

# Human Rights from a Tanzanian Perspective

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**Abstract** This paper deals with the relations and tensions between religion(s) on one hand and state/government on the other regarding human rights in Tanzania?—And what has to be done to improve those relations? In order to find a solution to this problem the context and composition of religion(s) and state/government in Tanzania are investigated through the times considering their relation to human rights.

So far it can be stated that Tanzania is well aware of the basic human rights just like most countries and agrees in principle on an advancing human rights culture. However, Tanzanian society on the whole rather falls short of meeting the standards of human rights. Several reasons are responsible for that: static and unchanging beliefs, diverse traditions and cultures of about 120 ethnic groups, jurisdictions, politics, etc.

The local language ‘Swahili’ and a community based tradition have, however, been proven to be a unifying factor in the country, and they could, if well utilised, be vital for communicating and advancing a human rights culture in the right direction through dialogue.

## Introduction

Tanzania is among the poorest nations of Africa and the third poorest in the world in economic terms, but it has no match in Africa in terms of peace and unity (Kobia 2003, p. 35). This is a result of a consistent, comprehensive dialogue policy of the state with African culture and religions. The dialogue has resulted in peace, unity, and tranquillity as well as the elimination of ethnic and religious conflicts and the use of one language—*Swahili*—for the country in the last forty years (Legal and Human Rights Centre 2013, p. 3). Hence, the priority of the state policy in Tanzania has been to maintain social cohesion, stability and peace, which are the essential elements of meaningful political freedom, social and economic change.

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Tanzania, regardless of ethnic groups, is mostly composed of community-based families (Mbiti 1970, p. 3; Fumbo 2011, p. 8). Their beliefs, traditions, cultures and understanding of worldview are likely or necessarily influenced by what their particular immediate communities seek. Through that understanding, the position(s) on human rights in general or non-specific rights of the individual Churches or religions in Tanzania are predominantly positioned under the same community-based umbrella. However, that does not shield them from the prevailing global understanding of the same, simply because of the information and communication technology around them. Despite this, some specific human rights issues are seemingly peculiar to Tanzania due to the nature of the ethnic traditions that still persist.

This paper tries to investigate some relations and tensions involving the religions and the government with regard to human rights. It begins with the historical background and the context of religion and human rights in Tanzania. Lastly, before concluding the paper presents the human rights that seem relevant for not only young people and their adolescence life-world experiences but also for women, their prime guardians.

## Historical Background

Tanzania is a constitutional secular, United Republic and multi-party democratic system country. Two countries, Tanganyika and Zanzibar, joined and united to form Tanzania in 1964. Before that union, the Tanzania mainland (then Tanganyika) was a German colony (1880s—1918). After World War I, following the defeat of Germany until gaining its independence, Tanganyika became a Trusteeship Territory under Britain (1919–1961).

In terms of religious affiliation, during colonialism and before the union of Tanganyika and Zanzibar in April 1964, Tanganyika Christians were 30%, Muslims 35% and Indigenous believers 35%, while in Zanzibar more than 99% were Muslims (CIA 2005). However, three years after the union, the 1967 National Census reported 34% Christians, 31% Muslims and 35% others. The current statistics of religion affiliation for 2009 shows a considerable change: 60% Christians, 36% Muslims and 4% others for the Tanzanian mainland (PEW 2010). The situation in Zanzibar is almost unchanged since 1964.

The Christian population is mostly composed of Roman Catholics and Protestants. Among Protestants the greatest number are Lutherans and Moravians, pointing to the German past of the country, while the number of Anglicans can be attributed to the British history of Tanganyika. All of them have had some influence in varying degrees from the Walokole movement (East African Revival) which has also been fertile ground for the spread of charismatic and Pentecostal groups. On the mainland, Muslim communities are concentrated in coastal areas, with some large Muslim majorities scattered inland particularly in urban areas and along the former slavery caravan routes. A large majority of the Muslim population is Sunni. The Islamic population of Dar es Salaam, the largest and richest city in Tanzania, is composed of mainly Sunni Muslims with a few Shiites.

Since 1967 the Statistics Bureau of Tanzania has not asked for religious affiliation. The reason for this is the recent government policy, which declared religious balance as a sensitive topic (see below). Thus, due to the ‘sensitivity’ of religious balance the official position of the country remains that Tanzania is a secular country or rather not a religiously affiliated country. That means all figures on religious statistics for Tanzania are, at best, educated guesswork and differ widely on the question whether there are more Christians or Muslims. Most assume that while the number of traditionalists and other minority religions has dwindled dramatically, their level of activity has not. Yet, the constitution guarantees the freedom of religion that necessarily helps to limit religious conflicts (Møller 2006). Every individual has the right to worship anything and affiliate in any religious group as long as one does not infringe the freedom of others on basis of religion.

## **Context and Composition of Religion(s) and Human Rights in Tanzania**

International human rights have three generations of classification. The first generation of rights consists of civil and political rights, the second generation of rights is about economic, social and cultural rights and the third generations of rights are termed collective rights (van der Ven et al. 2004). In the African context the collective rights category is dynamic and flexible and, as such, is lacking one universal and unanimously acceptable definition. A simple definition of collective rights category are those rights which protect a group of people, while individual rights protect the individual (LHRC Report 2012, p. 163). Religion(s) fall under almost all three generation of rights as stipulated above.

In Tanzania as in many other African countries, religion is part of the culture of people and religious pluralism has existed for many years. For instance, the first kingdoms in Tanzania recognized and experienced religious pluralism. As such, African religions were common in every kingdom, the king or chief as the supreme authority of the kingdom or chiefdom guaranteed the freedom of every religion even to the newly conquered ethnic groups, provided they would promote the common good of the kingdom (see Pirouet 1991, p. 141). This was the basis for future religions to enter into Tanzanian societies without any objection by the people, the kings or the chiefs (Gunnar Norlén 2001, p. 263).

Since the events of independence and union of the two countries to form Tanzania were after 1948 Universal Declaration for Human Rights, it is obvious to see that the country’s constitution has accommodated and tried to improve the international agreements as the standard measure. Initially, Tanzania under its constitution had affirmed that it would protect and promote civil rights and liberties as stipulated by several instruments. The instruments are the Universal Declaration of Human Rights (UDHR) of 1948; the International Covenant on Civil and Political Rights (ICCPR) of 1966; the African Charter on Human and People’s Rights (ACHPR) of 1981; the Optional Protocol to the ICCPR; and the Second Optional Protocol to the ICCPR.

## Some Relation and Tension Between Religions and State Regarding Human Rights

As highlighted earlier, Tanzania has been enjoying a relatively good relationship between religions on the one hand and government and religions on the other. The relationship has been possible in Tanzania through a constitutional articulations arrangement that guarantees respect of personal freedom of religion as a civil right, and consequently the group's freedom (Constitution of Tanzania, Art. 19). When it comes to human rights, some scholars tend to categorize rights in terms of positive and negative rights. As such civil rights fall under the category of negative rights while positive rights are rights to be provided for. Negative rights typically involve the right to be protected from certain conditions including: arbitrary arrest, detention, torture, and death (Halliday 2008, p. 3). Such a relationship also extends even at the international level keeping in mind that the legally well-organized religions have their origin as visible institutions outside the country. Hence, the same constitutional religious freedom allows the initiators of these religions, Christianity and Islam, in Tanzania to carry on their duties regularly without interference in accordance with the prevailing laws of the country. Further, we have to note that the importance of each religion in Tanzanian society in terms of social, economic and political, influences the relationship between the Church and the state in Tanzania. Thus, the basis of these relations is always the human person with his/her fundamental rights, as an individual and a member of human society at the same time.

When we regard the state as an entity within the human community, the distinction between it and other associations of people is clear. For instance, Christianity also is a well-structured religion with various Churches, with national and international dimensions. In this case, the Catholic Church will shape itself in the state as an independent and autonomous community of persons with its distinct juridical system. At the same time, the two juridical systems will manifest how they complement each other because both systems with different ends serve the same citizens. As already noted, Islam in Tanzania organizes itself in different sects having necessary structures for legal recognition.

The Tanzanian state leadership has made many efforts in cultivating mutual relations with religious leaders. In addition, they have been vocal in challenging the religious institutions to play a greater role in their calling and responsibility to society. Hence, the religious bodies have to foresee that the state is enforcing justice (Nyerere 1967, pp. 98–99). All these rights are accepted and being addressed by almost all religious institutions i.e., Churches and Mosques.

A close relationship has always existed between religion and human rights in Tanzania. For instance, almost all Churches have been in the forefront to address human rights and prohibit all sorts of violations of human rights through their religious teachings and proclamations. Three examples which can be mentioned briefly are female genital mutilation, the rights of miners, and the treatment of refugees.

## Female Genital Mutilation (FGM)

One of the issues is the Anti-FGM campaign conducted by the Christian Council of Tanzania (CCT) in the Nyamongo area (Tarime District, Mara Region) which has reportedly reduced FGM by 67%, (only 200 of 600 eligible girls got circumcision). The top five regions with a high prevalence of FGM according to survey are as follows (Table 1):

The success of the CCT campaign is largely based on working closely with the community, teachers, traditional elders, midwives, circumcisers, village government leaders, religious leaders together with famous people in villages by providing them with information about the consequences of the practice (Jacon 2006; Mwere 2006). This has been possible because of an attempt of Tanzania, a signatory of number of human rights international and regional instruments and treaties, to address various human rights issues with all means possible. Hence, under the government laws and regulations it is an obligation to register all religious institutions which affirm human rights.

## Miner's Rights

Often the joint religious councils (Christian Council of Tanzania [CCT], Tanzania Episcopal Conference [TEC], Muslim Council of Tanzania [BAKWATA]) have spoken against the state in relation to violations of human rights, for example in the mining sector documentation: *A Golden Opportunity?* (Tundu and Curtis 2008). In the document, they assert, "Our mining communities are discouraged and hopeless. Those evicted from their land by mining corporations are living in conditions no better than refugees"(ibid, p. 6). Consequently, they argue strongly:

The situation challenges each of us and raises a simple question: What would I like to see others do when I am oppressed, I am beaten, I am chased from my property, I am harassed, my environment is polluted, my dignity is made to be of nothing, my children are dying because of my poverty and my rights are violated? As religious leaders, we each of us found the same answer. We will need them to shout of our oppression, to stand for our rights, to be our advocates, to intervene on our suffering and restore our dignity (ibid).

**Table 1** Prevalence of female genital mutilation (FGM). (Source: Tanzania Demographic Health Survey Report, 2010)

Rank	Region	Prevalence in %
1	Manyara	70.0
2	Dodoma	63.8
3	Arusha	58.6
4	Singida	51.0
5	Mara	39.9

## Refugees

Religious charities in Tanzania have been in the forefront of care for the waves of refugees and asylum seekers from many other (East) African and the Great Lakes region countries (e.g. Rwanda, Burundi, Uganda, DRC) where there are civil violence and wars before the UNHCR comes in.

## Pressure on Human Rights in Tanzania

Despite Tanzania enjoying good relations between religions and state/government, there are some isolated tensions within or between religions and state due to various reasons. Individuals or group of politicians, government policies or religious beliefs and leaders have caused this.

## Arbitrary or Unlawful Deprivation of Life

In Tanzania during a span of more than four decades since independence, there have been no politically motivated killings by the government or its agents or secret societies. On several occasions, however, security forces have used lethal force against citizens, including persons in custody. In the later, senior police officials have accused subordinate officers of unlawful killings though the accusations have less impact.

In other developments, observations that deaths because of mob violence, including by stoning, beating, hacking with machetes, and burning, are on the decline following a government outreach campaign and non-governmental organization (NGO) efforts to discourage such violence. In pre-colonial Africa belief in witchcraft was common (Simeon 2010). Still today the fear of witches leads to the continued killing of alleged witches by persons claiming to be the victims of witchcraft, relatives of victims, or mobs. Unfortunately, it has been difficult to prosecute persons accused of killing suspected witches, due to the lack of police resources and an unwillingness of witnesses to come forward, although there are some records showing that the government did prosecute several such cases (Sect. 2 of the Witchcraft Act).

There has been dissatisfaction especially from the Tanzania Albino Society on the killings of persons with albinism that have been going on for sometime now in the country, killings which are associated with some traditional beliefs. Earlier in the year 2012, the society organized a rally to raise its voice and threatened the government that they may seek refuge in neighbouring countries if the government would not ensure their safety. The society expressed concern to the government on the lack of responsibility in dealing with the criminals (albino killers), and questioned whether the government was ignoring this crime (LHRC 2012).

### ***Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment***

The constitution and law prohibit the practice of torture and cruel punishment; however, police officers abuse, threaten, and otherwise mistreats civilians, suspected criminals, and prisoners. The law requires prisoners to be separated based on age and gender, and whether a person is awaiting trial or has been convicted of a crime. Nevertheless, there is a lack of adequate facilities for juveniles, and what is available is used primarily for housing boys while girls universally are given probation. Authorities often hold male juveniles awaiting trial in one of five remand homes and at times move prisoners to different prisons without notifying their families (see LHRC 2012).

### ***Discrimination, Societal abuses, and Trafficking in Persons***

The constitution prohibits discrimination based on nationality, ethnicity, political affiliation, race, social status, or religion. The law requires that anyone who wants to become a citizen must live in the country for at least 10 years, have no criminal record, and be able to speak Swahili. However, the government does not always effectively enforce these prohibitions. The law do not explicitly prohibit discrimination based on gender, age, or disability but rather discourages publicly in official statements and by government policies. Discrimination against women, refugees, minorities, and persons with HIV/AIDS persists, and ethnic tensions continue in some parts of the country. There are some signs that there is an escalation of societal abuses of street children, housemaids and sex workers.

### ***Religious Institutions Reservations to Specific Rights***

Certain religious institutions have reservations about specific rights, which seem to them as against the moral of the Church or their religious institutions. A vital example is the articles of the Maputo Protocol<sup>1</sup> that literally are against or regarded to be immoral on the right to abortion i.e. “How can we not be alarmed, moreover, by the continuous attacks on life, from conception to natural death?” Such attacks do not even spare regions with a traditional culture of respecting life, such as Africa. That means the churches look at the protocol as an attempt to trivialize abortion.

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<sup>1</sup> ‘Maputo Protocol’ is the name given to the African Charter on Human and Peoples’ Rights on the Rights of Women in African and was adopted on the 11th day of July 2003 by Heads of State and Government of the African Union (AU) during the Second Ordinary Summit of the AU convened in Maputo, Mozambique. For the Protocol to enter into force fifteen ratifications are required. However, as of May 2004 only Comoros had ratified the Protocol while other 28 countries including Tanzania have signed the document.

There are strong reservations concerning some aspects of Article 14 of the Maputo Protocol. The observation is that the rights of women to protect and promote their sexual and reproductive health in this article exclude the rights of the couple, the family and the larger society (civil, traditional, cultural and religious), from promoting precisely the women's rights to their health care.

Moreover, recourse to abortion and the choice of any method of contraception by women (cf. Maputo Protocol Article 14, (1), (c) and (2), (c)) are particularly incompatible with the Catholic Church teaching, tradition and practice. Additionally, the Church has continually affirmed since the first century that it is a moral evil for any person or agent to procure an abortion, the teaching that has not changed and remains unchangeable. In the light of this, we observe that abortion and infanticide are abominable crimes to almost all of our African cultures, traditional societies and religions. This is one of the rights which the church is considering against the legalizing abortion.

Furthermore, the right to life is the right of every human being, so that when a life of a human being is being endangered, the perpetrator has to be punished. On the other hand, however, executing the criminals who have killed someone is immoral and almost all religious institutions with some exceptions are against death penalty since the punishment can be violating someone's human rights. However, to date the government of Tanzania has retained the death penalty.<sup>2</sup>

### ***Religion Versus the National Census***

The Black Law Dictionary defines census as, “an official count of people made for the purpose of compiling social and economic data for the political subdivision to which the people belong.” (Garner 2004). Hence, the Tanzanian *Statistical Act* (LHRC 2013, p. 75), define census as, “a census of population and housing.” Initially the intention was to establish demographic data about every individual in the country by looking into some of the demographic data including gender, level of education, age and occupation for development purposes.

However, as noted in the first section of this paper on how the issue of population is sensitive, some members of religious sects and their leaders refused, convinced and even prevented their colleagues from taking part on the 2012 National Census. The motive behind that move is unclear, although the government used some force to make them respond to the census. It is a bit difficult to get adequate information on such incidences from the government and religious sects because of the surrounding secrecy. The only speculation put forward is in relation to religious beliefs and allegations or accusations of misuse of their information against their religion or beliefs (LHRC 2013, pp. 76–77). Some stakeholders blame the lack of adequate

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<sup>2</sup> Tanzania imposes death penalty in capital offences such as murder cases, treason, and military offences. The following legislation apply: Sect. 197 of the Penal Code, Cap 16 of the Laws of Tanzania; Sect. 39–40 of the Penal Code, Cap 16 of the Laws of Tanzania and The National Defense Act, Cap 192 of the R.E 2002 Laws of Tanzania respectively (LHRC 2012, 12–16).



knowledge as the reasons for the misunderstanding LHRC 2013, pp. 75–78). Consequently, in order to maintain the status quo of Tanzanians priding themselves on living together in diversity, the use of a statistic that conveniently shows equality (without religious affiliation) is seen as avoiding rivalries between the various religious groups, though not identifying the majority or the numbers. However, that intended purpose practically denies the reality of the actual composition of religious affiliation in the country.

### ***Rights Related to Adolescents Life-World Experiences, for Young People and the Place of Women***

As noted above regarding community-based families as a trend in Tanzania, young people and children are always associated with their mothers who either do or do not take care of them to the stage of adolescence and even beyond. Women and children are among the groups that the society considers as vulnerable to human rights violations and incapable of enforcing their rights; other groups include people with disabilities and the aged. Essentially, there has been a development of different international human rights conventions to take care of the rights of these groups in the society including the following: International Covenant on Civil and Political Rights, 1966; Convention on the Elimination of all Forms of Discrimination against Women, 1979; African Charter on Human and Peoples Rights, 1981; Convention on the Rights of Child, 1989; Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa, 2000; and International Convention of the Rights and Dignity of Peoples with Disabilities, 2006 (LHRC 2012, p. 325).

In the Tanzanian context the promotion and protection of children's rights are enacted through the *Law of the Child Act 2009* (see Sect. 162, LHRC 2012, pp. 145–146) following the outcry of civil society and the pressure from development partners. Hence, the country has ratified and domesticated the *Convention on the Rights of the Child, 1989* and its two protocols and the *African Charter on the Rights and Welfare of the Child, 1990* (ACHRWC). Thus, the basis of the discussion in this section is on the above theories related to an emphasis of women and children rights and their relationship. The relation between mother and young people might have a direct impact on their behaviour (dependent variables) especially in the areas of motivation to engage and real engagement as well as confidence. That means the family upbringing in particular from the mothers and partially the fathers is likely to shape their attitudes. Furthermore, it is vital to note that the position of women in Tanzania is that oppression or discrimination are going on in all religions, particularly traditional religion, Islam and Christianity. There are many reports in the country on domestic abuse and violence against women that have a direct effect on children and young people (Fumbo 2012, pp. 381–382). The Tanzania Demographic Healthy Survey Report, 2010 captured in detail the prevalence of gender based violence that include physical violence, sexual violence, and marital violence, as indicated in the following table (Table 2):

**Table 2** Prevalence of gender based violence. (Source: Compiled from Tanzania Demographic Survey Report, 2010)

No	Region	Physical violence (%)	Rank	Sexual violence (%)	Rank	Marital violence (%)	Rank
1.	Mara	66.4	2	32.5	1	61.2	2
2.	Ruvuma	50.8	3	30.4	4	–	–
3.	Dodoma	70.5	1	–	–	77.7	1
4.	Morogoro	50.1	4	–	–	–	–
5.	Kagera	49.4	5	–	–	54.2	4
6.	Mbeya	–	–	30.8	3	51.2	5
7.	Rukwa	–	–	30.2	5	54.4	3
8.	Kigoma	–	–	31.9	2	–	–

**Table 3** Prevalence of violations of the rights of the child. (Source: Compiled from the Ministry of Home Affairs 2011 Statistics)

Type of crime	Year 2010	Year 2011
Rape	6493	5948
Sodomy/other sexual offence	756	780
Abandoned infants	186	176
Stolen children	109	104

In the case of Islam and traditional religions, the violation is with regard to marriage, polygamous marriages and inheritance. There is a systematic oppression and discrimination against Christian women in the same way, based on religious beliefs, culture and traditions in place (Tuin and Fumbo 2012, pp. 220). Nevertheless, the LHRC report (2012) indicates that children in Tanzania are still victims of child labour, torture, corporal punishment, and rape. As a result, the report indicates the persistence of FGM and student pregnancies and even an increase in Tanzania. The girl child who is expelled from school for being impregnated in any way is denied the opportunity to continue in the conventional education system, whereas the culprit is free. Statistics on children who were raped in 2011 indicate 5958 victims, while victims of other sexual offences were 780. The table below has statistics of more violations of the rights of children for the years 2010 and 2011 as follows (Table 3):

The UNICEF report also reflects the above findings on violence against children in Tanzania. The report reveals that three out of 10 females aged 13–24 have experienced sexual violence before reaching the age of 18. For male children of the same group, 13.4% have experienced sexual violence before attaining 18 years (UNICEF 2011, p. 2). The survey reveals that three-quarters of both male and female children under 18 have experienced physical violence. The forms of violence experienced include whipping, corporal punishment, injuries caused by dangerous weapons, burning and confinement. It is unfortunate to learn that the perpetrators of violence are usually close relatives and family members (ibid.).

Other problems faced by young people are physical violence, living in institutions with insufficient care, homelessness, heading households, excessive domestic work, lack of playing grounds in urban areas, drug abuse, forced prostitution, early marriages and trafficking in persons (LHRC 2012, pp. 146–151).

The treatment has consequences for young people's attitudes as far as human rights are concerned. They have a direct and grievous effect on their behaviour to the extent of losing their rights and lacking confidence that may be reflected in their views, unlike young people of the Western World.

## Conclusion

In conclusion, it is vital to understand that in this brief paper, the study intended to investigate some relations and tension between religion(s) as well as government/state with regard to human rights. Moreover, the intention was to highlight some of the issues in human rights in Tanzania particularly those in discussion or under pressure, as well as adolescent life-world experiences for young people in Tanzania.

Tanzania is well aware of the basic first and second generations of human rights and has ratified them to affirm its position just like other countries of the world. However, there are a number of significant challenges that do prevent different players like religious organisations (and their teachings), as well as state/government and individuals from meeting the standard of human rights for a number of reasons ranging from beliefs, traditions, cultures, jurisdictions, politics, etc.

Therefore, the Churches and governmental organisations have the obligation of ensuring that religious organisations and the state observe and operate in line with human rights, in the closest way possible, even though it won't mean achieving the goal all at once.

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