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4.1. The State

COMMON ANALYSIS
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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.

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:

Figure 13. Requirements to the protection in the country of origin in accordance with Article 7 QD.

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).

Nigeria is a federal republic formed by 36 states and the Abuja FCT. Even though the country 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]. Sharia implementing states are the following: Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Yobe, Zamfara [Actors of protection, 2.1.2]. 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 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, with staff deployed across the 36 states and the FCT. The NPF maintains law and order in each state and engages in border security, maritime and counter-terrorism operations. The strength of the NPF is more than 350 000 men and women. Reportedly, the police to population ratio is drastically below the UN's standard. The police force in particular has been considered oppressive and ineffective, underfunded, untrained and susceptible to endemic corruption. [Security situation 2021, 1.5]. The NPF was also reported to refuse to interfere in domestic disputes [Country focus, 4.1.2]. Nigerian law enforcement generally fails to respond adequately to cases of gender-based violence. The justice system does not adequately respond to the legal needs of Nigerians, particularly poor women [Trafficking, 4.3.2].

The **Nigerian Armed Forces (NAF)** comprise the army, the navy (including the coast guard), and the air force. Sources estimate the size of the active military personnel of the armed forces between 120 000 and 135 000. In 2020-2021, Nigerian military operations were conducted in all states, except the FCT and Kebbi. [Security situation 2021, 1.3.1.3]

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 and general criminality [Security situation 2018, 2]. The police and military have struggled to meet the demands for multiple security missions across the country [Security situation 2021, 1.4.1.1]. State security forces in the North-East region were reportedly overstretched due to the Boko Haram/ISWAP insurgency and, as a result, they heavily relied on local militias and vigilante groups such as the CJTF and others to help secure the area [Security situation 2021, 2.8.3.3] Lawlessness and the lack of policing have been described as underlying factors for an increase in banditry or criminal violence [Security situation 2021, 1.5]. The recent introduction of the Nigeria Police Act 2020 is linked with longstanding calls for police reform [Security situation 2021, 1.3.1.1].

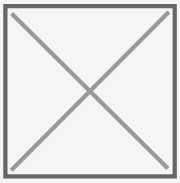
Moreover, longstanding critiques towards the Nigerian security forces have been of corruption and human rights abuses [Actors of protection, 3.3.1]. Consulted sources mention several accounts of the NPF, NAF, and other security services using lethal and excessive force to disperse protesters, including in the context of #EndSARS movement, and to apprehend criminals and suspects, as well as committing extrajudicial killings and obtaining confessions through torture [Actors of protection, 3.3.2; Security situation 2021, 1.3.1.2].

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].

In December 2020 the Office of the Prosecutor of the International Criminal Court concluded that Nigerian authorities had failed to investigate and prosecute crimes committed by both Boko Haram and the Nigerian military, therefore warranting a full investigation [Security situation 2021, 1.3.1.7].

NAPTIP has zonal command offices in nine Nigerian states and provides these services in cooperation with ministries and national and international agencies. NAPTIP has ten transit shelters across the country, located at each zonal command and in Abuja and has the capacity to accommodate 334 victims. NAPTIP provides shelter to minor (boys and girls) and female adult victims of trafficking for up to six weeks, unless victims are exceptionally vulnerable and/or they decide to collaborate with the criminal investigation and prosecution of their traffickers. However, it has been reported that the time limit is up to NAPTIP's discretion, taking into account things like family problems, and whether the survivors were aware of the probable dangers before being trafficked. A lack of shelter for adult male trafficking victims has been also identified. Reintegration programs managed by NAPTIP have not delivered the desired outcomes. [Trafficking, 3.4.1]



It can be concluded that in parts of the country, the capacity of the Nigerian State to provide protection is limited, in particular in the states significantly affected by violence related to Boko Haram, herders and farmers conflicts and by particularly high levels of general criminality. 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 LGBTIQ 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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