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NIGERIA

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Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Cooperation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.
2. This report explains why Nigeria must protect and promote the right to life and the right to freedom of religion or belief.

(a) Right to Life

3. Nigeria has a population of more than 190 million people. Of these, approximately 50% are Muslim, 40% Christian, and 10% belong to other religions or beliefs, including indigenous beliefs.¹
4. The right to life is protected under the Constitution of Nigeria of 29 May 1999 (the Constitution). Article 33(1) of the Constitution states: ‘Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.’
5. The Constitution also provides that ‘In furtherance of the social order... the sanctity of the human person shall be recognised and human dignity shall be maintained and enhanced,’ Article 17(2)(b); that the state will ensure that ‘children, young persons and the age are protected against any exploitation whatsoever, and against moral and material neglect,’ Article 17(3)(f); and that the state will ensure that ‘the evolution and promotion of family life is encouraged, Article 17(3)(h).
6. While abortion is only legal in Nigeria when performed to save the mother’s life, abortions are in fact common—approximately 1.25 million in 2012.²
7. Nigeria has one of the highest maternal mortality rates in the world at 814 maternal deaths per 100,000 live births.³ This has led to misguided calls for the legalization of abortion.
8. Other forms of violence are common in Nigeria as well. Radical groups such as Boko Haram wage a veritable war in parts of the nation; government soldiers responding to

¹ Index Mundi, Nigeria Demographic Profil 2018, https://www.indexmundi.com/nigeria/demographics_profile.html

² Abortion in Nigeria, Guttmacher Institute, October 2015, <https://www.guttmacher.org/fact-sheet/abortion-nigeria>.

³ UNFPA, Trends in Maternal Mortality: 1990 to 2015, https://www.unfpa.org/sites/default/files/pub-pdf/9789241565141_eng.pdf.

such violence have in turn killed civilians.⁴ Police engage in extrajudicial killings; communal violence occurs between religious and ethnic groups; militants in the Niger Delta threaten violence on the basis of the government's use of the nation's oil wealth.⁵

(b) Right to Life in International Law

9. Nigeria acceded to the International Convention on Civil and Political Rights (ICCPR) on 29 July 1993 and ratified the Convention on the Rights of the Child (CRC) on 19 April 1991.
10. Article 6(1) of the ICCPR states, 'Every human being has the inherent right to life.' Furthermore, Article 6(5) of the ICCPR states, 'Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.' The ICCPR's prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn. As the travaux préparatoires⁶ of the ICCPR explicitly state, 'The principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence should not be carried out on pregnant women was to save the life of an innocent unborn child.'⁷ Similarly, the Secretary General report of 1955 notes that the intention of the paragraph 'was inspired by humanitarian considerations and by consideration for the interests of the unborn child[.]'⁸
11. The protection of unborn life is also found through an ordinary reading of the language in the preamble of the CRC. The preamble states, '[T]he child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.' Article 1 of the CRC defines a child as 'every human being below the age of eighteen years.' This provides an upper limit as to who is a child, but does not provide a lower limit on when the status of 'child' attaches.
12. The prevalence of abortion, whether legal or otherwise, means that more women suffer from abortion-related complications. There are numerous maternal risks associated with abortion. A major study published in the British Medical Journal in 2015 concluded that States with 'less permissive' abortion laws 'exhibited consistently lower maternal mortality rates.'⁹ Although the study explains these differences in terms of other independent factors rather than in terms of abortion legislation itself, it nevertheless

⁴ Boko Haram and Nigeria's Pervasive Violence, Council on Foreign Relations, 20 December 2012, <https://www.cfr.org/expert-brief/boko-haram-and-nigerias-pervasive-violence>.

⁵ Ibid.

⁶ In accordance with the Article 32 of the Vienna Convention, the travaux préparatoires are considered to be a "supplementary means of interpretation."

⁷ Report of the Third Committee to the 12th Session of the General Assembly, 5 December 1957. A/3764 § 18

⁸ Report of the Secretary-General to the 10th Session of the General Assembly, 1 July 1955. A/2929, Chapter VI, §10.

⁹ Elard Koch, Monique Chireau, and Fernando Pliego et. al., Abortion Legislation, Maternal Healthcare, Fertility, Female Literacy, Sanitation, Violence Against Women and Maternal Deaths: A Natural Experiment in 32 Mexican States, *BMJ OPEN* 2015:5 e006013, doi:10.1136/bmjopen-2014-006013, p. 1.

concludes, 'No statistically independent effect was observed for abortion legislation, constitutional amendment or other covariates.'¹⁰ Because abortion legislation has no effect on maternal mortality, abortion need not be legalized to protect women's health. Abortion is further associated with a high risk of haemorrhaging, developing sepsis, and developing injuries to internal organs, including intrauterine perforations.¹¹

13. Moreover, abortion can never be safe because it takes the life of the unborn child and harms the mother through the loss of her child. It has also been reported that women who have had abortions are more vulnerable to self-destructive tendencies, depression, and other unhealthy behaviour aggravated by the abortion experience.¹²
14. Therefore, Nigeria must focus on protecting the right to life of the unborn and on helping women get through pregnancy and childbirth safely, rather than creating the circumstances in which abortions are common, albeit illegal. In order to reduce maternal mortality and teen pregnancy, Nigeria also should provide women with access to knowledge-based education about their bodies, healthy behaviours, and responsible decision-making. Nigeria should redirect resources to improve maternal health and medical infrastructure to solve the problem of high maternal and infant mortality rates.
15. Nigeria should also work to give effect to the guarantees of both the Constitution and the ICCPR with regard to the inherent right to life of each individual, and seek to address the widespread violence in the nation by both non-governmental and governmental groups, which can disproportionately affect children and other vulnerable individuals.

(c) Right to Freedom of Religion

16. The Constitution of Nigeria guarantees freedom of religion, most expressly in Article 38(1), which provides that '[e]very person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.' Article 38 further provides for freedom from compelled religious instruction in a religion other than his own (Section (2)) and the freedom to provide religious instruction in a community or denomination's own place of education (Section (3)).
17. The importance of protecting religious freedom appears elsewhere in the Constitution: Article 23 includes 'Religious Tolerance' as a 'national ethic,' while Article 15(3)

¹⁰ Ibid.

¹¹ Gunnell Lindell and Folke Flam, Management of Uterine Perforations in Connection with Legal Abortions, *ACTA OBSTET GYNECOL SCAND.* (1995) May 74(5):373-5, available at <http://onlinelibrary.wiley.com/doi/10.3109/00016349509024431>.

¹² David C. Reardon, Philip G. Ney, Fritz Scheuren, Jesse R Cogle, Priscilla K Coleman, Thomas W. Strahan, Deaths Associated with Pregnancy Outcome: A Record Linkage Study of Low Income Women, *SOUTHERN MEDICAL JOURNAL*, (2002) August, 95(8):834-841.

protects against discrimination on the grounds of religion, among other protected statuses.

18. The Constitution also protects freedom of expression. Article 39(1) provides that '[e]very person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.' Similarly, Article 42(1) provides that a member of a religion may not be subjected, on the basis of such membership, 'to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject.'
19. Notwithstanding the significant constitutional protections allowing the freedom of religious practice, the freedom from compelled worship, the freedom of speech and expression, and the freedom from religion-based discrimination, Nigeria was number 14 on the 2018 World Watch List, which ranks the top 50 countries where Christians are most persecuted.¹³
20. The problem of religious persecution has many factors, but in recent years the evident catalyst for the growth of such persecution in frequency and severity has been the rise of radical Islamism in the area. In Nigeria, this is seen most clearly in the form of the group Boko Haram, a group which has been violently attacking various targets "with increasing regularity since 2009."¹⁴ However, other militant Islamist groups have carried out attacks as well, such as the nomadic Hausa-Fulani herdsmen, who oppress and kill Christians in central Nigeria.¹⁵
21. Boko Haram has gained international notoriety for its actions. According to a special report by the Secretary-General of the United Nations, Boko Haram, which has historic ties with both Al-Qaeda and ISIL, has expanded in recent years.¹⁶ Boko Haram's tactics include 'widespread recruitment and use, abductions, sexual violence, attacks on schools and the increasing use of children in so-called 'suicide' attacks.'¹⁷ The same report detailed that the group also engaged in forceful conversions of children, forced marriage, and sexual abuse.¹⁸

¹³ World Watch List 2018, Open Doors USA, <https://www.opendoorsusa.org/wp-content/uploads/2018/01/WWL2018-BookletNew.pdf>.

¹⁴ Boko Haram, Council on Foreign Relations, <https://www.cfr.org/backgrounder/boko-haram>.

¹⁵ Nigeria, World Watch Monitor, <https://www.worldwatchmonitor.org/countries/nigeria/>

¹⁶ Report of the Secretary-General on children and armed conflict in Nigeria, Section 16, United Nations Security Council, 10 April 2017, S/2017/304, <https://reliefweb.int/sites/reliefweb.int/files/resources/N1709682.pdf>.

¹⁷ Nigeria: UN report details 'grave violations' against children by Boko Haram, UN News, 4 May 2017, <https://news.un.org/en/story/2017/05/556582-nigeria-un-report-details-grave-violations-against-children-boko-haram>.

¹⁸ Report of the Secretary-General on children and armed conflict in Nigeria, Section 32 (see also Section 70, which notes that 'children were subjected to rape and forced marriage, physical and psychological abuse, forced labour, forcible religious conversion and used in operations, including suicide attacks.')

22. Boko Haram's violence is not limited to children. Militants also break into the homes of Christians and loot, attack, and maim the residents.¹⁹
23. Twelve of Nigeria's northern states have instituted sharia law.²⁰ Sharia has been applied to criminal law as well as civil and family law since 2000—a few years prior to Boko Haram's rise—and has resulted in ten death sentences, amputations, and floggings handed out by sharia courts.²¹

(d) Recommendations

24. In light of the aforementioned, ADF International suggests the following recommendations be made to Nigeria:
- (a) Take steps to follow national and international obligations to protect the right to life from conception to natural death;
 - (b) Ensure that, in keeping with the Constitution's guarantee of the right to life, that the incidence of abortion is decreased, as appropriate through enforcement of current laws, education of women and other family members, and engagement on these grounds with civil society;
 - (c) Ensure that, in keeping with the Constitution's protection against the exploitation of children, the religiously-motivated violence against children, including their use as suicide bombers and their forced conversions to Islam, are addressed at the national, state, and local levels;
 - (d) Ensure that the perpetrators of violent crimes, against children as well as adults, are brought to justice;
 - (e) Ensure that the right to freedom of religion or belief is promoted and protected in all areas of Nigeria;
 - (f) Ensure that Christians have the freedom to practise their religion, without fear of attack by radical Islamist groups, including contributing resources to protecting the homes and communities of Christians and other victims of religious attacks; and

¹⁹ Nigeria: Yakubu's Story, World Watch List 2018, <https://www.opendoorsusa.org/wp-content/uploads/2018/01/WWL2018-BookletNew.pdf>.

²⁰ Nigeria, World Watch Monitor, <https://www.worldwatchmonitor.org/countries/nigeria/>.

²¹ Human Rights Watch, 'Political Shari'a'? Human Rights and Islamic Law in Northern Nigeria, 21 September 2004, <https://www.hrw.org/report/2004/09/21/political-sharia/human-rights-and-islamic-law-northern-nigeria>.

- (g) Focus on countering growing religious radicalization. Although this radicalization may be caused by a number of complex factors and cannot be addressed easily, at the very least the government should work to improve conditions that promote religious tolerance, such as access to education.



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