



Flygtningenævnets baggrundsmateriale

Bilagsnr.:	122
Land:	Nigeria
Kilde:	UK Home Office
Titel:	"Home Office Report"
Udgivet:	Juli 2005
Optaget på baggrundsmaterialet:	18. november 2005

Nigeria

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1. Introduction

1.1 This document summarises the general, political and human rights situation in Nigeria and provides information on the nature and handling of claims frequently received from nationals/residents of that province. It must be read in conjunction with the April 2005 CIPU Nigeria Country Report and the report of the CIPU fact-finding mission to Nigeria published in March 2005.

1.2 This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on Assessing the Claim

API on Humanitarian Protection

API on Discretionary Leave

API on the European Convention on Human Rights

1.3 Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims.

1.4 Asylum and human rights claims must be considered on their individual merits. However, if following consideration, the claim is refused, caseworkers should consider whether the claim 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. The information set out below contains relevant country information, the most common types of claim and guidance from the courts, including guidance on whether certain types of claim are likely to be clearly unfounded.

Source documents

1.5 Source documents used in this guidance are identified as appropriate in the body of the text and also listed at the end of this note.

2. Country assessment

2.1 Nigeria is a federal republic and operates an Executive Presidential system of government. This American-style model was first introduced in 1979, during the last period of civilian rule, and retained on the return to civilian rule in 1999. It replaced the Westminster system which had been inherited at independence. The federal bi-cameral legislature comprises a Senate with 109 elected members and a 360-member House of Representatives. Each of the 36 States has an elected Governor and an elected State Assembly of between 24 and 40 seats depending on the size of the population. All elected offices have a four-year tenure. The third tier comprises 774 Local Government Areas. There is a two-term constitutional limit on the tenure of the President and the State Governors. [Foreign and Commonwealth Office (FCO) Country Profile on Nigeria: May 2005]

2.2 Nigeria is a multi-party state. Some 30 political parties are officially registered but only three, the ruling Peoples Democratic Party (PDP), All Nigeria Peoples Party (ANPP) and the Alliance for Democracy (AD), have electoral strength. The PDP is the largest party with a national spread; the ANPP is strongest in the north, while the AD's main constituency is in the south-west. The 1999 elections, which returned Nigeria to civilian rule, brought retired General Obasanjo to power with 62% of the vote. He was returned in 2003 with a similar mandate. The PDP won 21 State Governorships in 1999, but took control of 28 States in 2003. The next elections are scheduled for 2007. [Foreign and Commonwealth Office (FCO) Country Profile on Nigeria: May 2005]

2.3 Basic human rights freedoms are enshrined in the constitution including the right to life, the right to personal liberty, the right to a fair trial, freedom of expression and of the press, freedom of religion and the right to dignity of the person [UK-Danish Fact Finding Mission Report: Jan 2005 para 2.2]

2.4 The election of a civilian government under President Olusegun Obasanjo in February 1999 ended 17 years of military rule. Under a succession of military leaders, but most notably under General Abacha, whose death in 1998 paved the way for civilian rule, human rights abuses were routinely sponsored by

government, using the army as the guardians of law and order. After Abacha's death those whom he had detained for so-called "political crimes", including Obasanjo himself, were quickly released. Others, including the press and civil society groups opposed to Abacha's regime, were able to express their views without fear of reprisal. The advent of civilian rule also resulted in wider freedom of expression within the community at large and a recognition by Obasanjo's government that the police should take over the army's civilian policing functions. To help underpin the new dispensation, Obasanjo directed additional funds to the National Human Rights Commission (NHRC) and appointed a panel under Justice Oputa to hear grievances from those who had suffered under former regimes. Nigeria has a free and vibrant press, which routinely draws public and government attention to human rights abuses. [UK-Danish Fact Finding Mission Report: Jan 2005 para 2.3]

2.5 The government of Obasanjo has a professed commitment to improve the human rights situation in Nigeria. Many of the serious abuses that have occurred since the restoration of democracy are a result of the ill trained security forces' use of excessive force and their poor treatment of protesters, criminal suspects, detainees and convicted prisoners. This reflects the scale of the problems Obasanjo inherited from his military predecessors, particularly rebuilding the police force from scratch in a country facing so many other urgent and complex issues, such as inadequate infrastructure, endemic corruption and severe levels of poverty. The law enforcement agencies suffer from a lack of resources, particularly inadequate training. But Obasanjo has ended the pattern of systematic state-sponsored human rights abuses that were prevalent under military rule. [UK-Danish Fact Finding Mission Report: Jan 2005 para 2.3]

3. Main categories of claims

3.1 This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Nigeria. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. 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 flight are set out in the relevant API's, 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 claimant 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 API on Assessing the Claim).

3.3 If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant 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 This guidance is not designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)

3.5 Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API on Humanitarian Protection and API on Exclusion under Article 1F or 33(2) and API on DL)

All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

3.6 Membership of MASSOB.

3.6.1 Some claimants may express a fear of persecution by the Nigerian authorities on account of their association with, or membership of, the Movement for the Actualisation of the Sovereign State of Biafra (MASSOB).

3.6.2 Treatment. MASSOB is an un-armed non-violent movement that advocates a separate state of Biafra for the Igbo, the dominant ethnic group in the Igbo speaking southeast states of Abia, Anambra,

Ebonyi, Enugu and Imo. The Federal Government banned the movement in 2001, alleging that its activities threatened the peace and security of the country. Despite the ban, MASSOB has continued to pursue its campaign for self-determination. Although MASSOB does not appear to enjoy the level of support which would represent a serious political threat to the government, some MASSOB members have reportedly been harassed by the police, acting on orders from the federal government and its leader, Ralph Uwazurike, has been arrested several times. [CIPU Nigeria Country Report April 2005 para 6.81 - 6.87]

3.6.3 It is understood that MASSOB do not register members or issue membership cards. MASSOB has however produced an independent Biafra State flag and issued a currency. However, the flag and the currency are not legal and if a person is caught in possession of the currency or the flag the person will be arrested. Some may even be accused of sedition or treason, which according to the law is punishable by death. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.1.20]

3.6.4 Political opposition groups such as MASSOB are in general free to express their views, although those that take part in illegal demonstrations or other illegal activities (eg raising the "Biafra" flag or being in possession of "Biafra" currency) may face arrest, detention and prosecution for any offences that have been committed. [CIPU Nigeria Country Report April 2005 para 6.81 - 6.87]

3.6.5 Sufficiency of protection. As this category of claimants' fear is of ill treatment by the Federal Government, they cannot apply to these authorities for protection.

3.6.6 Internal relocation. As this category of claimants' fear is of ill treatment by the Federal Government, relocation to a different area of the country to escape this threat is not feasible.

3.6.7 Conclusion. The human rights situation has improved since the return to civilian rule in 1999. However the government does not take any chances with any groups that threaten the unity of the country such as MASSOB. The leadership of MASSOB, i.e. "those that energise and mobilise support for the movement", and those affiliated with the leaders, are at risk of arrest and detention by the authorities on account of their political opinion. Less prominent persons who are affiliated with MASSOB might be at risk of ill treatment by the authorities in order to intimidate others. Normally anonymous sympathisers of MASSOB do not draw the adverse attention of the authorities.

3.6.8 If it is accepted that the claimant has had significant political involvement in MASSOB and has previously come to the adverse attention of the authorities, then a grant of asylum is likely to be appropriate. However the number of such claims is likely to be small and given the prominence of the individuals concerned the identity and veracity of their claims can be readily verified. Claimants who assert that they have been detained then promptly released on one or more occasions, or who describe low-level activities and have not previously come to the attention of the authorities would not be in need of international protection.

3.7 Fear of Bakassi Boys (or other vigilante groups)

3.7.1 Some claimants will seek asylum on the grounds that they fear ill treatment amounting to persecution at the hands of the "Bakassi Boys" or other similar vigilante groups.

3.7.2 Treatment. Vigilante groups have in the past been prevalent in Nigeria taking the law into their own hands because the police, until recent years, had not had the capacity to do so. However since 1999, the Nigerian Police Force (NPF) has grown in size and capacity and now has a much higher profile. Former vigilante groups have now been brought within and under the control of the NPF. They are registered with and operate under the supervision of NPF and are akin to services like the "neighbourhood watch" scheme in the UK and operate principally at night. The accounts of those that claim to be ill-treated by such groups can be easily verified by asking for the particular name, location and dates of any such incidents and these can be checked with the NPF. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.2.2 - 3.2.4]

3.7.3 In contrast to the above-mentioned registered groups, there a number of non-registered vigilante groups which have been described as "outlaws" or "militias". These groups have committed very serious human rights violations and have also been responsible for violent inter-ethnic clashes. These groups are to be found in various locations throughout Nigeria and include the Bakassi Boys, O'odua People's Congress (OPC), Yan Daba, and Egbesu Boys as well as various warlords, militias and cult gangs in the Delta and other regions. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.3.1 - 3.3.11]

3.7.4 Sufficiency of protection. Membership or association with these groups or economic support for them is not itself illegal but any illegal acts those groups or members of those groups might commit are of course criminal offences and will be treated as such. For example, threatening behaviour or otherwise preventing people from going about their normal lives will be treated appropriately. The NPF deal with

individuals within these groups in the context of any illegal activities committed by the individual. There have been prosecutions for such destructive behaviour and the courts have handed down sentences that have ranged from between two and six years according to the seriousness of the offence. Many though have been charged and are still awaiting trial. Any member of Bakassi Boys or any other similar vigilante group would be arrested if he or she had committed any crime or had acted in a destructive manner. However in practice few complaints are made to the NPF about the Bakassi Boys (and other similar groups) for fear of reprisals from those groups. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.3.1 - 3.3.11]

3.7.5 The Federal Government strongly oppose the Bakassi Boys and other similar vigilante groups and have instructed the police to suppress their activities. However the NPF have had only limited success in dealing with these groups and some political figures at State level have been reported to have used these groups at times for their own ends. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.3.1 - 3.3.11]

3.7.6 Internal relocation. The Nigerian constitution provides for the right to travel within the country and the government respects those rights. Although law enforcement agencies regularly use roadblocks and checkpoints to search for criminals, there are no reports that government officials restricted movements of individuals. [CIPU Nigeria Country Report April 2005 para 6.45] Internal relocation to escape any ill treatment from non-state agents is almost always an option. As would be expected some individuals may encounter a normal level of lack of acceptance by others in the new environment as well as lack of accommodation, land etc, and the situation would however be considerably easier if the individual concerned has family or other ties on the new location. [UK-Danish Fact Finding Mission Report Jan 2005 para 4.3.1 - 4.3.2]

3.7.7 Conclusion. The human rights situation has improved since the return to civilian rule in 1999. The Federal Government are clearly determined to tackle the problems of vigilantes, various warlords, militias and cult gangs. For claimants who fear, or who have experienced, ill-treatment at the hands of these groups, there is a general sufficiency of protection and they are also able to safely relocate within the country. Claimants who fear ill-treatment at the hands of vigilante groups surreptitiously acting on behalf of rogue politicians or officials at State level will also be able to safely relocate within the country to escape such treatment. General lawlessness, poverty or a lack of access to resources will not, in themselves, be sufficient to warrant the grant of asylum or humanitarian protection. Applications under this category therefore are likely to be clearly unfounded and as such fall to be certified.

3.8 Religious persecution

3.8.1 Some claimants apply for asylum based on the grounds that they are not free to practice their religion and that they would face ill treatment amounting to persecution at the hands of the authorities as a consequence. Some claimants may express fear of Shari'a courts in northern Nigeria whilst other may have a fear of non state agents in the form of Hisbah vigilante groups who have taken it upon themselves to enforce Shari'a.

3.8.2 Treatment. The Nigerian constitution provides for freedom of religion, including freedom to change one's religion or belief, and freedom to manifest and propagate one's religion or belief in worship, teaching, practice, and observance. While the federal government generally respects religious freedom, there were some instances in which limits were placed on religious activity to address security and public safety concerns. Many states prohibited open-air religious services held away from places of worship due to fears that these religious services would heighten inter-religious tensions or lead to violence. Ondo State continued to ban open-air religious events, and the Kaduna state government enforced a ban on processions, rallies, demonstrations, and meetings in public places on a case-by-case basis. In the southern part of the country, large outdoor religious gatherings were common. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.8.1 - 3.8.2]

3.8.3 Shari'a penal code was introduced in 2000 in the 12 northern, largely Muslim, states of Zamfara, Sokoto, Kebbi, Niger, Kano, Katsina, Kaduna, Jigawa, Yobe, Bauchi, Borno, and Gombe. Muslims in these 12 northern states automatically come under the jurisdiction of the Shari'a courts. However, Muslims can opt to have their case judged by the parallel criminal justice system but few opt for non-Shari'a courts. Non-Muslims are not automatically under the jurisdiction of Shari'a courts but can opt to have their case heard in a Shari'a court and there is a formal legal consent form, which they have to sign if they elect to do so. [UK-Danish Fact Finding Mission Report Jan 2005 para 6.2.3 - 6.2.28]

3.8.4 Since Shari'a was extended to criminal law in the 12 northern states in 2000, Shari'a courts have handed down between 10 and 12 death sentences. There has however been only one recorded execution under Shari'a law in Nigeria, that of Sani Yakubu Rodi in January 2002. Only three sentences of amputation have actually been carried out with the last one being in mid-2001. No executions or

amputations have taken place since then. A number of cases are still awaiting appeal to the Federal Court of Appeal but to date none have reached substantive hearing. Nigerian observers, including lawyers, agree that should that happen, it is highly unlikely that the Federal Court of Appeal would uphold the sentence. A similar favourable outcome would be expected from the Supreme Court. [UK-Danish Fact Finding Mission Report Jan 2005 para 6.2.3 - 6.2.28]

3.8.5 If a person awaiting trial before a Shari'a court or a convicted person runs off he or she is not pursued and under Shari'a law no action is taken. But the individual concerned will risk not being considered a "complete Muslim". The individuals concerned are encouraged to repent - but there is no rush to punishment. The effect is to ensure that punishment is the last resort. Punishment is used more as a deterrent and to aid faith. Individuals must accept Shari'a as a matter of faith. [UK-Danish Fact Finding Mission Report Jan 2005 para 6.2.3 - 6.2.28] The Nigerian Police Force does not return anyone to the jurisdiction of a Shari'a court if he or she has relocated elsewhere in Nigeria in order to escape Shari'a jurisdiction. [UK-Danish Fact Finding Mission Report Jan 2005 para 4.3.3].

3.8.6 In most northern states, hisbah group have been formed at a local level to enforce Shari'a laws such as banning the sale and consumption of alcohol, the wearing of indecent clothing by women and arresting of petty thieves, often without authorisation by the Shari'a court. Some observers have compared the role of the hisbah to that of vigilante groups operating in other parts of Nigeria. The hisbah share some characteristics with these groups but there are also significant differences. Like other vigilante groups, the hisbah are made up mostly of locally-recruited young men who usually patrol their own neighbourhoods and sometimes instantly administer punishments on people suspected of carrying out an offence, without, or before handing them over to the police. Hisbah members have been responsible for flogging and beating suspected criminals, but there have not been any reports of killings by hisbah members. Hisbah members may carry sticks or whips but unlike some vigilante groups in other parts of Nigeria, they do not usually carry firearms. [CIPU Nigeria Country Report April 2005 para 5.30 - 5.32]

3.8.7 The relationship between hisbah groups in the states where they are active and the police is complex. While the hisbah were set up by State governments, the police across Nigeria remain a federal institution, answerable to federal and not State structures. The existence of these two parallel structures, both of which have responsibilities for enforcing law and order, has resulted in conflicts of interest. The police are seen as a secular institution, and include both Muslims and non-Muslims. Unlike the hisbah, the police do not have the specific mandate to ensure enforcement and implementation of Shari'a; yet in the twelve States where they are operating Shari'a is legally in force under State legislation. In practice, the police in the northern States have not taken on an active role as 'Shari'a enforcers', nor have they actively sought to enforce new codes of behaviour which were introduced alongside Shari'a, such as dress codes for women, segregation of sexes in public transport, and strict prohibition of alcohol. [CIPU Nigeria Country Report April 2005 para 5.30 - 5.32]

3.8.8 Sufficiency of protection. As this category of claimants' fear is of ill treatment by the authorities at State level, they cannot apply to these authorities for protection.

3.8.9 Internal relocation. Although the Shari'a legislation to a large extent is identical in each of the 12 states where it has been implemented 1999, there is no inter-State cooperation or co-ordination between the justice systems. Breaking Shari'a law in one state will not mean that the individual faces prosecution under Shari'a law in another state. If someone on Shari'a-related charges in one of the northern states leaves that state, the police will not arrest and bring him/her back to the state. This is because the police are a federal institution with no responsibilities for a court system not following federal law and hisbah groups do not operate or have any influence outside of their own state. [CIPU Nigeria Country Report April 2005 para 5.30 - 5.32] Claimants who claim a fear of local Hisbah vigilante groups are able to safely relocate elsewhere in Nigeria where the particular Hisbah do not operate or have any influence.

3.8.10 The Nigerian constitution provides for the right to travel within the country and the government respects those rights. Although law enforcement agencies regularly use roadblocks and checkpoints to search for criminals, there are no reports that government officials restricted movements of individuals. [CIPU Nigeria Country Report April 2005 para 6.45] Internal relocation to escape any ill treatment by hisbah groups is almost always an option. As would be expected some individuals may encounter a normal level of lack of acceptance by others in the new environment as well as lack of accommodation, land etc, and the situation would however be considerably easier if the individual concerned has family or other ties on the new location. [UK-Danish Fact Finding Mission Report Jan 2005 para 4.3.1 - 4.3.2]

3.8.11 Caselaw.

PI [2002] UKIAT 04720 CG - 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.

Archer. Outer House Court of Session (JR of a determination of a Special Adjudicator, 09-11-01)
Internal flight is available to Christians fleeing from violence in northern Nigeria.

3.8.12 Conclusion. The right to religious freedom and expression is enshrined in the Nigerian constitution and there are no reports of anyone experiencing any problems with the federal government in practicing their chosen religion. Claims under this category will therefore be clearly unfounded and as such should be certified.

3.8.13 Claimants 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 will be likely to be clearly unfounded and fall to be certified. Claimants expressing fear of Hisbah vigilante groups are able to safely relocate elsewhere in Nigeria where such groups do not operate or have any influence. Claims made on the basis of fear of Hisbah vigilante groups are therefore also likely to be clearly unfounded and will similarly fall to be certified.

3.9 Female Genital Mutilation

3.9.1 Some female claimants seek asylum on the basis that they, or their children, would be forcibly required by family members to undergo female genital mutilation if they were to return to Nigeria.

3.9.2 Treatment. Female genital mutilation (FGM) is a cultural tradition that is widely practiced in Nigeria. The Nigeria Demographic and Health Survey (NDHS) have estimated the FGM rate at approximately 19 percent among the nation's female population, and the incidence has declined steadily in the past 15 years. While practiced in all parts of the country, FGM is much more prevalent in the southern part of the country. The NDHS survey found that women from northern states are less likely to undergo the severe type of FGM known as infibulation and that the age at which women and girls were subjected to the practice varied from the first week of life until after a woman delivers her first child; however, three-quarters of the survey respondents who had undergone FGM had the procedure before their first birthday. [CIPU Nigeria Country Report April 2005 para 6.81 - 6.87]

3.9.3 Sufficiency of protection. The Nigerian constitution outlaws inhumane treatment but also provides for citizens to practice their traditional beliefs. The government have warned against harmful traditional practices like FGM and campaigns have been conducted through the Ministry of Health and the media. A draft Bill outlawing FGM has been before the National Assembly since 2001. However, laws in Cross River State, Edo State, Akwa Ibom State and Ondo State prohibit FGM, but in spite of these laws the custom of FGM continues. In its National Economic Empowerment and Development Strategy (NEEDS), which was launched in May 2004 the government stated its intention to intensify its campaign for the eradication of harmful traditional practices such as FGM. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.9.1 - 3.9.8]

3.9.4 In States where FGM is prohibited in law, a female seeking to avoid FGM in spite of pressure from her family to do otherwise has the opportunity to make a complaint to the Nigerian Police Force (NPF) or the National Human Rights Commission (NHRC). However in practice very few such complaints are made to those bodies. The matter is usually dealt with within the family and on occasion traditional leaders might also be asked to intervene. However the "traditional attitude" of a police officer or a village council would normally determine their level of concern and intervention. Cultural attitudes would still be prevalent and some victims would probably never have the courage to take their case to court. Most women therefore resort to relocating to another location if they do not wish to undergo FGM. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.9.1 - 3.9.8] Furthermore there are between 10 and 15 NGOs operating throughout Nigeria who are exclusively devoted to support women including those escaping FGM. The support provided includes provision of accommodation in shelters. [UK-Danish Fact Finding Mission Report Jan 2005 para 4.2.8]

3.9.5 Internal relocation. There is freedom of movement throughout Nigeria and women who do not wish to undergo FGM, or their children to undergo FGM, have the option to relocate to another location where the family members who are pressurising them to undergo FGM would be unlikely to be able to trace them. Women in that situation would also if they choose to do so, also be able to seek assistance from women's NGOs as described above in the new location. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.9.1 - 3.9.8]

3.9.6 Conclusion. There is general a sufficiency of protection and/or assistance available from governmental and non-governmental sources. 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. The grant of

asylum or Humanitarian Protection is unlikely therefore to be appropriate.

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 a 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. Because of the victim's fear of her compulsion to the juju shrine and the possible risk of being persecuted by the madam or the priest the victim might feel a genuine fear of returning home.

3.10.2 Treatment. There is a strong political will within the federal government to address the problem of human trafficking and positive steps have been taken to address the problem. The Trafficking in Persons (Prohibition) Law Enforcement and Administration Act was enacted in 2003 and in August the same year National Agency for the Prohibition of Traffic in Persons (NAPTIP) was established under the provision of that legislation. NAPTIP is the focal point for the fight against human trafficking and child labour and the rehabilitation of the victims of trafficking in Nigeria. NAPTIP's remit includes co-ordination of all laws on trafficking in persons, enforcement of the laws and to taking charge, supervising, controlling and co-ordinating efforts on the rehabilitation of trafficked persons. [UK-Danish Fact Finding Mission Report Jan 2005 para 5.1.1 - 5.7.15]

3.10.3 Through its National Investigation Task Force, NAPTIP conducts investigations and monitoring activities as well as bringing prosecutions of traffickers. The task force has the mandate to operate anywhere in Nigeria using both Nigerian Police Force and immigration facilities at state and local level and even in neighbouring countries. NAPTIP's Investigation Task Force has had notable successes in detecting and arresting traffickers. [UK-Danish Fact Finding Mission Report Jan 2005 para 5.1.1 - 5.7.15]

3.10.4 The US State Department reported that NAPTIP investigated 35 new cases during 2004, and many of the cases were pending at year's end. NAPTIP made arrests in 13 cases. Four cases, involving six traffickers, went to court. In November, the High Court in Edo State delivered the first conviction under the anti-trafficking law, sentencing a woman to 3 years' imprisonment for attempting to traffic six girls to Spain. [USSD 2004]

3.10.5 During 2004 the Nigerian Police Force (NPF) Anti-trafficking Task Force was established and staffed 11 units in states with the worst trafficking problems. Units from these states and the Federal Capital Territory reported 34 cases, involving 111 victims and 51 suspects. Records were not precise enough to determine which cases reported by the police overlapped with those tracked by NAPTIP. [USSD 2004]

3.10.6 NAPTIP has established a Council for the Rehabilitation of Victims to assist victims and provide reception centres or shelters for victims. The Council does not yet operate throughout Nigeria, but shelters have been established in two major centres with the assistance of the International Organization for Migration (IOM). A number of NGOs also operate rehabilitation centres for returning victims of trafficking. However through resource constraints there are no long-term shelters for returned or deported victims of trafficking - the existing centres only provide shelter and rehabilitation and reintegration training for a maximum of two weeks. [UK-Danish Fact Finding Mission Report Jan 2005 para 5.1.1 - 5.7.15]

3.10.7 The Nigerian authorities do not view women who have been trafficked as criminals but rather as victims of a crime. Women who had worked as prostitutes abroad would not in general face negative social attitudes from their community. Most people will hold the women in high regard due to the fact that they have been to Europe and probably have more financial means. Often her relatives consider her a breadwinner. [UK-Danish Fact Finding Mission Report Jan 2005 para 5.1.1 - 5.7.15]

3.10.8 Sufficiency of protection. The UK-Danish fact-finding mission to Nigeria in October-November 2004, were given conflicting information about the ability of traffickers to seek reprisals against the victim if they were to return to Nigeria before the madam or the agent have been satisfied with payments. Some highly reliable sources believed that whilst it was a real risk there was no record of it ever having happened; whilst others were only aware of rare (one or two) such incidents. However in addition to the activities of the federal government's NAPTIP with regard to human traffickers described above, Non-Governmental Organisations (and IOM) operate shelters, and provide support and protection in Nigeria to victims of trafficking. [UK-Danish Fact Finding Mission Report Jan 2005 para 5.1.1 - 5.7.15]

3.10.9 Internal relocation. There is freedom of movement throughout Nigeria. Those that contract victims of trafficking are often members of the same family or other who operate in a particular locale. In such

circumstances it is possible for the victim to safely relocate to another area within Nigeria without risk of those who contracted the victim being able to contact them.

3.10.10 Caselaw.

JO [2004] UKIAT 00251 - 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 state that trafficked women do not qualify as a particular social group.

3.10.11 Conclusion. The increasing level and availability of protection from governmental and non-governmental sources, as well as the option of being able to safely relocate within the country means that applications under this category are likely to be clearly unfounded. Large numbers of victims of trafficking have been returned to Nigeria without encountering any particular problems. Whilst claimants who express a fear of return because they have sworn a blood oath to a "juju shrine" may have a genuine fear, this will not be well-founded.

3.11 Fear of secret cults, juju or student confraternities

3.11.1 Some claimants will seek asylum on the grounds that they fear ill treatment amounting to persecution at the hands of secret cults or those involved with conducting rituals or fetish magic, known as juju [the African phrase for Voodoo]. Other claimant may express a fear of ill treatment at the hands of student confraternities - often referred to as student cults.

3.11.2 Treatment. Secret societies or cults exist in Nigeria but very little is known about them. The most widely reported and studied is the Ogboni cult. Some cults are linked to particular villages, some to ethnic communities and/or political groups. Membership of a cult may be advantageous to a person or his family as a means to social integration and to obtain access to resources. There is usually no forced recruitment into cults but individuals may feel pressured to join because of the advantages of being part of the cult. Membership of cults is not open to everyone but only to individuals from highly regarded families. Those families who traditionally have had the authority to invite new members to join their cult would choose the most suitable candidate. If this person should not wish to join and if there is no other candidate from his or her particular family, he or she might be ostracised and might also lose property or an inheritance, but would not have to fear for his or her life. [CIPU Nigeria Country Report April 2005 para 6.117 - 6.123]

3.11.3 Secret cults are widely believed to be attributed with supernatural powers and are feared because of this. If a member of a cult wished to leave, this would not necessarily result in an adverse reaction or persecution. It is possible, however, that a former member of a cult may provoke an adverse reaction from society members, if the person concerned divulged secret information to outsiders about the society. [CIPU Nigeria Country Report April 2005 para 6.117 - 6.123]. There are no reports of any examples of cult members killing non-cult members. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.5.1 - 3.5.7]

3.11.4 In August 2004 it was reported that the Nigerian Police Force (NPF) had arrested 30 witch doctors on suspicion of carrying out human sacrifices after finding 50 mutilated bodies and 20 skulls in an area in south-eastern Nigeria known by local people as "Evil Forest". The bodies were missing breasts, genitals and hearts or other vital organs. A villager said that priests might have killed some of the victims for their rituals. [UK-Danish Fact Finding Mission Report Jan 2005 para 3.5.1 - 3.5.7]

3.11.5 So called "student cults" are more correctly known as 'confraternities', they are closer to the American idea of college fraternities than religious cults. The origin of these secret confraternities can be traced back to the Pyrates confraternity (also known as National Association of Sea Dogs) and was formed by the first African Nobel Laureate, Professor Wole Soyinka at the University of Ibadan in 1953. Confraternities were originally intended to be a forum for like minded students to meet, network and assist each other in later life. They were generally seen to be a force for good and performed some significantly useful services on the university campuses. However, from the beginning of the 1980's, the activities of confraternities became violent and secretive. Their activities include "dealing" with any non-members who snatched a member's girl friend or "sugar daddy" (in case of female members). Their activities also included "settling" lecturers in cash or kind and female members of confraternities began to operate prostitution rings. Since the 1980's, these so called student cults have become more widespread and, in addition to the Pyrates, include Black Eye, Vikings, Buccaneers, Mafia, Dragons, Black Beret and others. The female cults include, Temple of Eden, Frigates, Barracudas, Daughters of Jezebel and others. [Nordic Journal of African Studies 14(1): 79-98 (2005)]

3.11.6 The US State Department reported that in one incident in August 2004, 33 students died due to violence between rival confraternities. Smaller scale clashes in a number of schools around the country led to significant destruction of property. Isolated clashes included cases of personal injury and rape. [USSD

2004]

3.11.7 Sufficiency of protection. Membership or association with a secret cult or a student confraternity is not of itself illegal but any illegal acts those involved might commit (such as threatening behaviour or murder) are of course criminal offences and will be treated as such by the Nigerian authorities. As described above, the evidence shows that the Nigerian Police Force take appropriate action in such cases.

3.11.7 Internal relocation. Secret religious cults or university campus confraternities do not generally extend their influence or threat beyond the immediate locale or campus. [CIPU Nigeria Country Report April 2005 para 6.117 - 6.123] The Nigerian constitution provides for the right to travel within the country and the government respects those rights. Although law enforcement agencies regularly use roadblocks and checkpoints to search for criminals, there are no reports that government officials restricted movements of individuals. [CIPU Nigeria Country Report April 2005 para 6.45] Internal relocation to escape any ill treatment from non-state agents is almost always an option. As would be expected some individuals may encounter a normal level of lack of acceptance by others in the new environment as well as lack of accommodation, land etc, the situation would however be considerably easier if the individual concerned has family or other ties on the new location. [UK-Danish Fact Finding Mission Report Jan 2005 para 4.3.1 - 4.3.2]

3.11.8 Caselaw.

IAT Determination. [2004] UKIAT 00277 WO (Nigeria) Heard 07 September 2004, Promulgated 30 September 2004 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.

IAT Determination. [2005] UKIAT 00058 EE (Nigeria - Snake worshippers) Heard on 27.09.04. Promulgated 03.03.05. 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".

3.11.9 Conclusion. The human rights situation has improved since the return to civilian rule in 1999. The government are clearly determined to tackle the problems of vigilantes, various warlords, militias and cult gangs. Secret religious cults or university campus confraternities do not generally extend their influence or threat beyond the immediate locale or campus. For claimants who fear, or who have experienced, ill-treatment at the hands of these groups, there is a general sufficiency of protection and they are also able to safely relocate within the country. General lawlessness, poverty or a lack of access to resources will not, in themselves, be sufficient to warrant the grant of asylum or humanitarian protection. Applications under this category therefore are likely to be clearly unfounded and as such should be certified.

3.12 Prison conditions

3.12.1 Claimants 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 the Nigeria are so poor as to amount to torture or inhuman treatment or punishment.

3.12.2 Consideration. Prison conditions in Nigeria are in general very poor due primarily to lack of funding during the former military regimes. The current civilian government is committed to address the problem. There has been increased funding to improve prison infrastructure - refurbishing prisons and building new ones. Ensuring proper water supplies is also a priority and new wells are being drilled at prisons. New prisons have been built to a high standard including those for specific categories of prisoner (e.g. drug offenders), and both health provision and conflict resolution have improved. Prison conditions in Nigeria are not, in general, now considered as life threatening. [UK-Danish Fact Finding Mission Report Jan 2005 para 7.1 - 7.12]

3.12.3 The biggest problem does however remain that of overcrowding. This is a consequence of the large proportion of persons in pre-trial detention, for various lengths of time, as a result of institutional delays in the judicial system. A remand prisoner is held in a prison close to the place of arrest and is only moved to another prison in their home area after being convicted. This means that prisons in large cities where there is a high level of crime are particularly overcrowded, whereas the inmate population of other prisons is considerably lower than their designed capacity. [UK-Danish Fact Finding Mission Report Jan 2005 para 7.1 - 7.12]

3.12.4 Conclusion. Whilst prison conditions in Nigeria are poor with overcrowding being a particular problem in some establishments, in general these conditions are unlikely to reach the minimum level of severity required to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Nigeria a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered, such as the seriousness or nature of the offence, the likely length of detention and the likely type of detention facility. These will need to be taken into account along with an individual's personal characteristics such as their age, gender and state of health. Individual cases, where the claimant demonstrates a real risk of imprisonment for a substantial period of time upon return, or where the claimant demonstrates a particular likelihood of ill-treatment, will need to be considered together with any personal characteristics which make the individual particularly vulnerable. Where taken together these factors amount to a breach of Article 3, a grant of Humanitarian Protection will be appropriate. Where the real risk of imprisonment is related to one of the five Refugee Convention grounds a grant of asylum 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 API on Discretionary Leave)

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 not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave.

4.3 Unaccompanied minors

4.3.1 The policy on unaccompanied minors is set out in the API on Children. Unaccompanied minors who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception arrangements in place.

4.3.2 Unaccompanied minors without a family to return to, or where there are no adequate reception arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for the period detailed in Asylum Policy Instruction on or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

4.4.1 Claimants 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 to be engaged.

4.4.2 Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 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.

4.4.2 Health services in Nigeria are of low quality, and many lack basic equipment and drugs. Few in Nigeria (63% in urban areas and 48% in rural areas according to the World Bank) have access to primary health care. As with other sectors, the Nigerian Health Service is subject to a major reform programme. The Nigerian Government's commitment to the Health Sector Reform Programme was under lined in its 2004 Budget which included a doubling of capital allocation and a 28% increase on recurrent costs, to support improved delivery of health services with particular emphasis on HIV/AIDS and malaria prevention and control, and improved health delivery infrastructure. The introduction of a National Health Insurance Scheme, which is due to become operational in 2005, is seen as a major step in improving access to medical treatment, improving funding for health care and raising standards. [UK-Danish Fact Finding Mission Report Jan 2005 para 8.1 - 8.28]

4.4.3 An overview of the current capabilities of the Nigerian health service is set out in Chapter 8 of the report of UK-Danish fact finding mission to Nigeria in October/November 2004.

5. Returns

5.1 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.

5.2 Nigerian nationals may return voluntarily to any region of Nigeria at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Nigeria. The programme was established in 2001, 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 the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

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**Asylum and Appeals Policy Directorate
July 2005**