

# **NIGERIAN WOMEN: A SOCIAL GROUP IN NEED OF INTERNATIONAL PROTECTION**

*European Network of Migrant Women Written Submission*



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## 1. UNDERSTANDING THE SCALE OF THE ISSUE

### A) THE OVERREPRESENTATION OF NIGERIAN WOMEN AND GIRLS VICTIMS OF TRAFFICKING FOR SEXUAL EXPLOITATION

Trafficking in persons is a grave human rights violation<sup>1</sup>. According to the Palermo Protocol, it refers to “*the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments*”<sup>2</sup>. It violates fundamental human rights enshrined in international law, including the right to liberty and security of person, the right not to be held in slavery or servitude, and the right to be free from torture and cruel, inhumane or degrading treatment<sup>3</sup>. **THB for the purposes of sexual exploitation is a violation of human rights that affects disproportionately women and girls**<sup>4</sup>. In Western and Southern Europe, it is the most prevalent form of human trafficking. In 2018, 66% of all detected victims of THB were trafficked for sexual exploitation, amongst which **90% were women and girls**<sup>5</sup>.

**Nigerian women and girls make up the largest group of third-country nationals victims of human trafficking for the purpose of sexual exploitation in the European Union**<sup>6</sup>. Most of the victims come from Edo State. It is estimated that approximately **80% of Nigerian women and girls arriving in Europe are potential victims of trafficking for sexual exploitation**<sup>7</sup>, making Nigeria one of the biggest THB origin country in West Africa<sup>8</sup>. Between 2015-2016, 2,094 Nigerian victims were registered in the EU, 74% of whom were trafficked for the purpose of sexual exploitation<sup>9</sup>. In the NAPTIP end of year data analysis covering the situation in 2020: 52.4% of victims were children. Of the adults, 87.2% were women and 12.6% men. Of the children, 73% were girls and 27% boys<sup>10</sup>.

In France, according to the Central Office for the Suppression of Trafficking in Human Beings (COSTHB), 80% of women in prostitution are from migrant backgrounds<sup>11</sup>. France is both a transit and destination country for human trafficking<sup>12</sup> and **Nigerian women constitute the largest group that falls victim of sexual exploitation in the country**<sup>13</sup>. According to the French Office for the

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<sup>1</sup> UNHCR, NEW ISSUES IN REFUGEE RESEARCH, International protection for trafficked persons and those who fear being trafficked, Research Paper No. 149, 2007

<sup>2</sup> United Nations (UN), *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, General Assembly resolution 55/25, 2000

<sup>3</sup> A number of international and regional human rights treaties enshrines these rights, including: 1948 Universal Declaration of Human Rights, 1966 International Covenant on Civil and Political Rights, 1984 Convention against Torture, Cruel, Inhumane or Degrading Treatment, 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 1969 American Convention on Human Rights, and 1981 African Charter on Human and People's Rights.

<sup>4</sup> European Institute for Gender Equality (EIGE), *Gender-specific measures in anti-trafficking actions, report*, 2018

<sup>5</sup> United Nations Office on Drugs and Crime (UNODC), *Global report on trafficking in persons*, report, 2018

<sup>6</sup> EUROSTAT, statistics on human trafficking, 2015; The European Law Enforcement Agency's (EUROPOL), *Trafficking in human beings in the EU, situation report*, 2016

<sup>7</sup> International Organization for Migration (IOM), *Human Trafficking along the Central Mediterranean Route*, report, 2017

<sup>8</sup> CHARTAIN C., “Women's Rights in Nigeria: From Discrimination to Human Trafficking”, PHAROS, 2018

<sup>9</sup> BLÖCHER J., EYSELEIN L., KOLBE S., WELLS A., *The Integration of female Nigerian Survivors of Human Trafficking for the Purpose of Sexual Exploitation*, handbook for practitioners, 2020

<sup>10</sup> NAPTIP, Data Analysis Final 2020, p.16

<sup>11</sup> AFP, “La prostitution en France, les principaux chiffres”, *La Libre*, 2016

<sup>12</sup> Group of Experts on Action against Trafficking in Human being (GRETA), *Report on the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by France*, REPORT, 2022

<sup>13</sup> GOLDMAN C., “The Price of Female Migration: Rape, Violence, Prostitution”, *Empan* (n°116), 2019, pp. 61-65

Protection of Refugees (OFPRA), applications for international protection from Nigeria have been steadily increasing since 2010 and among the vulnerabilities cited by applicants is human trafficking<sup>14</sup>.

## B) A LONG LASTING AND ESCALATING PHENOMENON

With regard to sexual exploitation of Nigerian women and girls, from the 1930s onwards, appeared a relatively significant phenomenon of migration for prostitution of many young girls to Port Harcourt, Lagos, Accra (now Ghana), Fernando Po (now Equatorial Guinea) or to Cameroon due mainly to poverty and lack of employment opportunity<sup>15</sup>. Sexual exploitation is likely to have been fueled by the kidnapping of underage girls, who were taken to the Gold Coast (Accra, Ghana) and raped<sup>16</sup>. Benedict Naanen refers to an organized business: "*Cross River prostitution was an elaborately organized business involving a collaborating network of advisers, pimps, prostitutes union, and moneylenders*"<sup>17</sup>

There are numerous similarities with the situation in the 30s and the current phenomenon of trafficking in Nigerian women and girls for the purpose of sexual exploitation. Notably, **the involvement of the family, the fear of denouncing due to the religious and social dimension, the economically difficult context, the association between migration and prostitution, the existence of regions of origin and destination that are fairly easy to identify, the vulnerability of the victims due to many factors**<sup>18</sup> (see section 3). In addition, the amounts of money sent to their regions of origin by women and girls who had migrated in the 30s were important at the time. For Obubra, they were twice the income of the district<sup>19</sup>. This created a **mythology of migration for the purpose of sexual exploitation amounting to wealth and prosperity, which is still very present in the country** today. This misconception feeds into the perception of an idealized wealthy Europe and is used by traffickers to further groom and manipulate vulnerable women and girls into believing that this "success story" model is easily achievable<sup>20</sup>.

In the 90s, the trafficking of Nigerian women and girls was directed towards Europe where the demand for labor was high, especially in the South. This was linked with the **negative impact of the Structural Adjustment Programme on the Nigerian employment market**<sup>21</sup>. Indeed, this Programme, introduced in 1986, consisted in reduced government spending on critical services such as health, education and housing, which worsened pre-existing economic hardship and limited employment opportunities

In the beginning of the 2000s, two decades ago, the UNICRI was already documenting the growth in the number of adolescent girls trafficked from Nigeria to Europe for sexual exploitation in

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<sup>14</sup> MASSIP, ROY, TOUE, *Rapport de Mission En République Fédérale Du Nigeria Du 9 Au 21 Septembre 2016*, rapport de mission, 2016

<sup>15</sup> COQUERY-VIDROVITCH C., "African women - History of women in sub-Saharan Africa - from the 19th to the 20th century", op.cit.

<sup>16</sup> NAANEN B., "Itinerant Gold Mines", op.cit., p.60.

<sup>17</sup> *Ibid.*

<sup>18</sup> IFRA-Nigeria, *Religious, Social and Criminal Groups in Trafficking of Nigerian Girls and Women*, 2019

<sup>19</sup> COQUERY-VIDROVITCH C., "African women - History of women in sub-Saharan Africa - from the 19th to the 20th century", op.cit.

<sup>20</sup> ALLEN A., "Europe-Africa Crisis We Don't Want To Name: Organised Sexual Exploitation of Women and Girls", European Network of Migrant Women, research, 2017

<sup>21</sup> PLAMBESH S. *Points of Departure*, 2014, p. 34

prostitution<sup>22</sup>. The contemporary multiplication in numbers of migrants arriving in Europe led to an exponential escalation of the phenomenon. Between 2014-2016 the International Organisation for Migration (IOM) noted an almost **ten-fold increase in the number of women and girls trafficked from Nigeria to Europe for sexual exploitation**.

## 2. UNDERSTANDING THE RISKS FACED BY NIGERIAN WOMEN

### A) OVERVIEW

Many co-existing factors enhance Nigerian women's risks of being victims of trafficking for the purpose of sexual exploitation including: **violence against women and sexist discrimination<sup>23</sup>, illiteracy<sup>24</sup>, poverty, unemployment and corruption<sup>25</sup>, the absence or inadequacy of social security and welfare systems and the abuse of traditional fostering by family members<sup>26</sup>, climate change<sup>27</sup>, and the disruption of support systems (such as loss of family members)<sup>28</sup>**. Other factors that have contributed to the growth of the trafficking phenomenon are **restrictive migration policies in Europe<sup>29</sup>** and a **strong hold and belief in certain aspects of traditional African religion<sup>30</sup>**. The **demand for prostitution** in Europe is also a very impactful factor.

Nigerian women are victims of discrimination and significant violence<sup>31</sup>. According to a survey conducted in 2008 by the National Population Commission of Nigeria, nearly **one third of Nigerian women are victims of domestic violence<sup>32</sup>**. This is widely accepted by society, since **43% of women consider it normal for their husbands to physically assault them<sup>33</sup>**. Moreover, Article 55 of the penal code authorizes a husband to physically assault his wife to “correct her”, as long as he does not inflict serious injury<sup>34</sup>. **Nigerian women going through domestic violence often do not consider leaving their husband due to the negative cultural perception attached to single women**, divorced women and widows. They are seen to be failures, accused of promiscuity and often revictimized<sup>35</sup>.

**20 million Nigerian women are now reported to have undergone genital mutilation procedures**, with a record of 76.3% in Osun State<sup>36</sup>; widowhood rites continue; women are prohibited from owning property; early marriages are allowed (as young as 9 years old in some states); polygamy is an accepted practice. Filing a complaint for rape is almost impossible because of the restrictive conditions and the level evidence required. In addition, access to health care is difficult and girls have

<sup>22</sup> UNICRI, *Trafficking of Nigerian Girls to Italy*, report of field survey in Edo State (Nigeria), 2003

<sup>23</sup> Women's Link Worldwide, *Trafficking of Nigerian Women and Girls*, 2015, pp. 4, 6; Braimah, T.S., *Sex Trafficking in Edo State, Nigeria*, 2013, pp. 16-17, 20-21, 29; UNESCO, *Human Trafficking in Nigeria: Root Causes and Recommendations*, 2006, p. 37; NAPTIP, *Factsheet, Factsheet 2 – What is human trafficking?*, n.d.

<sup>24</sup> BRAIMAH T.S., *Sex Trafficking in Edo State, Nigeria*, 2013

<sup>25</sup>BLÖCHER J., EYSELEIN L., KOLBE S., WELLS A.,*The Integratlon of female Nigerian Survivors of Human Trafficking for the Purpose of Sexual Exploitation, handbook for practitioners*, 2020

<sup>26</sup> University of Bedfordshire and IOM, *Between Two Fires*, report, pp. 48-50, 2019

<sup>27</sup> USSD, *Nigeria* (section Trafficking profile), TiP report, 2021

<sup>28</sup> NAPTIP, *Factsheet, Factsheet 2 – What is human trafficking?*, n.d.

<sup>29</sup> BLÖCHER J., EYSELEIN L., KOLBE S., WELLS A.,*The Integratlon of female Nigerian Survivors of Human Trafficking for the Purpose of Sexual Exploitation, handbook for practitioners*, 2020

<sup>30</sup>*Ibid.*; IFRA-Nigeria, *Religious, Social and Criminal Groups in Trafficking of Nigerian Girls and Women*, 2019

<sup>31</sup> CHARTAIN C., “Women's Rights in Nigeria: From Discrimination to Human Trafficking”, PHAROS, 2018

<sup>32</sup> “We are brought up to think suffering this violence is OK: domestic abuse in Nigeria”, *The Guardian*, 2018

<sup>33</sup> RIBADEAU DUMAS L., “One third of Nigerian women victims of violence from their husbands”, *FrancelInfo*, 2018

<sup>34</sup>KUNKE S., Nigeria: 5,623 Cases of Sexual, Gender-Based Violence Recorded in Borno, Adamawa, Yobe, report, 2022

<sup>35</sup> “We are brought up to think suffering this violence is OK: domestic abuse in Nigeria”, *The Guardian*, 2018

<sup>36</sup> UNFPA and UNICEF, survey, 2015

less access to education than boys<sup>37</sup>. **One of the major impediments to the protection of women's rights in Nigeria is the lack of harmonization between separate state legislations and the tripartite arrangement of the law, in which common law, custom and sharia law coexist.**

In addition, illicit actors – including some church leaders – operate “**baby factories**” in Nigeria, another **widespread criminal industry driven by poverty and a lack of opportunity for young girls**, as well as the demands of the illegal adoption market and cultural pressure for large families in Nigeria. Recruiters – or “**mamas/madams**” – control the women through childbirth. The traffickers then sell the children, sometimes with the intent to exploit them in forced labor and sexual exploitation<sup>38</sup>.

## B) HIGH LEVEL OF ORGANIZATION OF NIGERIAN TRAFFICKING NETWORKS

Another risk factor for Nigerian women and girls is the strength of the trafficking networks themselves. the **high profit** generated by human trafficking in Nigeria for traffickers, the **low risks** involved, and the **well-structured and adaptable nature of the Nigerian trafficking networks**, all participate in the predation against Nigerian women and girls<sup>39</sup>. These networks are very versatile and change their modus operandi as the situation requires. They are broken down into cells with hierarchical membership structures. Each cell has well run operations in Nigeria, other African countries and across Europe. **A typical cell might consist of an agent who acts as the main recruiter of victims who are usually known to him or her. The agent will arrange travel documents, ritual ceremonies involving a traditional medicine man and prepare the victim for travel. Next are the “trolleys” or “coyotes” whose key role is to accompany victims on their journeys so they do not escape or get stolen by other traffickers<sup>40</sup>. The Nigerian THB networks pose a great challenge to EU law enforcement agencies since they have achieved significant influence in EU organized crime.** The same networks are involved in drug trafficking, fraud, money laundering, migrant smuggling, corruption and currency counterfeiting.<sup>41</sup>

‘The terms “Nigerian Mafia” or “Costra Negra” have been employed to describe the range of Nigerian confraternities operating across most of Nigeria and Europe<sup>42</sup>. The Nigerian confraternities have specific characteristics and modus operandi that distinguish them from other criminal gangs but that also help to sustain and strengthen their roles in the human trafficking chain<sup>43</sup>. Nigerian human trafficking gangs linked to criminal confraternities or “cults” are very powerful, brutal and violent in their operations. **These confraternities have millions of members spread out across Nigeria and in different European countries** with strict codes of loyalty and solidarity and with the use of traditional religion as a hallmark of their business operations. They make profit off the European demand for the sexual exploitation of “cheap, exotic and younger” women and girls<sup>44</sup>.

Women and girls are often targeted by people they know and trust, who manipulate them through false promises of paid employment, professional training, and education. Then, “they are transported within

<sup>37</sup> CHARTAIN C., “Women’s Rights in Nigeria: From Discrimination to Human Trafficking”, PHAROS, 2018

<sup>38</sup> USSD, *Nigeria* (section Trafficking profile), TiP report, 2021

<sup>39</sup> Frontex, *Handbook on Risk Profiles on Trafficking in Human Beings*, 2015, p. 62; UNODC, *Global Report on Trafficking in Persons*, 2014, p. 56; UNESCO, *Human Trafficking in Nigeria: Root Causes and Recommendations*, 2006, p. 37; NAPTIP, *Factsheet, Factsheet 2 – What is human trafficking?*, n.d.

<sup>40</sup> UK Home Office, *Nigeria: Trafficking of women*, Country Policy and Information Note, 2022

<sup>41</sup> Europol, *European Migrant Smuggling Centre*, 5th Annual Report, 2021

<sup>42</sup> *Ibid.*

<sup>43</sup> AFRUCA, *Nigerian Confraternities and the Increase in Human Trafficking Across Europe*, 2021

<sup>44</sup> *Ibid.*

and across national borders, often under life-threatening conditions. Survivors recount harrowing journeys as traffickers forced them through the Sahara Desert to destinations in Libya, or in some cases, Europe via the Mediterranean Sea. **Their journeys are wrought with death, rape, beatings, fear, theft, extortion, and lack of food and water**<sup>45</sup>.

ECPAT France [A French NGO whose mandate is to end the sexual exploitation of children] identified some of the core characteristics of these criminal groups. “First is the excessive use of violence. The confraternities are well known to employ excessive violence and brutality in every aspect of their operations both in Europe and across Nigeria. **Violence is a key element in the recruitment and initiation of victims of trafficking, which can include physical abuse, rape, excessive use of force and torture**, etc. Violence is employed in the course of trafficking and exploitation of victims who are beaten, raped and mentally tortured in different ways to **make them compliant and obedient**<sup>46</sup>”.

### C) CONTROL MECHANISMS THROUGH THE USE OF *JUJU* RITUALS, OATHS AND THE DEBT SYSTEM

Another phenomenon increasing the vulnerability of Nigerian women and girls to trafficking is **the preeminence of the practice of *juju* rituals as part of the justice system**. Victims of trafficking are often required to take an oath to “repay” their trafficker in front of a priest. **This creates a deep form of control as the victim is brought up to expect divine punishment if she does not fulfill her commitment**<sup>47</sup>.

**The ritual itself is designed to instill fear and a loss of dignity**<sup>48</sup>.

Firstly, it is often performed in **isolated areas**. In the context of the PACKING project, interdisciplinary work encompassing 5 Nigerian researchers who conducted fieldworks in Edo State (2017-2019), several Nigerian victims of trafficking for sexual exploitation were interviewed. One respondent reported being blindfolded on the way to the temple so that she could not tell where it was located, for another, the ritual was carried out near a river, away from Benin City, another reports that the temple was a two-hour drive from Benin<sup>49</sup>.

In addition, the rituals usually involve the **collection of intimate items from the woman** (e.g. their underwear, underarm or pubic hair, menstrual blood,), as well as the **slaughtering and consumption of an animal**, and a **vow**<sup>50</sup>. The respondent of the PACKING project testify:

*“When we entered the temple, the chief priest asked me to cut some hair from my armpits and pubic area, he also asked me to give him my sanitary napkins that I had used because I had my period. After*

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<sup>45</sup> HRW, “You Pray for Death”, *Trafficking of Women and Girls in Nigeria*, 2019

<sup>46</sup> APARTD E., CHIOSSONE E., DIAGBOYA P., JANNEROD A., LAVAUDLEGENDRE B. and al., *Religious, Social and Criminal Groups in Trafficking of Nigerian Girls and Women*, Research Report, IFRA-Nigeria; COMPTRESEC - CNRS - UMR 5114. 2019

<sup>47</sup> Ijeweimen Ikhidero S., Idumwonyi I., *Resurgence of the Traditional Justice System in Postcolonial Benin (Nigeria) Society*, article, 2013

<sup>48</sup> IFRA-Nigeria, *Sustenance of Sex Trafficking in Edo State; the combined effects of Oath Taking, Transnational Silence and Migration Imaginaries on Trafficked Women from Edo State*, article, 2019

<sup>49</sup> APARTD E., CHIOSSONE E., DIAGBOYA P., JANNEROD A., LAVAUDLEGENDRE B. and al., *Religious, Social and Criminal Groups in Trafficking of Nigerian Girls and Women*, Research Report, IFRA-Nigeria; COMPTRESEC - CNRS - UMR 5114. 2019

<sup>50</sup> *Ibid.*

*I gave him the items, he killed a chicken and gave me the raw heart to swallow. He gave me a liquid mixture but I didn't see exactly what it was because I was blindfolded and at that time I only perceived the smell of alcohol in the mixture. Then he asked me never to report my madam to the police, even if I was abused by my madam and he told me that I had to obey and trust her, whatever she asked me. The last thing he asked me to do was to pay back the amount of money we had agreed on."*

*"I was asked to remove my underwear so that the priest could take pubic hair, underarms and hair. He put the items in a jar, added a liquid that I could not discern and began to make incantations. He asked me to swear that I would be faithful to my madam, that I would pay her the sum of 35,000 euros and that if I failed to do so, I or a member of my family would go mad"*

**This abuse of religious belief has been identified as a significant factor within many cases of trafficking among Nigerian women**<sup>51</sup>. Within the process of the oath, the practice of isolation, breaking of intimacy and ingestion, often paired with scarification (alteration of the body), has considerable psychological effects<sup>52</sup>. In addition, these rituals are performed in a context of inequality linked to the seniority and economic superiority of the "madam" as well as the vulnerability of the victim, and lead to the deepening of the situation of domination<sup>53</sup>. The vow itself also reinforces the fear of the victim. The words that they are asked to repeat revolve around losing their life and well-being or going mad if they do not uphold their hand of the bargain (repaying their "debt" to their "madam" through prostitution in Europe)<sup>54</sup>.

**The role of the priest does not stop after the ritual.** Once in Europe and faced with the reality of sexual exploitation, some trafficked women try to escape. In these cases, the "madam" contact the priest who can reactivate the oath, as the respondent from the PACKING project share:

*"When I refused to work, my madam called the juju priest who had received the oath, he threatened me and my family, so that I agreed to work"*

*"My madam was always in contact with the chief priest and she always made us listen to their conversations, when the priest told us that if we reneged on the oath, the juju would get to us. At that point it became a routine, we would have the priest every week (on the phone) and he would tell us not to run away."*

The 8th of March 2018, Benin City's Oba made a déclaration calling for the interdiction of the *juju* oath<sup>55</sup>. This Oba inherited its title and function from the Kingdom of Benin (1180-1300). He is a chief supreme whose authority extends to the whole Edo State, meaning Benin City and its surrounding, up until the border with Esan<sup>56</sup>. At national level, Benin City Oba is a first class leader, recognized as such by the Federal Republic of Nigeria, as the Sultan of Sokoto, the Emir of Kano, the Ooni of Ile-Ife or

<sup>51</sup> MAY I., The Role of African Traditional Religion and 'Juju' in Human Trafficking: Implications for Anti-trafficking, *Journal of International Women's Studies*, 2016

<sup>52</sup> LAVAUD-LEGENDRE B. and QUATTONI B., *Désir migratoire, emprise et traite des êtres humains, Prostitution nigériane, Du rêve de migration aux réalités de la traite [Nigerian prostitution, from the dream of migration to the realities of trafficking]*, Karthala, 2012

<sup>53</sup> SIMONI V., "I swear an oath", *Nigerian Prostitution: from the dream of migration to the realities of trafficking*, Karthala.

<sup>54</sup> APARTD E., CHIOSSONE E., DIAGBOYA P., JANNEROD A., LAVAUDLEGENDRE B. and al, *Religious, Social and Criminal Groups in Trafficking of Nigerian Girls and Women*, Research Report, IFRA-Nigeria; COMPTRESEC - CNRS - UMR 5114. 2019

<sup>55</sup> Bénédicte Lavaud-Legendre, *Retour sur la déclaration de l'Oba du Bénin du 8 mars 2018*, article, 2018

<sup>56</sup> IFRA Nigeria, Bus des Femmes, RAPPORT DE LA VISITE RÉALISÉE AU NIGERIA du 23 au 30 septembre 2018, 2918

the Aalaafin of Oyo, amongst others. **The Oba's public stance has influenced the nature of allegiance relationships within trafficking networks, which has been accompanied by increased intervention by cultists, organized groups that exhibit great violence, particularly to replace the disappearance of the constraint of the oath**<sup>57</sup>. From the 1970s onwards, these groups evolved towards violent actions. Little by little they multiplied, leading to numerous rivalries and settling of scores. Today, the Eiye (still called Supreme Eiye Confraternity or National Association of Air Lords) and Aye (still called Neo black movement, or black Axe) groups are notably involved in the **sexual exploitation of Nigerian women in Europe**<sup>58</sup>.

Within the framework of a round table organized by the French Embassy in Nigeria, in partnership with the French Research Institute IFRA-Nigeria, NGOs specialized in the fight against human trafficking were gathered to carry out a shared diagnosis of the context following the Oba of Benin's declaration of March 8, 2018. In particular, the aim was to evaluate the effects of the declaration. Despite a positive effect, in Benin as in Paris, notably on the liberation of the victims' testimonies, many concerns were raised<sup>59</sup>. **Trafficked Nigerian women seeking to escape prostitution in Europe suffer violent repercussions and the traffickers develop an argument to justify their right and discredit the authority of the Oba in this matter: *the oath had been taken before the enthronement of Oba Ewuare II, the Oba is not the one who came to their aid by bringing them to Europe, the Oba does not clearly say that one should not pay in his speech, the Oba of Benin City does not have authority over other communities such as the Esan or the Igbo who are also very involved in trafficking, etc.* Finally, if some traffickers (rather among women) really seem to decide to withdraw from these criminal activities, they leave more room for the most virulent and perhaps the most violent.** Several problems were identified as persisting despite the Oba's rhetoric: **the violence of cultist groups and their systematic use of violence against families in Nigeria, the pressure some families put on their daughters in Europe to receive money, and the disinterest of other non-Edo communities involved in trafficking in the prohibitions issued by the Oba of Benin City.** NGOs fear a geographical shift of the phenomenon to other localities, to areas that do not recognize the authority of the Oba, outside Edo State or to the Esan areas of Edo State.<sup>60</sup>

**The NGOs also observe the development of the use of the threat of disseminating naked videos of victims on the Internet (a modus operandi also observed in Europe), and the frequent use of violence and pressure on families** (visits, intimidation and reprisals at their homes). In this respect, IFRA researchers hypothesize that the power of oaths has been transferred to other actors: cultists and families in particular, within which the use of "Clubs" and associated tontines (osusu) allowing the capitalization of money necessary for departure<sup>61</sup>.

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<sup>57</sup> *Ibid.*

<sup>58</sup> OFPRA, *Traditional Secret Societies and Student Confraternities in Nigeria*, report, 2015

<sup>59</sup> IFRA Nigeria, Bus des Femmes, RAPPORT DE LA VISITE RÉALISÉE AU NIGERIA du 23 au 30 septembre 2018, 2918

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*



### 3. NIGERIAN WOMEN AND GIRLS: A SOCIAL GROUP IN NEED OF INTERNATIONAL PROTECTION

Despite positive developments, **several studies have shown that trafficked persons continue to face difficulties when applying for asylum**<sup>62</sup>. According to these studies, it is often difficult to persuade the courts if trafficked persons are in need of international protection<sup>63</sup>. Main receiving countries are often reluctant to make a favorable determination based upon trafficking status alone<sup>64</sup>. Immigration authorities may lack knowledge of or adherence to their own women specific guidelines<sup>65</sup>.

In this section, we will illustrate that Nigerian women victims of trafficking belong to a social group within the meaning of the Geneva Convention<sup>66</sup> (A). As such, they fear that if they return to their country they will fall victims either of reprisals from those who exploited them when they have not finished paying their debt, or of ostracism by civil society, which makes them particularly vulnerable to the risk of revictimization (B)<sup>67</sup>. They also claim that the Nigerian authorities are not able to offer them protection<sup>68</sup> (C).

#### A) CHARACTERIZATION OF NIGERIAN WOMEN AS A SOCIAL GROUP WITHIN THE MEANING OF THE GENEVA CONVENTION

In 1985, the Executive Committee of UNHCR first recommended **sex-based persecution be considered as grounds for refugee status because women who suffer it can be members of a “particular social group”**<sup>69</sup>. From 1993 onwards, UNHCR and its Executive Committee encouraged states to develop their own guidelines on women asylum seekers<sup>70</sup>.

The Office of the High Commissioner for Refugees states: “*A certain social group is a group of people who share a common characteristic other than the risk of being persecuted, or who are perceived as a group by society*”<sup>71</sup>.

- Women who have been trafficked into a human trafficking network must be seen as sharing a common history.
- The different way in which they are looked at by the surrounding society characterizes an identity independently of their will.

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<sup>62</sup> Burgoyne B & Darwin C (2006) ‘Victims of Trafficking in the UK System’, abridged version: ‘UK victims of trafficking’ Forced Migration Review 25, 43. Refugee Studies Centre in association with the Norwegian Refugee Council.

<sup>63</sup> Solicitors’ International Human Rights Group (2006) Submission to Joint Committee on Human Rights Inquiry into Human Trafficking, The United Kingdom Parliament, March.

<sup>64</sup> Dechert LLP & Klasko, Rulon, Stock & Seltzer LLP (2004) Comparative Report on the Application of Asylum Standards to Protect Women Trafficked for Sexual Exploitation. An Analysis of the Laws of the United States, France, Canada, Luxembourg and the United Kingdom.

<sup>65</sup> Richards S, Steel M & Singer D (2006) Hope betrayed: an analysis of women victims of trafficking and their claims for asylum, POPPY Project and the Refugee Women’s Resource Project at Asylum Aid, London.

<sup>66</sup> Convention relative au statut des réfugiés, adoptée 28 juillet 1951, dite Convention de Genève, Article 1 A 2)

<sup>67</sup> V. F. contre France ; Joy Idemugia contre France. ; CE 25/07/2013, n° 350661 ; L.O. contre France, préc. CE, 24 mars 2015, n° 10012810

<sup>68</sup> Article 6 c) de la Directive 2011/95/UE du 13 décembre 2011

<sup>69</sup> Edwards A (2003), ‘Age and gender dimensions in international refugee law’, in Feller E, Turk V, and Nicholson F (ed.), Refugee Protection in International Law: UNHCR’s Global Consultations on International Protection, Cambridge University Press., pp. 61

<sup>70</sup> *Ibid.*

<sup>71</sup> Guidelines on International Protection: “Membership of a particular social group” in the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, UNHCR, HCR/GIP/02/02 Rev.1, 8 July 2008

- The combination of this common history and and this own identity perceived as different by the surrounding society, characterizes the belonging to a certain social group, **regardless of the steps taken to distance themselves from the prostitution network or actively collaborate with State authorities of the destination country.**

In 2017, the French Council of State recognized that Nigerian women victims of human trafficking belong to a social group within the meaning of Article 1, section A, paragraph 2 of the Geneva Convention. For the Council, these women share a common, constant and specific history and status as victims, which increases the risk of violence and stigmatization. Because of this common history, these women are viewed differently by the surrounding society, whether by traffickers, the population and families or the public authorities, so that they constitute a social group within the meaning of Article 1A2 of the Geneva Convention<sup>72</sup>.

## B) CHARACTERIZATION OF THE RISK OF INHUMAN OR DEGRADING TREATMENT IN THE EVENT OF RETURN

Refugee status may be granted in particular when it is demonstrated that there is a **risk of the death penalty, torture or inhuman or degrading treatment or punishment in the event of return** (L 712-1 of the CESEDA)<sup>73</sup>, in connection with one of the five grounds referred to in the Geneva Convention<sup>74</sup>, including membership of a certain social group. The elements presented in section 2 of this document reveal the extreme violence of the practices implemented by Nigerian trafficking networks, their professionalization in terms of criminal practices, their real influence in Nigerian society as well as in Europe. **As a result, when Nigerian women and girls who are victims of human trafficking are sent back to their country of origin, they run serious risks**, including impoverishment as well as victimization and re-trafficking<sup>75</sup>.

The English Upper Tribunal (second instance administrative court) in a judgment of October 17, 2016<sup>76</sup>, breaks down the risks in the event of return to the country, whether to one's region of origin or in the event of internal relocation, as follows:

- (a) **reiteration of the exploitation whether by the same group or by other criminal groups**
- (b) **retaliation by the perpetrators of the initial exploitation due to non-payment of the debt**
- (c) **vulnerability to all forms of abuse**

- **The extraordinary capacity of Nigerian trafficking networks to retaliate against victims** (through their structure, the coherence of their operations, the effectiveness of their actions and their social weight) **relates to the first and second dimensions** (see section 2).
- **The stigmatization, isolation and impoverishment** faced by victims upon return to Nigeria **characterize their extreme vulnerability to all forms of abuse**<sup>77</sup>.

<sup>72</sup> CNDA grande formation 30 mars 2017 Mme F. n° 16015058 R

<sup>73</sup> Code of the entry and residence regulation, and asylum right), Article L-711-11 (France)

<sup>74</sup> UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <https://www.refworld.org/docid/3be01b964.html>

<sup>75</sup> Women's Link Worldwide, *Trafficking of Nigerian Women and Girls: Slavery across Borders and Prejudices*, 2015

<sup>76</sup> HD (Trafficked women) Nigeria CG (2016) UKUT 00454

<sup>77</sup> Women's Link Worldwide, *Trafficking of Nigerian Women and Girls: Slavery across Borders and Prejudices*, 2015; IOM. *The Causes and Consequences of Re-Trafficking: Evidence from the IOM Human Trafficking Database*. 2010. Page 32

All these factors make it possible to characterize the risk of inhuman and degrading treatment for all Nigerian victims of THB in case of return to the country, **regardless of the steps taken to distance themselves from the prostitution network or actively collaborate with State authorities of the destination country.**

### C) CHARACTERIZATION OF THE INABILITY OF THE NIGERIAN STATE TO EFFECTIVELY PROTECT RETURNING VICTIMS OF TRAFFICKING

The social weight of *juju* and cultist group who are key stakeholders in Nigerian human trafficking is met with the **absence of an effective counterweight from the state authorities: the temples exercise judicial functions parallel to those exercised by the state authorities, and the state authorities are to date unable to repress the acts committed by the cults**<sup>78</sup>. Nigerian authorities' efforts to address the problem have been described as insufficient and symptomatic of an ineffective system of protection, due to a wide range of issues, including corruption<sup>79</sup>.

In its October 2016 judgment above-mentioned, The English Upper Tribunal (second instance administrative court) does not analyze the formal system in place, but rather **the protection actually offered to victims who return to Nigeria**, the difficulty being not so much with the legal framework or the content of the proposed measures, but with the capacity to implement them<sup>80</sup>.

The Tribunal thus notices that certain points pose a problem:

- **The number of places available in shelters compared to the needs:** The Danish and Finnish national reports on human trafficking<sup>81</sup> state that the supply is inadequate to the demand, as the number of victims in need of assistance is incomparably higher than the number of places available. The ATLeP delegation (OSCE/ ODIHR) comes to the same conclusion<sup>82</sup>.
- **The conditions and duration of this accommodation:** After two weeks, if the victim does not cooperate with the Nigerian authorities, she is kicked out of the facilities. If she cooperates, the protection lasts six weeks, with a ban on going out alone and detention in a closed place<sup>83</sup>.
- **The lack of medical and psychological care:** A lack of training of the supervising professionals is particularly evident in the area of post-traumatic stress, which is not taken into consideration in the accommodation facilities even though many victims of trafficking and prostitution suffer from it<sup>84</sup>.

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<sup>78</sup> APARTD E., CHIOSSONE E., DIAGBOYA P., JANNEROD A., LAVAUDLEGENBRE B. and al., *Religious, Social and Criminal Groups in Trafficking of Nigerian Girls and Women*, Research Report, IFRA-Nigeria; COMPTRESEC - CNRS - UMR 5114. 2019

<sup>79</sup> Home Office, UK Border Agency. Nigeria. Country of Origin Information Report [online]. June 2009. Pages 110-114. Available at: [www.refworld.org/country,,UKHO,,NGA,,4a3662742,-0.html](http://www.refworld.org/country,,UKHO,,NGA,,4a3662742,-0.html); Op. cit. Note: 41.

<sup>80</sup> LAVAUD-LEGENBRE B., *Jurisprudential views on the return to Nigeria of women sexually exploited in Europe*. *Revue des droits et libertés fondamentaux* - RDLF, 2017. fhal-01577913e

<sup>81</sup> Danish Immigration Service: *Protection of victims of trafficking in Nigeria, 2008*; Finnish immigration service : *trafficking women to Europe*, 24 mars 2015

<sup>82</sup> Nwogu, OSCE ODIHR, Research regarding the national laws, policies and practices of Nigeria relating to the return of trafficked-exploited persons, 2011, cité au § 102 de la décision britannique

<sup>83</sup> 6 § 111 of the Upper Tribunal decision, quoting the OSCE ODIHR report

<sup>84</sup> 8 §123 and following of the Upper Tribunal decision

- **The inability of Nigerian State authorities to regulate the activity of cultist groups and to protect victims contributes to the risk of a repetition of exploitation<sup>85</sup>.**

These elements evidence the inability of the Nigerian state to protect Nigerian victims of trafficking sent back to their country of origin from the risk of further exploitation

Regarding the possibility for the Nigerian victim of trafficking to be returned to her country of origin in a different region, the Institute for Public Policy Research states that internal relocation can increase vulnerability, especially when the victim is young, uneducated, without work experience and of a religion other than the majority religion in the area to which the person has relocated<sup>86</sup>. The lack of a social network and ethnic ties are also factors increasing vulnerability<sup>87</sup>.

#### 4. CONCLUSION

**The importance of availability of asylum systems for trafficked persons is highlighted in several UN and the Council of Europe documents.** The 2002 UNHCR Agenda for Protection, endorsed by the Executive Committee of UNHCR and welcomed by the General Assembly, calls upon states to **ensure that their asylum systems are open to receiving claims from individual victims of trafficking<sup>88</sup>**. The Explanatory Report of the Council of Europe Convention states: *“This paragraph is particularly concerned with the 1951 Convention and 1967 protocol relating to the Status of Refugees. The fact of being a victim of trafficking in human beings cannot preclude the right to seek and enjoy asylum and Parties shall ensure that victims of trafficking have appropriate access to fair and efficient asylum procedures. Parties shall also take whatever steps are necessary to ensure full respect for the principle of non-refoulement<sup>89</sup>.”* In addition, **article 6 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)** further developed by the General Recommendation 38 of the Committee for the evaluation of the implementation of the Convention by the States Parties provides that State Parties (which includes France) are under obligation to address trafficking in a way that respects, protects and fulfills the human rights of persons, in particular those belonging to marginalized groups, as set out in the core United Nations human rights treaties, drawing from the Universal Declaration of Human Rights (GR38, §9). In addition, it states that **States Parties are obligated to protect victims of trafficking, especially women and girls, from revictimization**, including by:

- (a) Guaranteeing victims of trafficking protection against forcible return to their places of origin in cases in which:
  - (i) It is not an appropriate, durable solution for victims, due to a fear of being re-trafficked or experiencing stigma, threats, intimidation, violence or retaliation;
  - (ii) They may face persecution and/or violations of the right to life or the prohibition against torture (GR38, §89).

<sup>85</sup> Interview with the coordinator of GPI for Edo State, in Benin City, conducted February 25, 2011; Human Rights Watch. Everyone’s in on the Game, Corruption and Human Rights Abuses by the Nigeria Police Force [online]. 2010. Available at: [www.hrw.org/sites/default/files/reports\\_nigeria0810webwcover.pdf](http://www.hrw.org/sites/default/files/reports_nigeria0810webwcover.pdf); Women’s Link Worldwide, *Trafficking of Nigerian Women and Girls: Slavery across Borders and Prejudices*, 2015; Interview with four UNODC staff members, conducted in Abuja on February 24, 2011

<sup>86</sup> IPPR (Cherti, M., Pennington, J., Grant, P.), « Beyond Borders: Human Trafficking from Nigeria to the UK », (January 2013)

<sup>87</sup> Danish Immigration Service: *Protection of victims of trafficking in Nigeria, 2008*; Finnish immigration service : *trafficking women to Europe*, 24 mars 2015

<sup>88</sup> UNHCR (2002) The Agenda for Protection. A/AC.96/965/Add.1, 2002, Goal 2, Objective 2

<sup>89</sup> Council of Europe (2005) Council of Europe Convention on Action against Trafficking on Human Beings and its Explanatory Report, Council of Europe Treaty Series No. 197, Warsaw, para. 377

**This definition corresponds to the situation experienced by Nigerian victims of human trafficking for sexual exploitation.**

It is shown in the present document that the initial factors are that Nigerian women and girls victims of trafficking share a common experience and are looked at in a particular way by their native society independently of their will, making them a social group in the sense of the Geneva Convention. Furthermore, this social group faces a specific situation of heightened risks of persecution due to psychological consequences of the exploitation, stigmatization and ostracism as a person who has been trafficked, as well as the submission to a spiritual/psychological hold linked to the oath taken as part of the *juju*, and the lack of economic opportunities. Finally, the previous section highlights that the Nigerian State is unable to provide adequate protection to this group in case of return to the origin country.

In 2017, the French Conseil d'Etat adopted a protective decision for Nigerian women victims of trafficking, recognising them as a social group in the sense of the Geneva Convention. However, in another decision (October 16th 2019), the plaintiff was denied international protection because **she failed to prove that she effectively managed to extract herself from the trafficking network**. The reasoning was based on the absence of sufficiently substantiated elements concerning, on the one hand, her effective exit from the network and, on the other hand, the persecution to which she could be subjected in case of return to Nigeria

**Regarding the absence of sufficiently substantiated elements concerning the effective exit from the trafficking network**, this condition is excessive and hard to prove, notably due to the **high level of control exercised by the trafficking network upon the victims, associated with the traumatic consequences of sexual exploitation and trafficking that amount to difficulties for victims to gather and communicate substantiated elements in legal proceedings**. Obtaining a refugee status **allow the victim of trafficking to become a better potential witnesses as she is more secure and her psychological capacity to testify is strengthened**<sup>90</sup>. Consequently, criminal lawsuits with victims who feel protected and empowered are more likely to become successful, which **leads to more traffickers being identified, and trafficking networks dismantled**<sup>91</sup>.

**Regarding the absence of sufficiently substantiated elements concerning the persecution to which she could be subjected in case of return to Nigeria, mere membership in the social group of Nigerian women victim of trafficking is a strong indication that its members' fears of further persecution are well-founded**. As a result, the Court should prove the absence of such risk to justify the denial of international protection for the victim.

For this reasons, the European Network of Migrant Women calls for the French Conseil d'Etat to adopt a decision recognising that Nigerian women victims of trafficking can obtain international protection in France on the ground of their belonging to a social group in the sense of the Geneva Convention, the well-founded fear for persecution they face upon return and the inability of the Nigerian State to effectively protect them. This access to international protection must be effective and fair, without excessive and restrictive criteria such as the effectiveness of the steps taken by the victim to distance herself from the trafficking network.

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<sup>90</sup> *Ibid.*

<sup>91</sup> JORGA-BIROL, *Empowering victims of human trafficking: The role of support, assistance and protection policies*, HUMSEC Journal 2, 63-178, 2008

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**WHO WE ARE?** [The European Network of Migrant Women](#) is a migrant-women-led, secular, non-partisan women's rights platform that advocates for the rights, freedoms and dignity of migrant, refugee and ethnic minority women and girls in Europe. Our diverse membership includes women from almost all the regions of the globe and extends to over 50 grassroots and advocacy groups in over 23 European countries. The European Network of Migrant Women conducted several European wide projects with and for survivors of human trafficking in Europe, notably [COALESCE](#) (2021-2022), EU funded project aimed at providing comprehensive psycho-social support to the female migrant victims of trafficking for sexual exploitation in Europe, and [ASSIST](#) (2019 - 2020) which highlighted 11 best practice principles to support victims of trafficking for sexual exploitation.