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TANZANIA

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people. We act before national and international institutions and have ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), accreditation with the Organization of American States, and are registered with the EU Transparency Register. ADF International is also a participant in the FRA Fundamental Rights Platform.
2. This report focuses on Tanzania’s persisting challenges relating to the protection and promotion of freedom of religion or belief in the mainland as well as in Zanzibar where Christians continue to experience discrimination and violence. It also highlights Tanzania’s failure to guarantee freedom of expression and how it can improve its severely poor maternal mortality rate.

(a) Freedom of Religion or Belief

3. Articles 18-20 of the 1977 Constitution of Tanzania guarantee religious freedom, freedom of conscience, and freedom of expression.¹ A newly proposed constitution that would have restricted certain fundamental freedoms was under discussion during the previous review cycle. However, efforts to adopt it have since failed due to a delayed referendum and a change in the country’s leadership.²
4. Approximately 51 percent of the 48.3 million people in Tanzania are Christian and 49 percent Muslim. The Zanzibar archipelago is 99 percent Muslim.³
5. While Tanzanians still experience religious discrimination of varying kinds, the country is no longer listed in the Watch List among the top 50 states that face the most Christian persecution. At the time of the last cycle, Tanzania ranked number 33 on that list.⁴
6. Nevertheless, religious freedom remains restricted throughout the country, including as a result of registration laws passed in 2019 that amended Tanzania’s Societies Act, which defines a society as a club, partnership, or association of ten or more people regardless of its nature.⁵ Provisions of the new law give government officials great discretion in either granting registration status or revoking said status if the Minister of Home Affairs deems a society ‘dangerous to the good governance of Tanzania.’⁶
7. These registration laws also are reportedly weaponized for political purposes. Authorities have threatened to revoke the registration of religious organizations that ‘mix religion and

¹ Constitution of the United Republic of Tanzania, art 19-20.

² Tanzania postpones referendum on constitution, <https://www.reuters.com/article/us-tanzania-politics/tanzania-postpones-referendum-on-constitution-idUSKBN0MT21U20150402>

³ The Voice of the Martyrs, Tanzania,

https://www.persecution.com/globalprayerguide/tanzania/?_source_code=WBPGGPG20B

⁴ Open Doors, 2015 World Watch List, <https://www.opendoorsusa.org/christian-persecution/world-watchlist/>

⁵ The United Republic of Tanzania, CHAPTER 337 SOCIETIES ACT, Section 2(1).

⁶ The United Republic of Tanzania, THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO.3) ACT, 2019, PART VI AMENDMENT OF THE SOCIETIES ACT, Section 38(a)(2)

politics' after a cleric criticized late President John Magufuli's leadership in a Christmas sermon.⁷

8. In justifying those threats, the Permanent Secretary in the Ministry of Home Affairs, Project Rwegasira stated that 'some leaders of (religious) societies have been using their sermons to analyze political issues, which is contrary to the law [and] any violation of the law could lead to cancellation of the registration of the concerned religious society.'⁸
9. For the last several years, attacks on Christians in Zanzibar have been on the rise with little or no accountability. These attacks include destruction of churches, physical assault of pastors, the burning of pastors' homes, and sexual violence against young Christian girls. Local Christians report that authorities often do not respond to these attacks, which has led to an atmosphere of growing discrimination and violence against Christians and a culture of impunity.⁹
10. An Islamist group called 'Uamsho' has been calling for Zanzibar's secession from Tanzania, as well as the establishment of Shari'a in the autonomous region. Christians in Zanzibar claim that these developments have deprived them of their rights to own property, worship, and freely express themselves.¹⁰
11. In 2017, a court in Zanzibar ruled that ordered the Pentecostal Assemblies of God to cease construction of their church in Zanzibar City on grounds that the land permit was fraudulently procured in 2004, However, Pastor Amos Lukanula and members of the congregation believe the ruling was due to anti-Christian bias¹¹. Pastor Lukanula purchased the land in 2004 has been in repeated legal disputes since 2009 on the validity of his land permit.¹²
12. Pastor Lukanula attempted to erect two temporary structures on the land but the structures were destroyed by Islamist extremists each time. According to Pastor Lukanula, 'It is crystal clear that the rise of Christianity in Zanzibar has attracted hostility and discrimination, issues that the international community knows too little or nothing about.'¹³ The church stated its intention to appeal the ruling to the High Court of Appeal, but there is no indication that has occurred.
13. In May 2018, plain clothes police officers entered Pentecostal Evangelistic Fellowship of Africa (PEFA) where Bishop Daniel Kwileba Kwiyea was preaching in the city of Kisauni

⁷ Fumbuka Ng'wanakilala, Tanzania threatens to de-register churches who rap president from pulpit, <https://www.reuters.com/article/us-tanzania-politics/tanzania-threatens-to-de-register-churches-who-rap-president-from-pulpit-idUSKBN1EN0WW>

⁸ *Id.*

⁹ International Christian Concern (ICC), Pentecostal Church in Zanzibar Remains Closed by Local Police, <https://www.persecution.org/2018/06/29/pentecostal-church-zanzibar-remains-closed-local-police/>

¹⁰ ICC, Religious Bias Fuels Christian Persecution in Zanzibar's Judicial System.

<https://www.persecution.org/2018/07/10/religious-bias-fuels-christian-persecution-zanzibars-judicial-system/>

¹¹ Church in Zanzibar, Tanzania Shaken as Court Supports Muslims' Opposition to Building,

<https://morningstarnews.org/2017/07/church-zanzibar-tanzania-shaken-court-supports-muslims-opposition-building/>

¹² *Id.*

¹³ ICC, *supra*, note 9.

and used aggressive tactics to shut down the service and arrest Bishop Kwiyea. A young female congregant was physically assaulted and arrested for questioning the arrest.¹⁴

14. Bishop Kwiyea was later released without charges. However, the church remained closed. The incident occurred after an order was issued to close the church after members of a nearby mosque complained that PEFA services were too loud even though the church does not use amplification as does the neighboring mosque.¹⁵

Freedom of Religion or Belief in International Law

15. Article 18 of the Universal Declaration of Human Rights (UDHR) and Article 18 of the International Covenant on Civil and Political Rights (ICCPR) guarantee the right to freedom of thought, conscience, and religion for everyone. Tanzania ratified the ICCPR in 1976.
16. Article 27 of the ICCPR says that, in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right to profess and practice their own religion, among other things.¹⁶
17. It is clear that the exercise of the right to freedom of religion or believe is restricted, both in law and practice, in a manner incompatible with Tanzania's human rights obligations. In particular, The Societies Act needs to be amended to meet the international standard of recognizing and protecting freedom of religion or belief, as well as other related fundamental freedoms. Furthermore, Tanzania has a duty to take active steps to protect Christians from harassment, violence and discrimination, particularly in Zanzibar.

(b) Freedom of Expression

18. The Tanzanian Penal Code contains numerous provisions that criminalize offenses related to insulting, blaspheming, or defaming religion. Under the Offences Related to Religion, any person with the intention of wounding the religious feelings of another person and utters a word, makes a sound, or makes a gesture in the presence of another person is guilty of a misdemeanor and liable to imprisonment for up to one year.¹⁷
19. Recent legislation passed by Parliament and has given the effect to suppress dissenting speech and impose harsh penalties for violations. Under the 2018 Electronic and Postal Communications (Online Content) Regulations, online publishers are prohibited from publishing material that qualifies as hate speech, which is defined as 'speech that denigrates, defames, or devalues a person or group on the basis of race, ethnicity,

¹⁴ Authorities in Zanzibar, Tanzania Close Down Church, <https://morningstarnews.org/2018/05/authorities-in-zanzibar-tanzania-close-down-church/>

¹⁵ *Id.*

¹⁶ International Covenant on Civil and Political Rights (ICCPR) art. 17, opened for signature Dec. 19, 1966, 993 U.N.T.S. 3., art. 27.

¹⁷ United Republic of Tanzania Penal Code, Chapter 16 of the Laws, Division III. —Offences Injurious to the Public in General, CHAPTER XIV OFFENCES RELATING TO RELIGION, 129.

religion, or nationality.¹⁸ The penalty for violation of this provision is a fine of five million Tanzanian shillings (2,000 United States dollars) and imprisonment for up to one year.¹⁹

20. In 2019, the Ministry of Information, Culture, Arts, and Sports shuttered several radio stations and newspapers as well as banning livestreaming of parliamentary debates.²⁰ Actions like this by the government have become commonplace due to a series of speech restrictive laws being passed for the last several years. According to Human Rights Watch, these laws include: include the 2015 Cybercrimes Act, which criminalizes internet speech; the 2015 Statistics Act, which the government formerly used to block independent publishing not approved by the government; and the 2016 Media Services Act, which allows officials to arbitrarily censor and limit independent media if it deems the reporting to be critical of the government.²¹
21. In December 2020, an ex-Muslim political activist named Zara Kay was held in Tanzanian custody for 32 hours for a tweet that was allegedly critical of President Magufuli's handling of the COVID-19 pandemic. Ms. Kay was once a Tanzanian citizen, but is now a citizen of Australia. She has since been released on bail but is not allowed to leave the county although she has not yet been formally charged with a crime. Reports indicate she is being held due to suspicions about her immigration status, but it is believed that it is because of her activism and social media activity.²²

Freedom of Expression in International Law

22. Article 18 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of religion or belief, including the right to manifest one's religion or belief on private as well as public settings.²³ Inseparably linked to Article 18 is Article 19, which enshrines the right to freedom of opinion and expression. The freedom to express one's beliefs and opinions is fundamental to the operation and maintenance of an open and free society – even when what is expressed may be unpopular or offensive to some people.
23. Criminalizing blasphemy does not constitute an acceptable derogation from the right to freedom of expression, as article 19(3) ICCPR only allows restrictions on expression where they are necessary 'for the respect of the rights and reputations of others' or 'for

¹⁸ United Republic of Tanzania, THE ELECTRONIC AND POSTAL COMMUNICATIONS (ONLINE CONTENT) REGULATIONS, 2018, PART III GENERAL OBLIGATIONS FOR ONLINE CONTENT, 12(c).

¹⁹ Id., PART V MISCELLANEOUS PROVISIONS, 18.

²⁰ Athuman Mtulya, Five things Tanzania's President 'Bulldozer' Magufuli has banned, <https://www.bbc.com/news/world-africa-47334545>

²¹ Human Rights Watch, "As Long as I am Quiet, I am Safe" Threats to Independent Media and Civil Society in Tanzania, <https://www.hrw.org/report/2019/10/28/long-i-am-quiet-i-am-safe/threats-independent-media-and-civil-society-tanzania>

²² Cathy Van Extel, Australian activist Zara Kay claims she was arrested over a tweet and a month later she's still on bail in Tanzania, <https://www.abc.net.au/news/2021-01-27/zara-kay-stranded-in-tanzania/13094332>

²³ ICCPR, *supra*, note 16., art 18

the protection of national security, public order or public health or morals.²⁴ Restrictions must serve as a necessary protection of persons, not of religions as such.

24. Article 20(2) ICCPR calls on states to prohibit 'Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.'²⁵ However, the lack of clear standards in Tanzania's expression laws means that they could be abused to silence legitimate speech involving no actual incitement to violence or discrimination. Tanzania must ensure that its laws do not exceed the narrow restrictions on freedom of expression permitted by international law.

(c) Women's Health

25. Tanzania has the sixth highest maternal mortality rate in the world with 566 maternal deaths for every 100,000 live births according to the WHO.²⁶
26. The primary contributors to maternal death are hemorrhages, infections, hypertensive disorders and obstructed labors. Factors such as malaria and HIV, the top leading causes of death in Tanzania, also exacerbate the difficulties facing pregnant women. Of all childbirths in Tanzania, 61 percent of pregnant woman are assisted during childbirth by a healthcare professional.²⁷ This low number is yet another contributing factor to Tanzania's high maternal mortality rate.
27. Almost all maternal deaths are preventable, particularly when skilled birth attendants are present to manage complications and the necessary drugs are available, such as oxytocin to prevent hemorrhage and magnesium sulfate to treat preeclampsia. Tanzania can mitigate these problems by boosting medical infrastructure spending on facilities and medication. Problems often include a lack of drugs and poor infrastructure, such as no electricity or running water and inaccessibility of hospitals. These issues must be remedied, but frequent calls to increase legal abortion access as a necessary precondition to solving them are misguided. Legalizing abortion does not guarantee that pregnancy and childbirth will become safer, and providing more access to abortion will mean more women will suffer from abortion complications.
28. Tanzania must focus on introducing measures to reduce recourse to abortion, instead of focusing on legalizing it, in line with paragraph 8.25 of the Programme of Action of the International Conference on Population and Development. Measures to reduce abortion include improving access to education, which empowers women and leads to social and economic development, as well as facilitating healthy decision-making.

(d) Recommendations

²⁴ *Id.*, *supra* note 16., art 19(3).

²⁵ *Id.*, *supra* note 16., art 20(2).

²⁶ World Health Organization (WHO), Country Cooperation Strategy at a glance, 2018.

²⁷ Maternal mortality in 2000-2017, United Republic of Tanzania,
https://www.who.int/gho/maternal_health/countries/tza.pdf

29. In light of the aforementioned, ADF International suggests the following recommendations be made to Tanzania:

- a) Guarantee, in law and in practice, the freedom of all individuals to practice their religion or belief by repealing the provisions of the Societies Act that unduly allow government authorities to restrict church registration;
- b) End all forms of violence and discrimination against Christians in the region of Zanzibar, including by tackling anti-Christian bias in the judiciary;
- c) Ensure that the right to freedom of expression is duly recognized and respected, and cease censorship against people of faith, political opponents, and independent media;
- d) Repealing the provisions of the Cybercrimes Act, the Statistics Act, and the Media Services Act that grant government officials the authority to censor speech;
- e) Improve health infrastructure, access to emergency obstetric care, midwife training, and resources devoted to maternal health;
- f) Focus on getting mothers and babies safely through pregnancy and childbirth, with special attention paid to improving health-care access for women from poor and/or rural backgrounds.



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