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2.16. Individuals accused of crimes in Nigeria

Please note that this country guidance document has been replaced by a more recent one. The latest versions of country guidance documents are available at /country-guidance.

COMMON ANALYSIS
Last updated: February 2019

This profile refers to people who are accused of crimes in Nigeria, specifically:

- ordinary crimes, such as crimes against life, physical integrity, property, etc., recognised as crimes within the jurisdictions of EU Member States;
- criminalisation of acts not considered criminal according to international standards (e.g. adultery, 'sodomy' in the framework of the Sharia).

It also addresses the use of the death penalty according to the different legal regimes in Nigeria and the prison conditions in the country.

COI summary

[*Targeting*, 2.6]

The Nigerian criminal law system is characterised by its pluralism, where English common law, Islamic law (Sharia) in 12 Northern states, and customary law coexist.

The **death penalty** in Nigeria is applied in different manners, depending on whether the states apply secular or Islamic law.

The following offences are punishable by death under the provisions of the **Criminal and Penal Code of Nigeria:** murder; treason; conspiracy to treason; treachery; fabricating false evidence leading to the conviction to death of an innocent person; aiding suicide of a child or 'lunatic'; armed robbery (under the Robbery and Firearms Decree 1984). Death sentences can be executed either by hanging or by shooting (firing squad).

According to Amnesty International, in 2016 Nigeria executed three persons by hanging in Benin Prison (Edo State). It registered 527 deaths sentences, representing a significant surge when compared to previous years, bringing the total number of people sentenced to death in the country to 1 979. The authorities pardoned 33 prisoners, exonerated another 32 and commuted a total of 105 death sentences.

It is reported that in July 2017, 'state governors agreed to either sign execution warrants or commute death sentences as a way of addressing overcrowding in prisons', including in Ogun state, for example, where there previously was an informal commitment to refrain from authorising executions.

Under the various **Sharia penal laws** in the 12 Northern states, death penalty is applicable when convicted for one of the following offences: adultery; rape; 'sodomy'; incest; witchcraft and *juju* offences. The execution of death sentences under Sharia law includes hanging, stoning and crucifixion. The latter two are applicable only to Muslims.

In terms of **prison conditions**, reports mention overcrowding in prisons and poor conditions [*Actors of protection*, 7.1]. A lack of funding and low human resource capacity leads to a significant backlog of cases, which results to, amongst other things, extremely long pre-trial detention periods [*Actors of protection*, 6.1.2]. As of 16 July 2018, of the total prison population (73 631), 68.1 % were pre-trial detainees [*Actors of protection*, 6.2.2].

With regard to **law enforcement practices,** consulted sources mention several accounts of the NPF, the army, 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. Police officers are also reported to repeatedly mistreat individuals in their custody in order to extort money [*Actors of protection*, 3.3.2].

Risk analysis

Prosecution for an **ordinary crime** would generally not amount to persecution.

However, the prosecution for **acts which are not considered criminal according to international standards** (e.g. adultery, 'sodomy') would amount to persecution.

Death penalty, irrespective of the nature of the crime, is considered to amount to persecution.

Violations of the due process of law and/or **disproportionate or discriminatory punishments** could also amount to such severe violations of basic human rights.

Not all individuals accused of crimes in Nigeria would face the level of risk required to establish well-founded fear of persecution. The individual assessment of whether or not there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: the area of origin of the applicant and the prevalent legal system, the act of which the applicant is or may be accused, the envisaged punishment, etc.

Nexus to a reason for persecution

Available information indicates that in the case of individuals accused of **ordinary crimes**, there is in general no nexus to a Convention reason for persecution. This is without prejudice to cases where nexus could be established based on additional circumstances.

In the case of criminalisation of **acts which are not considered criminal according to international standards,** such as adultery and 'sodomy' in the Sharia-implementing states, persecution may be for reasons of religion or membership of a particular social group (see also LGBT persons).

With regard to **some crimes punishable by the death penalty under the Criminal and Penal Code** of Nigeria, persecution may be for reasons of political opinion (e.g. treason and conspiracy to treason).

Exclusion considerations could be relevant to this profile (see the chapter on Exclusion).

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