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UNITED REPUBLIC OF TANZANIA

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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 Fundamental Rights Agency of the European Union, the Organization for Security and Cooperation in Europe, and the Organization of American States.
2. This report highlights the growing persecution of Christians in Tanzania and calls on the government to protect Christians’ free exercise of religion. It also highlights problems with the proposed constitution, including vague language and weak protection of the right to life.

(a) Religious Freedom

3. Articles 18-20 of the constitution of Tanzania guarantee religious freedom, freedom of conscience, and freedom of expression.
4. Religious leaders estimate that approximately 50 percent of the 48.3 million people in Tanzania are Christian and 50 percent Muslim. Another estimate is that 60 percent are Christian and 36 percent Muslim.¹ Zanzibar is 98 percent Muslim, and on the Mainland Muslims are concentrated primarily in coastal areas.
5. Tanzania is number 33 on the 2015 World Watch List, which ranks the top 50 countries where Christians are most persecuted.² This is an increase of 16 places from the 2014 World Watch List,³ due to increasing “Islamic extremism” and “tribal antagonism.”⁴ The World Watch List states that in 2014, “[T]he position of Christians has significantly deteriorated.” Zanzibar is the “epicenter of Islamic radicalism,” particularly due to the Uamsho radical Islamic separatist group, and the situation of Christian converts with a Muslim background deteriorated. Persecution of Christians due to radical Islam spread further into mainland Tanzania. Additionally, converts to Christianity from any of the more than 250 tribes “face pressure from their extended families to adhere to traditional practices.”
6. Christian churches and Christians have been attacked in 2014,⁵ 2013,⁶ and 2012.⁷

¹ See PEW FORUM ON RELIGION & PUBLIC LIFE, TOLERANCE AND TENSION: ISLAM AND CHRISTIANITY IN SUB-SAHARAN AFRICA 12 (2010), *available at* <http://www.pewforum.org/files/2010/04/sub-saharan-africa-full-report.pdf>.

² Open Doors, 2015 World Watch List, <https://www.opendoorsusa.org/christian-persecution/world-watch-list/>.

³ See World Watch Monitor, WWL2014, <https://www.worldwatchmonitor.org/research/2925458>.

⁴ World Watch Monitor, WWL 2015 Summaries 21 to 50, <https://www.worldwatchmonitor.org/research/WWL15Summ21to50.pdf>.

⁵ On 9 October 2014, a Christian man was killed by machete and another man injured during a prayer meeting at a church in northwest Tanzania. Muslims have declared that they will reduce the Christian population in the area. In September 2014, a Christian pastor and his wife were attacked in their home in Zanzibar by assailants who told them that Christians do not belong in Zanzibar. On 24 February 2014, a bomb exploded near an Anglican cathedral in Zanzibar, and on 23 February, an explosion injured four people at an Assemblies of God church on the island.

7. Article 18 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of religion, including the freedom of worship in community with others, which is bolstered by article 22's guarantee of freedom of association.
8. While the government and the laws of Tanzania in theory do guarantee freedom of religion, in practice the free exercise of religion is hampered when Christians live in fear of violence against their persons and their places of worship, and when the government does not protect them against such threats.
9. The Media Project, an international network of journalists, has reported that cases continue in the courts for those perpetrators who have been arrested and charged; the police have not found or apprehended most other perpetrators.⁸ The Media Project has stated that reporting of some violence against Christians has been hampered by censorship.
10. Christians have reported that in many cases the authorities are aware ahead of time of specific threats against Christians and do nothing to prevent them from being carried out. The authorities also do nothing to shut down open-air meetings and media stations that incite Muslims to commit violence against Christians.
11. To ensure that Christians have the freedom to practice their religion, Tanzania must contribute resources to protecting their persons and their churches, including the deployment of security forces during riots and protests. Tanzania must also bring to justice the perpetrators of these crimes against Christians; while arresting and charging the perpetrators are necessary first steps, the justice system must also ensure they are brought to trial and sentenced. Tanzania must also prevent and prosecute incitement to violence, which is prohibited by ICCPR article 20(2).
12. Tanzania must counter growing Islamic radicalization. Although this radicalization may be caused by a number of complex factors and cannot be addressed easily, at

⁶ On 22 October 2013, attackers killed one Christian youth leader and injured two other Christians with machetes during a Pentecostal worship service in Mwanza. On 20 October 2013, people set fire to a Baptist church altar in Vingunguti. On 13 September 2013 a Catholic priest was attacked with acid in Zanzibar. On 23 August 2013, people threw explosives at an Evangelical Lutheran Church of Tanzania building in Dar es Salaam. On 2 June 2013, a large group attacked an Evangelical Assemblies of God pastor with machetes in his home in Geita Town. On 5 May 2013, a bomb killed three people and seriously injured more than 40 at St. Joseph's Roman Catholic Church in Arusha. On 17 February 2013, a Catholic priest was killed in Zanzibar, and on 19 February an Evangelical church was set on fire. On 11 February 2013, a Christian pastor was beheaded and several others were injured and property damaged after clashes in Mwanza between Muslim youths and Christians who had slaughtered some animals to be sold at the market. Muslims have demanded exclusive rights to slaughter animals for consumption.

⁷ On 25 December 2012, a Roman Catholic priest was shot in Zanzibar. In November 2012, two Roman Catholic priests were attacked, one with a machete and one with a gun, and robbed in their homes. In October 2012, rioters set fire to and vandalized seven churches in Dar es Salaam. The rioters were responding to news that the police transferred a 14-year-old boy who had allegedly urinated on a copy of the Quran, instead of releasing the boy to them to be beheaded. In May 2012, rioters protesting the arrest of a sheik from the Islamic group Uamsho set fire to two Roman Catholic churches and one Assemblies of God church in Zanzibar.

⁸ *Tanzanian teacher murdered in church, pastor and wife on Zanzibar attacked by extremists*, WORLD WATCH MONITOR, 21 Oct. 2014, <https://www.worldwatchmonitor.org/2014/10/3435083/>.

the very least the government should work to improve conditions that promote religious tolerance, such as access to education.

(b) Islamic (Kadhi) Courts and Further Violence Against Christians

13. In 2015, the government championed a bill that would allow Islamic (Kadhi) courts in the legal system.⁹ The courts would not receive government funding and jurisdiction would cover only Muslims in family matters.¹⁰ It would not be possible to appeal the rulings to the High Court and the rulings would be enforced by government bodies.¹¹
14. Christian leaders spoke out against the introduction of Kadhi courts, resulting in anti-Christian violence, estimated at 13 attacks across the country.¹² On Easter Sunday, three church security guards were injured in Mkuranga. On 14 April, a pastor was killed, a youth minister was injured, and seven churches were set on fire in Bukoba.
15. The government also punished church leaders who spoke out against the bill.¹³ Police arrested and denied the bail of a bishop and 15 pastors, and the government asked 18 church leaders to vacate church buildings located on public or residential land while leaving mosques on public land alone. The Minister of Home Affairs also responded to Christian opposition by stating that he would close any Christian organization in violation of Tanzania's registration requirements.¹⁴
16. Tanzania professes to be neutral with regard to religion. The enforcement of decisions by Kadhi courts on family matters may entangle the government with religion. Muslim women will no longer have the protection of the state in issues of marriage, divorce, child custody, and inheritance. Given that there is increasing radicalization of Islam in Tanzania, the danger of recognizing and legitimizing Kadhi courts is that they may expand and become more radical, increasing the chances that they will violate human rights, especially those who do not have any true choice whether to consent to Kadhi court jurisdiction. Christian leaders also are concerned that the introduction of Kadhi courts will lead to more religious tensions in an already precarious situation.¹⁵
17. The government cannot target Christians for arrest and cannot selectively enforce registration requirements against Christian organizations. This is targeted discrimination against Christians as punishment for their disagreement.
18. Further, the Christian Council of Tanzania, the Tanzania Episcopal Conference

⁹ Nasongelya Kilyinga, *Legal system to accommodate Kadhi Courts*, DAILY NEWS, 30 Mar. 2015, <http://www.dailynews.co.tz/index.php/local-news/43157-legal-system-to-accommodate-kadhi-courts>.

¹⁰ Barnabus Fund, *Tanzanian government forced to review Islamic courts bill in light of Christian opposition*, 15 Apr. 2015, <https://barnabasfund.org/news/Tanzanian-government-forced-to-review-Islamic--courts-bill-in-light-of-Christian-opposition>.

¹¹ Kilyinga, *supra* note 9.

¹² Barnabus Fund, *supra* note 10.

¹³ *Id.*

¹⁴ Joseph DeCaro, *Tanzania: Gov't harasses local church leadership*, WORTHY NEWS, 14 May 2015, <http://www.worthynews.com/18729-tanzania-govt-harasses-local-church-leadership>.

¹⁵ Frank Kimboy, *Clerics to JK: Prevail on kadhi courts*, THE CITIZEN, 1 Apr. 2015, <http://www.thecitizen.co.tz/News/national/Clerics-to-JK--Prevail-on-kadhi-courts/-/1840392/2672410/-/uuh6rl/-/index.html>.

(Roman Catholic), and the Council of Pentecostal Churches of Tanzania instructed their members to vote against the proposed constitution in the April 2015 constitutional referendum due to concerns that the constitutional process did not include equal religious representation, as more constitutional commissioners were Muslim and half were from Zanzibar, and concerns about Kadhi courts.¹⁶ The constitutional referendum has been postponed and has not yet been rescheduled.

19. President Kikwete has protested their statements, essentially complaining that religious leaders have no place to tell their members when a proposed law might not give due respect to their religion or religious beliefs.¹⁷ However, religious leaders have the same right to freedom of expression under ICCPR article 19 as does anyone else, in particular the right to “impart information.” Church members have the right to seek and receive that information under the same provision.

(c) Abortion and the Right to Life in the Proposed Constitution

20. The proposed constitution also has problematic language. Article 55(f) states that every person with disabilities has the right to access to “quality health care” and “safe motherhood.” Article 57(f) states that every woman has the right to “access to quality health care, including safe reproductive health.”
21. As the supreme law of a country, a constitution’s language requires absolute clarity. Yet it is unclear what the terms “safe motherhood” and “safe reproductive health” mean, and thus what the rights entail. However, these terms are frequently used to mean abortion. For example, in 2012 a Safe Motherhood Bill was introduced that would have liberalized the abortion law (arts. 17-19) and required provision of “sexual and reproductive health services to adolescents” without mandatory parental consent, and respect for adolescent “privacy and confidentiality” (art. 28).
22. 92 percent of Tanzanians (91 percent of Christians and 94 percent of Muslims) are opposed to abortion.¹⁸ The wording of the proposed constitution must be clear so that Tanzanians know that they may be voting to enshrine in the constitution a “right” to which they are opposed. If the proposed constitution does pass, the government must make clear that this ambiguous language does not create a right to abortion because it is vague and because the people did not vote in favour of abortion.
23. Any pressure on Tanzania to liberalize access to abortion on the basis of improving maternal health, whether in the constitution or other laws, is unfounded. True “safe motherhood” does not require abortion.¹⁹ Legalizing abortion does not make it

¹⁶ Bilham Kimati, *Kikwete warns religious leaders over Katiba referendum*, DAILY NEWS, 29 Mar. 2015, <http://www.dailynews.co.tz/index.php/local-news/43097-kikwete-warns-religious-leaders-over-katiba-referendum>; Christopher Kidanka, *Tanzania churches reject proposed constitution*, THE EASTAFRICAN, 13 Mar. 2015, <http://www.theeastafrican.co.ke/news/Tanzania-churches-reject-proposed-constitution/-/2558/2652494/-/item/0/-/10dujxdz/-/index.html>.

¹⁷ Kimati, *supra* note 16.

¹⁸ PEW FORUM ON RELIGION & PUBLIC LIFE, *supra* note 1, at 275.

¹⁹ See, e.g., Koch et al., *Women’s Education Level, Maternal Health Facilities, Abortion Legislation and Maternal Deaths: A Natural Experiment in Chile from 1957 to 2007*, PLOS ONE 5 (2012), available at <http://www.plosone.org/article/fetchObject.action?uri=info:doi/10.1371/journal.pone.0036613&representation=PDF>.

safe,²⁰ particularly in a country where the maternal mortality ratio is high. To improve maternal health, Tanzania must focus on providing prenatal care, access to skilled birth attendants, the necessary medicines to treat the major complications of pregnancy and childbirth, and postnatal care for both mother and baby.

24. Article 33 of the proposed constitution states, “Everyone has the right to life and protection of his life by the government and society in accordance with the laws of the land.” ICCPR article 6(1) states, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” The proposed constitution formulation is fundamentally different than that in the ICCPR. The constitution must recognize that the right to life is *inherent* and that protection of life is not subject to what is accorded by the law, and therefore by the whims of the government, but that the law is required to guarantee full protection.
25. Accordingly, the constitution should explicitly protect the right to life from conception, given the widespread view among Tanzanians that abortion is an unacceptable and immoral practice. ICCPR article 6(5)’s prohibition of the death penalty for pregnant women, which was intended to protect the innocent life carried by the mother, supports the right to life of the unborn.
26. The proposed constitution also fails to recognize the importance of the family, as recognized in ICCPR article 23, article 16 of the Universal Declaration of Human Rights, article 10 of the International Covenant on Economic, Social and Cultural Rights, and article 18 of the Banjul Charter. This is a glaring oversight.

(d) Recommendations

27. ADF International recommends the following:

- Protect Christians from violence against their persons and churches;
- Promote religious tolerance and actively seek to counter Islamic radicalism;
- Remove the bill on the introduction of Kadhi courts into the legal system;
- Remove unclear language from the proposed constitution that may be used to introduce abortion by stealth;
- Recognize in the constitution the right to life from conception, as well as the importance of the family headed by a mother and a father.

²⁰ See Susan A. Cohen, *Facts and Consequences: Legality, Incidence and Safety of Abortion Worldwide*, GUTTMACHER POL’Y REV. (2009), available at <http://www.guttmacher.org/pubs/gpr/12/4/gpr120402.html>.