

Nigeria: Decree of 1989, National Commission for Refugees

Publisher [National Legislative Bodies / National Authorities](#)

Publication Date 29 December 1989

Cite as National Legislative Bodies / National Authorities, *Nigeria: Decree of 1989, National Commission for Refugees*, 29 December 1989, available at: <http://www.refworld.org/docid/3ae6b522e.html> [accessed 6 March 2015]

Comments This is the official text as published in the Official Gazette, no. 75, vol. 76, 29 December 1989.

Disclaimer This is not a UNHCR publication. UNHCR is not responsible for, nor does it necessarily endorse, its content. Any views expressed are solely those of the author or publisher and do not necessarily reflect those of UNHCR, the United Nations or its Member States.

The Federal Military Government hereby decrees as follows: -

Part I - PROHIBITION OF EXPULSION OF REFUGEES, ETC.

1. Prohibition of expulsion or return of refugees

(1) As from the commencement of this Decree and notwithstanding any other law or enactment, no person who is a refugee within the meaning of this Decree shall be refused entry into Nigeria, expelled, extradited or returned in any manner whatsoever to the frontiers of any territory where-

- (a) his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular group or political opinion; or
- (b) his life, physical integrity or liberty could be threatened on account of external aggression, occupation, foreign domination or events seriously disrupting public order in any part or the whole of that territory.

(2) The provisions of subsection (1) of this section shall not apply to a refugee who -

- (a) is a danger to the security of Nigeria; or
- (b) is convicted by a court or tribunal for committing any serious crime as stipulated in the conventions contained in Schedules 1 to 3 to this Decree.

(3) No person, claiming to be a refugee within the meaning of this Decree who has illegally entered into or is illegally present in Nigeria, shall be expelled, extradited or returned merely by reason of his illegal entry or presence in Nigeria or any part of Nigeria pending the determination of his application for a refugee status.

(4) A person who has lawfully entered into or is lawfully present in Nigeria and who wishes to remain in Nigeria on the grounds that he is a refugee within the meaning of this Decree shall not be compelled to leave Nigeria, unless he has found another country of asylum.

2. Office to be responsible for matters relating to refugees

The office of the Secretary to the Federal Military Government shall, subject to the provisions of this Decree, be charged with responsibility for matters relating to refugees or refugee status.

Part II - ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL COMMISSION FOR REFUGEES

3. Establishment and composition of the National Commission for Refugees

(1) There is hereby established, under the supervision of the Secretary to the Federal Military Government, a commission to be called the National Commission for Refugees (hereafter in this Decree referred to as "the Commission") which shall consist of-

- (a) a Chairman to be appointed by the President, Commander-in-Chief of the Armed Forces;
- (b) a representative of the Secretary to the Federal Military Government, as Vice-Chairman;
- (c) the Federal Commissioner for Refugees or his representative;
- (d) the Director-General of the Ministry of External Affairs or his representative;
- (e) the Director-General of the Ministry of Internal Affairs or his representative; and
- (f) the representative of the United Nations High Commissioner for Refugees in Nigeria as observer to be invited by the Commission, from time to time, to the meetings of the Commission when matters to be considered by the Commission have international import or are of global importance to refugees.

(2) The Commission shall hold its meetings as and when the Chairman is of the opinion that the Commission should meet and shall keep and furnish the Secretary to the Federal Military Government with records of its meetings.

(3) A member of the staff of the secretariat of the Federal Commissioner for Refugees shall perform secretarial duties during the meetings of the Commission.

4. Functions of the Commission, etc.

(1) The functions of the Commission shall be to-

- (a) lay down general guidelines and overall policy on general issues relating to refugees and persons seeking asylum in Nigeria;
- (b) advise the Federal Military Government on policy matters in relation to refugees in Nigeria;
- (c) consider such matters as the Secretary to the Federal Military Government may, from time to time, refer to it and make recommendations thereon to the Secretary to the Federal Military Government.

(2) The quorum of the Commission shall be three.

(3) The Commission may appoint such committees as it may deem necessary to deal with specific aspects of refugee problems in Nigeria.

(4) When there is a large scale influx of persons claiming to fall within the meaning of refugees under this Decree, this Commission shall meet on an emergency basis and advise the Federal Military

Government on the appropriate measures to be taken, including the provisions of adequate facilities and services necessary for the care of the particular group of persons affected by the influx.

Part III - THE FEDERAL COMMISSIONER FOR REFUGEES, ETC.

5. Appointment of the Federal Commissioner for Refugees

(1) There shall be appointed by the President, Commander-in-Chief of the Armed Forces, a Federal Commissioner for Refugees (hereafter in this Decree referred to as "the Federal Commissioner") who shall-

- (a) grant refugee status to applicants on the recommendations of the Eligibility Committee constituted pursuant to section 6(1) of this Decree;
- (b) preside over the committees on refugees as may be appointed from time to time;
- (c) ensure the provision of adequate facilities and services for the reception and care of refugees in Nigeria;
- (d) take such steps as he considers necessary to ensure compliance with the provisions of section 1(1) of this Decree;
- (e) exercise such other powers and perform such other duties relating to refugees as may be assigned to him, from time to time, by the Commission or the Secretary to the Federal Military Government.

(2) The Federal Commissioner shall perform the functions conferred upon him by this section under the supervision of the Secretary to the Federal Military Government, including compliance with any general instructions that may be given to him by the Secretary to the Federal Military Government.

6. Eligibility Committee

(1) There is hereby established, under the supervision of the Federal Commission, a committee to be known as the Eligibility Committee (for Refugees) hereafter in this Decree referred to as "the Eligibility Committee" which shall consist of -

- (a) the Director-General, Ministry of External Affairs or his representative, as Chairman;
- (b) the Director of the Immigration Department or his representative;
- (c) a representative of the Chief of General Staff; and
- (d) the representative of the office of the United Nations High Commissioner for Refugees in Nigeria who shall participate as an observer.

(2) The functions of the Eligibility Committee shall be to -

- (a) process and consider applications for refugee status and recommend such applicants that qualify for that status to the Federal Commissioner;
- (b) register persons who have been granted refugee status under this Decree; and
- (c) exercise any other powers and perform any other duties that may be assigned to it, from time to time, by the Federal Commissioner or the Secretary to the Federal Military Government.

Part IV - APPEAL BOARD

7. Refugee Appeal Board

- (1) There is hereby established a body to be known as the Refugee Appeal Board (hereafter in this Decree referred to as "the Board") which shall consist of three legal officers to be appointed by the Secretary to the Federal Military Government after consultation with the Attorney-General of the Federation and Minister of Justice, at least one of whom shall be a person with adequate knowledge in international and comparative law.
- (2) The representative of the United Nations High Commissioner for Refugees in Nigeria may be invited to the proceedings of the Board and shall have the right to make oral or written representations on behalf of any person concerned in any appeal that is being heard by the Board.
- (3) The Board shall meet at the invitation of the Federal Commissioner or at the request of the Secretary to the Federal Military Government.
- (4) Subject to the provisions of section 8 of this Decree, the Board shall hear appeals against the decisions of the Eligibility Committee on cases referred to it by the Secretary to the Federal Military Government or the Federal Commissioner.
- (5) The Board shall give due consideration to any representations made on behalf of an appellant before coming to a final decision on the appeal.
- (6) The Board may invite the appellant for an oral interview and shall allow him to be represented by a legal practitioner if he so desires.

Part V - PROCEDURES FOR SEEKING REFUGEE STATUS

8. Application for refugee status

- (1) Application for the grant of a refugee status shall be made to the Federal Commissioner through the nearest competent officer or through the office of the United Nations High Commissioner for Refugees in Nigeria.
- (2) A competent officer to whom a person seeking asylum first presents himself shall, if he is not himself an immigration officer, as soon as possible notify an immigration officer that a person seeking refugee status has entered into or is present in Nigeria.
- (3) An application received by the office of the United Nations High Commissioner for Refugees shall be forwarded to the Eligibility Committee constituted under section 6(1) of this Decree.
- (4) The Eligibility Committee may invite the applicant to appear before it.
- (5) The decision of the Eligibility Committee shall be notified in writing to the applicant by the Federal Commissioner.
- (6) If the Eligibility Committee recommends that the applicant shall not be granted refugee status it shall give reasons for its decision.
- (7) In the case of a refusal to grant refugee status, the applicant may appeal against the decision of the Eligibility Committee to the Board established by section 7(1) of this Decree within 30 days of his being notified of the refusal.

(8) While awaiting the final decision by the Board, the applicant shall be allowed to remain in the country in accordance with section 1(3) of this Decree.

(9) If the applicant is finally refused a refugee status, he shall be given reasonable time to seek admission as a refugee into another country.

9. Residence in Nigeria pending recognition as refugee or after refusal of recognition

Notwithstanding the provisions of any other law, any person who has applied under section 8 of this Decree for grant of refugee status and every member of his family, shall have the right to remain within Nigeria-

(a) until such person has been granted refugee status under the provision of this Decree; or

(b) where the application of such person is unsuccessful, until such person has had an opportunity to exhaust his right of appeal as provided in subsection (7) of section 8 of this Decree; or

(c) where such person has appealed under subsection (7) of section 8 of this Decree and his appeal has been unsuccessful, until such person has been allowed a reasonable time and if he is in detention, has in addition been afforded reasonable facilities to seek admission to another country of his choice.

10. Cessation of stay of proceedings in respect of illegal entry by refugees and protected persons

Notwithstanding the provisions of the Customs and Excise Management Act 1958, as amended, no proceedings shall be instituted or continued against any person or any member of his family in respect of his unlawful entry into or unlawful presence within Nigeria-

(a) if such person applies under section 8 of this Decree for the grant of a refugee status, until a decision has been made on the application and, where appropriate, until such person has had an opportunity of exhausting his right of appeal under that section; or

(b) if such person has been granted refugee status.

11. Residence in Nigeria of persons granted refugees status, etc.

(1) Every person who has been granted refugee status under this Decree and members of his family shall, subject to the provisions of this Decree be -

(a) issued with an identity card in the form prescribed by the Minister charged with responsibility for matters relating to internal affairs;

(b) issued with residence permit; and

(c) subject to all laws in force within Nigeria.

(2) Every refugee and members of his family lawfully staying in Nigeria shall, in accordance with Article 28 of the 1951 United Nations Refugees Convention and Article VI of the Organisation of African Unity Convention of 10th September 1969 Governing the specific Aspects of Refugees Problems in Africa (hereafter referred to as "the 1969 OAU Convention"), be issued with the United Nations Travel Document.

12. Withdrawal of status of refugee

(1) If at any time, the Federal Commissioner considers that there are reasonable grounds for believing that a person who has been granted a refugee status for the purposes of this Decree -

- (a) should not have been so granted; or
- (b) has ceased to be a refugee, the Federal Commissioner shall refer the case to the Eligibility Committee.

(2) Where a case has been referred to the Eligibility Committee under subsection (1) of this section, the Eligibility Committee shall cause a written notice to be served upon the person whose status as a refugee is under reconsideration-

- (a) informing such person of the fact that his status as a refugee is to be reconsidered; and
- (b) inviting such person to make written representations to the Eligibility Committee within a period of fourteen days from the date of service of the notice, regarding his status as a refugee.

(3) The Eligibility Committee shall consider every case referred to it under subsection (1) of this section and may make any inquiry or investigation it deems necessary into any such case.

(4) After considering any advice or recommendation given or made to him by the Eligibility Committee in relation to any case referred to the Eligibility Committee under subsection (1) of this section, the Federal Commissioner -

- (a) may withdraw the grant of refugee status; and
- (b) shall cause the person concerned to be notified in writing of his decision on the matter.

13. Right of appeal to the Secretary to the Federal Military Government

(1) Any person who is aggrieved by a decision of the Federal Commissioner to withdraw the grant of refugee status may, within seven days of being notified of such withdrawal, appeal in writing to the Secretary to the Federal Military Government.

(2) In any appeal under subsection (1) of this section, the Secretary to the Federal Military Government may confirm or set aside the decision of the Federal Commissioner and shall cause the Federal Commissioner to be informed of his decision on the matter:

Provided that, before reaching a decision on an appeal, the Secretary to the Federal Military Government may do all or any of the following, that is-

- (a) invite the representative of the United Nations High Commissioner for Refugees in Nigeria to make oral or written representations in the matter;
- (b) refer the matter to the Eligibility Committee for further inquiry and investigation;
- (c) make such further inquiry and investigation into the matter as he may deem fit.

(3) Where the Federal Commissioner has under section 12(4) of this Decree withdrawn the grant of refugee status, the person concerned shall cease to be a refugee, and any person who became a refugee by virtue of being a member of his family shall also cease to be a refugee with effect from-

- (a) seven days after the date on which the Federal Commissioner notifies the person concerned

that his refugee status has been withdrawn; or

(b) where the person concerned has appealed to the Secretary to the Federal Military Government under subsection (1) of this section, the date on which the Secretary of the Federal Military Government notifies the person that he confirms the decision of the Federal Commissioner:

Provided that nothing contained in this section shall be construed as preventing a person who became a refugee by virtue of being a member of the family of the person concerned from himself applying for the grant of a refugee status.

Part VI - TREATMENT OF MEMBERS OF THE FAMILY OF A REFUGEE

14. Treatment of members

The Federal Commissioner and all competent officers shall ensure that-

(a) the members of the family of a refugee benefit from the same treatment as provided in section 1(3) of this Decree;

(b) the members of the family of a refugee are permitted to enter Nigeria and to remain therein as long as the refugee concerned is permitted to remain in Nigeria under this Decree.

Part VII - RIGHTS AND DUTIES OF REFUGEES

15. Rights and duties of refugees

Every person granted a refugee status in Nigeria shall be entitled to the rights and subject to the duties contained in-

(a) the articles of the United Nations Convention Relating to the Status of Refugees set out in Schedule 1 to this Decree;

(b) the Protocol Relating to the Status of Refugees of 31st January 1967 set out in Schedule 2 of this Decree; and

(c) the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa set out in Schedule 3 to this Decree; and

(d) any laws in force in Nigeria.

16. Detention and expulsion of refugees

(1) A refugee may be detained or expelled for reasons of national security or public order provided that no refugee shall be expelled to a country where he has reasons to fear persecution.

(2) A refugee who has been notified of a decision of expulsion may appeal to the Board established under section 7 of this Decree for re-consideration of his position.

17. Naturalization

Subject to the provisions of relevant laws and regulations relating to naturalisation, the Federal Commissioner shall use his best endeavours to assist a refugee who has satisfied the criteria relating to the acquisition of Nigerian nationality to acquire the status of naturalisation under such relevant laws

and regulations.

Part VIII - MISCELLANEOUS

18. Commission to give special assistance to refugees

The Commission may-

- (a) adopt procedures to be followed by the competent officer for the purpose of facilitating entry and residence in Nigeria of refugees and members of their families;
- (b) seek co-operation with non-governmental organisations on matters relating to refugees;
- (c) give relief assistance to refugees while they are awaiting a final decision of the Board or the Secretary to the Federal Military Government;
- (d) assist in seeking employment or education for refugees and members of their families.

19. Regulations

- (1) The Secretary to the Federal Military Government may make regulations prescribing all matters which by this Decree are required or permitted to be prescribed or which, in the opinion of the Secretary to the Federal Military Government, are necessary or convenient to be prescribed for the better carrying out or giving full effect to the provisions of this Decree.
- (2) Regulations made under subsection (1) of this section, may provide for-
 - (a) the assignment to the Eligibility Committee of functions relating to the investigation, inspection and supervision of the reception, treatment, and welfare of refugees;
 - (b) the appointment of additional committees and the assignment to such committees of functions to be exercised, subject to the direction and control of the Federal Commissioner or the Eligibility Committee, in relation to the reception, treatment and welfare of refugees;
 - (c) the procedure at meetings of the Eligibility Committee and additional committees referred to in paragraph (b) of this subsection, including the participation at such meetings of the representative of the United Nations High Commissioner for Refugees in Nigeria;
 - (d) the procedure for the consideration of applications for the grant of refugee status and the form in which such applications shall be made;
 - (e) the manner and form in which appeals may be made to the Board or the Secretary to the Federal Military Government under sections 8 and 13 of this Decree;
 - (f) the issuance of identification documents to persons who have applied for grant of refugee status, and to members of their families;
 - (g) the form and issuance of identification and travel documents to refugees and to members of their families;
 - (h) the form of any order or notice required to be served on any person under sections 12 or 13 of this Decree and the manner in which such order or notice may be served;
 - (i) for persons who are detained after appealing unsuccessfully under section 8 of this Decree or who are detained under section 16 of this Decree, the opportunity to travel to another country of their

choice: Provided that the Secretary to the Federal Military Government shall not make regulation for such a purpose except with the approval of the Minister to whom the administration of the Prisons Act 1972 has been assigned;

(j) requiring employers, when considering applications for employment made by persons who are not citizens of Nigeria, to give preference to applicants who are refugees;

(k) co-operation and consultation with the United Nations High Commissioner for Refugees concerning applicants for refugee status;

(l) the making of representations by the United Nations High Commissioner for Refugees in relation to any person for the purposes of this Decree and the services and assistance that may be rendered by the High Commissioner for or on behalf of any person for the purposes of this Decree;

(m) the form and manner in which effect shall be given to Article 35 of the Convention Relating to the Status of Refugees of the 28th July, 1951 and Article II of the 1967 Protocol to that Convention.

(3) Regulations made under subsection (1) of this section may prescribe penalties for contraventions thereof but, no such penalty shall exceed a fine of five hundred naira or imprisonment for a period of six months or both such fine and such imprisonment.

20. Meaning of "refugee"

(1) For the purposes of this Decree a person shall be considered a refugee if he falls within the definition provided by-

(a) Article 1 of the 1951 United Nations Convention set out in Schedule 1 to this Decree;

(b) Article 1 of the 1967 Protocol Relating to the Status of Refugee, set out in Schedule 2 to this Decree;

(c) Article 1 of the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, set out in Schedule 3 to this Decree.

(2) A person shall not be considered to be refugee under this Decree-

(a) when there are serious reasons to believe that he has committed a crime against peace, a war crime or a crime against humanity, as defined in any international instrument to which Nigeria is a party and which has been drawn up to make provisions in respect of such crimes; or

(b) he has committed a serious non-political crime outside Nigeria prior to his entry;

(c) he has been guilty of acts contrary to the purposes and principles of the Organisation of African Unity.

(3) A person shall cease to be a refugee under this Decree if-

(a) he has voluntarily re-availed himself of the protection of the country of his nationality; or

(b) he has voluntarily re-established himself in the country which he left, or outside which he remained owing to fear of prosecution; or

(c) he can no longer, because the circumstances in connection with which he was granted a refugee status have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality.

21. Interpretation

In this Decree, unless the context otherwise requires-

"country of nationality" in relation to a person who has more than one nationality, means each of the countries of which that person is a national;

"competent officer" means immigration officer, customs officer, police or security officer;

"frontier" means land-frontier, sea-frontier, port or airport of entry;

"members of the family" in relation to a refugee means spouse or spouses, unmarried children under the age of maturity and any other relative of the refugee who is dependent on him.

22. Citation

This Decree may be cited as the National Commission for Refugees, Etc. Decree 1989.

SCHEDULES

SCHEDULE 1 ARTICLES OF CONVENTIONS APPLICABLE TO RECOGNISED REFUGEES AND PROTECTED PERSONS

PART I ARTICLES OF CONVENTION RELATING TO THE STATUS OF REFUGEES OF THE
28TH JULY, 1951

[Articles 1 to 35, Schedule 1, Paragraphs 1 to 6 text not reproduced here]

SCHEDULE 2 PROTOCOL RELATING TO THE STATUS OF REFUGEES OF 31ST JANUARY 1967

[text not reproduced here]

APPENDIX GENERAL ASSEMBLY RESOLUTION 2198 (XXI)

[text not reproduced here]

SCHEDULE 3 ORGANISATION OF AFRICAN UNITY CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA

[text not reproduced here]

Made at Lagos this 29th day of December 1989.

General I.B. Babangida
President Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria

Search Refworld

by keyword

and / or country

[Advanced Search](#) | [Search Tips](#)

Countries

- [Nigeria](#)

Topics

- [Expulsion](#)
- [Refugee / Asylum law](#)