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MEXICO

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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 how Mexico is hindering freedom of religion by failing to prevent attacks on Christians by indigenous leaders and organized criminal gangs. It also encourages Mexico to guarantee the right to conscientious objection in the health-care field, in accordance with international law.

(a) Freedom of religion

3. 81 percent of the Mexican population is Catholic, while 9 percent is Protestant, 7 percent unaffiliated, and 4 percent belongs to other religions.¹ 44 percent of current Protestants were raised Catholic.²
4. The Mexican Constitution guarantees freedom of religion in its Article 24: “Everyone is free to embrace the religion of his choice and to practice all ceremonies, devotions, or observances of his respective faith, either in places of public worship or at home, provided they do not constitute an offense punishable by law.”
5. Despite its guarantees of religious freedom, Mexico is ranked as number 39 on the 2018 World Watch List, an Open Doors list of the top 50 countries where it is most difficult to be a Christian.³ Open Doors names government corruption as a culprit, as well as attacks on Christians by indigenous leaders and organized criminal gangs.⁴ Newer Christian groups experience the most discrimination.⁵
6. Article 4 of the Constitution states that Mexico is “multicultural” due to its indigenous inhabitants. The law therefore is supposed to “protect the development of their languages, cultures, customs, resources, and specific forms of social organization[.] In legal decisions [. . .] their special practices and legal norms will be taken into account in terms established by the law.”
7. The Law of Uses and Customs, as outlined in Article 4, essentially gives leaders in states where there are large indigenous populations the authority to force minorities to conform to the majority culture and religion, in most cases traditionalist or syncretistic Roman Catholicism but sometimes Protestantism.

¹ PEW RES. CTR., RELIGION IN LATIN AMERICA 14 (2014), *available at* <http://assets.pewresearch.org/wp-content/uploads/sites/11/2014/11/Religion-in-Latin-America-11-12-PM-full-PDF.pdf>.

² *Id.* at 5.

³ Open Doors, Mexico, <https://www.opendoorsusa.org/christian-persecution/world-watch-list/mexico/>.

⁴ *Id.*

⁵ *Id.*

8. For example, in June 2015 village leaders in Chiapas cut off water and sewer services of thirty Protestant families.⁶ The Protestants in that village had also been attacked, had their private property taken, and resisted forced attempts to convert them.⁷ In another town, tribal authorities—indigenous shamans—forced 30 evangelical Christians out of town in January 2016; they were left on the side of the road and then had to live in wine cellars hours away.⁸ Likewise, in Chiapas seven Protestants were displaced due to their refusal to convert.⁹ They had been imprisoned in late 2015 and ordered to pay a fine, and then their houses were set on fire.¹⁰
9. At the same time, organized criminal gangs attack Catholic priests and other pastors. In February 2018, Catholic priests Germain Muñiz Garcia and Iván Añorve Jaimes from Veracruz were shot and killed.¹¹ In 2017, Catholic priests Luis Lopez Villa and Felipe Carrillo Altamirano, as well as Bishop José Raúl Vera López, were murdered.¹² In October 2016, four young Catholic missionaries were tortured and shot dead.¹³ In September 2016, Father José Alfredo López Guillen was murdered in one incident, and Father Alejo Nabor Jimenez Juarez and Father José Alfredo Juárez de la Cruz were murdered in another.¹⁴ In May 2016, Protestant pastor Guillermo Favela was stabbed in Tijuana for refusing to pay monthly taxes for protection.¹⁵ In June 2015, three elderly nuns were seriously assaulted and robbed in Oaxaca; they belonged to the same parish whose priest had been similarly attacked and robbed in September 2014.¹⁶
10. Open Doors attributes the attacks on church leaders to the fact that they are a direct threat to drug cartels, since they promote drug rehabilitation clinics and youth programs that keep young people away from organized crime. Criminal gangs also attack churches to get their money. Gangs enter churches during services and force

⁶ *Mexico water supply to Protestant villagers cut*, CHRISTIAN SOLIDARITY WORLDWIDE, June 16, 2015, <http://www.csw.org.uk/2015/06/16/press/2629/article.htm>.

⁷ *Id.*

⁸ *In choosing Christianity, Mexican tribals risk alienation, eviction from their communities*, WORLD WATCH MONITOR, Apr. 6, 2017, <https://www.worldwatchmonitor.org/2017/04/in-choosing-christianity-mexican-tribals-risk-alienation- eviction-from-their-communities/>.

⁹ *Traditionalists Set Christian Homes Ablaze*, VOICE OF THE MARTYRS, Feb. 11, 2016, <https://www.vomcanada.com/mx-2016-02-11.htm>.

¹⁰ *Id.*

¹¹ *Two priests murdered in Mexico as gang attacks against religious leaders continue*, WORLD WATCH MONITOR, Feb. 8, 2018, <https://www.worldwatchmonitor.org/2018/02/two-priests-murdered-in-mexico-as-gang-attacks-against-religious-leaders-continue/>.

¹² *Id.*

¹³ Ruth Gledhill, *Four Christian missionaries Abducted, Tortured and Shot Dead in Mexico*, CHRISTIAN TODAY, Oct. 6, 2016, <https://www.christiantoday.com/article/four-christian-missionaries-abducted-tortured-and-shot-dead-in-mexico/97240.htm>.

¹⁴ David Agren, *Two Mexican priests murdered within days; motives unknown*, CATHOLIC NEWS SERVICE, Sept. 26, 2016, <http://www.catholicnews.com/services/englishnews/2016/two-priests-kidnapped-killed-in-mexico.cfm>.

¹⁵ *Mexican evangelical church leader stabbed*, CHRISTIAN SOLIDARITY WORLDWIDE, May 31, 2016, <http://www.csw.org.uk/2016/05/31/press/3127/article.htm>.

¹⁶ *Violent attack on elderly nuns*, CHRISTIAN SOLIDARITY WORLDWIDE, July 3, 2015, <http://www.csw.org.uk/2015/07/03/news/2650/article.htm>.

the congregants to pay. Likewise, gangs charge church leaders taxes to be left alone.

11. Cartels' persecution of Christians persists due to "government inaction."¹⁷ Open Doors insists that the government "end its policy of denial and eradicate corruption and alliances between criminals and various state officials, and end the deep political and economic disparity between the majority of the population and the national elite."¹⁸

(b) Abortion and the right to conscientious objection

12. In April 2007, Mexico City legalized abortion on demand in the first trimester,¹⁹ which the Mexican Supreme Court upheld in 2008.²⁰ In the wake of the legalization of abortion in Mexico's capital district, 18 states amended their constitutions to recognize the right to life of the unborn from conception, which the Supreme Court refused to overturn.²¹
13. On March 22, 2018, the Mexican Senate approved a bill that protects health-care providers' right to conscientious objection.²² The bill states that "professionals, technicians, aides, social service providers that are part of the National Healthcare System shall be able to invoke the right of conscientious objection and excuse themselves from participating and/or cooperating in all those programs, activities, practices, treatments, methods or research that contravenes their freedom of conscience based on their values or ethical principles."²³ This means that health-care providers would be able to opt out of providing abortions and related services.
14. The President of Mexico must sign the bill to guarantee the right to conscientious objection in the health-care field.
15. International law protects the right to conscience. The Universal Declaration of Human Rights (UDHR) acknowledges in its first article that "[a]ll human beings are born free and equal in dignity and rights. They are endowed with reason and conscience[.]"²⁴ With this statement, the UDHR explicitly ties conscience to human dignity and understands that a person's conscience is essential to his being. The UDHR thus recognizes "the right to freedom of thought, conscience and religion" in Article 18. Article 18 of the ICCPR guarantees the same right. Article 18(1) identifies

¹⁷ *Two priests murdered in Mexico as gang attacks against religious leaders continue*, *supra* note 11.

¹⁸ *Id.*

¹⁹ Catherine Brenner, *Mexico City legalizes abortion, defies Church*, REUTERS, April 24, 2007, <https://www.reuters.com/article/us-mexico-abortion/mexico-city-legalizes-abortion-defies-church-idUSN2441855220070425>.

²⁰ Claudia Altamirano, *La mitad de los Estados mexicanos considera el aborto un homicidio*, EL PAÍS, Feb. 4, 2016, https://elpais.com/internacional/2016/02/04/mexico/1454547990_468683.html.

²¹ *Id.*

²² *Mexican Senate approves medical conscientious objection bill*, CATHOLIC NEWS AGENCY, Mar. 26, 2018, <https://www.catholicnewsagency.com/news/mexican-senate-approves-medical-conscientious-objection-bill-45648>.

²³ *Id.*

²⁴ This analysis is taken from Meghan Grizzle Fischer, *The United Nations and the Right to Conscientious Objection in the Health-Care Field*, 21 TEX. REV. L. & POL. 187, 194-96.

a right “to manifest [one’s] religion or belief in worship, observance, practice and teaching.” Article 18(3) specifies that this “[f]reedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”

16. The Human Rights Committee (HRC), the body created to monitor States’ implementation of the ICCPR, elaborated on and emphasized the wide scope of article 18 in its General Comment No. 22. Article 18, which is non-derogable, as stated in Article 4(2), “is far-reaching and profound,”²⁵ and the freedom to manifest religion “encompasses a broad range of acts.”²⁶ Restrictions on the freedom to manifest religion, outlined in article 18(3), “must not be applied in a manner that would vitiate the rights guaranteed in article 18.”²⁷ Further, they “may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated.”²⁸
17. Heiner Bielefeldt, UN Special Rapporteur on freedom of religion or belief from 2010 to 2016, writing on the exercise of freedom of religion, conscience, or belief in the workplace context, stated:

[These] restrictions must remain within the realm of proportionality, which, inter alia, means that they must always be limited to the *minimum degree of interference* that is necessary to pursue a legitimate purpose. These criteria are prescribed with a view to safeguarding the essence of freedom of religion or belief, even in situations of conflict with the rights or freedoms of others or with important public interests.²⁹
18. He continued: “The onus of proof therefore falls on those who argue in favour of the limitations, not on those who defend the full exercise of a right to freedom.”³⁰ The default then should be the protection of the exercise of conscience.
19. The HRC has not examined whether the right to conscience specifically includes a right to refuse to perform certain medical services on the grounds of conscience, but in General Comment No. 22, it recognized that the right to refuse to perform military service on the grounds of conscience “can be derived from article 18.”³¹ The language the HRC used to justify the derivation of this right can be applied to the

²⁵ Hum. Rts. Comm., General Comment No. 22: Article 18: Freedom of thought, conscience or religion, ¶ 1, U.N. Doc. CCPR/C/21/Rev.1/Add.4 (July 30, 1993).

²⁶ *Id.* ¶ 4.

²⁷ *Id.* ¶ 8.

²⁸ *Id.*

²⁹ Heiner Bielefeldt (Special Rapporteur on freedom of religion or belief), Interim rep. of the Special Rapporteur on freedom of religion or belief, ¶ 35, U.N. Doc. A/69/261 (Aug. 5, 2014) [hereinafter Workplace Freedom of Religion Report] (emphasis added). Although in this excerpt he refers to “freedom of religion or belief,” it is clear from his broader comments that he includes the exercise of freedom of conscience therein, especially as he identifies the conscientious objection of doctors and nurses to being involved with abortions as manifestation of beliefs in the workplace; see *id.* at 6 n.4.

³⁰ *Id.* ¶ 36.

³¹ Hum. Rts. Comm., *supra* note 25, ¶ 11.

provision of abortion, as viewed by the objector: “the obligation to use lethal force,” in a system that does not allow a health-care provider to opt out of providing an abortion on grounds of conscience, “may seriously conflict with the freedom of conscience and the right to manifest one’s religion or belief.”³² The HRC later determined that the right to conscientious objection exists not only if recognized by a State, but that States are obligated to recognize it.³³

20. Therefore, based on the ICCPR, the Human Rights Committee’s treatment of conscientious objection in the military, and the Special Rapporteur’s analysis of restrictions on the manifestation of religion, which includes objecting to participating in abortions, the right to conscience includes the right to conscientiously object in the health-care field.

(c) Recommendations

21. In light of the aforementioned, ADF International suggests the following recommendations be made to Mexico:
 - a. Ensure freedom of religion of all people, especially in localities where large populations are indigenous, by documenting, investigating, and prosecuting crimes against religious minorities, such as forced displacement and compulsion to convert or pay fines;
 - b. Hold local governments accountable for violating freedom of religion;
 - c. Document, investigate, and prosecute crimes against religious leaders, such as priests and pastors, by organized criminal gangs;
 - d. End corruption and cultures of impunity at all levels of government;
 - e. 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;
 - f. Resist calls to allow access to abortion, and to encourage Mexican states to continue to implement laws aimed at protecting the right to life of the unborn;
 - g. Encourage Mexico City to repeal the law allowing abortions in the first trimester; and
 - h. Sign into law the bill allowing health-care professionals to object on the grounds of conscience to participating in abortions and related services.

³² *Id.*

³³ HRC, Views: Communications Nos. 1321/2004 and 1322/2004, U.N. Doc. CCPR/C/88/D/1321-1322/2004 (Jan. 23, 2007).



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