

RELIGIOUS PERSECUTION IN AFRICA: NIGERIA, ALGERIA, AND ERITREA

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INTRODUCTION

It is a daunting task to write about religious persecution in Africa. The continent of Africa consists of fifty-four states with radically different histories, faiths, and cultures: it is impossible to attempt to generalize across these vastly diverse societies. Religious persecution in Africa is conceptually complicated because of the prevalence of armed non-state actors who are often the primary perpetrators. Thus, religious persecution in some African states is not necessarily between the government and the oppressed but more nuanced and multi-faceted involving a network of organizations, groups, and individuals. Further, religious persecution in Africa coexists within a mixed narrative of economic, political, and social grievances.

Despite these difficulties, it is important to attempt to document religious persecution in Africa, so that it remains in the public consciousness. This Essay comprises three national snapshot studies: Nigeria, Algeria, and Eritrea. It draws on reports of international agencies and faith-based humanitarian organizations to describe and

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analyze the nature and extent of religious persecution in each country. It focuses on the most recent reported incidents, and includes state-sponsored violence, sectarian division, blasphemy, and apostasy, together with other instances of persecution. It attempts to identify both the causes of violence and the reasons why governments seem unable or unwilling to abide by international instruments regarding the protection of religious liberty, or provisions to like effect in domestic constitutions.

I. DEFINING RELIGIOUS PERSECUTION

But what constitutes persecution? The Handbook of the United Nations High Commissioner for Refugees (UNHCR) observes that “[t]here is no universally accepted definition of ‘persecution.’”¹ Nevertheless there is ample guidance in international law to help differentiate persecution from other forms of conduct such as discrimination or intolerance. The European Union’s Council Directive 2004/83/EC on refugees is a helpful place to begin. Article 9(1) provides that acts of persecution must:

- (a) be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Human Freedoms; or
- (b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in (a).²

1 U.N. High Comm’r for Refugees, *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, ¶ 51, U.N. Doc. HRC/1P/4/ENG/REV.4 (Feb. 2019) [hereinafter UNHCR Handbook].

2 Council Directive 2004/83/EC, art. 9(1), 2004 O.J. (L 304) ¶ 1 (EU). Article 9(2) then includes a non-exhaustive list which specifies acts of religious persecution:

- (a) acts of physical or mental violence, including acts of sexual violence;
- (b) legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;
- (c) prosecution or punishment, which is disproportionate or discriminatory;
- (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;
- (e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses as set out in Article 12(2);
- (f) acts of a gender-specific or child-specific nature.

Id. ¶ 2.

Persecution involves a severe violation of an international law norm, which includes, but is not limited to, human rights provisions.³ It does not need to be persistent or systematic.⁴ States and non-state actors can be perpetrators of religious persecution and no persecutory intent is required.⁵ For instance, the UNHCR Handbook explains that “denial of protection [by a government] may confirm or strengthen the applicant’s fear of persecution, and may indeed be an element of persecution.”⁶ Persecution is highly fact-specific and can vary in nature and extent on a case-by-case basis. Importantly, persecution is different from discrimination: the latter can rise to the level of persecution, but it would need to be “of a substantially prejudicial nature for the person concerned, e.g. serious restrictions on his right . . . to practise his religion.”⁷ This Essay understands religious persecution to constitute the severe violation of the basic human right of religious liberty accompanied by physical violence or some other form of coercion.

II. INTERNATIONAL RELIGIOUS FREEDOM LAW IN AFRICA

There are two primary international legal instruments that provide for protection of religious freedom in Africa. First, the International Covenant on Civil and Political Rights (ICCPR) which translates the aspirational moral obligations of the Universal Declaration of Human Rights into binding legal obligations.⁸ Lavrysen and Brems note that Article 18 of the ICCPR “by and large contains the most important legal standard protecting freedom of religion at the international level.”⁹ Article 18 provides that “[e]veryone shall have the right to freedom of thought, conscience and religion,” and that “[n]o one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.”¹⁰ The ICCPR has been ratified by almost all African states, giving the impression that it constitutes a powerful mechanism for embedding

3 Hugo Storey, *What Constitutes Persecution? Towards a Working Definition*, 26 INT’L J. REFUGEE L. 272, 283–84 (2014).

4 *Id.* at 284.

5 *Id.*

6 UNHCR Handbook, *supra* note 1, ¶ 98.

7 *Id.* ¶ 54.

8 Laurens Lavrysen & Eva Brems, *The Right to Religious Freedom in International Human Rights Law: A Brief Overview and Exploration of Its Positive Dimension*, in ROUTLEDGE HANDBOOK OF FREEDOM OF RELIGION OR BELIEF 217, 218 (Silvio Ferrari, Mark Hill QC, Arif A. Jamal & Rossella Bottoni eds., 2021).

9 *Id.*

10 International Covenant on Civil and Political Rights, art. 18, Dec. 19, 1966, 999 U.N.T.S. 171.

and enforcing religious freedom.¹¹ In reality, the Human Rights Committee of the United Nations—the treaty body responsible for monitoring compliance with the ICCPR—reviews country reports and addresses concerns and recommendations to those countries in the form of “concluding observations.”¹² It is entirely toothless when it comes to enforcement.

Further, a majority of African countries are signatories to the African Charter on Human and Peoples’ Rights (ACHPR) also known as the Banjul Charter.¹³ It provides in Article 8 that “Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.”¹⁴ The ACHPR is enforced by the African Court of Human and Peoples’ Rights, a regional human rights court based in Arusha, Tanzania.¹⁵ But the reach and effectiveness of the African Court is extremely limited. Three quarters of states do not comply with its judgments, and only Burkina Faso reports complete compliance with a decision of the Court.¹⁶ Even those states that have ratified the ACHPR Protocol¹⁷ do not allow individuals and nongovernmental organizations to bring

11 See *Status of Treaties: 4. International Covenant on Civil and Political Rights*; New York, 16 December 1994, UNITED NATIONS TREATY SERIES, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=en#EndDec [<https://perma.cc/6DWA-CPKV>].

12 *Introduction to the Committee: Human Rights Committee*, UNITED NATIONS HUM. RTS. OFF. OF THE HIGH COMM’R, <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIntro.aspx> [<https://perma.cc/DH2Q-E26Q>].

13 See *Ratification Table: – African Charter on Human and Peoples’ Rights*, AFR. COMM’N ON HUM. & PEOPLE’S RTS., <https://www.achpr.org/ratificationtable?id=49> [<https://perma.cc/9XXQ-2L4W>].

14 African Charter on Human and Peoples’ Rights, art. 8, June 27, 1981, 1520 U.N.T.S. 16363.

15 See HEINER BIELEFELDT, NAZILA GHANEA & MICHAEL WIENER, FREEDOM OF RELIGION OR BELIEF 50 (2016); *Welcome to the African Court*, AFR. CT. ON HUM. & PEOPLE’S RTS., <https://www.african-court.org/wpafc/welcome-to-the-african-court/> [<https://perma.cc/9VZQ-ENR3>].

16 Lilian Chenwi, *Successes of African Human Rights Court Undermined by Resistance from States*, THE CONVERSATION (Aug. 31, 2021), <https://theconversation.com/successes-of-african-human-rights-court-undermined-by-resistance-from-states-166454> [<https://perma.cc/KPK5-F4MX>].

17 Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, arts. 5(3), 34(6), June 9, 1998, OAU Doc. OAU/LEG/EXP/AFCHPR/PROT (III).

complaints in the Court.¹⁸ The Court has accepted no religious freedom cases since it issued its first judgment in 2009.¹⁹

The ICCPR and ACHPR provide scant protection for the inhabitants of Nigeria, Algeria, and Eritrea in the exercise of their faith. They are wholly ineffective mechanisms for holding states and non-state actors legally responsible for acts of religious persecution and, in turn, reducing or eliminating ongoing persecution and preventing it in the future.²⁰ Religious persecution is rife in each of three countries studied in this Essay, to the detail of which we now turn, starting with the largest, Nigeria.

III. NIGERIA

Nigeria is a West African country on the Gulf of Guinea. It is Africa's most populous country with a population of over 200 million people.²¹ Nigerians generally identify along religious and ethnic lines.²² The population is split fairly evenly between Christians and Muslims,²³ and religious demographics overlap with ethnic identities.²⁴ Hausa-Fulani in the north are majority Muslim, the Igbo of southeastern Nigeria are majority Christian, and the Yoruba of southwestern Nigeria²⁵ have large populations of both Christians and Muslims.²⁶ Express provision is made for freedom of religion in Section 38 of its Constitution that dates from 1999: "Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or

18 Cf. Oliver Windridge, *Under Attack? Under the Radar? Under-Appreciated? All of the Above? A Time of Reckoning for the African Court on Human and Peoples' Rights*, OPINIO JURIS (May 7, 2020), <https://opiniojuris.org/2020/05/07/under-attack-under-the-radar-under-appreciated-all-of-the-above-a-time-of-reckoning-for-the-african-court-on-human-and-peoples-rights/> [<https://perma.cc/B7AF-NWJ2>].

19 See E-mail from Ahmed Garba to Authors (Nov. 28, 2021) (on file with authors) ("I have checked thoroughly and my finding is that the African Court on Human and Peoples' Rights is yet to decide on cases related to Freedom of Religion or Belief.").

20 See Nicole De Silva & Misha Plagis, *A Court in Crisis: African States' Increasing Resistance to Africa's Human Rights Court*, OPINIO JURIS (May 19, 2020), <http://opiniojuris.org/2020/05/19/a-court-in-crisis-african-states-increasing-resistance-to-african-human-rights-court/> [<https://perma.cc/V5QV-5DF4>].

21 AID TO THE CHURCH IN NEED INT'L, RELIGIOUS FREEDOM IN THE WORLD REPORT 2021: NIGERIA I (2021) [hereinafter ACN NIGERIA REPORT].

22 See WORLD WATCH RSCH., NIGERIA: COUNTRY DOSSIER 11 (2021) [hereinafter WWR NIGERIA DOSSIER].

23 ACN NIGERIA REPORT, *supra* note 21 (noting Christians are 46.3% of the population and Muslims are 46.2%).

24 See WWR NIGERIA DOSSIER, *supra* note 22, at 13–14.

25 It is in southwestern Nigeria where Mark Hill QC is an Honorary Chief, Bameto Esin, a title conferred at a ceremony in August 2019 by His Royal Highness Michael Odunayo Ajayi, at the Arowotaway Royal Court Yard at Erinmo-Ijesa, Osun State, Nigeria.

26 WWR NIGERIA DOSSIER, *supra* note 22, at 13.

in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.”²⁷

Violence between different religious and ethnic groups has increased in the past two decades,²⁸ due in part to the enlargement of the jurisdiction of Sharia Courts of Appeal in twelve Nigerian states after 1999, which have allowed the courts to handle Islamic criminal law,²⁹ and are generally considered better run than their civil equivalents.³⁰ Islamic jihadists in the north have attempted to use Sharia law to mobilize Muslims against minority Christian communities,³¹ notwithstanding the long-standing peaceful coexistence of indigenous Christian minorities in states such as Kano, Jigawa, Katsina, Zamfara, and Kebbi.³²

Since the early 2000s, religious freedom in Nigeria has gradually been deteriorating given the rise of religious persecutors.³³ There are two main jihadist groups operating in Nigeria: Boko Haram and an ISIS splinter group called the Islamic State West Africa Province (ISWAP).³⁴ Additionally, Fulani herder-militant groups have been perpetrators of persecution against both Muslims and Christians in Nigeria,³⁵ including kidnapping for the payment of ransom.³⁶ These groups are operating generally in the Sahel—a cross-border territory including parts of Mali, Niger, and Nigeria—where state governments

27 CONSTITUTION OF NIGERIA (1999), § 38.

28 See WWR NIGERIA DOSSIER, *supra* note 22, at 18.

29 See *id.* § 275; HEATHER BOURBEAU, MUHAMMAD SANI UMAR & PETER BAUMAN, SHARI’AH CRIMINAL LAW IN NORTHERN NIGERIA 1, 8 (2019) (Previously jurisdiction had been limited to the application of Islamic personal law. See *id.* at 12.

30 BOURBEAU ET AL., *supra* note 29, at 45 (“Shari’ah courts are popular among Muslims in Kano, Sokoto, and Zamfara, satisfying a need for a more efficient, more accessible, and cheaper judicial system, particularly for civil cases. Christians will also sometimes choose to take civil cases to Shari’ah courts.”).

31 See Michael Nwankpa, *The North-South Divide: Nigerian Discourses on Boko Haram, the Fulani, and Islamization*, HUDSON INST. (Oct. 26, 2021), <https://www.hudson.org/research/17072-the-north-south-divide-nigerian-discourses-on-boko-haram-the-fulani-and-islamization> [<https://perma.cc/XJ6Z-UQ29>].

32 See MUKHTAR UMAR BUNZA, CHRISTIAN MISSIONS AMONG MUSLIMS: SOKOTO PROVINCE, NIGERIA, 1935-1990, 1-33 (2007); HARUNA WAKILI, RELIGIOUS PLURALISM AND CONFLICT IN NORTH WESTERN NIGERIA, 1970-2000, at 6-70 (2009).

33 See Nwankpa, *supra* note 31.

34 See ACN NIGERIA REPORT, *supra* note 21, at 3.

35 See *id.* at 2.

36 *Id.* at 7.

exert little authority and control.³⁷ The Nigerian government has failed to combat the violence and destruction.³⁸

As to the motivations behind the religious persecution, Boko Haram (meaning “western education is forbidden”)³⁹ is the most infamous jihadist group in West Africa. It is an Islamic militant group that developed in the early 2000s to overthrow the Nigerian government in the north—which it perceived to be materially and spiritually corrupt—and establish an Islamic state.⁴⁰ In addition to government, military, and police targets, Boko Haram has launched violent attacks on churches, religious schools,⁴¹ and seminaries, and abducted and executed Christian clergy.⁴² Its members have also kidnapped hundreds of Christian school children, keeping them in captivity until they renounce their Christian faith.⁴³ In two decades, an estimated 36,000 people have died in Boko Haram attacks.⁴⁴ Although Boko Haram and ISWAP are both fighting to establish Islamic states in Nigeria, ISWAP makes more deliberate efforts to govern and restore order in the territory that it controls.⁴⁵ ISWAP builds infrastructure, provides some health care, and runs general government services that

37 See MARC-ANTOINE PÉROUSE DE MONTCLOS, CHATHAM HOUSE, RETHINKING THE RESPONSE TO JIHADIST GROUPS ACROSS THE SAHEL, 3 & n.2 (2021); NATASJA RUPESINGHE, MIKAEL HIBERG NAGHIZDEH & CORENTIN COHEN, NORWEGIAN INSTIT. OF INT’L AFF., REVIEWING JIHADIST GOVERNANCE IN THE SAHEL 5 (2021).

38 See *infra* notes 67–69 and accompanying text.

39 ACN NIGERIA REPORT, *supra* note 21, at 2.

40 See Nwankpa, *supra* note 31; ANDREW WALKER, U.S. INST. OF PEACE, SPECIAL REPORT: WHAT IS BOKO HARAM? 1 (2012).

41 ANDREW WALKER, U.S. INST. OF PEACE, SPECIAL REPORT: WHAT IS BOKO HARAM? 6 (2012).

42 ACN NIGERIA REPORT, *supra* note 21, at 2, 6. Melanie Lidman, *Sisters in Northern Nigeria Face Boko Haram with Faith*, GLOB. SISTERS REP. (July 29, 2014), <https://www.globalsistersreport.org/news/ministry/sisters-northern-nigeria-face-boko-haram-faith-7586> [<https://perma.cc/NEA8-UA7V>]. Boko Haram has also undertaken violence against Islamic targets, notably an attack on the Central Mosque in Kano when the former Emir was leading Juma prayers, and abducting high profile Muslim leaders. See *Nigeria Unrest: Mosque Attack Death Toll over 100*, BBC NEWS (Nov. 30, 2014), <https://www.bbc.com/news/world-africa-30256157> [<https://perma.cc/J7B3-N3F5>]; *Boko Haram Abducts Two Nigerian Muslim Leaders*, THE HINDU (Nov. 16, 2021), <https://www.thehindu.com/news/international/article60382686.ece> [<https://perma.cc/F7K9-GMX6>].

43 Morgan Winsor & James Bwala, *More Chibok Girls Have Escaped from Boko Haram Almost 7 Years Later, Parents Say*, ABC NEWS (Jan. 29, 2021), <https://abcnews.go.com/International/chibok-girls-escaped-boko-haram-years-parents/story?id=75560018> [<https://perma.cc/2CFY-WN6E>].

44 ACN NIGERIA REPORT, *supra* note 21, at 2.

45 Nwankpa, *supra* note 31.

are sometimes superior to those provided by the Nigerian government.⁴⁶

Perhaps less well known as religious persecutors are the Fulani herder-militants, as opposed to the Fulani ethnic group as a whole. The ethnic group is composed of traditionally semi-nomadic herders and number about seven million in Nigeria alone.⁴⁷ In 2018, Fulani herder-militants were responsible for six times as many deaths as Boko Haram.⁴⁸ Commentators suggest that this violence is primarily economically motivated.⁴⁹ While not completely discounting religious motivations, Benjaminsen and Ba argue that the Fulani conflict can only be understood in a “political ecology framing.”⁵⁰ Similarly, Nwankpa suggests that the Fulani who resort to crime are predominately motivated by enhancing their social status.⁵¹ Labelling the violence in Nigeria as an Islamic persecution of Christians, they argue, is an inaccurate narrative that only causes more division.⁵²

The Catholic bishops in Nigeria and multiple advocacy organizations have contested the view that Fulani attacks are merely a product of economics and politics. They contend that the eco-political explanation for the violence serves only to conceal the Fulani’s moral culpability.⁵³ Instead, the bishops argue that Fulani groups are adopting an increasingly violent jihadist ideology or otherwise cooperating with Boko Haram and ISWAP.⁵⁴ They also point out that the Fulani herder-militant attacks are systematic and organised, deliberately targeting Christians and their property.⁵⁵ These are no

46 INT’L CRISIS GRP., FACING THE CHALLENGE OF THE ISLAMIC STATE IN WEST AFRICA PROVINCE: AFR. REP. NO. 273, at i (2019).

47 ACN NIGERIA REPORT, *supra* note 21, at 2.

48 Open Doors UK & Ireland, WRITTEN EVIDENCE SUBMITTED BY OPEN DOORS UK & IRELAND (IRN0012) (UK); *see also* ACN NIGERIA REPORT, *supra* note 21, at 2.

49 Nwankpa, *supra* note 31.

50 Tor A. Benjaminsen & Boubacar Ba, *Fulani-Dogon Killings in Mali: Farmer-Herder Conflicts as Insurgency and Counterinsurgency*, 14 AFR. SEC. 4, 5–6 (2021).

51 *See* Nwankpa, *supra* note 31.

52 *See* Nwankpa, *supra* note 31. *Cf.* Benjaminsen & Ba, *supra* note 50, at 21.

53 *See* LELA GILBERT, FAM. RSCH. COUNCIL, THE CRISIS OF CHRISTIAN PERSECUTION IN NIGERIA, 1, 2 (2021) (“To make matters worse, when these incidents are reported, they are regularly explained away as effects of climate change, local feuds, or internecine religious wars for which both sides bear equal responsibility.”); Filipe Avillez, *Church Decries “Slow Genocide” of Christians in Nigeria*, ALETEIA, (Oct. 8, 2021), <https://aleteia.org/2021/10/08/church-decries-slow-genocide-of-christians-in-nigeria/> [<https://perma.cc/R62D-VAEY>].

54 *See* Agnes Aineah, *This is “Ethnic Cleansing”, Catholic Bishop Says of Killings by Fulani Herdsmen in Nigeria*, ACIAFRICA (Oct. 4, 2021), <https://www.aciafrica.org/news/4403/this-is-ethnic-cleansing-catholic-bishop-says-of-killings-by-fulani-herdsmen-in-nigeria> [<https://perma.cc/6MVS-SK8U>].

55 *See* Avillez, *supra* note 53.

bandits but religiously motivated persecutors of Christians. And to some, the persecutions are properly categorised as genocide.⁵⁶

Both these accounts of the Fulani point at some truth. As Cline notes, Islamic groups are “adept at modifying their messaging and mobilization to appeal to local grievances and issues.”⁵⁷ Boko Haram, ISWAP, and other jihadist groups recruit heavily from the Fulani by appealing to their current grievances with the government and rival ethnic groups, and inducing them with prospects of financial and social advancement. The jihadist groups then exacerbate the situation by overlaying violent Islamic ideology on these local grievances.⁵⁸ A series of reports corroborate the claim that many Fulani attacks are religiously motivated: Christians are forced to convert to Islam, churches are burned down, and Christian ministers are abducted or killed.⁵⁹

Turning to the persecuted, reports from the first half of 2021 alone showed Nigerian Christians being murdered at a rate of seventeen believers a day.⁶⁰ A common form of religious persecution in Nigeria is Islamist raids on smaller Christian villages in rural areas of central and northern states.⁶¹ Frequently, the men and boys are killed while the women and girls are abducted to be used as ransom, in human trafficking, or as slaves.⁶² Jihadists have burned down a large number of Christian churches.⁶³ They have also targeted religious ministers—shooting, beheading, and kidnapping Christian priests and pastors.⁶⁴ As of December 2020, an estimated 2.73 million people had been internally displaced in Nigeria as a result of conflict and violence,

56 *See id.*

57 Lawrence E. Cline, *Jihadist Movements in the Sahel: Rise of the Fulani?*, TERRORISM & POL. VIOLENCE, <https://www.tandfonline.com/doi/full/10.1080/09546553.2021.1888082> [<https://perma.cc/945F-MUES>].

58 *Cf. id.*; *see also* Leif Brottem, *The Growing Complexity of Farmer-Herder Conflict in West and Central Africa*, AFRICA CTR. STRATEGIC STUD. (July 12, 2021), <https://africacenter.org/publication/growing-complexity-farmer-herder-conflict-west-central-africa/> [<https://perma.cc/MU3D-QUA2>].

59 *See generally* ACN NIGERIA REPORT, *supra* note 21; WWR NIGERIA DOSSIER, *supra* note 22; Andrea Morris, ‘Killing Our People has Become Routine’: Jihadists Kill Nigerian Pastor, Burn Woman’s Home After Murdering Son, CBN NEWS (Aug. 2, 2021), <https://www1.cbn.com/cbnnews/cwn/2021/august/killing-our-people-has-become-routine-jihadists-kill-nigerian-pastor-burn-womans-home-after-murdering-son> [<https://perma.cc/7FB6-NZKM>]. Note, however, as set out elsewhere in this paper, Fulani militant aggression is not directed solely at Christians.

60 CNA Staff, *Report: 17 Christians Killed Every Day in Nigeria in First Half of 2021*, CATH. NEWS AGENCY (July 31, 2021), <https://www.catholicnewsagency.com/news/248547/report-17-christians-killed-every-day-in-nigeria-in-first-half-of-2021> [<https://perma.cc/UD3Q-BVFR>].

61 WWR NIGERIA DOSSIER, *supra* note 22, at 33, 46.

62 *Id.*

63 *See* ACN NIGERIA REPORT, *supra* note 21, at 3–4.

64 *Id.* at 4–8.

many of whom now live in camps.⁶⁵ Female converts to Christianity may be expelled from their family home and prohibited from seeing their children until they convert to Islam.⁶⁶

The Nigerian Government has been criticized for its inability or unwillingness to take adequate measures to prevent religious persecution.⁶⁷ The government's resources are thinly stretched and its police and military are unable to protect communities even when they have been tipped off to an impending attack.⁶⁸ There has also been speculation that certain officials in the Nigerian government have neglected to prosecute Fulani herder-militants or been complicit by aiding or enabling the religious persecutions.⁶⁹

In sum, Christians in Nigeria, especially in the central and northern states, are vulnerable to jihadist attacks. Nigerian jihadists are heavily armed, can operate in small groups, and will often strike civilian targets.⁷⁰ Their objective seems to be to eliminate Christianity from Nigeria and establish an Islamic state along the lines of the one temporarily formed in the Middle East. Fulani herder-militants, although perhaps initially motivated by socioeconomic grievances, have adopted a violent Islamic ideology that understands Christians as inherently oppositional.

The Nigerian government has failed to protect Christians and little international attention has been given to the growing religious conflict in Nigeria. The United States' response is trending in the wrong direction. In December 2019, the U.S. Department of State included Nigeria for the first time on its Special Watch List for engaging in or tolerating severe violations of religious freedom pursuant to the International Religious Freedom Act.⁷¹ On December 2, 2020, it designated Nigeria a Country of Particular Concern: an action the United States Commission on International Religious Freedom (USCIRF) had recommended every year since 2009, indicating that the Nigerian government "engages in or tolerates

65 *Nigeria*, INTERNAL DISPLACEMENT MONITORING CTR., <https://www.internal-displacement.org/countries/nigeria> [<https://perma.cc/BD2H-9DCN>].

66 ELSE LOTTE FAASSE, WORLD WATCH RSCH., NIGERIA: COMPOUND STRUCTURAL VULNERABILITIES FACING CHRISTIAN WOMEN UNDER PRESSURE FOR THEIR FAITH 14 (2019).

67 *See* ALL PARTY PARLIAMENTARY GRP. FOR INT'L FREEDOM OF RELIGION OR BELIEF, NIGERIA: UNFOLDING GENOCIDE? AN INQUIRY BY THE UK ALL-PARTY PARLIAMENTARY GROUP FOR INTERNATIONAL FREEDOM OF RELIGION OR BELIEF 22 (2020).

68 *See id.* at 21.

69 ACN NIGERIA REPORT, *supra* note 21, at 4; GILBERT, *supra* note 53, at 14.

70 *See* ALL PARTY PARLIAMENTARY GRP. FOR INT'L FREEDOM OF RELIGION OR BELIEF, *supra* note 67, at 8; Akali Omeni, *Boko Haram's Increasingly Sophisticated Military Threat*, 29 SMALL WARS & INSURGENCIES 886, 887 (2019).

71 U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, ANNUAL REPORT 2021, at 31 (2021) [hereinafter USCIRF 2021 REPORT].

‘particularly severe’ violations of religious freedom.”⁷² However in November 2021, the U.S. State Department removed Nigeria’s designation as a Country of Particular Concern.⁷³ Instead, U.S. Secretary of State Antony Blinken designated Boko Haram and ISWAP as Entities of Particular Concern.⁷⁴ The removal of Nigeria’s CPC designation came a day before Blinken’s visit to Nigeria as part of his multi-state mission to Africa.⁷⁵ The USCIRF Chair, Nadine Maenza, responded that the USCIRF was “especially displeased with the removal of Nigeria from its CPC designation.”⁷⁶ Political expedience had triumphed at the expense of protecting victims of egregious, entrenched, well-documented, and independently verified religious persecution.

IV. ALGERIA

Algeria is a North African country on the Mediterranean Sea with a population of over forty-three million.⁷⁷ Algeria’s religious demographics differ quite significantly from those of Nigeria. In contrast to the relatively equal Muslim-Christian divide in Nigeria, over 98% of Algeria’s population is Muslim, while only 0.3% is Christian.⁷⁸ Most Christians in Algeria are from sub-Saharan Africa and members of Evangelical churches in the Kabyle region east of the capital Algiers.⁷⁹ There are also small communities of Roman Catholics, Jews, Lutherans, Anglicans, and Coptic Christians.⁸⁰ Religious persecution in Algeria is increasingly attracting international scrutiny. The USCIRF recommended to the U.S. State Department that it add Algeria to the Special Watch list for “engaging in or tolerating severe

⁷² *Id.* at 1, 31.

⁷³ See Press Release, Antony J. Blinken, Sec’y of State, Religious Freedom Designations (Nov. 17, 2021), <https://www.state.gov/religious-freedom-designations/> [<https://perma.cc/3JDS-PSQR>]; Press Release, U.S. Comm’n on Int’l Religious Freedom, USCIRF Appalled at Administration’s Removal of Nigeria from List of Violators of Religious Freedom (Nov. 17, 2021), <https://www.uscirf.gov/news-room/releases-statements/uscirf-appalled-administrations-removal-nigeria-list-violators> [<https://perma.cc/59TA-4G6G>].

⁷⁴ Blinken, *supra* note 73.

⁷⁵ *US Issues Religious Freedom ‘Concern’ List, Removes Nigeria*, AL JAZEERA, (Nov. 18, 2021), <https://www.aljazeera.com/news/2021/11/18/us-issues-religious-freedom-concern-list-removes-nigeria> [<https://perma.cc/8QU6-Q4TP>].

⁷⁶ U.S. Comm’n on Int’l Religious Freedom, *supra* note 73.

⁷⁷ AID TO THE CHURCH IN NEED INT’L, RELIGIOUS FREEDOM IN THE WORLD REPORT 2021: ALGERIA I (2021) [hereinafter ACN ALGERIA REPORT].

⁷⁸ *Id.*

⁷⁹ WORLD WATCH RSCH., ALGERIA: FULLY COUNTRY DOSSIER 11 (2020) [hereinafter WWR ALGERIA DOSSIER].

⁸⁰ U.S. DEP’T OF STATE, ALGERIA 2020 INTERNATIONAL RELIGIOUS FREEDOM REPORT 2 (2021) [hereinafter STATE DEP’T ALGERIA REPORT].

violations of religious freedom.”⁸¹ And in November 2021, Algeria was so added.⁸²

Article 2 of the Algerian Constitution makes Islam the official state religion (“Islam shall be the religion of the State.”).⁸³ A referendum on November 1, 2020, favored amendment of the constitution.⁸⁴ The previous constitution guaranteed in Article 42 that “[f]reedom of conscience and freedom of opinion shall be inviolable.”⁸⁵ The amendment excised “freedom of conscience” from the constitutional provision (renumbered Article 51).⁸⁶ It is unclear what the motivation was behind this deletion or what the legal effects might be, but the amendment has caused some observers to worry about the gradual erosion of religious freedom protection for religious minorities in Algeria.⁸⁷

On its face, the Algerian constitution contains relatively robust protections for religious freedom. However, the situation on the ground is different, although religious persecution differs in nature from that in Nigeria. It predominately involves top-down persecution by the Algerian government.⁸⁸ In 2006, Algeria passed Ordinance 06-03 which requires that all places of non-Muslim worship be authorized by the National Commission for Non-Muslim Worship.⁸⁹ In practice the National Commission does not meet. Many Christian churches who submit applications to the National Commission never hear back and their buildings are closed for lack of registration.⁹⁰ In 2012, Algeria also passed an Associations Law that required all religious organizations to re-register with the Ministry of the Interior.⁹¹ The Protestant Church of Algeria (“EPA”)—an umbrella organization for

81 USCIRF 2021 REPORT, *supra* note 71, at 56.

82 See Blinken, *supra* note 73.

83 CONSTITUTION OF ALGERIA (2020), art. 2.

84 STATE DEP’T ALGERIA REPORT, *supra* note 80, at 3.

85 *Algeria 1989 (reinst. 1996, rev. 2016)*, CONSTITUTE, https://www.constituteproject.org/constitution/Algeria_2016?lang=en [<https://perma.cc/Y3ZK-PX4S>].

86 See STATE DEP’T ALGERIA REPORT, *supra* note 80, at 3; CONSTITUTION OF ALGERIA (2020), art. 51; H.R.C. Permanent Mission of Algeria to the United Nations Off. at Geneva & the Int’l Orgs. in Switz., Response of the Government of Algeria to Allegations Concerning the Closure of Protestant Churches and Places of Worship, 1 HRC/NONE/2021/SP/10 (Jan. 21, 2021) [hereinafter Permanent Mission of Algeria] (quoting the CONSTITUTION OF ALGERIA (2020), art. 51 without a reference to freedom of conscience).

87 STATE DEP’T ALGERIA REPORT, *supra* note 80, at 14.

88 See *id.*

89 *General Briefing: Algeria*, CHRISTIAN SOLIDARITY WORLDWIDE (Mar. 1, 2021), <https://www.csw.org.uk/2021/03/01/report/5015/article.htm> [<https://perma.cc/7AHB-NYXX>].

90 *Id.*

91 STATE DEP’T ALGERIA REPORT, *supra* note 80, at 4.

Protestant churches in Algeria—received official recognition in 2011, but local churches are required to apply separately for recognition.⁹² The EPA claims that the National Commission has not issued a single permit to a local EPA-affiliated church.⁹³

In a letter to the United Nations, the Algerian government has challenged the veracity of allegations of religious persecution such as these.⁹⁴ Algeria claims that, contrary to numerous reports, its National Commission for Non-Muslim Worship—which it calls the “National Commission for the Practice of Religion”—meets regularly to address the needs of religious communities.⁹⁵ It also defends its decisions to shut down certain churches and worship spaces on the grounds that they failed to comply with building, planning, and safety regulations. The government argues that it has denied registration only to religious communities which have either failed to submit the required paperwork or refused to cooperate in a settlement process.⁹⁶ This justification is not compelling: since January 2018, the Algerian government has closed twenty Protestant churches under the guise of enforcing building and safety codes.⁹⁷

Algeria has increasingly enforced its anti-blasphemy and anti-proselytizing laws. Ordinance 06-03 criminalizes behavior that would “shake a Muslim’s faith” or be used as a “means of seduction intending to convert a Muslim to another religion.”⁹⁸ The law prohibits the printing, storing, or distributing of materials that could entice a Muslim away from Islam. Penalties include prison sentences and significant fines.⁹⁹ There has been an increase in blasphemy convictions: most recently, in April 2021, an Algerian court sentenced a prominent Islamic scholar to three years in prison for posting opinions on social media that were deemed to violate Islamic precepts.¹⁰⁰

Christians are not the only target of religious persecution. Ahmadi Muslims have been regularly imprisoned for worshipping and proselytizing. The Ahmadis are a tiny community of around 2000

92 WWR ALGERIA DOSSIER, *supra* note 79, at 11.

93 *See id.*; STATE DEP’T ALGERIA REPORT, *supra* note 80, at 12.

94 Permanent Mission of Algeria, *supra* note 86.

95 *Id.* at 2.

96 *Id.* at 3.

97 *See id.*; STATE DEP’T ALGERIA REPORT, *supra* note 80, at 12; WWR ALGERIA DOSSIER, *supra* note 79, at 18; ACN ALGERIA REPORT, *supra* note 77, at 2.

98 CHRISTIAN SOLIDARITY WORLDWIDE, *supra* note 89; WWR ALGERIA DOSSIER, *supra* note 79, at 6.

99 *See* CHRISTIAN SOLIDARITY WORLDWIDE, *supra* note 89.

100 *Algeria: Islamic Scholar Sentenced to Three-Year Prison Term for “Offending Islam”*, AMNESTY INT’L (Apr. 22, 2021), <https://www.amnesty.org/en/latest/press-release/2021/04/algeria-islamic-scholar-sentenced-to-three-year-prison-term-for-offending-islam/> [<https://perma.cc/X8PS-NB3W>].

reformist Muslims in Algeria.¹⁰¹ The Algerian government has labeled the Ahmadis as “heretics and a threat” to the stability of the government.¹⁰² At the end of 2019, there were over 200 cases concerning Ahmadi Muslims pending before the Supreme Court of Algeria.¹⁰³ The allegations in these cases include “‘operating an unregistered religious association,’ non-authorized fundraising, and praying in undeclared places of worship.”¹⁰⁴ Algerian courts have handed down lengthy prison sentences to Ahmadis who have been found to have worshipped without legal registration.¹⁰⁵

Religious persecution in Algeria is top-down and perpetuated by government agencies under the apparent protection of the law. It specifically targets religious minorities who do not conform to the state religion.

V. ERITREA

Eritrea is a small East African state that borders the Red Sea. It has a population of approximately 5.4 million, of which 51% are Muslims and 47% Christian.¹⁰⁶ It is particularly challenging to write about religious persecution in Eritrea because of the government’s tight control on the press and social media.¹⁰⁷ There is no independent press in Eritrea, and it has been rated the most censored country in the world.¹⁰⁸ Nevertheless anecdotal reports amply demonstrate the government’s persecution of religious communities. Eritrea differs from Nigeria and Algeria because its government is actively hostile to religion itself and seeks to restrict religion’s influence on Eritrean public life. In 2021, the U.S. State Department, pursuant to the USCIRF’s recommendation, redesignated Eritrea a “country of particular concern, or CPC, for engaging in systematic, ongoing, and egregious violations of religious freedom.”¹⁰⁹

101 *Algeria: Wave of Arrests and Prosecutions of Hundreds of Ahmadis*, AMNESTY INT’L (June 19, 2017), <https://www.amnesty.org/en/latest/press-release/2017/06/algeria-wave-of-arrests-and-prosecutions-of-hundreds-of-ahmadis/> [<https://perma.cc/9K4C-G9SS>].

102 *Id.*

103 ACN ALGERIA REPORT, *supra* note 77, at 2.

104 *Id.* (quoting *2019 Report on International Religious Freedom: Algeria*, U.S. DEP’T OF STATE, <https://www.state.gov/reports/2019-report-on-international-religious-freedom/algeria/> [<https://perma.cc/43WY-KU39>]).

105 *See* USCIRF 2021 REPORT, *supra* note 71, at 57.

106 AID TO THE CHURCH IN NEED INT’L, RELIGIOUS FREEDOM IN THE WORLD REPORT 2021: ERITREA 1 (2021) [hereinafter ACN ERITREA REPORT]. Both of these figures are contested. *See* U.S. DEP’T OF STATE, ERITREA 2020 INTERNATIONAL RELIGIOUS FREEDOM REPORT, 2–3 (2021) [hereinafter STATE DEP’T ERITREA REPORT].

107 *See* ACN ERITREA REPORT, *supra* note 106, at 2.

108 AMNESTY INT’L, AMNESTY INTERNATIONAL REPORT 2020/21: THE STATE OF THE WORLD’S HUMAN RIGHTS 155 (2021).

109 *See* USCIRF 2021 REPORT, *supra* note 71, at 20; Blinken, *supra* note 73.

But the situation in Eritrea must first be placed in a larger regional context. Eritrea achieved independence in 1993 after a bloody civil war with Ethiopia.¹¹⁰ Since its independence, Eritrea has been under the control of President Isayas Afewerki.¹¹¹ His political party—the People’s Front for Democracy and Justice (PFDJ)—is the only legal political party in the country.¹¹² Even after independence, from 1998–2000, Eritrea and Ethiopia engaged in a conflict that left tens of thousands dead.¹¹³ Undoubtedly, the conflict and the need for a unified government helped Afewerki and the PFDJ maintain a grip on power. The government motto *Hade-Hizbi, Hade-Libi* (“One People, One Heart”) was adopted to describe a policy of forced homogenization based on the suppression of ethnic, religious, and regional identities.¹¹⁴

Much of the government’s policy towards religious communities is predicated on a single law, Proclamation 73/1995 (1995),¹¹⁵ which established the Office of Religious Affairs to regulate religious groups in the country.¹¹⁶ The Eritrean government only recognizes four religious communities: the Eritrean Orthodox Tewahedo Church, the Evangelical Lutheran Church of Eritrea, the Roman Catholic Church, and Sunni Islam.¹¹⁷ Even though these four religious groups are officially recognized, the 2021 USCIRF report states that “the [Eritrean] government consistently intervened in their affairs to limit and direct their activities.”¹¹⁸ Religious leaders must submit biannual reports to the government documenting their communities’ activities.¹¹⁹ The law also makes it unlawful for a religious organization

110 See Abdulkader Saleh Mohammad, *The Resurgence of Religious and Ethnic Identities among Eritrean Refugees: A Response to the Government’s Nationalist Ideology*, 56 AFR. SPECTRUM 39, 42 (2021).

111 See *id.* at 42.

112 STATE DEP’T ERITREA REPORT, *supra* note 106, at 8.

113 Gabriella Venturini, *International Humanitarian Law and the Conduct of Hostilities in the Case-Law of the Eritrea-Ethiopia Claims Commission*, in THE 1998–2000 ERITREA-ETHIOPIA WAR AND ITS AFTERMATH IN INTERNATIONAL LEGAL PERSPECTIVE 345, 346 (Andrea de Guttry, Harry H.G. Post & Gabriella Venturini eds., 2d ed. 2021) (citing Tadesse Kebebew, *The Eritrea-Ethiopia Armed Conflict*, in THE WAR REPORT: ARMED CONFLICTS IN 2018, at 37, 39 (Annyssa Bellal ed., 2019)).

114 Mohammad, *supra* note 110, at 43.

115 Proclamation to Legally Standardize and Articulate Religious Institutions and Activities, Proclamation No. 73/1995, arts. 9–10, <https://www.refworld.org/docid/48acc42b2.html> [<https://perma.cc/3KCC-W5N8>].

116 See *id.*; STATE DEP’T ERITREA REPORT, *supra* note 106, at 3. See generally Daniel R. Mekonnen & Selam Kidane, *The Troubled Relationship of State and Religion in Eritrea*, 14 AFR. HUM. RTS. L.J. 244, 258–59 (2014).

117 See USCIRF 2021 REPORT, *supra* note 71, at 20; Mekonnen & Kidane, *supra* note 116, at 260.

118 USCIRF 2021 REPORT, *supra* note 71, at 20.

119 ACN ERITREA REPORT, *supra* note 106, at 1.

to “undertake any political activities with or against the government by launching [a] political campaign, preach[ing] against government politics, or issu[ing] publications and broadcast on any political issue.”¹²⁰ The Eritrean government may profess a strict separation of religion and state,¹²¹ but, in reality, the government feels no compunction about intruding into religious affairs.

Eritrea adopted its constitution in 1997.¹²² Article 19(1) provides that “[e]very person shall have the right to freedom of thought, conscience and belief,”¹²³ while Article 19(4) states that “[e]very person shall have the freedom to practice any religion and to manifest such practice.”¹²⁴ Despite these constitutional protections, the Eritrean government maintains tight control over religious organizations and their activities. Indeed the government has consistently failed to follow and apply these provisions in its constitution.¹²⁵ Accordingly, the constitution provides no protection or legal recourse for persecuted religious communities and individuals.

The Eritrean government has arrested and imprisoned scores of people affiliated with unregistered religions, with no due process for the accused.¹²⁶ Although it is difficult to settle on an accurate estimate of the number of religious prisoners, one report suggests anywhere between 800 and 2000 lay faithful.¹²⁷ The government conducts house raids and sometimes arrests Christian worshippers.¹²⁸ The government also conducts raids on weddings attended by members of non-registered religious communities.¹²⁹ Religious and political prisoners are incarcerated in overcrowded, unsanitary, and inhumane conditions.¹³⁰ Recently the government has released a number of religious prisoners from its jails, but it is unclear how many still

120 Proclamation to Legally Standardize and Articulate Religious Institutions and Activities, Proclamation No. 73/1995, art. 2, § 2, <https://www.refworld.org/docid/48aacc42b2.html> [<https://perma.cc/3KCC-W5N8>].

121 *See id.* § 1 (“In Eritrea, government as a political party and religions and religious institutions as spiritual entities, are separate entities and government should not interfere with religious activities and religion, and religious institutions should not intervene in politics.”).

122 CONSTITUTION OF ERITREA (1997).

123 *Id.* art. 19, § 1.

124 *Id.* art. 19, § 4.

125 *See The Status of the Constitution of Eritrea and the Transitional Government*, ERI-PLATFORM (Oct. 23, 2018), <https://eri-platform.org/updates/status-constitution-eritrea-transitional-government/> [<https://perma.cc/D6Z4-4EQ2>].

126 *See* ACN ERITREA REPORT, *supra* note 106, at 2; STATE DEP’T ERITREA REPORT, *supra* note 106, at 7.

127 ACN ERITREA REPORT, *supra* note 106, at 2.

128 *See* STATE DEP’T ERITREA REPORT, *supra* note 106, at 5.

129 *See* WORLD WATCH RSCH., ERITREA: FULL COUNTRY DOSSIER 6 (2021).

130 *See id.*; AMNESTY INT’L, *supra* note 108, at 155.

languish in prisons with no prospect of fair trial.¹³¹ Released prisoners are not permitted to leave the country.¹³²

In 2019, even though the Catholic Church is recognized as an official religious community,¹³³ the Eritrean government seized and shut down twenty-two Catholic health centers and clinics.¹³⁴ This was ostensibly justified by recourse to Proclamation 73/1995, which provides that all religious institutions serving the needy and disadvantaged may only be operated to provide for those who are members of the religious community's congregation.¹³⁵ In September 2019, the government shut down a series of schools run by both Christian and Muslim religious organizations.¹³⁶ The action appeared to be based on Proclamation 73/1995, intended to eliminate religious communities' control over Eritrean social institutions.¹³⁷ The government may try to convert the confiscated property and school buildings into public primary and secondary schools.¹³⁸ As of 2021, the government had not permitted many of these religious schools to reopen.¹³⁹ This crackdown is reportedly in retaliation for the Church's call for reform to help slow the tide of emigration from the country.¹⁴⁰ Now thousands of Eritreans are left with reduced and lower quality health and educational services. The Catholic Church is increasingly becoming a target of the Eritrean government as Catholic bishops have vocally opposed the government's involvement in the Tigray war.¹⁴¹ More recently, the government has restricted the number of Catholic

131 STATE DEP'T ERITREA REPORT, *supra* note 106, at 1, 5 ("According to [Christian Solidarity Worldwide], those released in September had been in prison between two and [sixteen] years without charge or trial prior to their release.")

132 *See id.* at 5.

133 *See supra* note 117 and accompanying text.

134 *Eritrea's Seizure of Roman Catholic Church Properties Criticised*, BBC NEWS (June 17, 2019), <https://www.bbc.co.uk/news/world-africa-48660723> [<https://perma.cc/7UY3-JDV5>]. *See also* James Jeffrey, *Why on Earth Did Eritrea Shut Down Catholic Health Clinics?*, CATH. HERALD (July 4, 2019), <https://catholicherald.co.uk/why-on-earth-did-eritrea-shut-down-catholic-health-clinics/>.

135 Proclamation to Legally Standardize and Articulate Religious Institutions and Activities, Proclamation No. 73/1995, art. 8, § 3, <https://www.refworld.org/docid/48aacc42b2.html> [<https://perma.cc/3KCC-W5N8>].

136 ACN ERITREA REPORT, *supra* note 106, at 2.

137 *See* Stephanie Osaji, *Eritrea Shuts Down Schools Owned by Religious Bodies*, VENTURES AFR. (Sept. 4, 2019), <https://venturesafrica.com/eritrea-shuts-down-schools-owned-by-religious-bodies/> [<https://perma.cc/CFX5-3KQN>].

138 *Id.*

139 *See Eritrea: Bishops Criticise the Nationalisation of Catholic Schools*, VATICAN NEWS (June 10, 2021), <https://www.vaticannews.va/en/africa/news/2021-06/eritrea-bishops-criticise-the-nationalisation-of-catholic-schoo.html> [<https://perma.cc/32RW-8JNV>].

140 *Eritrea's Seizure of Roman Catholic Church Properties Criticised*, *supra* note 134.

141 Benedict Mayaki, *Eritrean Bishops Call for Peace in Ethiopia's Tigray Region*, VATICAN NEWS (Nov. 25, 2020), <https://www.vaticannews.va/en/africa/news/2020-11/eritrea-ethiopia-conflict-tigray-peace-bishops.html> [<https://perma.cc/F39B-2VWY>].

seminarians and clergy wishing to travel abroad.¹⁴² The Eritrean government seeks to monopolize control over its citizens' lives and the activities of social institutions, which has made religious communities one of its prime targets of persecution.

VI. COMBATTING RELIGIOUS PERSECUTION IN AFRICA

It is bold and foolhardy to speak of the elimination of religious persecution in Africa. As has already been observed in relation to the three sample states studied in this Essay, constitutional provisions exist to declare and enforce the right to freedom of religion in language reflective of international treaties and norms. Superficially at least, religious persecution ought to be unthinkable as a matter of domestic law. But, as we have seen, these constitutional provisions have little, if any, meaningful effect. The perpetrators are not deterred. Freedom of religion is not upheld by law enforcement officers or by the judiciary. Indeed, much of the religious persecution identified in these studies is state-sponsored or condoned by the active or tacit complicity of the military.

Similarly, whilst the African Charter on Human and Peoples' Rights makes high-vaulted claims guaranteeing the free practice of religion, the enforcement of Charter rights in the African Court of Human and Peoples' Rights is wholly ineffectual. United Nations reports denounce religious persecution, but short of military intervention by a U.N. peacekeeping body, the institutions of the U.N. lack the standing and the tools to combat it. Bodies such as the USCIRF¹⁴³ are highly effective in collating information to enable religious persecution to be identified, reported, and brought into public consciousness. But, as we saw in the case of Nigeria, its recommendation that a nation be designated a Country of Particular Concern can be easily overridden as a matter of political expediency. There remains the possibility of soft diplomacy, or even a more aggressive variety, but this requires concerted action on a global level for which there seems to be little appetite at present. Although it is open to argument, the fall of apartheid is understood by many to have resulted from a combination of economic sanctions and sporting boycotts.¹⁴⁴

142 STATE DEP'T ERITREA REPORT, *supra* note 106, at 9.

143 Note also the work of the UK Prime Minister's Special Envoy for Freedom of Religion or Belief, and reports such as BISHOP OF TRURO'S INDEPENDENT REVIEW FOR THE FOREIGN SECRETARY OF [FOREIGN AND COMMONWEALTH OFFICE] SUPPORT FOR PERSECUTED CHRISTIANS: FINAL REPORT AND RECOMMENDATIONS 26 (2019).

144 See ANTON D. LOWENBERG & WILLIAM H. KAEMPFER, THE ORIGINS AND DEMISE OF SOUTH AFRICAN APARTHEID: A PUBLIC CHOICE ANALYSIS 8-9, 193 (1998); Kathleen C.

The work of nongovernmental organizations and faith-based charities has been crucial in collating and disseminating real-time information of the most serious excesses of religious persecution throughout Africa and particularly in our three sample states. Keeping these instances in plain sight is essential, calling them out for what they are. The significance of the work of Notre Dame Law School's Religious Liberty Initiative, and its Program on Church, State & Society, together with academic writing in the prestigious *Notre Dame Law Review* cannot be overstated in ensuring that a spotlight is shone on those places in the world where religious persecution is practiced, particularly where governments act as complicit perpetrators. Networks such as the African Consortium for Law and Religion Studies also bring together expert scholars working in Africa and ensure that the true situation is exposed and condemned in the academy.

VII. CONCLUSION

This Essay has examined instances of religious persecution in three African countries: tiny snapshots in a vast continent. Although the conditions in each country vary significantly, the persecution identified is undoubtedly based on religious identity and practice, systematic, often state-sponsored or condoned, and frequently violent. Moreover, the persecution is rarely confined to a single faith group—Christians, Muslims, Jews, and adherents of other faiths are all targets. But these national studies can only give a glimpse into the breadth and depth of religious persecution throughout Africa. It is difficult accurately to represent the degree of persecution which ranges from discrimination to murder, sexual assault, and even genocide. There is no obvious or easy solution, but at the very least it needs to be identified, evaluated, publicized, and denounced at the highest level of government and by each of us in the communities and institutions where we lead our privileged, free lives.

The world is a dangerous place, not because of those who do evil, but because of those who look on and do nothing.

—Albert Einstein¹⁴⁵

Schwartzman & Kristie A. Taylor, *What Caused the Collapse of Apartheid*, 27 J. POL. & MIL. SOCIO. 109, 132 (1999); STUART J. KAUFMAN, NATIONALIST PASSIONS 206 (2015).

145 Letter from Albert Einstein to Pablo Casals (Mar. 30, 1953) (available at Gerald Krieghofer, “Die Welt wird nicht bedroht von den Menschen, die böse sind, sondern von denen, die das Böse zulassen.” *Albert Einstein (angeblich)*, ZITATFORSCHUNG [CITATION RESEARCH] (Apr. 10, 2018), <https://falschzitate.blogspot.com/2018/04/die-welt-wird-nicht-bedroht-von-den.html> [<https://perma.cc/JZE3-P6E7>]).