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

Fear of Witchcraft, State Protection and Internal Relocation in Nigeria - Obasi, R (on the Application of) v Secretary of State for the Home Department [2007] EWHC 381 (Admin)

Question(s) at stake:

Whether it was correct for the Secretary of State to certify the claimant's asylum claim as clearly unfounded on the grounds that (1) the state of origin would afford the claimant sufficient protection; and (2) internal relocation was possible.

Outcome of the ruling:

The Secretary of State was correct, and the appeal was refused.

Topic(s):

- Immigration and Asylum

Keywords:

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

Tag(s):

- Witchcraft

Author(s):

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Country:

United Kingdom

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Obasi, R (on the application of) v Secretary of State for the Home Department [2007] EWHC 381 (Admin)

Link to the decision:

https://www.casemine.com/judgement/uk/5a8ff73060d03e7f57ea95c5

ECLI:

No ECLI number / ECLI number unknown

Date:

17 February 2007

Jurisdiction / Court / Chamber:

High Court of Justice, Queen's Bench Division, Administrative Court

Remedy / Procedural stage:

Appeal from decision of Secretary of State

Previous stages:

- Adjudicator, decision promulgated on 9 March 2005

Subsequent stages:

- None

Branches / Areas of law:

Administrative law; Asylum law

Facts:

“The claimant is a Nigerian” citizen “born on 24 February 1981”. (para. 1) He fled Nigeria “on the 15 February 2005” and arrived in the UK “the next day”. (ibid.) He applied for leave to remain on international protection grounds, arguing that he feared he would be subjected to witchcraft practices should he be sent back to Nigeria. (ibid.) The claimant said that “his father was the king of Itu Aguneze”, a village in Anambra “state in eastern Nigeria”. (para. 7) Upon the passing of his father “in January 2003, the claimant was expected to be the next king”, (ibid.) but he refused this role because it “involved rituals and sacrifices which were contrary to his Christian faith”. (ibid.) He converted to Christianity “whilst studying at university”. (ibid.) The claimant explained that the villagers “threatened” to throw him “into a shrine” (ibid.) “where he would be killed by wild animals. His kinsmen locked him up for three days without food or water.” (ibid.) To be released and “buy time, the claimant agreed to undertake the first stage of his coronation on 16 January 2005.” (ibid.) Nevertheless, “towards the end of that month”, when the last part of the coronation ceremony was to be completed, he took, “with his mother’s help”, “a bus to Lagos: and hid in a hotel for “over a month.” (ibid.) There, he would only go “out at nighttime”, while “his mother and sister came to visit him in the hotel.” (ibid.)

“The claimant was asked why he had fled to Lagos and why he had not sought protection from the” police. (para. 8) The claimant said that from a telephone call he had with his relatives, he learned that the kinsmen were looking everywhere for him. He explained that the police are corrupt and they would also tell him to settle the problem with his people “as it is a traditional matter.” (ibid.)

The decision letter accepted the facts and the credibility of the claimant, but refused the case saying that it “was clearly unfounded for two reasons” (para. 9): (1) the authorities could provide sufficient protection to the claimant; and (2) internal relocation was possible as Nigeria is “a large and populous country”. (ibid.)

Ruling:

The High Court dismissed the appeal and ruled the following:

(1) Nigeria would afford the claimant a sufficient level of protection. This conclusion was reached in light of the fact that the claimant had not sought help from the police and on the basis of the general country of origin information that had been submitted. According to such evidence, the authorities had intervened in cases involving witchcraft violence. No evidence supported the claim that the police would not assist the claimant. (paras. 10, 15–16) Whereas it was accepted that the police may be "corrupt and/or inefficient", the question was "whether they are willing to pursue this kind of offence" (para. 13), and the High Court followed the case of *BL (Ogboni cult Protection Relocation) Nigeria CG [2002]* UKIAT 01708. (ibid.) In *BL*, the Tribunal considered the threat from the Ogboni cult and ruled that the evidence did not support the claim that the Nigerian government was "unwilling or unable to provide protection." (ibid.)

(2) The claimant could relocate internally. Nigeria is a large and populous country with many towns. Even if the police in one area could not provide adequate protection, it was possible that the police in another area would be able to provide such protection. In addition, the High Court noted that the claimant was a young single male with a university education. He was not uneducated or poor. Nor was he an unmarried woman seeking protection from her family. There was therefore no reason to believe that the claimant would not be able to relocate. Also, there was no evidence that the cult members had tried to find him in Lagos and that their reach was limited. (paras. 19–21)

Main quotations on cultural or religious diversity:

Sufficiency of protection in Nigeria

"[T]here is nothing in the objective material to support the proposition that in respect of traditional matters the authorities are unwilling to assist and/or that circumstances had changed adversely from the claimant's point of view since 2001. The focus of the argument has been rather more on the

extent to which the authorities are able to pursue such offences and the passages cited by Ms Webber do not in my judgment suggest that the authorities are any less able to pursue such offences now than they were in 2001. That impression is reinforced by the more recent reports, referred to by Miss Chan on behalf of the defendant, namely the October 2006 Country of Origin Report Nigeria and the very recent Operational Guidance Note in respect of Nigeria dated 18th January 2007." (para. 14)

Referring to the decision of the Home Office, the High Court cited its paragraph 21: "As reported on the BBC News Website on 13 August 2004, 'Nigerian police say they have found a further 33 bodies in addition to the 50 already uncovered in fetish shrines in south eastern Anambra state. A traditional cult reputed to carry out ritual killings is thought to have carried out the murders. Some of the corpses had hands, genitals or heads missing. Police have displayed skulls - and five men of the 30 or so people arrested in connection with the murders - to correspondents in the capital, Abuja. 'Police are concerned about how the headless bodies found their way into the shrines,' said deputy police chief Sunday Ehindero. However, a spokesman for those arrested denied any involvement in the killings. 'Since I have been there, for two years, I have not seen anybody killed by these people. Rather, the shrines kill,' said Colin Obi. He said bodies had been brought to the Okija shrines by family members. Mr Ehindero said groups involved in disagreements had gone to the shrines to take part in black magic rituals. 'What we are saying is that we found there is a parallel court,' he said. Police found the shrines are being tipped off by a local villager in Okija who reported the priests had eaten the flesh of some of their victims." (para. 15)

The High Court added, "That paragraph confirms that the police in the claimant's home state of Anambra are indeed prepared to pursue cult crimes and, while a large number of bodies were found, it cannot be said that arresting some 30 people is evidence of a lack of will and/or ability to pursue such crimes. In my judgment the defendant was therefore entitled to certify the claim, on the basis that if the claimant had gone to the authorities they would have given him a sufficiency of protection." (para. 16)

Internal relocation

“It is unnecessary to examine the issue of sufficiency of protection in any greater detail because the possibility of internal relocation is in my judgment a complete answer to this claim. The claimant is a fit, young (26 years old), single man, with a good education to university level. He was able to take the bus to Lagos (with his mother’s help) and to stay there for a month, where he was visited by both her and his sister. His mother was able to give him significant financial help to enable him to leave Nigeria. It is plain that he is neither poor nor uneducated, nor does he have ties as would, for example, a parent with children, an unmarried woman requiring protection from male members of her family, a farmer whose only livelihood had been gained from a particular farm, etc. Put simply, in terms of his own personal circumstances, if anyone would be able to relocate within Nigeria, which is a large populous country with many substantial towns, then it would be a person in the position of the claimant.” (para. 19)

Main legal texts quoted in the decision:

- None

Cases cited in the decision:

- *BL (Ogboni cult Protection Relocation) Nigeria CG* [2002] UKIAT 01708

Commentary

Fear of Witchcraft, State Protection and Internal Relocation in Nigeria - Obasi, R (on the Application of) v Secretary of State for the Home Department [2007] EWHC 381 (Admin)

This decision is part of a broader trend in cases dealing with witchcraft persecution: a persistent lack of success when claimants are males and the corroborating evidence submitted does not focus on the feared harm. (See for instance, BL (Ogboni Cult – Protection- Relocation) Nigeria CG [2002] UKIAT 01708; CUREDI22UK010; *Omoruyi v Secretary of State for the Home Department* [2000] ECWA Civ 258; CUREDI22UK009)

In *Obasi, R (on the application of) v Secretary of State for the Home Department,* the High Court did not engage in any reasoning based upon the claimant's beliefs and did not accept, based on the country reports submitted, that it was impossible for him to approach the police of his state or any another location to obtain protection. The High Court also reasoned that although the claimant was found credible, his particular personal characteristics (i.e., a young, educated, single man) would allow him to live somewhere else in his country. Without concrete evidence or expert insight into the relocation and safety concerns, the court was unable to evaluate the cult that the claimant was afraid of, the extent of their influence within the country, and any potential ties they may have had with the authorities. (Bianchini 2021: 3807)

By contrast, cases involving claimants who feared witchcraft but whose vulnerabilities were more commonly accepted (e.g., women with children, persons with disabilities), tended to reach a different outcome as the courts found that international relocation in the country of origin would be impossible. (See, for instance, *Oco v A Decision of The Upper Tribunal (Immigration and Asylum Chamber) [2012] CSIH 65;* CUREDI22UK003; *RG (Ethiopia) v Secretary of State for the Home Department* [2006] EWCA Civ 339; CUREDI22UK006.) In these cases, the harm that the claimant feared was accepted because it was highly gendered in the sense that it was linked to marriage, domestic violence, and family relationships (Millbank and Vogl 2018).

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

- Bianchini, Katia. 2021. " The Role of Expert Witnesses in the Adjudication of Religious and Culture-based Asylum Claims in the United Kingdom: the Case Study of 'Witchcraft' Persecution" *Journal of Refugee Studies* 34(4): 3793-3819
- Millbank, Jenni and Vogl, Anthea. 2018. "Adjudicating Fear of Witchcraft Claims in Refugee Law" *Journal of Law and Society* 45(3): 370-397

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