



**THE WIDOWS CHARTER FOR
ADAPTION TO THE COUNTY
ASSEMBLY OF SIAYA, KENYA TO
LEGISLATE A WIDOWS PROTECTION
BILL (2020).**

PREAMBLE

NOTING THAT ALL WOMEN ARE EQUAL before the law and that the human rights of women are inalienable, universal and non-transferable,

**THE WIDOWS CHARTER FOR ADAPTATION TO THE COUNTY ASSEMBLY
OF SIAYA, KENYA TO LEGISLATE A WIDOWS PROTECTION BILL (2020)**

THE WIDOWS' CHARTER

PREAMBLE

NOTING THAT ALL WOMEN ARE EQUAL before the law and that the human rights of women are inalienable, universal and non-transferable,

NOTING THAT IN KENYA WIDOWS SUFFER FROM LOW STATUS, DISCRIMINATION, VIOLENCE AND LACK OF LEGAL RIGHTS.

NOTING THAT IN MANY COMMUNITIES WIDOWS ARE STEREOTYPED AS EVIL, BRINGING BAD LUCK, AND THAT SOCIAL ATTITUDES TO WIDOWHOOD OBSTRUCT THEM FROM FULLY PARTICIPATING IN CIVIL SOCIETY.

NOTING THAT IN SPITE OF INTERNATIONAL AND DOMESTIC LAWS GUARANTEEING EQUALITY IN INHERITANCE, LAND OWNERSHIP, AND CRIMINALISING VIOLENCE TO WOMEN WIDOWS ARE OFTEN BANNED FROM INHERITING, EVICTED FROM THEIR HOMES, DEPRIVED OF ALL THEIR PROPERTY, AND LEFT IN DESTITUTION

NOTING THAT WIDOWS ARE OFTEN VICTIMS OF DEGRADING AND LIFE-THREATENING TRADITIONAL PRACTICES IN THE CONTEXT OF FUNERAL AND BURIAL PRACTICES.

NOTING THAT THERE IS NO SPECIAL REFERENCE TO DISCRIMINATION AND ABUSE OF WIDOWS IN THE BEIJING PLATFORM FOR ACTION.

NOTING THAT WIDOWS ARE KEY SOCIAL AND ECONOMIC PLAYERS IN DEVELOPMENT.

REAFFIRMING THE IMPORTANT ROLE THAT WIDOWS DO AND MAY PLAY IN THE RESOLUTION AND PREVENTION OF CONFLICTS.

EXPRESSING CONCERN THAT THE IMPACT OF THIS TREATMENT OF WIDOWS HAS SEVERE AND NEGATIVE IMPLICATIONS FOR THE WHOLE OF SOCIETY. IN PARTICULAR BECAUSE THE POVERTY OF WIDOWS DEPRIVES THEIR CHILDREN OF THEIR HUMAN RIGHTS TO SHELTER, FOOD, EDUCATION AND THE RIGHTS OF THE CHILD

RECOGNISING THE URGENT NEED TO MAINSTREAM A WIDOWS' PERSPECTIVE IN ALL POLICY DEVELOPMENTS AND DECISIONS.

REAFFIRMING THE NEED TO IMPLEMENT FULLY ALL INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW THAT PROTECTS THE RIGHTS OF WOMEN AND GIRLS, IRRESPECTIVE OF THEIR AGE OR MARITAL STATUS, DURING AND AFTER CONFLICT AS WELL AS IN TIMES OF PEACE.

REQUIRES ALL GOVERNMENTS TO USE ALL MEASURES POSSIBLE TO ELIMINATE THIS DISCRIMINATION, AND TO WORK WITH WIDOWS' GROUPS TO ASSESS THEIR NUMBERS AND THEIR SITUATION SO AS TO DEVELOP POLICIES AND LAWS TO ALLEVIATE THEIR ISOLATION AND POVERTY, AND ACKNOWLEDGE THEIR VALUABLE SOCIAL CAPITAL.

ARTICLE 1

Widows shall enjoy equality with all women and men, irrespective of their age or marital status.

Any treatment of a widow which differs from the treatment, legally, socially, economically, of a widower shall be deemed to be discriminatory and therefore illegal.

Widows shall not be discriminated against, in word or deed, either in family and private life, or in community and public life.

The State is guilty, by omission, of breach of the law, if it implicitly condones discrimination and abuse of the widow by non-state actors, such as family members.

ARTICLE 2

- a) Widows shall have the right to inherit from their husband's estate, whether or not the deceased spouse left a will.
- b) Widows may not be disinherited.
- c) Widows may not be "inherited" as wives or concubines to their husband's brother, nor forcibly placed in a "levirate" relationship, nor forcibly made pregnant by a relative in order to continue producing children in her dead husband's name.
- d) A widow has the right to remarry.
- e) A widow must be free to marry someone of her own choice.
- f) Temporary wife inheritance and/or temporary 'marriage' is forbidden.
- g) "Honour Killings" are murder.
- h) Daughters shall inherit equally with sons.
- i) "Property-Grabbing" and "chasing-off" are criminal offences, punishable as the most serious category of crime.
- j) Anyone who attempts or manages to deprive a widow of any of her property, take custody of her children, without an order of a judge or magistrate shall be guilty of the most serious category of crime.
- k) Anyone, whether a relative or a stranger, who seeks or manages to gain control of the dead husband's bank account, insurance policy, accident compensation claims, without the order of the Court is guilty of the most serious category of crime.
- l) Free Legal Aid shall be given to widows in all inheritance, property and personal status disputes.

ARTICLE 3

- a) Anyone who arranges or coerces a widow to participate in harmful traditional practices in the context of funeral and burial rites shall be guilty of the most serious category of crime (for example: ritual cleansing through sex; scarification; isolation; restrictions on diet and dress endangering mental and physical health).
- b) Anyone who has forced sexual relations with a widow in the context of funeral and burial rites shall be guilty of Rape, and subject to the maximum penalty.
- c) Anyone who forcibly deprives the widow of custody of her children shall be guilty of a serious offence.
- d) Anyone who physically, mentally or sexually abuses a widow is guilty of the most serious category of crime.
- e) Anyone who verbally abuses a widow by calling her insulting names and defamation shall be guilty of an offence.

ARTICLE 4

- Any restrictions on a widow's mobility, even where based on "custom" which continues after the 14th day after the death of the spouse are unlawful and anyone responsible for restraining the widow is guilty of a criminal offence.
- a) Any restrictions, due to her marital status, on a widow's freedom to access social, health and education services are unlawful.
- b) Any restrictions concerning domicile, diet, clothing, life-style imposed on a widow against a will are unlawful.
- c) All restrictions on widows' accessing health care, including family planning services, are unlawful.
- d) Any restriction on a widow's right to citizenship, a passport and freedom to travel is unlawful.

ARTICLE 5

- All appropriate measures shall be taken to eliminate discrimination against widows in the field of employment, in particular:
- a) The right to the same employment opportunities and remuneration as other men and women
- b) It is an offence under the Employment Acts for anyone to dismiss a woman from her employment because she has become a widow and must take some reasonable time off work for the funeral rites is guilty of an offence.
- c) It is an offence to refuse to employ a widow because she is wearing mourning clothes.
- d) Suitable child-care and elderly care support shall be provided to widows who work outside the home.

ARTICLE 6

- a) The term "violence against women" includes any act of gender-based violence against a widow that results in or is likely to result in physical, sexual or psychological harm or suffering to her, including threats of such acts, coercion, or deprivation of liberty.
- b) No widow-abuse may be justified by citing custom, tradition or religion.
- c) All appropriate measures shall be taken, through, for example public education and training of opinion leaders, to change the negative stereotyping of widows.
- d) No relative shall detain a widow in his or her household as an unpaid domestic worker without registering before the court and being subject to regular monitoring and inspection by

the social services.

- e) All appropriate measures shall be taken to protect widows and their children from sexual exploitation, prostitution and trafficking of women and girls.
- f) It is no defence to this law that the widow consented to be victim of the alleged violence.

ARTICLE 7

- a) All appropriate measures shall be taken to ensure that those dependent on widows – children, other orphans, the old, sick and frail people – are identified that gaps in assistance are filled.
- b) Where appropriate, widows should receive financial support to balance opportunity costs in sending children to school.
- c) Appropriate measures shall be taken to eliminate discrimination against widows in areas of economic and civil life. In particular:-
 - (i) The right to a pension and family benefits.
 - (ii) Elimination of delaying bureaucratic barriers to widows accessing pensions.
 - (iii) Elimination of corruption in the dispensing of pensions to widows.
 - (iv) Special measures to assist illiterate widows access their economic and legal rights.
- d) Widows' children should have priority in assessment for education scholarships.

ARTICLE 8

WIDOWS OF CONFLICT AND POST ELECTION CONFLICT

- a) Recalling SCR Resolution 1325, and recognizing the huge increase in the numbers of widows and wives of the missing as a consequence of armed conflict, and post-election conflict.
- b) Recognizing that many widows of war and post-election conflict have also been victims of rape and sexual violence.
- c) Recognizing also the extreme vulnerability of widows and daughters of widows in the instability of societies in the aftermath of war and post –election conflict.
- d) Noting the unique role widows play as custodians of the social fabric of communities.
- e) Noting also widows' unique roles as peace builders and peace makers, through their ability to link hands with widows across ethnic, religious and national divides.
- f) Recognizing that years after Peace Accords are signed widows of war and post-election conflict continue to struggle to survive in refugee and IDP camps and are unable to return to their original homes.
- g) Concerned with the problems arising for wives of the "missing", unable to rebuild their lives because of uncertainty about their status.
- h) Recognizing the particular individual security issues for women without male protectors.
- i) Noting the alarming rise in domestic violence as well as sexual violence in the community in the post conflict situation.
- j) Expressing concern at the vulnerability of widows and their children to rape, forced prostitution and trafficking by criminals, occupying troops, so-called peace-keeper forces.
- k) Noting the many numbers of orphans, sick, old, wounded and traumatised people are dependent on widows for their survival.

CALLS all actors involved in negotiating and implementing peace agreements to address the special needs of widows and wives of the missing, as required by SCR 1325, and ensure the protection of and respect for their human rights.

CALLS on all actors to ensure that widows' are represented in these negotiations so that their particular concerns, for example:

- (i) Rights of safe return of displaced widows to former homes.
- (ii) Repair and Rebuilding of homesteads.
- (iii) Land allocation and ownership.
- (iv) Clarification of the legal rights and social needs of the wives of "the missing".
- (v) Personal Status guarantees in Constitution and Law Reform.
- (vi) Protection of widow witnesses at national and international courts and tribunals before, during and after trials.
- (vi) Counselling and health care for victims of sexual abuse and rape
- (vii) Addressing needs of refugees and IDPs, and widow asylum seekers.

ARTICLE 9

The County Government of Siaya will support the establishment of the Office of Widowed Persons within Ministry of Gender, with branches in sub-counties, and sets of widow groups in villages so that information on the needs of widows is available and can inform policy making at the local level to the national.

- a) All appropriate measures shall be taken to support widows organizing themselves into self-help and empowerment groups.
- b) These groups shall be acknowledged as being decisive components of civil society, to be involved as participants in the development of social, economic policies affecting their situation.
- c) Support shall be given to the established Office of Widowed Persons together with Widows Groups to be an advisory status to the county government.
- d) Widow safe houses and legal aid centres for widows shall be established at the sub –county level.
- e) Statistic and Data shall be collected and a situational analysis undertaken to ascertain the true numbers, needs and roles of widows in society.
- f) In recognition of the gap in knowledge, the County Governments will explore alternative methods of collecting such information, such as participatory poverty and demographic assessment studies involving the widows' groups themselves.

ARTICLE 10

- a) The County Government shall address the situation of widows in their work programmes to achieve the Sustainable Development Goals (SDGs).
- b) The County Government shall bear in mind the special situation of widows when identifying measures to implement Gender policies, CEDAW, the BPFA, the Declaration Eliminating Violence against Women, the Convention against Torture, SCR Resolution 1325 and all other human rights conventions and charters.
- c) All human rights training of all actors/working groups in the gender, justice system,

community and opinion leaders, shall incorporate widows' rights law.

d) The County Government shall consult with widows' organizations when reporting to the human rights committees on their implementation of the ratified charters and agreed declarations and programmes.

We finally note that indeed all women and men are equal and it's the obligation of the leadership to ensure that its citizens enjoy all the rights as guaranteed in the Constitution.