that the amnesty program is flawed and will not lead to long-term peace. In the delta, former fighters are picking up their guns again, and resentment brews among those not included. Under the amnesty, which ran from August to October 2009, militants who handed in their weapons were pardoned for their crimes, trained in non-violence, and offered vocational training in trades such as welding, in Nigeria or overseas. After attending non-violence training they are paid £260 per month until they find work. Just over 26,000 young people have taken the amnesty package. Most of the participants had been directly or indirectly involved in crimes including attacking oil infrastructure, oil bunkering, and kidnapping oil workers. Amnesty was granted after record levels of violence in the Delta in 2008: in the first nine months of the year, 1,000 people were killed, 300 were taken hostage and the government lost $23.7 billion to attacks, oil theft and sabotage.[22]

3.6.7 Many militants missed the window from August to October 2009 and were not included in the amnesty program. According to Niger Delta University's Idumange there was widespread suspicion that the offer of amnesty was a trap and those who came forward would be arrested or executed, but once the benefits of the program became apparent they wanted to join. The non-profit Stakeholder Democracy Network reported that "former militants" have claimed responsibility for recent attacks on oil facilities in Bayelsa State, saying they were a protest against being left out of the amnesty program. The government has not given any indication they will consider extending the program. According to analysts, ex-militant frustration has been compounded by the many non-militants - some not even from the Delta - that have managed to access the £260 monthly payment, which is over three and half times the national minimum wage.[23]

3.6.8 Government efforts to quell violence are hampered by corruption and fail to get at the deep-seated causes of unrest in the region. A local human rights activist said corruption is rife in the amnesty programme, with planned government assistance falling short, despite available funds.[24]

3.6.9 Global post reported that young rebel fighters that once terrorized Nigeria's oil industry are back, this time armed with an education and ready to work. There's just one problem: there aren't enough jobs. The "boys," as they are known, violently sabotaged oil production between 2003 and 2009 by attacking pipelines and kidnapping foreign workers to protest what they called the theft of Nigerian natural resources by international oil companies. But as part of a peace deal with the government, more than 26,000 young men eventually exchanged their weapons for job training and some financial support. Many of them were schooled abroad in skills like carpentry, underwater welding, crane operation and other skills. The cause of the battles that once raged on the creeks and rivers of the Niger Delta — poverty and corruption in a land awash with natural wealth— has not been resolved. And it's not just the "boys" who are angry. Many officials and activists here said

[21] COIS Nigeria Country Report January 2012 (para 10.14)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[22] All Africa, Nigeria: Niger Delta Still Unstable Despite Amnesty, 25 November 2011
http://allafrica.com/stories/201111251164.html
[23] All Africa, Nigeria: Niger Delta Still Unstable Despite Amnesty, 25 November 2011
http://allafrica.com/stories/201111251164.html
[24] COIS Nigeria Country Report January 2012 (para 10.13)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

they don't blame the young militants for fighting for the rights to the Niger Delta's resources, even as they condemn the violence and hope it remains a thing of the past. Some of the now-skilled former soldiers, however, say they don't want to go back to the creeks to fight. They just want jobs to help them develop the region.[25]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

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

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

3.7.1 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.

3.7.2 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… 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.[26]

3.7.3 Confraternities and cults are small groups that originate in tertiary academic institutions. Their origins are in fraternities, initially comprising groups of men with similar interests, but they have since developed over the past few decades into armed groups that are often involved in criminal activities. Confraternities operate on campus, while their affiliated cults operate in off-campus locations. Their activities tend to be localized in proximity to the tertiary institution.[27]

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[25] Global post, Nigeria: Rebel without a Job, 5 July 2012
http://www.globalpost.com/dispatch/news/regions/africa/120703/nigeria-oil-delta-shell-chevron-rebels-militants-economy
[26] COIS Nigeria Country Report January 2012 (para 11.02)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[27] COIS Nigeria Country Report January 2012 (para 11.03)

3.7.4 Vigilante groups are community groups created to fill a security gap and provide protection from violent crime and armed robbery to a specific community. They consist of community members and are extremely localized in their area of operation.[28]

3.7.5 Vigilante groups have also been a major problem for the state security forces in Lagos and south eastern Nigeria. Claiming to provide law and order, the groups have used brutal and unconstitutional means to deal with suspected criminals. Some of these groups have been armed with automatic weapons, and have run organised crime networks of their own.[29]

3.7.6 The Secret Cult and Similar Activities Prohibition Law passed in June 2004 officially listed about 100 cult groups, which are now banned. These cults include criminal gangs, spiritual and politically motivated groups seeking power and control, gangs that control waterways and passages, as well as those involved in oil bunkering activities.[30]

3.7.7 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.[31]

3.7.8 In 2002, the Bakassi Boys were allegedly disbanded following a federal government move to prohibit vigilante groups. However, state governments continued to "covertly condone" their existence, allowing the Bakassi Boys to carry on their operations. In Imo, Abia, and Anambra, the state government has provided the Bakassi Boys with salaries as well as offices, uniforms and vehicles, bearing the names of the vigilante groups. In January 2006, the governor of Abia State passed into law a bill to legally recognise the operations of the Bakassi Boys, despite the earlier federal legislation prohibiting such vigilante groups.[32]

3.7.9 Abia State House of Assembly rounded off its 4-year session by passing a bill which empowered the state vigilante service, popularly known as Bakassi Boys, to carry low calibre weapons.[33]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.7.10 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

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http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[28] COIS Nigeria Country Report January 2012 (para 11.03)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[29] COIS Nigeria Country Report January 2012 (para 11.05)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[30] COIS Nigeria Country Report January 2012 (para 11.07)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[31] 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
[32] 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
[33] All Africa, Nigeria: Abia House Empowers Bakassi Boys to Carry Arms,18 May 2011
http://allafrica.com/stories/201105180412.html

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.

3.8 Religious persecution

3.8.1 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. Some applicants may also 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.

3.8.2 **Treatment.** Many groups estimate the population to be 50 percent Muslim, 45 percent Christian, and 5 percent practitioners of indigenous religious beliefs. The predominant sect of Islam is Sunni, which includes various groups, such as Tijaniyah, Qadiriyyah and Sufi; however, growing Shia and Izala (Salafist) minorities exist. Christians include Roman Catholics, Anglicans, Baptists, Methodists, Presbyterians, nontraditional evangelical and Pentecostal Christians, and adherents of The Church of Jesus Christ of Latter-day Saints (Mormons).[34]

3.8.3 The constitution and other laws and policies generally protect religious freedom. The constitution mandates that the government "shall not adopt any religion as State Religion." The country has 36 states and a Federal Capital Territory. State governors and state legislatures enjoy significant autonomy in decision-making; however, the constitution prohibits state and local governments from adopting a state religion or giving preferential treatment to any religious or ethnic community. Some state governments occasionally placed limits on religious activity, including registration of imams, to address security and public safety concerns.[35]

3.8.4 Since 1999, more than 14,000 Nigerians have been killed in religiously-related violence between Muslims and Christians. The government of Nigeria continues to fail to prevent and contain acts of religiously-related violence, prevent reprisal attacks, or bring those responsible for such violence to justice. 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 minority communities of Christians and Muslims.[36]

3.8.5 Christians in the predominantly Muslim northern states continued to allege that local government officials used zoning regulations to stop or slow the establishment of new churches and, in some cases, demolished churches that had existed for as long as a decade. Muslims in the predominantly Christian southern part of Kaduna State alleged that local government officials prevented the construction of mosques and Islamic schools. Officials denied discrimination, attributing application denials to

[34] US State Department International Religious Freedom report 2011; Nigeria
http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dlid=192745
[35] US State Department International Religious Freedom report 2011; Nigeria
http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dlid=192745
[36] US Commission on International Religious Freedom 2012 report; Nigeria
http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf

zoning regulations in residential neighbourhoods and a large backlog of applications.[37]

3.8.6 Although the jurisdiction of Sharia technically does not apply to non-Muslims in civil and criminal proceedings, certain social mores inspired by Sharia, such as the separation of the sexes in public schools, health care, voting, and transportation services, affected non-Muslim minorities in the north. Many non-Muslims perceived that they lived under the rule of a Muslim government and often feared reprisals for their religious affiliation.[38]

3.8.7 The constitution provides that states may establish courts based on the common law or customary law systems. Twelve northern states--Sokoto, Kebbi, Niger, Kano, Katsina, Kaduna, Jigawa, Yobe, Bauchi, Borno, Zamfara, and Gombe--maintained Sharia courts, which adjudicated both criminal and civil matters, along with common law and customary law courts. Although the constitution provides for separation of church and state, many Christians alleged that widespread use of Sharia courts amounted to the adoption of Islam as a state religion. In addition, the Civil Liberties Organization, a prominent nongovernmental organization, contended that Zamfara State promoted Islam as a state religion through its establishment of a Commission for Religious Affairs.[39]

3.8.8 Non-Muslims had the option to try their cases in the Sharia courts if involved in disputes with Muslims. If non-Muslims did not agree to go to Sharia courts, common law courts would hear their cases. While Sharia courts could not compel participation by non-Muslims, some non-Muslims occasionally chose to have cases heard in Sharia courts, citing their speed and low expense.[40]

3.8.9 In many 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, other than church procedures, such as religious studies and baptism.[41]

3.8.10 There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Attacks by elements of the extremist sect Boko Haram, which purportedly aimed to implement a stricter form of Sharia throughout the country, claimed the lives of both Christians and Muslims.[42] Boko Haram's official name is Jama'atu Ahlis Sunna Lidda'awati wal-Jihad, which in Arabic means "People Committed to the Propagation of the Prophet's Teachings and Jihad.[43] They are an extremist sect with aims to overthrow the Nigerian government and

[37] US State Department International Religious Freedom report 2011; Nigeria http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dlid=192745
[38] US State Department International Religious Freedom report 2011; Nigeria http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dlid=192745
[39] US State Department International Religious Freedom report 2011; Nigeria http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dlid=192745
[40] US State Department International Religious Freedom report 2011; Nigeria http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dlid=192745
[41] US State Department International Religious Freedom report 2011; Nigeria http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dlid=192745
[42] US State Department International Religious Freedom report 2011; Nigeria http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dlid=192745
[43] BBC news, Who are Nigeria's Boko Haram Islamists?,11 January 2012 http://www.bbc.co.uk/news/world-africa-13809501

impose a stricter form of Sharia throughout the country. In February 2011, Boko Haram issued a statement calling for continued violence until the country embraced Islam, dropped its constitution, and adopted the laws in the Qur'an. Since its violent re-emergence in 2009, the group has murdered hundreds of people using assault rifles, bombs, and more recently, suicide car-bombings. Boko Haram murdered hundreds of Muslims and Christians during the year (2011). Members of Boko Haram specifically targeted many of those murdered, while they indiscriminately killed many others in large-scale attacks and bombings throughout the country.[44]

3.8.11 In April 2011, immediately following the Presidential elections, protests by supporters of the main opposition candidate, Muhammadu Buhari, a northern Muslim who lost the presidential election, quickly turned violent against Christians who were thought to have been sympathetic to incumbent President Goodluck Jonathan, a Christian. While political issues sparked the violence, its consequences were severe violations of religious freedom, including individuals being killed because of their religious identity and churches and mosques being attacked.[45]

3.8.12 The Christian Association of Nigeria (CAN) reported that at least 187 people were killed, 243 people injured, and more than 430 churches burned or destroyed. Some of the worst post-election violence between Muslims and Christians occurred in Kaduna State. Human Rights Watch reports that more than 500 were killed in Kaduna State, the vast majority of whom were Muslims. Kaduna had been largely peaceful for the past ten years and often was held up as a positive model for how to stem religiously-related violence. To date, there is no indication that Nigerian authorities have prosecuted any perpetrators involved in the post-election violence.[46]

3.8.13 Violent attacks by suspected members of the religious sect Boko Haram increased, killing more than 500 people and often targeting police officers and government officials. Since June, bars and beer gardens in northern Nigeria were targeted, killing scores of people. The situation deteriorated towards the end of the year, with weekly reports of bombings and attacks. On 31 December, the President declared a state of emergency in parts of Borno, Niger, Plateau and Yobe states.[47]

3.8.14 Boko Haram increased its targeting of churches and pastors in northern Nigeria, with attacks against pastors, churches, Christians, and non-northerners occurring frequently. On Christmas day 2011, bombs exploded in or around churches in five cities in central and northeastern Nigeria – Jos, Kano, Madalla, Gadaka, and Damaturu – leaving at least forty dead in Madalla alone, with people claiming to represent Boko Haram taking responsibility. Several days after the Christmas attacks, people thought to be affiliated with or sympathetic to Boko Haram threatened all Christians and non-northerners living in the north, issuing statements telling them to leave in three days or they would be killed. After the deadline, attacks against Christians, churches, and non-northerners resumed with more intensity, including in the suburbs of Abuja, resulting in well over 100 deaths and many more injured. On January 20, 2012, suspected Boko Haram operatives conducted highly-coordinated attacks in the city of Kano that killed at least 185

[44] US State Department International Religious Freedom report 2011; Nigeria http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dlid=192745
[45] US Commission on International Religious Freedom 2012 report; Nigeria http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf
[46] US Commission on International Religious Freedom 2012 report; Nigeria http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf
[47] Amnesty International Annual Report 2012; Nigeria http://www.amnesty.org/en/region/nigeria/report-2012#section-15-5

people. Perhaps as many as 100 operatives exploded improvised explosive devices, utilised suicide bombers, and opened fire in busy sections of town with automatic weapons. Targets included police stations, government buildings, and churches.[48]

3.8.15 In response to violence, the Federal Government set up a Special Military Task Force (JTF) in Maiduguri in June 2011 consisting of the army, navy, air force, the Department of State Security and the Nigeria Police Force. Reports subsequently increased regarding the security forces in Borno State resorting to unlawful killings, dragnet arrests, arbitrary and unlawful detentions, extortion and intimidation. Hundreds of people were arrested. On 25 December 2011, Nigeria's National Human Rights Commission expressed concerns about possible extrajudicial executions by security forces in northern Nigeria.[49]

3.8.16 On Monday 18 June 2012 Boko Haram claimed responsibility for suicide bomb attacks that left at least 36 people dead in northern Nigeria on Sunday (17th June). Kaduna state authorities imposed a 24-hour curfew as soldiers and police made efforts to restore order. Suicide bombers targeted four churches in a series of attacks that also prompted reprisal attacks by Christian youth against local Muslims. In all, two churches were attacked in Kaduna city while another two were bombed in a nearby Zaria city. In Zaria town, two churches were bombed as a bomber drove into Christ the King Catholic Church (CKC), Sabon Gari, and a similar attack took place at the Evangelical Church Winning All (ECWA), Wusasa. Red Cross officials in the city said in a church located in Zaria town, most of those killed or wounded were children. Kaduna state has previously seen attacks by Boko Haram. Last Sunday also, the group attacked two church services, sparking violence which killed seven people. Hundreds have died in its previous attacks on churches. Boko Haram says it wants Islamic sharia law in place across Nigeria and analysts suggest it is trying to trigger clashes between Christians and Muslims. A country of 150 million people, Nigeria's population is equally divided between Christians and Muslims.[50]

3.8.17 In June 2012 BBC news reported that three leaders of Nigeria's Boko Haram Islamist group have been designated as terrorists by the US state department. Abubakar Shekau leads the militant group, while Abubakar Adam Kambar and Khalid el Barnawi are thought to have ties with a branch of al-Qaeda. The move means any assets belonging to the men in the US will be frozen, and contact with US citizens banned. Boko Haram has said it carried out a number of attacks against churches and other establishments since 2009. More than 640 people have died in the country so far in 2012 in attacks blamed on the group. The BBC's Kim Ghattas, in Washington, said the move was likely to have little effect on the three men. She said it was more of an attempt to help stop sectarian violence in the country. Boko Haram, whose name means "Western education is a sacrilege" in the Hausa language, is based in the dominantly Muslim north of Nigeria. The south of the oil rich country is mostly Christian. It is thought some members of Boko Haram have connections with al-Qaeda in the Islamic Maghreb, a group already designated as a terrorist organisation by the US.[51]

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[48] US Commission on International Religious Freedom 2012 report; Nigeria http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf

[49] Amnesty International Annual Report 2012; Nigeria http://www.amnesty.org/en/region/nigeria/report-2012#section-15-5

[50] ZeeNews, Nigeria bombings: Boko Haram claims responsibility, 18 June 2012 http://zeenews.india.com/news/world/nigeria-bombings-boko-haram-claims-responsibility_782480.html

[51] BBC News, 'Boko Haram leaders are designated as terrorists by US', 21 June 2012 http://www.bbc.co.uk/news/world-africa-18542030

3.8.18 In November 2011 The Guardian reported that the US army was providing counter-insurgency training to Nigerian troops battling a rise in attacks by Islamist militants. The report went on to state that more than 100 people have been killed in recent days by the radical Muslim sect Boko Haram, dubbed the "Nigerian Taliban", in Nigeria's north-east. One rights activist described it as "a state of armed Islamist insurgency" likely to spread. Nigeria has sought to crush the group with military force but faces criticism from human rights activists for alleged extra-judicial killings. The military said some battalions had received training in the US. "The army is in the process of setting up a division that is effectively looking at warfare tactics," a spokesman said. "Various battalions were in the United States earlier this year for training to that end." It is though these include specialist units such as bomb disposal. US officials confirmed it has a longstanding deal with Nigeria with soldiers travelling to America for training. It could not comment on whether the exercises were aimed at combating Boko Haram.[52]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.8.19 **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. Claims under this category will therefore be clearly unfounded and as such should be certified. 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 and fall to be certified. Applicants expressing fear of Hisbah groups are able to safely relocate elsewhere in Nigeria where such groups do not operate or have no influence. Claims made on the basis of fear of Hisbah groups are therefore also likely to be clearly unfounded and will similarly fall to be certified.

3.8.20 Those applicants who fear persecution at the hands of Boko Haram 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 case owners should remember that each case should be looked at on it individual merits.

3.9 Female Genital Mutilation (FGM)

3.9.1 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.

3.9.2 **Treatment** The 2008 Nigeria Demographic and Health Survey (NDHS) reported that 30 percent of women in the country had been subjected to FGM. While practiced in all parts of the country, FGM was most prevalent in the southern region among the Yoruba and Igbo. Infibulation, the most severe form of FGM, was infrequently practiced 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

[52] The Guardian, 'Nigerian Taliban' threat prompts US military training, 8 November 2011 http://www.guardian.co.uk/world/2011/nov/08/nigerian-taliban-us-boko-haram

life until after a woman delivered her first child; however, most women were subjected to FGM before their first birthday.[53]

3.9.3 The law criminalises 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 law, an offender is any woman who offers herself for FGM; any person who coerces, entices, or induces any woman to undergo FGM; or any person who, for other than for medical reasons, performs an operation removing part of a woman's or a girl's sexual organs. The law provides for a fine of 50,000 naira (£195), one year's imprisonment, or both, for a first offense and doubled penalties for a second conviction.[54]

3.9.4 FGM is a phenomenon found in large parts of Nigeria, but there is great variation in how it is practised. There is a clear tendency that the share of girls and young women subjected to FGM is decreasing with every generation. FGM is practised by all larger ethnic groups in Nigeria, but other social factors influence the practise and cause great variation within these ethnic groups. FGM is a criminal offence in a number of Nigerian states, but no cases of legal prosecution of people who have subjected girls or women to FGM have been recorded. Projects against FGM, run by both state authorities and NGOs, focus on information to the general public and consciousness building. Differentials in the prevalence of female circumcision by age indicate that the practice has become less common over time. Women age 45-49 are nearly twice as likely as women age 15-19 to have been circumcised (38 percent compared with 22 percent)."[55]

3.9.5 The federal government publicly opposed FGM but took no legal action to curb the practice. Twelve states banned FGM; however, once a state legislature criminalised FGM, NGOs found that they had to convince the 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; however, underfunding and logistical obstacles limited their contact with health care workers.[56]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.9.6 **Conclusion** Whilst protection and/or assistance are available from governmental and non-governmental sources, this is limited. Case owners 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.

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[53] COIS Nigeria Country Report January 2012 (para 24.51)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[54] US State Department Human Rights Report 2011; Nigeria, Section 6
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[55] COIS Nigeria Country Report January 2012 (para 24.52)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[56] US State Department Human Rights Report 2011; Nigeria, Section 6
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229

3.9.7 There is no established case law on whether Nigerian women or children who have not undergone FGM should be regarded as members of a PSG. Claims for protection made by or on behalf of members of ethnic groups that practice FGM will need careful analysis to determine whether they are members of a particular social group (PSG). Individual claimants from these ethnic groups who are accepted as members of a PSG, who are able to demonstrate a real risk of such treatment and who could not escape the risk by internal relocation should be recognised as refugees and granted asylum. Where membership of a PSG is not accepted, humanitarian protection should be granted. In the event that it is accepted a child is in need of international protection because neither its parents nor the authorities in the area of origin would be able to offer protection, and where internal relocation would not be reasonable, the accompanying parents of such applicants may be considered for a grant of discretionary leave unless they are able to establish their own protection needs.

3.10 Victims of trafficking

3.10.1 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.

3.10.2 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 quarries, agriculture, and begging. Nigerian women and children are taken from Nigeria to other West and Central African countries, as well as South Africa, where they are exploited for the same purposes. Nigerian women and girls, primarily from Benin City in Edo State, are subjected to forced prostitution in Italy, while Nigerian women and girls from other states are subjected to forced prostitution in Spain, Scotland, the Netherlands, Germany, Turkey, Belgium, Denmark, Finland, France, Sweden, Switzerland, Norway, Ireland, Slovakia, the Czech Republic, Greece, and Russia. Nigerian women and children are recruited and transported to destinations in North Africa, the Middle East, and Central Asia, where they are held captive in the sex trade or in forced labour. Nigerian women are trafficked to Malaysia where they are forced into prostitution and to work as drug mules for their traffickers. Nigerian traffickers rely on threats of voodoo curses to control Nigerian victims and force them into situations of prostitution or labour. Nigerian gangs traffic large numbers of Nigerian women into forced prostitution in the Czech Republic and Italy, and EUROPOL has identified Nigerian organised crime as one of the largest law enforcement challenges to European governments.[57]

3.10.3 The US State Department report goes on to state that the Government of Nigeria does not fully comply with the minimum standards for the elimination of trafficking, but is making significant effort to do so. During the reporting period (2011), the

[57] US State Department Trafficking in Persons report 2012; Nigeria
http://www.state.gov/documents/organization/192597.pdf

government did not demonstrate sufficient progress in its anti-trafficking law enforcement efforts. Roughly a third of convicted traffickers received fines in lieu of prison time, and despite identifying 386 labour trafficking victims the government prosecuted only two forced labour cases.[58]

3.10.4 The National Association for the Prohibition of Trafficking in Persons (NAPTIP) website (accessed 11 November 2011) referred to the running of "seven shelters across the country with the capacity to accommodate the following number of victims at a time in each of the shelters: Abuja – 50, Lagos – 120, Benin – 50, Uyo – 50, Enugu – 50, Kano – 50, Sokoto – 50." The same website stated that "[The] Medical unit is responsible for the medical welfare of the victims. Each of the seven NAPTIP shelters is attached with qualified medical personnel in charge of the Agency's mini-clinics. Also the unit is working hand in hand with private hospitals and government hospitals to take care of complex, and emergency medical cases. Voluntary HIV test is administered on victims of sexual exploitation after medical counselling.[59]

3.10.5 The National Agency for the Prohibition of Traffic in Persons and Other Related Matters (NAPTIP), established by the 2003 Anti-Trafficking in Persons Law to coordinate and facilitate the government's anti-trafficking agenda, did not increase its funding for protective services and its victim shelters offered limited reintegration services and were not always well-maintained. Despite documentation of a staggering number of Nigerian trafficking victims identified in countries around the world, the government inconsistently employed measures to provide services to repatriated victims. However, NAPTIP did execute its first joint law enforcement exercise with the Government of Mali which led to the arrest of trafficking perpetrators and to the rescue of Nigerian trafficking victims.

3.10.6 A number of NGOs are assisting victims of trafficking in Nigeria. Among the most prominent of those are GPI [Girls' Power Initiative], COSUDOW [Committee for the Support and Dignity of Women], IRRRAG [International Reproductive Research Rights Action Group], WOCON [Women's Consortium of Nigeria], WOTCLEF [Women Trafficking and Child Labour Eradication Foundation], AWEG [African Women's Empowerment Guild], Idia Renaissance and the Catholic Secretariat of Nigeria/Caritas Nigeria.[60]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.10.7 ***Conclusion*** That a person has been trafficked is not, in itself, a ground for refugee status. However, some trafficked women have been able to establish a 1951 Convention reason (such as a membership of a particular social group) and may have valid claims to refugee status. Forced recruitment of women for the purposes of forced prostitution or sexual exploitation is a form of gender-related violence and/or abuse and may amount to persecution. Trafficked women may face serious

[58] US State Department Trafficking in Persons report 2012; Nigeria
http://www.state.gov/documents/organization/192597.pdf
[59] COIS Nigeria Country Report January 2012 (para 26.16)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[60] COIS Nigeria Country Report January 2012 (para 26.18)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

repercussions upon their return to their home country, such as reprisals or retaliation from trafficking rings or individuals, or discrimination from their community and families and there may be a risk of being re-trafficked. Each case should be considered on its individual merits and in the context of the country on which it is based.

3.10.8 Where a victim of trafficking has agreed to give evidence as part of a criminal prosecution consideration should be given to whether this is likely to affect the basis of the asylum claim (for example by increasing the risk of retribution), and therefore whether the decision should be postponed until after the trial is concluded. The impact of the applicant's evidence at the trial on the likelihood of future risk can then be assessed. It may be necessary to liaise with the police in this situation.

3.10.9 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. Case owners should refer to paragraph 192 of PO Nigeria when considering the risk to an individual of being re-trafficked. Applications from those who have been trafficked and who are able to demonstrate that the treatment they will face on return amounts to torture, inhuman or degrading treatment must be considered in the context of the individual circumstances of each claim. 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 is able to demonstrate that they fall into this category a grant of asylum may be appropriate.

3.11 Gay men and lesbians

3.11.1 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.

3.11.2 Nigeria's federal criminal code punishes consensual homosexual conduct with up to 14 years in prison. In states applying Sharia, consensual homosexual conduct among men is punishable by death (stoning), and by flogging and six months in prison in the case of women.[61]

3.11.3 Human rights abuses continued against people suspected of having same-sex relationships or non-conventional gender identity. In December, the Senate approved a bill which would impose a 14-year prison sentence for same-sex marriages. Any person or groups that "witness, abet and aids the solemnization of a same sex marriage or union" or "supports" gay groups, "processions or meetings", would face a 10-year prison sentence. The same sentence would apply to a "public show of same sex amorous relationship" and anyone who registers gay clubs and organisations protecting the rights of lesbians, gay men, and bisexual and transgender people.[62]

3.11.4 Because of widespread societal taboos against homosexuality, very few persons openly revealed their orientation. The NGOs Global Rights and The Independent Project provided lesbian, gay, bisexual, and transgender (LGBT) groups with legal

[61] Human Rights Watch World report 2012; Nigeria http://www.hrw.org/world-report-2012/world-report-2012-nigeria
[62] Amnesty International Annual Report 2012; Nigeria http://www.amnesty.org/en/region/nigeria/report-2012#section-15-15

advice and training in advocacy, media responsibility, and HIV/AIDS awareness. Organisations such as the Youths 2gether Network also 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 (2011).[63]

3.11.5 On 29 November 2011, the Senate passed the Same Sex Marriage (Prohibition) Bill that would prohibit participating in or witnessing same-sex marriage ceremonies, criminalise public displays of affection between same-sex couples, and criminalise LGBT organisations. The bill includes penalties, including a 14-year prison sentence for individuals entering into a same-sex marriage, a 10-year sentence for public displays of same-sex affection, and a 10-year sentence for any individual who registers, operates, or participates in LGBT clubs, societies, organisations, processions, or meetings. The bill also calls for a 10-year sentence for any individual aiding, abetting, or witnessing the solemnisation of a same-sex marriage. The House of Representatives conducted a first reading of the bill on December 7 but adjourned for the year before conducting a second and third reading and bringing the bill to a final vote.[64]

3.11.6 In March 2012 Pink News reported that following violence and economic concerns in the African state, the European Parliament has adopted a resolution on Nigeria which condemns in part the current legal threats to lesbian, gay, bisexual and transgender citizens. Nigeria's Same Gender Marriage Prohibition Bill was proposed in 2011, and has since been amended by the Nigerian Senate to punish those in a same-sex union with 14 years' imprisonment, and anyone 'aiding or abetting' such unions with 10 years in prison. The Parliament said in addition to locals, tourists and aid workers in a same-sex marriage or civil partnership are at risk of arrest and prosecution, those working in embassies but without diplomatic protection will also be subject to prosecution. The European Parliament is calling "on the Nigerian Parliament to reject the 'Same Gender Marriage Prohibition Bill' which, if passed, would put LGBT people – both Nigerian nationals and foreigners – at serious risk of violence and arrest". It also "calls for the abolition of current legislation criminalising homosexuality, in some cases making it punishable by stoning".[65]

3.11.7 Many Nigerians strongly disapprove of homosexuality. The dominant role of religion is widely seen as the root of the country's homophobic culture. Punishing gays is one of the few common themes that politicians can promote with equal zest in the mainly Christian south and the largely Muslim north. Under federal law sodomy is punishable by a 14-year jail sentence. An even more stringent bill to ban gay-rights groups and homosexual displays of affection is also under consideration.[66]

3.11.8 Extortion and blackmail are fundamental realities of homosexual life in Nigeria. Generally, extortion and blackmail is especially common in the male homosexual community. This is because homosexual men in Nigeria more publicly transgress gender norms, especially the belief that men should be dominant over submissive

[63] US State Department Human Rights Report 2011; Nigeria, Section 6
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[64] US State Department Human Rights Report 2011; Nigeria, Section 6
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[65] Pink News, European Parliament calls on Nigeria to reverse anti-gay laws, 16 March 2012
http://www.pinknews.co.uk/2012/03/16/european-parliament-calls-on-nigeria-to-reverse-anti-gay-laws/
[66] COIS Nigeria Country Report January 2012 (para 22.20)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

women. By rejecting the privilege enjoyed by heterosexual men, homosexual men represent a visible threat to patriarchal values and the sexual ideologies they support. While lesbianism is more tolerated than male homosexuality, a significant number of Nigerian lesbians and bisexual women are also targets of extortion and blackmail. Like their male counterparts, they also break the rules of their patriarchal community. They tend to be independent of men and therefore step outside of the boundaries of their traditional roles. Extortion and blackmail become weapons of choice for those who police female homosexuality, and are routinely used to punish and silence lesbians and bisexual women who transgress the social order.[67]

3.11.9 Ten non-governmental organisations (NGOs) have openly declared the protection of LGBTI rights as one of their focus areas of work. These include Alliance Rights Nigeria, the International Centre for Reproductive Health and Sexual Rights (INCRESE), the Centre for Youth Policy Research and Advocacy (CYPRAD) and the Support Project in Nigeria (SPIN), The Initiative for Equal Rights (TIER), Queer Alliance and Global Rights Nigeria.[68]

See also: **Actors of protection (section 2.3 above)**
Internal relocation (section 2.4 above)
Caselaw (section 2.5 above)

3.11.10 Conclusion Societal hostility and discrimination against LGBT persons exists in Nigeria and same sex relationships are illegal. However, evidence suggests that homosexual acts or behaviours are tolerated in Nigeria as long as they are carried out discreetly and in private. Where gay men and lesbians do encounter social hostility they should be able to avoid this by moving elsewhere in Nigeria and it would not in most cases be unduly harsh to expect them to do so. It is therefore unlikely that a gay man or lesbian will be able to establish a claim to asylum or Humanitarian Protection on the basis of their sexuality alone.

3.11.11 Each case must however be examined on its own merits. Where case owners 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.

3.11.12 If an individual chooses to live discreetly because he/she wants to avoid embarrassment or distress to her or his family and friends he/she 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 her or his sexual orientation.

3.11.13 If an individual chooses to live discreetly because he/she fears persecution if he/she were to live as openly gay, lesbian or bisexual then he/she will have a well founded fear and should be granted asylum. It is important that gay, lesbian and bisexual people 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.

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[67] COIS Nigeria Country Report January 2012 (para 22.26)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[68] COIS Nigeria Country Report January 2012 (para 22.40)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

3.12 Prison conditions

3.12.1 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.

3.12.2 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.

3.12.3 Consideration: The US state department report that prison and detention centre conditions remained harsh and life threatening in 2011. Most of the country's 234 prisons, built 70 to 80 years earlier, lacked basic facilities. The system included 11 maximum security prisons, 80 satellite prisons, 10 farm centres, eight zonal offices, and six directorates, all of which held prisoners and detainees.[69]

3.12.4 The Nigerian Prison Service released statistics at the end of May 2011 showing that the country's prisons held 48,124 inmates. In May Comptroller General of Prisons Olusola Ogundipe announced that the prisons held an additional 1,000 persons for alleged involvement in April postelection violence, most of whom subsequently gained their release. Individual prisons held as much as 500 percent of their designed capacity. For example, the Owerri Federal Prison had a capacity of 548 prisoners but held more than 1,635. Ogwuashi-Uku prison in Delta State, with a capacity of 64 prisoners, housed 358, while Port Harcourt prison, with a capacity of 804 prisoners, held 2,594. Of the inmate population, approximately 2 percent were female and 1 percent juveniles.[70]

3.12.5 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 regular population. Although authorities attempted to isolate persons with communicable diseases, the facilities often lacked the space to do so. Prison authorities claimed that the death rate in prisons was 89 out of 1,500 prisoners per year; however, no reliable independent statistics existed on the number of prison deaths.[71]

3.12.6 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 forces often denied inmates food and medical treatment

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[69] US State Department Human Rights Report 2011; Nigeria Section 1
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[70] US State Department Human Rights Report 2011; Nigeria Section 1
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[71] US State Department Human Rights Report 2011; Nigeria Section 1
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229

as punishment or to extort money.[72]

3.12.7 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. The federal government operated all the country's prisons but maintained few pretrial jail facilities. Of the total prison population, 70 percent were pretrial detainees. Authorities held political prisoners with the general prison population, not separately.[73]

3.12.8 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. Although the law precludes the imprisonment of children, minors lived in the country's prisons, many of whom were born there. A report by the African Union on the rights and welfare of the Nigerian child found that an estimated 6,000 children lived in prison and detention centres. Despite a government order to identify and release such children and their mothers, authorities had not solved the problem by year's end.[74]

3.12.9 Prison authorities allowed visitors within a scheduled timeframe. Few visitors came due to lack of family resources and travel distance. Prisoners could attend religious observances, although prisons often did not have equal facilities for both Muslim and Christian worship. In some prisons outside clergy constructed chapels or mosques.[75]

3.12.10 Prisoner complaints centered on access to court proceedings, as in many cases inmates lacked transportation to attend a court hearing. No effective system existed for monitoring prisons for inhumane conditions. All prisons suffered from poor facilities, overcrowding, and lack of resources.[76]

3.12.11 There were no regular outside monitors of the prisons, and no statistics on the mistreatment of prisoners or availability of food or medical care. 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.[77]

3.12.12 The country does not provide services of an ombudsman who can serve on behalf of prisoners and detainees to consider such matters as creating alternatives to incarceration for nonviolent offenders to alleviate overcrowding; addressing the status and circumstances of confinement of juvenile offenders; or improving pretrial detention, bail, or recordkeeping procedures to ensure that prisoners do not serve beyond the maximum sentence for the charged offense.[78]

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[72] US State Department Human Rights Report 2011; Nigeria Section 1 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[73] US State Department Human Rights Report 2011; Nigeria Section 1 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[74] US State Department Human Rights Report 2011; Nigeria Section 1 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[75] US State Department Human Rights Report 2011; Nigeria Section 1 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[76] US State Department Human Rights Report 2011; Nigeria Section 1 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[77] US State Department Human Rights Report 2011; Nigeria Section 1 http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[78] US State Department Human Rights Report 2011; Nigeria Section 1

3.12.13 The government did not make widespread improvements to prisons during the year (2011), but individual prison administrations attempted to collect donations to benefit the inmates. For example, benefactors contributed facilities to help alleviate overpopulated prisons. In October the Amazing Grace Pentecostal Church donated a multipurpose hall to the Kirikiri Female Prison in Apapa, Lagos.[79]

3.12.14 Nigeria retains the death penalty for ordinary crimes, including murder, armed robbery and culpable homicide.[80] Amnesty International report that during 2011, 72 people were sentenced to death. There were 982 people on death row, including 16 women. Fifty-five people had their sentences commuted and 11 were pardoned. No executions were reported. Many death row inmates were sentenced following blatantly unfair trials or after more than a decade in prison awaiting trial. In June, the scope of the death penalty was expanded to include supporting terrorism resulting in death. Provisions under the Terrorism Act were imprecise, too broad and inconsistent with human rights standards for due process, lawful deprivation of liberty and fair trial. In October, Mohammed Bello Adoke, the Attorney General of the Federation and Minister of Justice, stated that Nigeria had introduced an official moratorium on executions. However, no official gazette was issued to confirm this.[81]

3.12.15 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 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. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

4.2 With particular reference to Nigeria the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.

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http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[79] US State Department Human Rights Report 2011; Nigeria Section 1
http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=186229
[80] COIS Nigeria Country Report January 2012 (para 15.01)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[81] Amnesty International Annual Report 2012; Nigeria http://www.amnesty.org/en/region/nigeria/report-2012#section-15-9

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where (a) they have family to return to; or (b) there are adequate reception and care arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, support and care arrangements in place for minors with no family in Nigeria. Those who cannot be returned should, if they do not qualify for leave on any more favourable grounds, be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

4.4 Medical treatment

4.4.1 Applicants may claim they cannot return to Nigeria due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

4.4.2 The principal arm of Government in health care delivery is the Federal Ministry of Health. The Ministry is charged with coordinating all health activities throughout the Federation. Medical and health services are also the responsibility of the state governments, which maintain hospitals in the large cities and towns. Most of the state capitals have public and private hospitals, as well as specialised hospitals. Each city also has a university teaching hospital financed by the Federal Ministry of Health.[82]

4.4.3 Drugs are available but may be expensive. There are many pharmacies throughout Nigeria. The National Agency for Food and Drug Administration and Control (NAFDAC) has worked hard to ensure that these pharmacies are regulated and sell genuine medicines to the Nigerian public. But, data obtained from a study in 36 countries from all World Health Organisation (WHO) geographical regions, and covering World Bank income groups, has revealed an alarming lack of essential medicines in the public sector. The study, which included Nigeria, shows that this is driving patients to pay higher prices in the private sector, or go without any. Results show an average public sector availability of medicines of only 38% across surveys. This forces patients to buy medicines from the private sector where treatments are more expensive and often unaffordable.[83]

4.4.4 In Nigeria, an estimated 3.6 percent of the population are living with HIV and AIDS. Although HIV prevalence is much lower in Nigeria than in other African countries such as South Africa and Zambia, the size of Nigeria's population (around 149 million) meant that by the end of 2009, there were almost 3 million people living with HIV. Approximately 192,000 people died from AIDS in 2009. With AIDS claiming so many lives, Nigeria's life expectancy has declined significantly. In 1991 the average life expectancy was 54 years for women and 53 years for men. In 2009 these figures had fallen to 48 for women and 46 for men.[84]

4.4.5 Mental health care is part of [the] primary health care system. Actual treatment of

[82] COIS Nigeria Country Report January 2012 (para 27.01)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[83] COIS Nigeria Country Report January 2012 (para 27.02)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/
[84] COIS Nigeria Country Report January 2012 (para 27.09)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

severe mental disorders is available at the primary level. However, relatively few centres have trained staff and equipment to implement primary health care. Regular training of primary care professionals is carried out in the field of mental health. Each state has a school of Health Technologists for [the] training of primary care professionals including health care workers. There are community care facilities for patients with mental disorders. Community care is available in a few states. Providers include private medical practitioners, NGOs, especially faith-based organizations and traditional healers.[85]

4.4.6 The Article 3 threshold will not be reached in the majority of medical cases and a grant of Discretionary Leave will not usually be appropriate. Where a case owner considers that the circumstances of the individual applicant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making 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.

5. Returns

5.1 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.

5.2 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.

5.3 Nigerian nationals may return voluntarily to any region of Nigeria at any time in one of three ways: (a) leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK, (b) leaving the UK through the voluntary departure procedure, arranged through the UK Border Agency, or (c) leaving the UK under one of the Assisted Voluntary Return (AVR) schemes.

5.4 The AVR scheme is implemented on behalf of the UK Border Agency by Refugee Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Nigeria. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Nigerian nationals wishing to avail themselves of this opportunity for assisted return to Nigeria should be put in contact with Refugee Action Details can be found on Refugee Action's web site at:

www.refugee-action.org/ourwork/assistedvoluntaryreturn.aspx

Country Specific Litigation Team
Strategy & Intelligence Group
UK Border Agency
4 October 2012

[85] COIS Nigeria Country Report January 2012 (para 27.32)
http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/