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Joint submission by:

Accountability Lab Nigeria

ADF International

Anglican Communion

Baptist World Alliance (BWA)

Christian Council International

Coordination des Associations et des Particuliers (CAP) pour la Liberté de
Conscience

Global Christian Relief

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Introduction

1. This joint submission addresses the state of freedom of religion or belief and freedom of opinion and expression in Nigeria. In particular, it presents an overview of the country's domestic legal framework and draws attention to specific concerns related to the criminalization of blasphemy. Additionally, the report examines the rise in acts of terrorism and mob violence against Christians and religious minorities, including Muslim minorities, and the related climate of impunity over the reporting period.

(a) Freedom of Religion or Belief and Freedom of Opinion and Expression

Background

2. According to the World Health Organization, Nigeria's population stood at 208 million people as of 2020.¹ This population is divided among 300 diverse ethnic groups and is predominantly split between a Muslim-majority north and a Christian-majority south. However, there are significant numbers of Christians in the North and Muslims in the South, in additions to indigenous and other minority religious communities.²
3. The preceding Federal government of Nigeria had originally planned to conduct the first census in 17 years in May 2023. However, the newly elected administration led by President Bola Ahmed Adegunle Tinubu has recently announced a delay, citing time constraints in adequately planning for it. Previous population counts have been discredited owing to the sensitivity of questions involving, inter alia, ethnicity and religion.³

Legal Framework

4. The Nigerian Constitution encompasses various provisions pertaining to the protection of freedom of religion or belief.⁴
5. Article 9.10 specifically prohibits the Government of the Federation or of a State from adopting any religion as the official state religion.⁵
6. Article 42.1 enshrines the principle of equality before the law, regardless of membership to a particular community or ethnic group, place of origin, sex, religion, or political opinion, with respect to "disabilities or restrictions" or any "privilege or advantage."⁶ Accordingly, the Constitution promotes national integration and, in Article 15.2, expressly prohibits discrimination on the grounds of "place of origin, sex, religion, status, ethnic or linguistic association or ties."⁷

¹ Nigeria Data, World Health Organization (last visited 5 May, 2023), available at <https://data.who.int/countries/566>.

² *Nigeria turns 60: Can Africa's most populous nation remain united?*, BBC News (1 Oct. 2020), available at <https://www.bbc.com/news/world-africa-54357810>.

³ Felix Onuah, *Nigeria again postpones first census in 17 years*, Reuters (29 Apr. 2023), available at <https://www.reuters.com/world/africa/nigeria-again-postpones-first-census-17-years-2023-04-29/>.

⁴ Nigeria's Constitution of 1999 with Amendments through 2011, available at https://www.constituteproject.org/constitution/Nigeria_2011.pdf.

⁵ *Id.* at Art. 9.10

⁶ *Id.* at Art. 42.1.

⁷ *Id.* at Art. 15.2

7. Article 38.1 guarantees every person's "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."⁸
8. Article 39 safeguards the right to freedom of expression, encompassing the "freedom to hold opinions and to receive and impart ideas and information without interference."⁹ Limitations to the exercise of this right are limited to those laws that are "reasonably justifiable" in a democratic society:
 - a. "for the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films; or
 - b. imposing restrictions upon persons holding office under the Government of the Federation or of a State, members of the armed forces of the Federation or members of the Nigeria Police Force or other Government security services or agencies established by law."¹⁰
9. Despite these constitutional guarantees, a number of laws continue to impose undue restrictions that hinder the full and equal enjoyment by all persons of their human rights to freedom of religion or belief and freedom of opinion and expression.

Laws Prohibiting Religious Offenses, including Blasphemy

10. Section 204 of the Nigerian Criminal Code deals with acts deemed "injurious to the public" and includes offenses relating to religious worship. It imposes a penalty of two years' imprisonment for intentional acts that are considered a "public insult on their religion" by "any class of persons."¹¹
11. In the northern states of Nigeria, both secular and Sharia-based criminal codes are in place. These state laws are generally similar to each other. For instance, the secular Penal Code of Bauchi State of 2022 prohibit acts such as "insulting or exciting contempt of religious creed", punishable by imprisonment for up to two years and/or a fine (Section 206); "injuring or defiling place of worship," with punishment up to two years imprisonment and/or a fine (Section 207); "disturbing religious assembly," with punishment up to one year imprisonment and/or a fine (Section 208); and "committing trespass on place of worship or burial," with punishment up to two years imprisonment and/or a fine.¹²

⁸ *Id.* at Art. 38.1

⁹ *Id.* at Art. 39.

¹⁰ *Id.* at Art. 39.3.

¹¹ Nigeria: Criminal Code Act (amended Version of 1990), available at <https://www.refworld.org/docid/49997ade1a.html>.

¹² *Bauchi State Penal Code (Establishment) Law 2022* (9 Dec. 2022), available at [https://www.bauchijudiciary.com/uploads/legislations/BAUCHI%20STATE%20PENAL%20CODE%20\(ESTABLISHMENT\)%20LAW%202022.pdf](https://www.bauchijudiciary.com/uploads/legislations/BAUCHI%20STATE%20PENAL%20CODE%20(ESTABLISHMENT)%20LAW%202022.pdf).

12. In addition to the secular criminal law, the Muslim-majority states in the north of the country also apply Sharia criminal law to Muslims.¹³ These laws, generally consistent across these states and initially adopted in 2000, share similarities with the secular penal codes in terms of offenses related to religion and corresponding penalties. However, the Sharia penal codes include one significant additional crime: the “insult” against the “Holy Quran or any Prophet,” which sets forth the death penalty as punishment. For example, Kano State’s Sharia Penal Code Law of 2000, Section 382(b), states:

“Whoever by any means publically insult by using word or expression in written or verbal by means of gesture which shows or demonstrate any form of contempt or abuse against the Holy Quran or any Prophet shall on conviction be liable to death.”¹⁴

13. Section 382 continues to provide an explanation of “religious insult”:

“Religious insult includes using words or expressions in writing, verbal or by means of gesture, which shows or demonstrates any form of contempt or abuse against such religion or doing any other similar act contrary to this code of Shari’a generally. Religious insult also includes using blasphemous books or instructions or materials on that religion or Prophet which may incite riot. Moreover, the religious insult includes defiling any place of worship or sacred object.”¹⁵

14. This dual statutory framework has a twofold impact: firstly, blasphemy laws curtail religious and other expression beyond the limits permitted under international human rights law and the Nigerian Constitution; secondly, they heighten the vulnerability of both minority Muslim communities, as well as non-Muslims, especially Christians and non-theists.

Cases

15. The following cases, while not exhaustive, serves as pertinent examples of the harmful impact of blasphemy laws. Not only do these laws violate international human rights law pertaining to freedom of religion or belief and freedom of opinion and expression, but they also contribute to mob violence, particularly due to the perpetrators acting with impunity. Evaluated together, these cases underscore the pressing need for Nigeria to ensure its laws and policies conform with its obligations under the Nigerian Constitution and international human rights law.
16. In March 2020, Yahaya Sharif-Aminu, a Sufi musician in Kano State, was arrested on blasphemy charges and held without bail for allegedly insulting the Prophet Mohammad in two WhatsApp audio messages.¹⁶ Around the time of his arrest, his

¹³ Katrin Gänsler, *20 years of Sharia in Northern Nigeria*, DW (27 Oct. 2019), available at <https://www.dw.com/en/nigeria-looks-back-on-20-years-of-sharia-law-in-the-north/a-51010292>.

¹⁴ Kano State SHARI’A PENAL CODE LAW 2000 (Ramadhan, 1421, November, 2000), Kano Printing Corporation (on file with author).

¹⁵ *Ibid.*

¹⁶ *Letter Calling for Immediate Release of Nigerian Prisoner of Conscience Yahaya Sharif-Aminu* (18 May 2023), available at <https://adfinternational.org/wp-content/uploads/2023/05/Yahaya-Sharif-Aminu-President-Letter-18.05.2023.pdf>.

home was burned down by a mob, forcing his father to flee to a neighboring town.¹⁷ To date, no arrests or prosecutions have been made against the perpetrators of this mob violence, highlighting the brazenness of extremist elements of the population and their ability to act with impunity.

17. During Sharif-Aminu's subsequent trial, he was also not afforded legal representation. He was convicted and sentenced to death by hanging for violating Section 382(b) of Kano State Sharia Penal Code Law.¹⁸ Although Sharif-Aminu's conviction was overturned, he was ordered to face a retrial that could potentially result in the death penalty again. The Court of Appeal later upheld the retrial order and the constitutionality of the Section 382(b) death penalty blasphemy law. Currently, Sharif-Aminu's retrial order is being appealed to the Supreme Court of Nigeria, presenting an opportunity to challenge the constitutionality of Sharia-based blasphemy laws.
18. International observers, including the European Parliament in an urgency resolution passed with nearly unanimous support, have called for the release of Sharif-Aminu and the repeal of federal and state blasphemy laws in Nigeria.¹⁹ Despite continuous advocacy by human rights groups urging former President Buhari to grant clemency to Sharif-Aminu upon leaving office, regrettably, he was not ultimately pardoned.²⁰
19. On 10 August 2020, Omar Farouq, a teenage minor, was sentenced to 10 years in prison following allegations of blasphemy occurring during an argument in Kano State. A mob had also attacked his home during the initial encounter. Farouq faced trial without legal representation and his sentencing sparked international outcry. On 22 January 2021, his conviction was overturned on appeal and his case was dismissed.²¹
20. In April 2020, Mubarak Bala, the 37-year-old president of the Humanist Association of Nigeria, was detained after posting critical messages about Islam on social media.²² Following a petition to the authorities, he was arrested in Kaduna State and transferred to Kano, his home state. He pleaded guilty to 18 counts of causing a "public disturbance" and asked for leniency.
21. Some observers noted that Bala's guilty plea was influenced by the circumstances of his detention and treatment. He was reportedly under intense pressure to admit guilt, with authorities in Kano conveying that his safety and that of his family depended on his confession. Against legal advice, Bala decided to agree and face the

¹⁷ Eoin McSweeney and Stephanie Busari, *The WhatsApp voice note that led to a death sentence*, CNN (29 Sep. 2020), available at <https://www.cnn.com/2020/09/29/africa/blasphemy-trial-nigeria/index.html>.

¹⁸ *Supra* note 14.

¹⁹ "Blasphemy"-accused musician's legal team applaud European Parliament for condemning deathly Nigerian speech restrictions, ADF International (21 Apr. 2023), available at <https://adfinternational.org/video-release-european-parliament/>.

²⁰ Kelsey Zorzi, *How supporting a pardon helps the US uplift Africa's largest democracy*, The Hill (13 May, 2023), available at <https://thehill.com/opinion/international/4001968-how-supporting-a-pardon-helps-the-us-uplift-africas-largest-democracy/>.

²¹ Stephanie Busari, *'They were unjust to me,' says teenager freed after blasphemy sentenced quashed in Nigeria*, CNN (31 Jan. 2021), available at <https://www.cnn.com/2021/01/31/africa/blasphemy-nigeria-boy-interview-intl/index.html>.

²² Ishaq Khalid, *Nigeria atheist Mubarak Bala jailed for blaspheming Islam*, BBC News (5 Apr. 2022), available at <https://www.bbc.com/news/world-africa-60997606>.

consequences, as the alternative was believed to put his life at risk in prison.²³ On 5 April 2022, a High Court in Kano State convicted Bala of blaspheming Islam and sentenced him to 24 years in prison. The European Parliament and other international observers have called for Bala's release.²⁴

22. On 12 May 2022, Deborah Emmanuel Yakubu (also known as Deborah Samuel), a Christian university student in Sokoto State, was subjected to a brutal attack following accusations by her classmates of blasphemy in a WhatsApp group. A large mob organized by her male classmates stoned and beat her to death, and then burnt her body. The incident was captured on video and rapidly circulated through social media within Nigeria and internationally.²⁵
23. Subsequently, two individuals were arrested on 17 May 2022 on minor charges of criminal conspiracy and disturbing the peace. On 30 January 2023, a magistrate judge ordered their release due to the police's failure to pursue prosecution.²⁶
24. On 20 May 2022, Rhoda Jatau, a 45-year old Christian medical worker and mother of five from Bauchi State, was arrested and detained on blasphemy allegations by Bauchi State authorities. Her arrest was related to her forwarding of a video denouncing the aforementioned mob killing Deborah Emmanuel Yakubu.²⁷
25. The sharing of the video by Jatau sparked mob violence and riots, resulting in 15 Christians sustaining serious injuries and damage to properties, including several houses and shops belonging to Christians. Nigeria's Department of State Services subsequently imprisoned Jatau. During her arraignment on 19 December 2022, she was formally charged with blasphemy, creating a public disturbance, and inciting contempt of religious creed under Sections 114 and 210 of the 2006 Bauchi State Penal Code.²⁸ She is being tried in the State of Bauchi's High Court.²⁹ Authorities have been holding Jatau incommunicado since 20 May 2022, only allowing her to speak to her lawyers during court hearings. The State of Bauchi has not released to her lawyers the allegedly blasphemous video at the heart of the case.

²³ Emmanuel Akinwotu, *Nigerian humanist jailed for 24 years after pleading guilty to blasphemy*, The Guardian (5 Apr. 2022), available at <https://www.theguardian.com/world/2022/apr/05/nigerian-humanist-mubarak-bala-receives-24-year-jail-sentence>.

²⁴ European Parliament resolution of 20 April 2023 on the risk of the death penalty and the execution of singer Yahaya Sharif-Aminu for blasphemy in Nigeria (2023/2650(RSP)), available at https://www.europarl.europa.eu/doceo/document/TA-9-2023-0116_EN.html.

²⁵ Stephanie Busari, *Female student killed by mob at Nigeria school over blasphemy claims*, CNN (13 May 2022), available at <https://www.cnn.com/2022/05/13/africa/female-student-blasphemy-attack-intl/index.html>.

²⁶ *How Court Freed, Acquitted Suspected Killers of College Student, Deborah Samuel After Police Prosecutors Absconded From Trial*, Sahara Reporters (18 May 2023), available at <https://saharareporters.com/2023/05/18/how-court-freed-acquitted-suspected-killers-college-student-deborah-samuel-after-police>.

²⁷ Peter Pinedo, *Nigerian mother charged with blasphemy for defending murdered Christian student*, Catholic News Service (20 Dec. 2022), available at <https://www.catholicnewsagency.com/news/253128/nigerian-mother-charged-with-blasphemy-for-defending-murdered-christian>.

²⁸ There is an 2022 amended Bauchi Penal Code, but Jatau was charged under the 2006 version. See CAP 108, VOL 3, Laws of Bauchi State (2006), charging documents on file with author.

²⁹ Friday Olokori and Armstrong Bakam, *Bauchi gov orders probe of blasphemy violence*, Punch (22 May, 2022), available at <https://punchng.com/bauchi-gov-orders-probe-of-blasphemy-violence/>.

26. Jatau's husband, Ya'u Adamu, who was born to Muslim parents, was also forced to flee their home with their five children. He claims that police have extorted large sums of money from him, falsely claiming to have the power to secure his wife's release. He says of his wife, "I have known no sleep since she was arrested. All I want is for her to be alive and free."³⁰
27. In July 2021, Sheikh Abduljabbar Kabara, a 52-year old Nigerian man and follower of the minority Qadiriyya Muslim group, was detained by Kano State authorities after being accused of blasphemy.³¹ On 15 December 2022, he was sentenced by a Sharia court in Kano State to death by hanging after the court found him guilty of blasphemy against the Prophet Mohammed as well as incitement. Family members have reached out to outgoing President Buhari, stating that the preaching of their brother was unjustifiably manipulated in order to rope the charges of blasphemy against him.³²
28. On 25 June 2023, Usman Buda, a butcher and Muslim, was stoned to death by a mob in Sokoto for allegedly blaspheming the Prophet Mohammed during an argument with another trader in the marketplace where he worked.³³ Video of the stoning spread quickly via social media, also displaying minors participating in the stoning. While Sokoto State Governor, Alhaji Ahmad Aliyu, stated that individuals should not take the law into their own hands, he also declared that his government would "deal decisively" against anyone found guilty of blasphemy, and that all residents needed to "respect and protect [the Prophet Mohammed's] dignity and personality." While police announced that they had opened an investigation into the incident, no arrests have yet been made.

(b) Situation of Violence Involving Christians, Muslims, and Religious Minorities

29. In recent years, Nigeria has witnessed a surge of violence, primarily attributed to various armed and political groups, leading to insecurity and unrest.³⁴ As a consequence, according to Open Doors' 2023 World Watch List, the country has been identified as one of the most violent places in the world for Christians.³⁵ Moreover,

³⁰ Masara Kim, *Husband of Christian woman imprisoned for blasphemy: "I have not slept since she was arrested."*, Christian Solidarity International (CSI) (3 Nov. 2022), available at <https://www.nigeria-report.org/rhoda/>.

³¹ *Nigerian Sheikh sentenced to death for blasphemy*, The Star (15 Dec. 2022), available at <https://www.the-star.co.ke/news/africa/2022-12-15-nigerian-sheikh-sentenced-to-death-for-blasphemy/>.

³² Mustapha Usman, *18 members of Nasiru Kabara family write Buhari, say Abduljabbar's "recorded preachings" manipulated*, Daily Nigerian (2 Aug. 2021), available at <https://dailynigerian.com/members-nasiru-kabara-family/>.

³³ Chinedu Asadu, *Outrage erupts after man accused of blasphemy is stoned to death in latest mob killing in Nigeria*, ABC News (26 Jun. 2023), available at <https://abcnews.go.com/International/wireStory/outrage-erupts-after-man-accused-blasphemy-stoned-death-100377931>.

³⁴ See graphic entitled "Nigeria has overlapping areas of insecurity and unrest, caused by different armed and political groups" in Emmanuel Akinwotu, *More than 100 people killed in northern Nigeria bandit attack*, The Guardian (7 Jan. 2022), available at <https://www.theguardian.com/world/2022/jan/07/scores-people-killed-northern-nigeria>.

³⁵ *Nigeria, World Watch Ranking: 6*, Open Doors (last visited 5 May 2023), available at <https://www.opendoorsus.org/en-US/persecution/countries/nigeria/>.

among the 25 most populous countries globally, Nigeria ranks high in terms of government restrictions and social hostilities.³⁶

30. One prominent form of violence observed in Nigeria is terrorism and militia activity, driven, at least in significant part, by religious animosity. Groups such as the Islamic State West Africa Province (ISWAP), Boko Haram, and various militia groups in the north of the country prey upon vulnerable communities and spread wanton fear, chaos, and destruction.
31. According to the Observatory of Religious Freedom in Africa, between October 2019 and September 2022, a total of 12,793 Christians and 4,497 Muslims were killed by these groups, respectively.³⁷ Taking into account the differing sizes of the Christian and Muslim populations in Nigerian states, Christians were 7.6 times more likely to be killed by such terror and militia groups than Muslims, indicating a specific targeting of Christians by such groups.³⁸
32. Terrorist incidents are not limited to the northern areas of the country. On 5 June 2022, terrorists set off an explosive during a Pentecost services at St. Francis Xavier Catholic Church in Owo, Ondo State, in southwestern Nigeria.³⁹ The incident resulted in at least 40 casualties, including children, and many more were injured. While a handful of arrests have been made, no prosecutions have been initiated against the attackers thus far.⁴⁰
33. The inadequate protection provided by police, security, or armed forces to vulnerable civilians has significantly contributed to the escalating insecurity and violence, including retaliatory cycles, in various areas of Nigeria.
34. On 14 March 2023, terrorists carried out two attacks in Zangon Kataf County and Ungwan Wakili village in Kaduna State, resulting in the deaths of 27 Christians and leaving dozens more wounded.⁴¹ At the time of reporting, the local community lamented a lack of support from authorities. Matthias Schmale, the UN Resident Coordinator for Nigeria, condemned the attack and called for the perpetrators to be brought to justice, while ensuring the protection and security of all citizens.⁴²
35. On 1 April 2023, more than 60 Christians were killed in simultaneous terrorist attacks targeting multiple local government areas, including Guma, Makurdi, Gwer-West,

³⁶ Samirah Majumdar, *Key findings about restrictions on religion around the world in 2019*, Pew Research Center (30 Sep. 2021), available at <https://www.pewresearch.org/short-reads/2021/09/30/key-findings-about-restrictions-on-religion-around-the-world-in-2019/>.

³⁷ *Killings and Abductions in Nigeria (10/2019 – 9/2022)*, Observatory of Religious Freedom in Africa (24 Feb. 2023) at pg. 3, available at <https://orfa.africa/wp/wp-content/uploads/2023/06/Nigeria-Killings-and-Abduction-10-2019%E2%80%932021%E2%80%932022.pdf>.

³⁸ *Id.*

³⁹ Nduka Orjinmo, *Nigeria Owo church attack: Blood on the altar*, BBC News (6 Jun. 2022), available at <https://www.bbc.com/news/world-africa-61707872>.

⁴⁰ *Arrests made in Nigeria Pentecost massacre*, Catholic News Agency (12 Aug. 2022), available at <https://www.catholicnewsagency.com/news/252029/arrests-made-in-nigeria-pentecost-massacre>.

⁴¹ *Terrorists Kill 27 Christians in Kaduna State, Nigeria*, Morning Star News (27 Mar. 2023), available at <https://morningstarnews.org/2023/03/terrorists-kill-27-christians-in-kaduna-state-nigeria/>.

⁴² Press Release: UN condemns killing of children and women in Zangon Katafa, Kaduna State (19 Mar. 2023), available at <https://nigeria.un.org/en/223830-un-condemns-killing-children-and-women-zangon-kataf-kaduna-state>.

Kwande, Agatu and Logo in Benue State.⁴³ The attacks also involved the burning of houses and the abduction of Christians, including a pastor and four other congregation members. Community leaders expressed the urgent need for the federal government to address these unprovoked attacks.

36. The lack of effective law enforcement responses, including the failure to make arrests and carry out prosecutions against attackers, contributes to increasing violence and a sense of abandonment among victims. It has been reported that "Nigeria's police-to-citizen ratio of 1:540 is below UN recommendations. Despite this inadequacy, more than half of the country's police personnel are employed by private individuals and organisations who have money to pay them."⁴⁴ This highlights the need to ensure adequate funding for police forces, addressing corruption and human rights abuses, as well as improving training in modern policing tactics.

(b) Nigeria's Obligations Under International Human Rights Law

37. Nigeria acceded to the International Covenant on Civil and Political Rights (ICCPR) in 1993.⁴⁵ ⁴⁶ Article 18 of the ICCPR guarantees the right to freedom of religion or belief, including the right to manifest one's religion or belief in private as well as public settings. Article 19 protects the right to freedom of opinion and expression, including the right to seek, receive, or impart information and ideas of "all kinds."
38. Nigeria is also a State Party to the African Charter on Human and People's Rights (ACHPR), whose Article 8 guarantees freedom of conscience and the profession and free practice of religion, and Article 9 protects the right to express and disseminate opinions within the law.⁴⁷
39. Nigeria's blasphemy laws impinge on both freedom of religion or belief and the freedom of opinion and expression.
40. First, criminalizing religious offense does not constitute an acceptable derogation from the right to freedom of religion or belief, as ICCPR Article 18.3 only allows limitations "necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others." Likewise, Article 19.3 only allows restrictions on the right to freedom of opinion and expression where they are necessary "for the respect of the rights and reputations of others" or "for the protection of national security, public order or public health or morals."

⁴³ *Terrorists Kill More than 60 Christians in Benue State, Nigeria*, Morning Star News (3 Apr. 2023), available at <https://morningstarnews.org/2023/04/terrorists-kill-more-than-60-christians-in-benue-state-nigeria/>.

⁴⁴ Malik Samuel, *Boko Haram teams up with bandits in Nigeria*, defenceWeb (3 Mar. 2021), available at <https://www.defenceweb.co.za/security/national-security/boko-haram-teams-up-with-bandits-in-nigeria/>.

⁴⁵ International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.

⁴⁶ United Nations Office of the High Commission for Human Rights (OHCHR), Status of Ratifications Interactive Dashboard (last visited May 11, 2023), available at <https://indicators.ohchr.org/>.

⁴⁷ Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986, available at <https://www.african-court.org/wpafc/wp-content/uploads/2020/04/AFRICAN-BANJUL-CHARTER-ON-HUMAN-AND-PEOPLES-RIGHTS.pdf>.

41. Second, the vague wording and subjective interpretation of laws criminalizing so-called “offenses relating to religious worship” and “public insult on religion” opens the door to the arbitrary and unjustified imposition of restrictions and penalties, while also creating a chilling effect on the expression of ideas or beliefs.
42. In this regard, General Comment No. 34 of the Human Rights Committee states that prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant:
- "Thus, for instance, it would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith."⁴⁸
43. Viewed from this perspective, blasphemy does not meet the threshold for criminalization envisaged in article 20, paragraph 2 of the ICCPR.⁴⁹ Clearly, any limitations imposed should primarily aim to safeguard individuals, rather than religions per se.
44. The former Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, has also noted a "positive interrelatedness" between freedom of religion or belief and freedom of expression, stressing that the two rights "mutually reinforce each other in practice."⁵⁰ He noted that blasphemy laws may be counterproductive at the national level and may result in de facto censure of all interreligious dialogue and intrareligious dialogue, debate, and criticism, most of which could be constructive, healthy and needed.⁵¹
45. While states may recognize the existence and history of religious faiths within a community, they cannot target or discriminate against individuals based on their beliefs. The interrelated and mutually reinforcing freedoms of religion or belief and of opinion and expression are fundamental to the operation and maintenance of an open and free society, even when ideas that are expressed and disseminated prove unpopular or offensive.
46. Furthermore, the rising climate of violence observed in various areas of Nigeria significantly impacts the enjoyment of freedom of religion or belief and freedom of opinion and expression. The unstable security situation, the prevailing culture of impunity towards perpetrators in some areas of the country, and the inadequate protection provided by security forces severely restrict the ability of individuals to practice their faith openly and safeguard their places of worship. The culture of impunity also implicitly encourages mob violence, particularly as it relates to allegations of blasphemy.

⁴⁸ General Comment No. 34, Human Rights Committee (12 Sep. 2011) (CCPR/C/GC/34), available at <http://undocs.org/en/CCPR/C/GC/34>.

⁴⁹ ICCPR, Art. 20.2 ("Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.").

⁵⁰ Heiner Bielefeldt, *Report of the Special Rapporteur on freedom of religion or belief*, U.N. Human Rights Council (23 Dec. 2015) (A/HRC/31/18) at para. 8.

⁵¹ *Id.* at para. 59.

(d) Recommendations

47. In light of the aforementioned, the following recommendations should be made to Nigeria:

- a. Ensure the full and equal enjoyment of the rights to freedom of religion or belief and freedom of opinion and expression for all, both in law and in practice;
- b. Repeal or encourage the repeal of all blasphemy laws, especially those within Sharia Penal Codes; at a minimum, ensure that the death penalty is never imposed as a sanction for blasphemy;
- c. Pardon or support the pardon of individuals who have been convicted of blasphemy offenses;
- d. Repeal, revise or otherwise render unenforceable federal laws that infringe upon freedom of thought, conscience, religion or belief and freedom of opinion and expression;
- e. Immediately release Yahaya Sharif-Aminu, Rhoda Jatau, Mubarak Bala, Sheikh Abduljabbar Kabara, and all those who are held in detention on blasphemy charges, and ensure their safety;
- f. Ensure that Christians and religious minorities, including Muslim religious minorities, and all individuals who leave or change a religion or belief have the freedom to practice their religion or belief without fear of retaliation or persecution;
- g. Intensify efforts to combat terrorism, mob attacks, and other incidents of violence directed against Christians and religious or belief minorities, including Muslim religious minorities, and strengthen the fight against impunity;
- h. Devote increased resources, in particular financial resources and personnel, to combatting terrorist and other non-state armed groups operating within its borders;
- i. Increase regional cooperation in the fight against terrorism and violent extremism; and
- j. Promote interfaith and intercultural dialogue, inclusive of all religions and beliefs, to counter religious intolerance and prevent radicalization, in partnership with civil society organizations.