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4.1. The State

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COMMON ANALYSIS
Last updated: February 2019

The term 'State' (Article 7(1)(a) QD) encompasses any organ exercising legislative, executive, judicial or any other functions and acting at any level, be it federal, state or local. Sometimes, private entities may also be given State powers and may be made responsible for providing protection under the control of the State.

Nigeria is a federal republic formed by 36 states and the Abuja FCT. Even though Nigeria operates a federal system of government, the Constitution vests a lot of power in the central government when it comes to the control of public good and services, as well as the management of the country's resources [*Actors of protection*, 2].

Nigeria's legal system is a mixed system based on the Nigerian Constitution, federal and state level legislation, as well as English common law, Sharia, and customary law [*Actors of protection*, 2.1]. The implementation of the Sharia, in particular punishments for crimes such as adultery, in some cases may be related to persecution rather than protection.

The capability of the government of Nigeria to protect human rights is undermined in some states by the prevailing insecurity, e.g. the states affected by the conflicts between herders and farmers, violence related to Boko Haram, cattle rustling and banditry in Zamfara state [*Security situation*, 2.1].

The state institutions which are particularly responsible for providing protection are the Nigerian security forces (primarily the NPF and secondarily the NAF), the judicial system, and NAPTIP for the victims of human trafficking. In addition, structures such as the CJTF may be entrusted with relevant tasks.

The NPF is the principal law enforcement agency in the country. However, the Nigerian population considers the NPF the most corrupt and violent institution in Nigeria. Sources

generally find the NPF unable to perform its duties in a proper and efficient manner, mentioning its lack of sufficient funding, suitable manpower, proper equipment, appropriate and adequate training, welfare packages, and government support [*Actors of protection*, 3.2]. The NPF is also reported to refuse to interfere in domestic disputes [*Country focus,* 4.1.2].

NAF are deployed in several states (e.g. in the North East, in the states of the Niger Delta) [*Security situation*, 2.2.1, 2.3.1].

Based on reports of continuing violence against civilians, it can be assessed that NAF and CJTF cannot effectively ensure the safety of the population in some areas in the North East of Nigeria (see Indiscriminate violence in the North East zone). Moreover, they have been accused of human rights violations and the use of excessive force on several occasions in the past [*Actors of protection*, 4.3].

Longstanding critiques towards the Nigerian security forces have been of corruption and human rights abuses [*Actors of protection*, 3.3.1]. Consulted sources mention several accounts of the NPF, NAF, and other security services using lethal and excessive force to disperse protesters and to apprehend criminals and suspects, as well as committing extrajudicial killings and obtaining confessions through torture [*Actors of protection*, 3.3.2].

The Nigerian legal and judicial system is a mixed system based on various sources and as such is highly complex. Access to the court system in Nigeria for many citizens is hindered by the high costs of taking a matter to court [*Actors of protection*, 6]. Moreover, the court system is rendered generally ineffective due to a heavy caseload, lack of funding and low human resource capacity, which results in extremely long processing times [*Actors of protection*, 6.1.2, 6.2.1.1]. Widespread corruption is also reported. In 2017, the UNODC reported that judiciary officials in Nigeria represented the second most affected group of officials in terms of bribery risk [*Actors of protection*, 5.3].

NAPTIP is Nigeria's principal agency to combat human trafficking. It is supervised by the Federal Ministry of Justice and consists of eight specialised departments (Investigation and Monitoring, Legal and Prosecution, Counselling and Rehabilitation, Public Enlightenment, Research and Programmes Development, Training and Manpower Development, Administration, Finance and Accounts). It has nine Zonal Commands covering all states [*Actors of protection*, 9.1.2]. In 2017, NAPTIP received significantly more funding from the government compared to previous years; however, the agency does not have sufficient resources given the scale of the problem. NAPTIP's capability for protection is weaker in rural areas [*Actors of protection*, 9.2].

NAPTIP manages shelters for victims of trafficking in Abuja, Lagos, Benin, Uyo, Enugu, Kano, Sokoto, Maiduguri and Makurdi, with the capacity to accommodate a total of 313 victims. Victims can stay in NAPTIP shelters up to six weeks, and if needed, can then be referred to shelters run by 'collaborating NGOs'. Over 13 000 victims have passed through the NAPTIP shelters [*Key socio-economic indicators*, 2.9.6].

In order to qualify as an actor of protection, the State has to be able and willing to protect persons under its jurisdiction. The protection in the country of origin has to meet three cumulative conditions: it has to be effective, non-temporary, and accessible to the applicant. It

should also be kept in mind that effective protection is presumed not to be available where the State or agents of the State are the actors of persecution or serious harm (Recital 27 QD).

It can be concluded that in some parts of the country, the capacity of the Nigerian State to provide effective protection is limited, in particular in the states of Borno, Adamawa, Yobe, Plateau, Benue, Nasarawa, Taraba, and Zamfara. The Nigerian State and its institutions may also prove inaccessible or ineffective in certain situations, such as for women and children victims of violence, for the prevention of FGM/C, forced and child marriage, for victims of trafficking, etc. Moreover, the Nigerian State may be an actor of persecution, for example in cases of LGBT persons or when implementing the Sharia in cases of adultery in the North.

Age, gender, area of origin and socio-economic status are among the factors that affect the accessibility of protection for the individual.

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