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**REPORT BY  
TAWIA ON  
WIDOWS  
RIGHT OF  
INHERITANCE**

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**THEMATIC AREA:  
WOMEN'S RIGHT TO  
INHERITANCE**

# **REPORT BY TAWIA ON WIDOWS RIGHT OF INHERITANCE TO A PLATFORM ORGANISED BY CEDAW-GENEVA**

1. **Name of Author:** Ms Rose W. Sarwatt.
2. **Organisation:** Tanzania Widows Association (TAWIA)
3. **Objective:** To empower widows and their vulnerable children to live the life they deserve
4. **Thematic area:** Women's right to inheritance

## **BACKGROUND AND INTRODUCTION**

TANZANIA WIDOWS ASSOCIATION (TAWIA) was established and officially registered in October, 2014. Its registration number is S.A 19708. Its headquarters are located at Kinyerezi – Kibaga, Dar es Salaam, Tanzania.

The main goal is to organize all widows, a huge but marginalized group of people in Tanzania, to join force and form a national movement in order to identify and air out challenges they face hence combined efforts to work for solutions.

The association has seven hundred and twenty (720) registered widows living in Dar es Salaam. TAWIA has been contacted by over three thousands (3,000) widows from seven out of thirty regions of Tanzania. Some of them visited our office for counselling. We also visited others at their places, and the rest through communication means such as phones, emails, and social media.

A good number of widows in Tanzania are suffering from threats and crises. They include but not limited to living with ill-health including HIV/AIDS, Poverty and Conflicts. The rate of gender inequality based on economic, social, and political status of widows is substantial in target communities. Some vulnerable widows and their families are ignorant of and have still scarcely benefited at all from improved public life opportunities in such areas as legal support and cost exemptions in education and health services. This includes widows and their girls living in extreme poverty and facing multiple forms of discrimination (disabled women; women who are medically incapable of work; and women with HIV/AIDS). Inequality in public life often arises from unequal power in people's personal relationships. Enforcement of discriminatory laws, pro gender imbalance traditions, erratic gender policies and criminalised violence against women, attribute to widows' stresses, trauma, and a variety of conflicts. Due to that, there is a great need to develop concern and support widows so that they can enjoy life in a community oriented to justice and respect for all. TAWIA was established to mobilise widows in Tanzania to join force and work together with one strong voice in demand of their rights. One of sensitive areas in which widows and their children suffer much is **Inheritance**. This is the practice of passing on property, titles, debts, rights and obligations upon the death of an individual. It has long played an important role in human societies.

The rules of inheritance differ between societies and have changed over time. Some changes in rules and laws used in Tanzania are essentially needed for the benefit of widows and their children.

**i. Widows and inequitable inheritance cases.**

Many sufferings with widows are much linked to distribution of one's husband property at death. Distribution of property is much easier and fair if the deceased husband (testator) has written and executed a last will and testament, recognised as a legal declaration by which a person (testator) names a will trustee (the holder of property on behalf of beneficiaries) and provides for the distribution of his property to be in effect at the time of death. Big challenges occur for the devolution or transference of property if a deceased husband did not write and execute a last will and testament. This is what happens in most cases, causing inconveniences to widows and their children, including denial of their rights. In such cases, distribution of property follows rules and laws to fill the gap left by the absence of last will and testament. In Tanzania's context, the following rules and laws are in one way or another applied thereof:

- a) Adopted Indias law of inheritance of 1985. It is much applied when the deceased was neither a follower of Moslem Kadhi's or Customary rules and laws.
- b) Moslem laws of inheritance. They are applied to Moslems.
- c) Customary Laws. They are applied if the deceased lived by obeying traditions and customs of his tribe.

Majority widows have lost rights of inheritance but never lodged inheritance cases to the court of law. This is because they are ignorant of what to do in order to claim for their rights. Minority of them are inspired to go for further action to claim for their rights, after receiving counselling from TAWIA paralegals, and occasionally from legal practitioners outsourced by TAWIA. This reflects a fact that several thousand if not millions of widows and their children in Tanzania are facing challenges linked to inheritance procedures. TAWIA is inclined to exert more effort to identify needy victims of such circumstances who remain wide in communities without any assistance. The rationale is to work out for legal and other kinds of relevant moral and material support.

Minority widows lodged their cases to various legal authorities such as court of laws, Moslem/court of Kadhi, and customary units. A few cases went well, with fare implementation that protected the rights of beneficiaries, including good distribution of properties. Factors that made such cases end successfully involved sufficient cooperation

from the will trustees and other relatives of the testator. Some cases are ongoing. They are, however, generally run under less satisfactory environment.

**Examples of ongoing cases with bad progress:**

**• Mariam Aswile:**

She is a lady who stayed in marriage but unfortunately did not get a child with her husband. Unfortunately, the late husband did not execute last will and testament. Clansmen appointed her brother in law to stand as a trustee. The inheritance case in the tribunal started by 15<sup>th</sup> January 2014. Relatives of the deceased husband made false presentations to the court and grabbed all the properties, leaving the widow remaining poor and helpless. She was, further, dispossessed of her house, hence forced to rent the living place. TAWIA supported her for an appeal to claim for her rights. The court nullified the brother in law's trusteeship. It was untimely because all properties were already squandered. Civil case to claim back for her benefits is proceeding but at a very slow pace. This led to wastage of time and money that would be spent for productive tasks. The widow is as well psychologically affected.

**• Mwajua Mwinyimkuu:**

Her case is more or less like the former. The case started by February, 2013. The case was at an advanced stage when the widow was about to lose all rights as relatives of deceased relatives were to be legalized as property beneficiaries. TAWIA supported her to intervene with that ill intention through an appeal to a senior court of law. Judgment is awaited. The widow has spent a lot time and other resources including case costs. She is desperate and psychologically affected.

**ii. Challenges facing widows and their children during inheritance procedures**

- Current rules and laws instruct clansmen to meet and appoint the trustee who is the holder of property on behalf of beneficiaries and execute property distribution order. Minutes emanating from such meeting are used as basis for further decisions and actions. It is very unfortunate that members of such meetings are ignorant of laws. In most cases, widows are not given a right to be trustee of the property that would in turn give them an opportunity to take appropriate positions in concerned properties distribution and ownership.

- Lawsuits unnecessarily take too long time from the starting of litigation to a point of judgments.
- Widows easily lose their rights due to ignorance of laws and other procedures needed to identify and defend their rights.
- Widows are financially unable to hire attorneys or litigators to stand on their behalf when claiming for their rights. This becomes very critical when defendants are able to hire lawyers.
- In some cases, litigation and judgments are done but leaving a lot to desire, as widows are denied of their rights in questionable contexts.
- Kadhi court of Moslems are run by the arbitrators or adjudicators who ignores some important rules in law of inheritance due to ignorance of the law or sticking to religious guides which suppresses widows rights.

### **iii. Effects of such cases to widows**

They include but not limited to:

- Wastage of time and other resources that would be utilized by widows for family care
- Conflicts among widows, children and the deceased's family members. The outcomes include frequent harassments, property grabbing, lack or total withdrawal of moral and material support that was given to widows and children, and psychological torture caused by relatives and the community at large.
- Poverty and other difficulties leading inability for widows and children to access important services such as good shelter, education and health.

### **iv. Recommendations:**

- a. Amendments of laws, rules and procedures concerned with inheritance should be made in order to improve availability of rights for widows and their children.
- b. Establishment of special units in Tanzania's courts of law to deal with cases related to inheritance and other widows and their children rights. This shall minimize too long time used to litigate such cases before final decisions or judgments. It will also create an environment in which family issues shall be dealt with in a convenient level of privacy.

- c. Sensitisation of the community at large to impart them with knowledge about concerned laws, rules and procedures with particular emphasis to widows and their children rights.
- d. Sensitisation of the community at large on the importance and the way to write and execute a last will and testament that is in effect at the time of death for the interest of widows and children inheritance rights.

**v. Conclusions**

Combined efforts are imperative to press the Government of the United Republic of Tanzania (URT) to take responsibility and play its role to ensure that all necessary amendments on the laws, rules and procedures that affect availability of inheritance rights for widows and their children are implemented. Moral and material support is sought from various stakeholders to rescue widows and their children from a number of challenges they face.