Max Planck Institute
for Social Anthropology
Department 'Law & Anthropology'

Persecution, Protection and Relocation Due to Fear of Cults in Nigeria - BL [2002] UKIAT 01708 (CG)

Question(s) at stake:

Was it correct for the adjudicator to grant asylum to BL, the respondent, due to his fear of being persecuted for his refusal to join the Aro cult? In particular, (1) did the persecution fall within one of the Refugee Convention grounds (i.e., political opinion, race, religion, nationality, membership in a particular social group)? (2) was internal protection possible for BL? (3) was internal relocation possible for BL?

Outcome of the ruling:

The appeal was allowed and the Immigration Appeal Tribunal ruled that the adjudicator was correct in granting asylum to the respondent: (1) persecution did not fall under one of the Refugee Convention grounds; (2) internal protection was possible; (3) internal relocation was possible.

Topic(s):

- Immigration and Asylum

Keywords:

- Grounds/Reasons of persecution
- Membership of a particular social group
- Refugee status
- Asylum seeker
- Religion or belief
- Internal relocation alternative

Tag(s):

- Witchcraft

Author(s):

- Bianchini, Katia (Max Planck Institute for Social Anthropology, Department Law and Anthropology, Germany)

Country:

United Kingdom

Official citation:

BL (Ogboni Cult – Protection – Relocation) Nigeria CG [2002] UKIAT 01708

Link to the decision:

https://www.refworld.org/cases,GBR_AIT,46836aafd.html

ECLI:

No ECLI number / ECLI number unknown

Date:

17 February 2007

Jurisdiction / Court / Chamber:

Immigration Appeal Tribunal

Remedy / Procedural stage:

Appeal

Previous stages:

- Administrative decision (14 July 2001)
- Adjudicator (decision date unknown)
- Application for leave to appeal to the Immigration Appeal Tribunal (4 January 2002)

Subsequent stages:

No information found

Branches / Areas of law:

Administrative law; Asylum law

Facts:

BL (the respondent), is a Nigerian citizen who claimed that, “through his mother’s family, by culture and tradition”, he was “to inherit the title of Aro”. (para. 3) Being an Aro meant “being initiated into a cult called Osugbo”, which was described as a demonic cult which uses ritual “sacrifice, cannibalism and other rituals.” (para. 3) The respondent is said to be “a practising Christian, as is his mother, and did not wish to become an Aro”. (para. 4) “His refusal to become an Aro”, according to the Tribunal, “led to the death of his mother at the hands of cult members.” (para. 4) For five days, he was held by the cult and he claims to have been tortured during this time. An unknown person in the cult freed him and helped him escape. (paras. 4, 5) The respondent fled to the UK and obtained entry with a fake passport on 28 June 2001. (para. 5) The Respondent submitted that the cults would find him anywhere in Nigeria and could not relocate and therefore applied for asylum. (para. 8)

The Secretary of State refused the asylum claim but the adjudicator in charge of reviewing the first stage administrative decision reversed the ruling, finding that the respondent’s evidence was credible and that the objective documentary evidence supported his account of events. (para. 9)

The Secretary of State (the appellant) appealed to the Immigration Appeal Tribunal against the determination of the adjudicator. The appellant argued that the adjudicator’s determination did not identify a ground of persecution, that there was no evidence that the police or authorities in Nigeria fail to act against traditional religious cults, and that the respondent could relocate in Nigeria.

Ruling:

The Immigration Appeal Tribunal found that (1) the claim of persecution stems from BL’s refusal to join the cult. The Immigration Appeal Tribunal reasoned that

the cult is not trying to persecute BL for his religious opinions despite the fact that the motives for refusing to join the cult arise from his Christian's religion. The respondent's motive has nothing to do with the cult's recruitment attempts. So, there is no Convention reason (political opinion, race, religion, nationality, membership in a particular social group) for the alleged persecution (para. 12); (2) the published objective background material does not support the conclusion that the police or authorities in Nigeria fail to act against traditional religious cults; nor does it support the proposition that cults are non-state agents of persecution in that the police or authorities will exercise control and/or investigate or deal with satanic/ritualistic ceremonies which include cannibalism (para. 14); and (3) there is no real risk of mistreatment and it would not be unduly harsh were the claimant to return to Nigeria where he could safely relocate. There is no evidence that BL may face difficulties in terms of employment opportunities in other areas of his country (paras. 16–18).

Main quotations on cultural or religious diversity:

Absence of a Convention ground

- "the Adjudicator did not identify any Convention reason for the conclusion that the respondent faced risk at the hands of the cult. The respondent's case is clearly that he was being pursued because he refused to follow custom and tradition." (para. 11)
- "The claim therefore of persecution comes from his rejection of joining the cult. The cult is not seeking to persecute him because of his religious convictions or opinions. Albeit his motives for refusal, which were accepted by the Adjudicator, arise from his Christian faith." (para. 12)

Sufficiency of protection in Nigeria

- "Having examined, as we did, all the background material that had been put before the Adjudicator we could not find either in the CIPU Country Assessment 2001, or the US Department of State Country Report for 2000

(dated February 2001), or the 2000 Annual Report on International Religious Freedom for Nigeria produced by the US Department of State, the US Library of Congress Report on Nigeria (which contains some information relating to indigenous beliefs or any of the other documentation) anything which indicated that there was any basis for the Adjudicator's assertions about the level and depth of cult activities being such that the police would not be in a position to intervene." (para. 9)

- "The background material, on the contrary, shows that the Nigerian authorities have been acting against a particularly powerful secret society known as the Ogboni and the general tenor of the background information does not suggest that the government is either unwilling or unable to provide protection, nor that it is unwilling or unable to take steps against cult activities. We cannot find any objective material which supports the proposition that the police will not or cannot exercise control. We find that the Adjudicator's conclusion that this cult constituted agents of persecution is simply unsustainable." (para. 10)

Internal relocation

- "The CIPU Report identifies that traditional religious beliefs are widespread in Nigeria, but that where these practises may have resulted in criminal activity, the Nigerian police have investigated them. It identifies that there are on occasion isolated reports of ritualistic killings which do not appear linked to organised traditional religious practises, but that such rare events are investigated as crimes and action taken against the perpetrators. here does not appear to be any widespread support for the practices or their perpetrators and they are viewed by society as criminal, investigated and dealt with in an appropriate manner." (para. 14)

Main legal texts quoted in the decision:

None

Cases cited in the decision:

- Eze (00/TH/01308)

Commentary

Persecution, Protection and Relocation Due to Fear of Cults in Nigeria - BL [2002] UKIAT 01708 (CG)

This case illustrates the difficulty of adjudicating asylum claims that are based on unknown practices and beliefs, especially when the submitted evidence does not corroborate an applicant's claim of persecution.

In this case, the Immigration Appeal Tribunal did not clearly address whether Osugbo is a religion or a criminal cult, but it did say that the claim of persecution comes from the respondent's refusal to join the cult and that the cult was not persecuting him for his religious convictions or beliefs. The Immigration Appeal Tribunal did not assess the nature of the cult that the respondent feared, the reach of the cult or kinsmen in the country, or its possible connections with the police as it was not provided with objective evidence to support any of such matters. This approach of not engaging with the nature of the cult due to a lack of evidence has been replicated in several other cases involving witchcraft and supernatural powers. For instance, the Court of Appeal, while dealing with the nature of another Nigerian cult, the Ogboni, categorized it as a "criminal cult" as opposed to a religion. *Omoruyi v Secretary of State for Home Department [2000] EWCA Civ 258*. (See Bianchini, CUREDI013UK009)

It has been noted that in other cases involving cults, the terminology of witchcraft or belief was not used in the decisions and they were deemed not connected to one of the protected grounds of the Refugee Convention. (Millbank and Vogl 2018: 383)

According to Millbank and Vogl, "[t]his reasoning reflected a trend also seen in the accused of witchcraft cases, in which any form of mixed motivation on the part of persecutors (in particular revenge, or material gain) was seen by decision makers to render the harm feared into a 'personal' dispute, removing it from broader social conditions and structural considerations. Yet witchcraft, like other

belief systems, does not exist in a social vacuum and witchcraft-related violence, like other forms of power, is not exercised independently of the interests of those who wield it. The sociological and anthropological literature on witchcraft is very clear that in communities where witchcraft exists, it is 'socially saturating'" (Millbank and Vogl 2018: 383).

Regarding the international protection and relocation issues in the case at stake, the Immigration Appeal Tribunal followed the conclusions of the Tribunal in the case of *Eze (00/TH/01308)*. The Immigration Appeal Tribunal found that there were considerable similarities in the facts of the cases although different cults were involved. The Tribunal in *Eze* was not presented with evidence from any independent source which supported the respondent's claim that the authorities in Nigeria would not provide assistance and protection. Moreover, in this case, as in *Eze*, the point remained that an asylum seeker should exhaust all reasonable avenues within for protection within his own country before seeking surrogate international protection. Similarly, BL did not dot provide evidence to show that the size of the particular cult was such that it was to be found throughout Nigeria. The Immigration Appeal Tribunal also noted that the respondent's representative did not know what employment the Respondent had ever maintained in Nigeria. Thus, without knowing what job or skills he may have, the Immigration Appeal Tribunal reasoned that it was hard to see how it could seriously be said that his employment prospects were "poor particularly when no one apparently knows or could tell us the home area from which he came, and even the job prospects there. There can thus be no assessment of the extent to which situation is materially different such that it would be regarded as unduly harsh to relocate. On the material put before us, it cannot be said that it would be unduly harsh to relocate elsewhere in Nigeria." (para. 18).

When reading the text of the decision, one can detect the frustration of the Immigration Appeal Tribunal over the lack of expert evidence and specific information regarding the respondent. Overall, the claim was so poorly articulated that the judge was even unsure which Convention ground was argued in favour of the respondent.

A similar scenario is found in the case of *Meli*, involving a Cameroonian applicant claiming fear of witchcraft persecution at the hands of a village chief because he held views against female genital mutilation (*Secretary of State for the Home Department v Meli* [2002] UKIAT 06977). In *Meli*, the Immigration Appeal Tribunal commented that it was hard to decide without objective evidence and remitted the case for assessment. Despite the centrality of background evidence on country conditions in the testing asylum narratives, claims and counterclaims dealing with practices related to witchcraft are often not anchored in objective data and publicly sourced information and are thus are refused (Lawrance and Ruffer 2015).

Literature related to the main issue(s) at stake:

- Bianchini, Katia. 2022. "The Meaning of Religion in the Refugee Convention According to Omoruyi v Secretary of State for the Home Department [2000] ECWA Civ 258". *CUREDI Database* (CUREDI013UK009).
- Lawrance, Benjamin N. and Galya Ruffer. 2015. "Introduction: Witness to the Persecution? Expertise, Testimony, and Consistency in Asylum Adjudication". In Benjamin N. Lawrance and Galya Ruffer (eds), *Adjudicating Refugee and Asylum Status: The Role of Witness, Expertise, and Testimony*, 1–24. Cambridge: Cambridge University Press.
- Millbank, Jenni and Anthea Vogl. 2018. "Adjudicating Fear of Witchcraft Claims in Refugee Law". *Journal of Law and Society* 45 (3): 370–397.

CC BY ND

This case-law comment is licensed under a Creative Commons Attribution-NoDerivatives 4.0 International License (CC BY-ND 4.0) .

You may share this material, provided that appropriate credit is given. No derivatives or adaptations of this material are permitted.

Suggested citation of this case-law comment:

Bianchini, Katia (2024): Persecution, Protection and Relocation Due to Fear of Cults in Nigeria - BL [2002] UKIAT 01708 (CG), Department of Law and Anthropology, Max Planck Institute for Social Anthropology, Halle (Saale), Germany, CUREDI013UK010, https://doi.org/10.48509/CUREDI013UK010.