

# EXTERNALISATION OF BORDERS

detention practices and denial of the right to asylum

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## The phenomenon of returnees in Nigeria: penal and administrative consequences after return

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“Migrants who have suffered violence, exploitation and abuse often struggle to access the help they need to recover,” Mathieu Luciano, Head of IOM’s Assistance to Vulnerable Migrants Unit

### 1. Definition of Terms

Return migration is defined as ‘movement of emigrants back to their homeland to resettle’.<sup>1</sup>

**Returnee** is “in a general sense, the act or process of a person going back or being taken back to the point of departure.”<sup>2</sup>

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<sup>1</sup> “IOM Glossary on Migration, 2019.” [www.iom.int](http://www.iom.int), accessed 26 January 2019

<sup>2</sup> Ibid.

‘Forced return’ can be understood as referring to migrants who were removed against their will (or ‘deported’).

## 2. Types of Return Migration

Two main types of return migration are defined as follows:

1. **Voluntary return** - is “the assisted or independent return to the country of origin, transit or another country based on the voluntary decision of the returnee.”<sup>3</sup>

Voluntary returns can be either spontaneous or assisted:

- i. **Spontaneous return** is “the voluntary, independent return of a migrant or a group of migrants to their country of origin, usually without the support of States or other international or national assistance.”<sup>4</sup>
- ii. **Assisted voluntary return** is the “administrative, logistical, financial and reintegration support to rejected asylum seekers, victims of trafficking in human beings, stranded migrants, qualified nationals and other migrants unable or unwilling to remain in the host country who volunteer to return to their countries of origin”<sup>5</sup>

When return programmes involve additional reintegration support for returnees, these programmes are referred to as **assisted voluntary return and reintegration (AVRR)**. IOM defines **AVRR** as “Administrative, logistical or financial support, including reintegration assistance, to migrants unable or unwilling to remain in the host country or country of transit and who decide to return to their country of origin.”<sup>6</sup>

2. **Forced return** - “a migratory movement which, although the drivers can be diverse, involves force, compulsion, or coercion.”<sup>7</sup>

### 3. Irregular Migrant

A person who, owing to unauthorized entry, breach of a condition of entry, or the expiry of his or her visa, lacks legal status in a transit or host country.<sup>8</sup> Irregular migrants fall into two categories: those who enter destination countries legally and overstay their visas, and those who leave Nigeria without proper travel documentation and/or enter destination countries illegally. Migrants who enter through unofficial routes fall under the definition of irregular immigrants.

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<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> IOM Glossary on Migration, 2011. accessed 26 January 2019

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> UNODC Regional Office for Southeast Asia and the Pacific (2015) Migrant Smuggling in Asia - Current Trends and Related Challenges. UNODC, Bangkok. p. IV.

### 3. Phenomenon of Returnees in Nigeria

We are witnessing in today's world an unprecedented level of human mobility. Refugees and migrants in large movements often face a desperate ordeal. Many take great risks, embarking on perilous journeys, which many may not survive.<sup>9</sup>

The news of peoples being rescued, deported from Libya, Germany, Mali, South Africa, Italy, Niger, Morocco, France etc has made headlines in recent times. Thousands of involuntary returnees or failed asylum seekers return from to Nigeria on a regular basis. Many voluntary returnees in Nigeria report psychological, mental and physical health problems as well as suffering social stigma upon returning to Nigeria. Migrants who left entirely of their own volition were more prepared to return home than those who were compelled to leave voluntarily or were forcibly removed.

Migrants who were detained and deported experienced the most difficult return, particularly because they did not receive any pre-departure support – in contrast to those in AVR schemes.<sup>10</sup>

Migration is one of the great driving forces of human progress and development. People have moved all over the globe for a variety of reasons: to increase their economic opportunities; to provide their children with an education; to found a family; to embark on an adventure and to seek protection.<sup>11</sup> Returning migrants are confronted with various social, cultural and economic difficulties in their attempts of reintegration.

Trafficking victims' physical and mental integrity may be at risk when they are return to Nigeria, which is an origin, transit and destination country for many women who are trafficked for sexual exploitation.<sup>12</sup> Very few Nigerian trafficking victims return to their country voluntarily before or after paying off the debts contracted when they were recruited for several reasons.<sup>13</sup>

Return has profound personal consequences for these individual migrants and their families but it has also critical financial, humanitarian, security and development implications for their countries of origin – some of which are positive and others negative.<sup>14</sup> Migrants may experience greater obstacles accessing protection and support due to lack of social networks. On their return home, migrants can face health challenges economic hardship because of the harsh economic conditions, lack of professional and practical skills, depression and other psychological problems, and social stigmatization.

Returnees may face particular challenges in accessing documentation, information, resources and assistance in crisis situations, and may be exposed to additional precariousness and to discrimination.

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<sup>9</sup> United Nations A /RES/71/1. General Assembly Distr.: General. 3 October 2016. Seventy-first session. Agenda items 13 and 117.

<sup>10</sup> IPPR, "Homecoming: The return and reintegration of irregular migrants from Nigeria." 2013. London.

<sup>11</sup> UNODC, *Toolkit to Combat Smuggling of Migrants* UNODC, New York, 2010.

<sup>12</sup> Home Office, UK Border Agency. *Nigeria. Country of Origin Information Report* [online]. July 2010. Paragraph 26. This report notes that trafficking victims returning to Nigeria are at risk of violence and psychological and emotional pressure from family members or of being marginalized, so they are often re-trafficked, particularly those who have not paid off their debt. These problems are exacerbated by barriers to internal relocation to avoid reprisals by the trafficking network.

<sup>13</sup> Anti-Slavery International. *Human Traffic, Human Rights: Redefining Victim Protection* [online]. 2002. Page 162.

Available at: [www.antislavery.org/includes/documents/cm\\_docs-2009/h/hum\\_traff\\_hum\\_rights\\_redef\\_vic\\_protec\\_final\\_full.pdf](http://www.antislavery.org/includes/documents/cm_docs-2009/h/hum_traff_hum_rights_redef_vic_protec_final_full.pdf)

<sup>14</sup> Marieke van Houte and Tine Davids "Moving Back and Moving Forward – Return Migration, Development and Peace Building. *New Diversities* 16. No. 2 (2014) 71-86.

The question of how best to create conditions for safe and voluntary return and reintegration of returnees has also been a challenge.

#### **4. Conditions for Returnees**

In order for successful reintegration to occur, Ruben et al. propose three elements to be considered:

- a) opportunities to become self-sufficient,
- b) access to social networks and
- c) psychosocial health.<sup>15</sup>

The following services shall be provided to Returnees based on their specific individual needs:

##### **4.1 Protection**

- a) Identification
- b) Rescue
- c) Reception
- d) Security (safety)

##### **Aspects of Protection**

Protection entails both legal protection (right to entry/remain, identity documents, freedom(s) as well as assistance (such as basic necessities, shelter, health, and empowerment for self-reliance etc.). Protection should always be provided based on the principle of humanity, neutrality and impartiality to, age, gender and diversity mainstreaming.<sup>16</sup>

##### **4.2 Rehabilitation**

- a) Psycho-social support
- b) Micro credit and grants
- c) Shelter provision
- d) Health care
- e) Legal Support
- f) Literacy and Education
- g) Vocational, Entrepreneurship and Economic empowerment
- h) Life skills building

##### **4.3 Reintegration**

- a) Family tracing
- b) Family Counselling
- c) Reunion
- d) Vocational, Entrepreneurship and Economic empowerment
- e) Micro credit and grants
- f) Life skills building

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<sup>15</sup> Ruben, Van Houte, Davids (2009). What Determines the Embeddedness of Forces-Return Migrants? Rethinking the Role of Pre- and Post-Return Assistance.

<sup>16</sup> "Aspects of Protection." [www.ncfrmi.gov.ng](http://www.ncfrmi.gov.ng) accessed 20 January 2020.

#### 4.4 Rehabilitation

Rehabilitation shall include provision of accommodation/sheltering, health care, counseling, social inquiry, family tracing and empowerment. The empowerment programs for Returnees shall include access to vocational, entrepreneurial, educational, (formal and informal) economic and life skills training.

#### 4.5 Counseling

Counseling for TPs must be carried out by trained counsellors and shall at a minimum include:

- Information on available assistance programmes, such as legal, medical and empowerment programmes,
- Psycho-social services and trauma counseling and
- Cultural and Spiritual counseling

#### 4.6 Return and Repatriation

The processes in the re-union of the Returnee to his/her family or relations shall include:

Return of Trafficked Person in a dignified manner in collaboration with the Ministry of Women Affairs or Social Welfare offices in his local government area.

### 5. Legal Frameworks

Everyone has the right to leave any country, including his or her own, and to return to his or her country. Returnees should not be criminalized or subject to punitive measures.<sup>17</sup>

#### 5.1 Immigration Act

The law regulating immigration issues in Nigeria is the Immigration Act of 1963. Other subsidiary legislations are the Immigration Regulations of 1963; the Immigration (Control of Aliens) Regulations of 1963, and the Passport (Miscellaneous Provisions) Act of 1990 and Labour Act.

The Immigration Act contains provisions on the entry into and departure from Nigeria.<sup>18</sup> According to Section 14 (1) of the Immigration Act, 2015, nothing in the Act shall be construed to require Nigerians to complete disembarkment cards upon arriving in Nigeria. Under section 14(2)(d), nothing in the Act shall prohibit the entry of any person who satisfies an Immigration Officer as to his identity as a citizen of Nigeria or as a holder of a valid travel document or that he is a person on the employment of Federal, State or Local Government as the case may be.

Section 15(1). A person entering or leaving Nigeria shall (a) report to an Immigration Officer for examination furnish such information in his possession as the Officer may require for the purpose of this Act. A citizen of Nigeria has the meaning assigned to it under sections 23-25 of the 1999 Constitution.

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<sup>17</sup> New York Declaration for Refugees and Migrants, 2016 A/RES/71/19/24.

<sup>18</sup> See also Cameroon Act No. 97/012 of 10 January 1997. It deals with the regulation of migration flows and sets the conditions of entry, stay and return of foreigners in Cameroon.

## 5.2 Immigration Regulations, 2017

The objectives of these regulations are to:

- a) To provide legal framework for the effective implementation of the Immigration Act
- b) consolidate existing Immigration regulations <sup>19</sup>

Under section 45(2) the Immigration Regulations, 2017, a Nigerian deported for immigration related offences shall not be issued another Passport until after 2 years of his deportation. Under section 45 (3) a Nigerian deported for any other criminal offence shall not be issued another passport until after 5 years of the deportation.

The Immigration regulations provide for administrative and penalties whereby any person who acts in contravention of or fails to comply with any of the provisions of these regulations, condition set out for the grant of any visa or permit or directive or instructions given pursuant to any of the provisions of these regulations may upon the approval of the Comptroller General be liable to administrative fines or penalty not exceeding one million Naira.<sup>20</sup> Under the Regulations, the protection of the rights of smuggled migrants is guaranteed and it shall be the responsibility of the Immigration Service to ensure that a smuggled migrant is not subjected to discriminatory treatment of account of race, colour, gender, age, language, religion, political or other opinion, cultural beliefs or practices, national, ethnic or social origin, property, birth or other status, including his status as a smuggled migrant and that a smuggled migrant is able to return home safely, if he wishes and when he is able to do so. <sup>21</sup>

## 5.3 National Commission for Refugees, Migrants and Internally Displaced Persons Act, 1989

The Act incorporated the 1951 UN Convention relating to the Status of Refugees, its 1967 Protocol and the 1989 OAU Unity Convention governing specific aspects of refugees problems in Africa and they together form the protection and management of asylum seekers and refugees in Nigeria.

## 5.4 Trafficking in Persons (Prohibition) and Enforcement) Act, 2003 as amended.

The Act seeks to –

- a) provide an effective and comprehensive legal and institutional framework for the prohibition, prevention, detection, prosecution and punishment of human trafficking and related offences in Nigeria;
- b) protect victims of human trafficking; and
- c) promote and facilitate national and international cooperation in order to meet the objectives set out in paragraphs (a) and (b) of this section.

## 5.5 Nigerians in Diaspora Commission Act, 2018

Under the Act, Nigerians in Diaspora Commission, provide for the engagement of Nigerians in Diaspora in the policies, projects and participation in the development of Nigeria and for the purpose of utilising the human capital and material resources of Nigerians in Diaspora towards the overall socio-economic, cultural and political development of Nigeria and for related matters.

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<sup>19</sup> Immigration Regulations, 2017, section 1.

<sup>20</sup> Ibid, Section 53. See also Ss 54- 61 for other offences and penalties on Smuggling of Migrants.

<sup>21</sup> Ibid, s. 67.

The Nigerians in Diaspora Commission is a designated Commission in Nigeria with responsibility for coordinating and providing an organized system of collaborations of Nigerians in Diaspora for their contributions by identifying, preserving and mobilizing the human capital and material resources and expertise to the development of Nigeria.

#### 5.6 National Emergency Management Agency Act, 1999

Functions and powers of the National Emergency Management Agency

Section 6 of the Act provides as follows:

(1) The Agency shall—

- a) formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disasters at national level;
- b) co-ordinate and facilitate the provision of necessary resources for search and rescue and other types of disaster curtailment activities in response to distress call;
- c) co-ordinate the activities of all voluntary organisations engaged in emergency relief operations in any part of the Federation;
- d) distribute emergency relief materials to victims of natural or other disasters and assist in the rehabilitation of the victims where necessary;
- e) liaise with State Emergency Management Committees established under section 8 of this Act to assess and monitor, where necessary, the distribution of relief materials to disaster victims;
- f) process relief assistance to such countries as may be determined from time to time;
- g) liaise with the United Nations Disaster Reduction Organisation or such other international bodies for the reduction of natural and other disaster;

(2) For the purpose of paragraphs (b), (d), (e) and (g) of subsection (1) of this section—  
“Natural or other disasters” include any disaster arising from any crisis, epidemic, drought, flood, earthquake, storm, train, roads, aircraft, oil spillage or other accidents and **mass deportation or repatriation of Nigerians from any other country.**

#### 5.7 National Drug Law Enforcement Agency Act, 1990

Nigerian citizens returning from overseas with a criminal record may be charged under Decree 33 (the Decree) of the *National Drug Law Enforcement Agency Act 1990*. The Decree provides for the prosecution of Nigerians returning to Nigeria with criminal convictions from overseas – including those with drug convictions and other serious crimes including money laundering, fraud, armed robbery and rape. The minimum sentence under Decree 33 is five years imprisonment.

## 6. Policy Framework Governing Migration

Nigeria is one of the few countries in West Africa to have adopted a National Policy on Migration, with support from the IOM and EU. The policy and its implementation plan provide an appropriate legal framework for monitoring and regulating internal and international migration, and the proper collection and dissemination of migration data. The policy also addresses issues related to diaspora mobilisation, border management, the decent treatment of migrants, internally displaced persons

(IDPs), asylum seekers and the role of civil society in migration management, to ensure more efficient management of migration in Nigeria.<sup>22</sup>

The policy is all-inclusive, covering migration and development, migration and cross-cutting social issues, national security and irregular movement, forced displacement, human rights issues, organised labour migration, internal migration, the national population, migration data and statistics, among other elements.

The policy objectives of the NATIONAL POLICY ON MIGRATION, 2015

- a) Provide a platform for the uniform administration of migration in Nigeria with the NCFRMI as the Coordinating Agency of all stakeholders in the field of migration.
- b) Provide strategic direction for efficient and effective migration management both home and abroad.
- c) Eradicate trafficking in persons, migrant smuggling and other migration-related abuses and crimes, and advocate for the elimination of all forms of exploitation of Nigerian migrants at home and abroad;
- d) Encourage bilateral agreements to ensure that Nigerians being repatriated from abroad are treated humanely and fairly, in safety and with dignity, and that their basic human rights are respected; and to foster capacity-building and skills acquisition training programmes by relevant agencies to ensure that such persons will be gainfully engaged upon return;
- e) Facilitate the negotiated and voluntary repatriation of Nigerian irregular migrants.

Objectives under the National Policy on Migration, 2015 for Return, readmission and reintegration of Nigerian migrants

- a) To recognize the importance of return, readmission and reintegration of Nigerian migrants, and to facilitate their adaptation to a new life in their home country;
- b) To institute training programmes for the reintegration of return migrants.

Strategies

- a) Create standards and procedures based on law and policy, for the return, readmission and reintegration of forced returnees, in line with relevant international legal instruments;
- b) Include, in bilateral agreements on voluntary return, a provision for training and education of the returnees for self-employment, to enhance the likelihood of sustainable return;
- c) Encourage the comprehensive reintegration of returning migrants through the AVRR programme;
- d) Review existing return agreements to ensure adequate protection of the human rights of returnees, especially in cases of mandatory return;
- e) Ensure that repatriation respects the principle of non-refoulement and guarantees the physical safety of the returnee;
- f) Ensure that return is done in safety, with dignity and honour, so that the human rights of migrants are respected, both in the process leading to return and during the actual process of return itself;
- g) Strengthen the involvement of the authorities of the Government of Nigeria in the return and reintegration of migrants.

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<sup>22</sup> “The Migrant crisis in Libya and Nigeria Experience” <https://www.accord.org.za/conflict-trends/the-migrant-crisis-in-libya-and-the-nigeria-experience> accessed on 2 January 2019

## 7. Legal Consequences of Return Migration

Migration is not a crime. Irregular entry and stay by migrants should not be treated as a criminal offence, because the mere fact of crossing a border or staying in a country irregularly is not a crime per se against persons, property or national security and should not be treated as such<sup>23</sup>

Returnee Migrants shall not be detained, charged or prosecuted upon return. The government must ensure that returnee migrants are protected from further exploitation and harm and have access to adequate physical and psychological care. States shall ensure that returnee migrants are provided access to effective and appropriate legal remedies and efficient psycho-social support that will facilitate return/repatriation.<sup>24</sup>

Returning migrants often need legal assistance for a variety of reasons relating to, for example, the original recruitment process, and violations by employers, unpaid wages, illegal termination, contractual problems, violations committed by the migrants themselves, and other legal problems. Government and non-government organizations have a crucial role to play in providing such legal counseling and access to legal aid and conducting training on legal literacy, so that returnees can demand restitution for any abuse or exploitation that occurred during the migration process.

Legal aid programmes provide direct support to Migrants to overcome legal obstacles, access entitlements, obtain redress for rights violations and resolve disputes.

There shall be no other form of criminal investigation against the Returnee on the ground of his/her status.<sup>25</sup> While States have the sovereign prerogative to govern conditions of entry into and stay in their territory, they must always do so with respect of their human rights obligations.

## 8. Institutional frameworks

1. The Nigeria Immigration Service (NIS) is responsible for the control persons entering or leaving Nigeria.<sup>26</sup> NIS is responsible for issuance of travel documents including Nigerian Passports to bonafide Nigerians within or outside Nigeria as well as enforcement of laws and regulations under the Immigration Act. Checks are generally enforced and Nigeria maintains records of entries and exits.

2. Nigerian National Agency for the Prohibition of Trafficking in Persons (NAPTIP). NAPTIP is the one of Agencies that coordinates support for returning migrants, most support for returning migrants is geared towards people, particularly women, who have been trafficked. NAPTIP provides Returnees with initial screening assistance, medical care and psychological services, legal assistance, vocational training and education.

3. National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI).

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<sup>23</sup> WGAD, Report of the Working Group on Arbitrary Detention, A/HRC/20/24, para. Office of the United Nations High Commissioner for Human Rights.

<sup>24</sup>“Criminalization of Irregular Immigration”

<https://www.ohchr.org/Documents/Issues/Migration/GlobalCompactMigration/CriminalisationIrregularImmigration.pdf>

<sup>25</sup>“Return and Reintegration of irregular Migrants from Nigeria”, IPPR, London. 2013.

<sup>26</sup> Section 2 of the Immigration Act, 2015.

The Federal Government of Nigeria vests responsibility for the coordination of the national policy on migration in the National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI), in collaboration with all the MDAs involved in migration and development programmes in Nigeria, in the implementation of this Policy.<sup>27</sup>

NCFRMI is mandated to coordinate the national action for the protection and assistance of refugees, asylum seekers, returnees, stateless persons, internally displaced persons and migrants (NCFRMI) and to ensure durable integration of the deportees into the Nigerian society.<sup>28</sup> The NCFRMI in collaboration with the IOM executes reintegration programmes for thousands of the returnees. The organisation operates a Migrants Reintegration Centre in Lagos and has reintegrated some persons through skills acquisition in Hair dressing, tailoring, catering and others. The centre provides shelter for returnees for a period of 90 days, as well as skill acquisition trainings and psycho-social counseling for these returnees. The NCFRMI notes with regard to the Assisted Voluntary Return and Reintegration (AVRR) Programme:

The Assisted Voluntary Return and Reintegration (AVRR) Programme has been in place in Nigeria offers migrants (regular or irregular) who seek, or need, to return home but lack the means to do so, a viable and safe solution to their plight. The Programme has facilitated the return and reintegration of more than 3,000 returnees including irregular and stranded migrants, labor migrants, Survivors of Trafficking (SoTs), unaccompanied and separated minors from more than 20 countries in Europe, the Middle East and North Africa. NCFRMI is saddled with the responsibility of uniquely identifying this target group, to aid proper documentation and services delivery to them.

The AVRR Programme involves standard interventions throughout the return migration cycle: First, in the host country, through, amongst other things, securing travel documents for migrants, counseling on the environment for return and reintegration in the country of origin - including provision of relevant return information from Nigeria, and medical evaluations; Second, in transit, through coordination with airport officials, escort and medical services; and Third, in the country of origin, through, amongst other things, assistance through immigration, reception assistance, and the payment of reintegration assistance in installments and provision of business trainings. Reintegration assistance has been a core component of AVRR in Nigeria and eligibility claims vary from USD 650 – USD 700 per beneficiary. The package is designed to assist smooth assimilation of the returnees into the society and is adapted to individual needs of the returnees.<sup>29</sup>

4. Ministry of Humanitarian Affairs, Disaster Management, and Social Development is also involved in the coordination of rehabilitation and reintegration efforts.

5. National Emergency Management Agency (NEMA).

NEMA was established to perform the function of organizing, providing and coordinating emergency relief to victims of national disasters throughout the federation and matters incidental thereto. The Agency provides direct material assistance to displaced persons and receiving batch of stranded Nigerian returnees from Libya etc.

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<sup>27</sup> “The Commission NCFRMI” [www.ncfrmi.gov.org](http://www.ncfrmi.gov.org)

<sup>28</sup> Ibid

<sup>29</sup> “Migration Coordination” <https://ncfrmi.gov.ng/migration-coordination>

Those who have been repatriated to the country are currently being engaged by the government in various skills acquisition programmes, including shoe-making, tailoring and hairdressing, among others. The government is also making policies that will further protect Nigerian citizens, both at home and abroad. Beyond this, the government is empowering the youth economically, and this can go a long way in discouraging desperation and the need for the youth to go in search of better means of livelihood.

#### 6. Nigerian Diaspora Commission.

Nigerians in Diaspora Commission provide for the engagement of Nigerians in Diaspora in the policies, projects and participation in the development of Nigeria and for the purpose of utilising the human capital and material resources of Nigerians in Diaspora towards the overall socio-economic, cultural and political development of Nigeria and for related matters.

### 9. Migration Coordination

In Nigeria, the following are foreign Institutions who play the roles of partners in Migration management.

#### 9.1. The International Organization for Migration (IOM).

IOM is a worldwide intergovernmental organization dedicated to migration issues. IOM has been active in the field of return migration for decades. Its objective is to ensure that returns occur in a safe, orderly, dignified and sustainable manner. IOM's programs in this field encompass assisted voluntary return and reintegration, evacuations of migrants from crisis situations, diaspora mobilization for development and post-crisis reconstruction, and the promotion of return for poverty alleviation and development.<sup>30</sup>

International Organization for Migration (IOM) offers assistance such as reintegration and counseling to returnees after spending many years of harrowing experiences overseas. IOM's Assisted Voluntary Return and Reintegration (AVRR) programs assist migrants who are unable or unwilling to remain in their host countries and wish to return to their countries of origin. Those assisted include unsuccessful asylum seekers, irregular migrants, stranded migrants, victims of trafficking and other vulnerable groups, and individuals wishing to return to support the development of their home countries.

The programs aim to safeguard the human rights and dignity of the migrant throughout the return process. AVRR comprises outreach, counseling and referral in countries of destination, accompaniment in transit (including medical assistance) and reception, onward travel and other assistance upon arrival. Many returned migrants in Nigeria are involved in an IOM sponsored initiative aimed at sensitising potential migrants about the dangers of irregular migration. IOM also runs a Return of Qualified Nationals (RQN) programs through it helps countries to develop their human capital through assisting the return of nationals who possess relevant skills and professional experiences and their placement in key sectors of the economy.

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<sup>30</sup> For information on the IOM mission in Nigeria, visit: [www.iom.int/cms/en/sites/iom/home/where-we-work/africa-and-the-middle-east/central-and-west-africa/nigeria.html](http://www.iom.int/cms/en/sites/iom/home/where-we-work/africa-and-the-middle-east/central-and-west-africa/nigeria.html)

The IOM regularly collaborates in obtaining the necessary entry permits or travel documents that the country of origin or permanent residence requires of the migrants, in order to ensure their prompt return. After their return, regular contact should be maintained with returnee migrants for monitoring purposes to ensure their effective reintegration. Monitoring of the reintegration process is indispensable to be able to provide verifiable indicators related to the success of the reintegration programme.

Reintegration is a fundamental though challenging aspect in return migration. Preserving migrants' rights, ensuring their protection and well-being and contributing to local development while enhancing the reintegration perspectives of the individual, are vital areas of IOM's engagement. Enabling migrants to re-establish themselves in the society of their country of origin and empowering them to participate in social, cultural, economic and political life again should be the aim of reintegration assistance in order for the return to be successful.

## 9.2. United Nations High Commissioner for Human Rights.

UNHCR works with key government counterparts, stakeholders as well as parliament on policy and legislative matters regarding refugees, internally displaced and stateless persons to provide legal assistance, issuance of identity cards, provision of shelter, non food items, livelihood assistance, psychosocial support, registration, voluntary repatriation and protection monitoring.

<sup>31</sup>UNHCR believes that the absence of a proper protection response leads to abuse of human rights of the individuals and exposes persons of concern to negative coping mechanisms such as child labour, family separation, threat of violence, sexual and gender based violence (SGBV) related incidents amongst others.

## 10. Administrative Consequences

Nigerian nationals may return voluntarily to any region of Nigeria at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the IOM and co-funded by the European Commission.<sup>32</sup> Returnees should be empowered, supported and protected with a view to ensuring that he/she is effectively rehabilitated and reintegrated.<sup>33</sup>

Unlike some advanced countries, Nigeria does not have formal administrative procedures to register Returnees and data sources that will provide valuable information on returnees to give an estimate of migratory flows, information on the reason for migration as well as on integration.

Lack of effective registration system and management of migratory movements in Nigeria pose serious challenges in the management of Return migration. In Nigeria, a large part of data on return

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<sup>31</sup> "Protection" <http://unhcr.ng/protection.php>

<sup>32</sup> Australia UNCLASSIFIED Department of Foreign Affairs and Trade Country Information Report. NIGERIA.

<sup>33</sup> Guidelines on National Referral Mechanism for Protection and Assistance to Trafficked Persons in Nigeria, 2015. See the Assisted Voluntary Return and Reintegration project, funded by the Government of the United Kingdom, and implemented by the International Organization for Migration (IOM) in collaboration with the Federal Government of Nigeria, aims to strengthen the capacity of state and non-state actors in Lagos, Edo and Delta states to provide sustainable reintegration support to returned migrants, including vulnerable groups. The most vulnerable 1,700 returnees received socio-economic reintegration assistance and mental health and psychosocial support under the project. The 24-month project Protection and Reintegration of Nigerian Migrants Returned from Libya under the Federal Government of Nigeria-Facilitated Chartered Flights, complimentary to programmes such as the EU-IOM Joint Initiative for Migrant Protection and Reintegration. "New Project Aims to Scale Up Reintegration Assistance to Returnees in Nigeria." <https://www.iom.int/news/new-project-aims-scale-reintegration-assistance-returnees-nigeria>.

migration comes from the media, and individual returnees who volunteer information because there is no effective management of migration data in the country.<sup>34</sup>

In a bid to reduce statelessness, UNHCR in partnership with the National Identity Card Management Commission is issuing out identity cards to registered returnees in North East Nigeria, this provides them with a form of identification. Registration is a protection tool used to protect refugees from arbitrary arrest, forcible recruitment, detention and refoulement. Registration assists UNHCR identify persons with specific needs and the most vulnerable to ensure appropriate and immediate intervention is administered.

Over the years, UNHCR has managed numerous voluntary repatriation programmes that have brought millions of displaced people home. UNCHR assists with small-scale and individual repatriations, and, where necessary, monitor the reintegration of returnees to ensure that their repatriation was a sustainable solution. In Nigeria UNHCR has facilitated the tripartite agreement between Nigeria and Cameroon for the voluntary repatriation of Nigerian refugees leaving in Cameroon.

UNHCR in partnership with the Nigerian Bar Association (NBA) works to promote the basic human rights of IDPs across the North East states of Nigeria. UNHCR works to address gaps in the protection needs of IDPs and returnees requiring legal assistance and counselling, across a full spectrum of issues such as domestic violence flagged through protection monitoring and vulnerability screenings. The NBA with support technical support from UNHCR provides a broad range of services ranging from legal representation in court, legal advice and counseling, documentation assistance amongst others.

Administrative mechanisms set in place are essential to empower and protect returnees by providing them with the necessary tools and assistance for their reintegration into the society of their country of origin, while generally contributing to the sustainability of return. Assistance may be provided directly to the migrants and in the form of institutional assistance at the macro level to the communities of return in the country of origin. Return and reintegration policies are more effective when linked with the protection of migrants' rights and development opportunities in the country of origin, particularly those that address the root causes of migration.

Without access to income-generating activities that allows returnees to meet their and their dependents' basic needs, it is difficult for return to become successful.

Assistance to returnees upon their arrival in countries of origin generally consists of reception, inland transportation and reintegration assistance, as well as return monitoring and evaluation. In addition to basic post-return assistance, a variety of responses have been developed in order to ensure the appropriate delivery of reintegration assistance geared towards the promotion of economic reintegration.

set up national policies to reintegrate their returning nationals, for example, micro-credit schemes and employment and social services for the most vulnerable returning migrants.<sup>35</sup>

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<sup>34</sup> Adepoju, Aderanti and Arie van der Wiel, (2010). Seeking greener pasture abroad. Safari Books Ltd., Ibadan.

<sup>35</sup> Australia Department of Foreign Affairs and Trade Country Information Report NIGERIA. 9 March 2018.

## 11. Recommendations

1. Government in addressing the legal and administrative consequences should:
  - a) Provide necessary identification and travel documents;
  - b) Facilitate the socioeconomic reintegration of returnees;
  - c) Consider measures to enable the restitution of property.
2. Nigerian government should leverage the use of administrative records to produce data on Returnees and other migration-related statistics, and systematically disseminate such data in accordance with international recommendations.
3. Necessary administrative measures should be in place to ensure that Returnees are not in imminent danger or face risks to their life, integrity and dignity upon return.
4. Nigerian government should ensure that legal aid is available for returnees who wish to take action against exploitative employers or recruitment agencies. As far as possible, the legal aid should be free - since those most in need of it are not likely to be able to afford to pay; legal assistance should be gender-sensitive.
5. The Nigerian government should task the National Commission for Refugees with developing a more robust return and reintegration strategy. This should include the founding of a new 'reintegration institution' specifically responsible for reintegrating returnees. This institution should be charged with cooperating with European agencies to ensure the smooth running of return and reintegration initiatives, and with making sure that returnees are received at the airport and referred to appropriate support from civil society organisations.
6. Returnees should be made to enjoy, in full equality, the same rights and freedoms under international and domestic laws. Returnees shall not be persecuted and discriminated against in the enjoyment of any rights and freedoms
7. Government should ensure a people- centred, sensitive, humane, dignified, gender - responsive and prompt reception for returnees and migrants in a safe, dignified and humane manner.
8. Due to the difficulties associated with return and resettlement in the Nigerian, Government should provide returnees with access to justice and legal redress, adopt appropriate legislative and administrative measures, to protect returnees from violence, discrimination, torture or other cruel, inhuman or degrading treatment or punishment, as well as violation of their rights.
9. Nigerian Government must respond timely to the needs of their nationals caught in crises abroad through consular assistance in line with the Vienna Convention on Consular Relations (1963).
10. Nigeria should comply with the New York Declaration for Refugees and Migrants, 2016 in recognition of the need for a comprehensive approach to human mobility and enhanced cooperation at the global level and committed to protect the safety, dignity and human rights and fundamental freedoms of Returnees.
11. Governments should provide support services including rescue, referral, provision of security, awareness raising, advocacy, provision of micro credit, family tracing and reunion, victim referral, psycho-social support, rehabilitation, sheltering, health care, vocational, legal and

orientation services to returnees during and after the returning process, with the aim of facilitating their reintegration.

## **12. Conclusion**

Nigeria is yet to have the capacity to handle administrative demands that Migration requires. Large numbers of returnees, combined with staffing shortages, slow application processing for Support and assistance services frustrate Migrants from accessing them. Nigeria needs to acknowledge that its citizens will be returned from overseas countries if they are found to be irregular, and that the return of these citizens may have legal and administrative consequences for Nigeria. The Nigerian government should be more proactive and assume a greater role in overseeing the return of irregular migrants from overseas to Nigeria.

Return migration should be done in accordance with legal rules and best administrative practices to make it safe, orderly, regular and humane. Migrants should be empowered to realize full inclusion and social cohesion. Nigeria should improve its governance of migration to achieve a safe, orderly and regular migration. Legal and administrative measures should be put in place to facilitate safe and dignified return and readmission and assist Returnees to achieve socio-economic independence through community based vocational skills acquisition and education. Return is most sustainable when coupled with protection and support mechanisms that support the creation of socioeconomic opportunities.