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CÔTE D'IVOIRE

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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 Co-operation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.

2. This report explains why Côte D’Ivoire should reaffirm that every human being, including the unborn, has the inherent right to life and why it should resist calls to liberalize access to abortion due to the fact that no human right to abortion exists under international law. It also deals with the issue of high levels of maternal mortality and morbidity in Côte D’Ivoire.

(a) Abortion

3. Abortion is prohibited in Côte D’Ivoire via Penal Code Law No. 81-640 except to save the seriously endangered life of the pregnant woman, and this must be done in consultation with the attending and two additional physicians.

4. Organizations supporting the liberalisation of abortion laws argue that expanded access to abortion is required as a matter of international human rights law and in order to reduce high levels of maternal mortality in the country.

Abortion under International Law

5. A so-called international ‘right to abortion’ is also incompatible with various provisions of international human rights treaties, in particular provisions on the right to life. Article 6(1) of the ICCPR states that ‘every human being has the inherent right to life’. The ICCPR’s prohibition of the death penalty for pregnancy women implicitly recognizes the right to life of the unborn.

6. Although the ICCPR allows for the death penalty to be imposed on both adult men and women, it explicitly prohibits applying the death penalty to pregnant women. Article 6(5) 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.’ This clause must be understood to recognize the unborn child’s distinct identity from the mother and protecting the unborn child’s right to life.

7. The *travaux préparatories* of the ICCPR explicitly state that ‘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."[6] Similarly, other early UN texts note that the intention of the paragraph "was inspired by humanitarian considerations and by consideration for the interests of the unborn child."[7]

8. The protection of unborn life is also found through an ordinary reading of the language in the preamble of the Convention on the Rights of the Child (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."

9. 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. Moreover, Article 6 of the CRC holds, "States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child." Viewed in the context of the preamble, both Articles 1 and 6 of the CRC indicate recognition of, and protection for, unborn life.

(b) Maternal Health

10. It should be noted that the maternal mortality rate had dropped significantly from 710 maternal deaths per 100,000 live births in 1990 to nearly 400 deaths in 2010.[1] However this figure has risen again, reaching 645 deaths in 2015. This has been attributed to the virtual collapse of healthcare provision after the 2012 post-election crisis.[2] Thus, there is a clear correlation between maternal mortality rates and the inability to access proper obstetric care, lack of information and lack of health workers, especially in the case of women living in poverty and in rural areas.

Maternal mortality rates in Côte D'Ivoire remain very high, with 645 maternal deaths per 100,000 live births in 2015. Every maternal death is a tragedy. It devastates the woman's family, in particular the woman's children, and affects the entire community socially and economically. The high number of maternal deaths in Côte D'Ivoire is a human rights crisis.

Necessary maternal health interventions

11. Almost all maternal deaths are preventable, particularly when skilled birth attendants are present to manage complications and the necessary drugs are available, such as oxytocin (to prevent haemorrhage) and magnesium sulphate (to treat pre-eclampsia). Problems include a lack of drugs and poor

1 http://countdown2015mnch.org/documents/2013Report/Cote_d'Ivoire_Accountability_profile_2013.pdf
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infrastructure, such as no electricity or running water and inaccessibility of hospitals due to weather conditions.

12. The World Health Organization (WHO) recommends a minimum of four prenatal visits with trained health workers, in order to prevent, detect, and treat any health problems. Although it has been estimated that in 2006 close to 87% of pregnant girls aged 15-19 in Côte d'Ivoire received some level of prenatal care during their pregnancies, it was estimated by UNICEF that less than half of all women made the minimum of four visits recommended by the WHO[3].

13. UNFPA documents that with regard to availability of midwives, auxiliary midwives, nurses, general physicians and OB/GYNs, only 48% of the estimated need was met in 2012, and that in rural areas more than half of all births did not involve skilled birth attendants.[4]

14. The same report also notes that around one quarter of all women do not receive the services of a skilled birth attendant at the time of delivery.[5] This correlates with the fact that pre-eclampsia, severe bleeding and infection are recorded among the top causes of maternal mortality.[6]

15. These issues must be remedied, but calls to increase legal abortion access as a necessary precondition to solving them are misguided. Legalizing abortion in no way helps make pregnancy and childbirth safer. The focus must remain on improving problems with the country's health-care system.

16. Poor medical infrastructure means that women who receive abortions will still face poor conditions, the same ones faced by women who give birth and deal with similar complications, such as bleeding and infection. Providing more access to abortion will thus mean more women will suffer from abortion complications.

17. In line with paragraph 8.25 of the ICPD, Côte D'Ivoire must instead focus on introducing measures to avoid recourse to abortion by way of investing in social and economic development and by providing women with support throughout and after pregnancy. Measures to reduce abortion include improving access to education, which empowers women and leads to social and economic development, as well as facilitating healthy decision-making.

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[3] World Health Organization, Global Health Observatory country views – Côte d'Ivoire statistics summary (2002 – present), http://apps.who.int/gho/data/node.country.country-CIV; UNICEF, Maternal Health, Antenatal Care, Current Status + Progress, https://data.unicef.org/topic/maternal-health/antenatalcare.

[4] UNFPA et al., "The State of the World's Midwifery: A Universal Pathway, A Woman's Right to Health" (2014) 88-89, *available at* https://www.unfpa.org/sites/default/files/pub-pdf/EN_SoWMy2014_complete.pdf

[5] UNFPA et al., *Supra* note 3.

[6] UNFPA et al., *uipra* note 3, at iv.

18. Côte D'Ivoire must also focus on helping women get through pregnancy and childbirth safely, rather than helping women end their pregnancies. Given the dire maternal health situation in Côte D'Ivoire, resources must be invested in improving conditions for pregnant women, women undergoing childbirth, and postpartum women.

19. It must also continue to uphold and advance its constitutional guarantees wherein it recognizes the need to protect the family, to guarantee the needs of specific vulnerable groups, including the healthcare needs of women and mothers, and to promote and protect the rights of women in Côte D'Ivoire.[7]

(b) Recommendations

19. In light of the aforementioned, ADF International suggests the following recommendations be made to Côte D'Ivoire:

1. Affirm that there is no international human right to abortion and that the right to life applies from conception until natural death, and as such that the unborn child has the right to protection of his or her life at all points;

2. Resist calls to further liberalize abortion, and instead implement laws aimed at protecting the right to life of the unborn;

3. Recognize that the legalization of abortion in a country with high levels of maternal mortality and morbidity and problems with access to proper health care does not make pregnancy and childbirth any safer; and

4. Improve health care infrastructure, access to emergency obstetric care, midwife training, and resources devoted to maternal health, with a focus on safely getting mothers and babies through pregnancy and childbirth, with special focus on improving health-care access for women from poor and/or rural backgrounds.

[7] Constitution of Côte d'Ivoire, Articles 31, 32, and 35.

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