

**THE UNITED REPUBLIC OF TANZANIA  
THE LAW REFORM COMMISSION OF TANZANIA**



**REPORT OF THE COMMISSION ON THE  
LAW OF SUCCESSION/INHERITANCE**

**PRESENTED TO THE MINISTER FOR JUSTICE  
AND CONSTITUTIONAL AFFAIRS,**

**MINISTRY OF JUSTICE AND CONSTITUTIONAL  
AFFAIRS DAR ES SALAAM, TANZANIA**

**MARCH, 1995**

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## THE COMMISSION

The Law Reform Commission of Tanzania was established under section 3 of the Law Reform Commission of Tanzania Act, 1980, to take and keep under review all the Law of the United Republic with a view to its systematic development and reform.

### **The Commissioners are:**

Hon. Mr. Justice Raymond Jumbe Ambikile Mwaikasu - Chairman

Mr. Damian Saleka Meela - Full Time Commissioner

Ms. Julie Catherine Manning - Full Time Commissioner

Hon. Mr. Pius Msekwa (MP) - Part Time Commissioner  
Speaker, National Assembly of Tanzania

Mr. Mohamed Ismail - Part Time Commissioner  
Advocate of the High Court  
and Court of Appeal of  
Tanzania.

Mr. Harold Reginald Nsekela - Part Time Commissioner,  
Chief Corporation Counsel,  
Tanzania Legal Corporation

Ms. Stella Longway - Part Time Commissioner,  
The Principal Resident Magistrate, The  
Judiciary.

Mr. Stephen E.N. Ihema - Secretary to the Commission

### **Researchers:**

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\*Mr. Sadallah Mussa Sadallah, a Senior Law Research Officer passed away on 30<sup>th</sup> March 1994.

**THE UNITED REPUBLIC OF TANZANIA  
THE LAW REFORM COMMISSION OF TANZANIA**

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P.O. Box 3580  
**DAR ESSALAAM**

10<sup>th</sup> March, 1995

Hon. Samuel Sitta MP,  
Minister for Justice and Constitutional Affairs,  
P.O. Box 9050,  
**DAR ES SALAAM.**

**REPORT ON THE LAW OF SUCCESSION/INHERITANCE:**

It was in January 1987 that the Attorney-General and Minister for Justice referred the Project on Law of Succession to the Law Reform Commission of Tanzania on inter-alia the following:

1. To study and determine weaknesses in the present system of Laws of Succession.
2. Make recommendations with a view to the institution of a system of succession with a law which is uniformly applicable as in the regime of the Law of Marriage; and
3. In making its report the Commission shall have regard to:
  - (a) The principles of equality,
  - (b) Freedom of worship and conscience.

The Commission has accomplished the task assigned to it in accordance with the Terms of Reference. The research on the Project has taken quite a long period of time due to various reasons, including the need to make consultations as extensively as possible; inadequate finances to carry out the research etc.

In accordance with Section 14(1) of the Law Reform Commission of Tanzania Act, 1980 we have the honour to submit the final Report on the Law of Succession Project.

.....  
Hon. Raymond J.A. Mwaikasu  
CHAIRMAN

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D.S. Meela  
FULL TIME COMMISSIONER

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Julie C. Manning  
FULL TIME COMMISSIONER

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Hon. Pius Msekwa  
PART TIME COMMISSIONER

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Mohamed Ismail  
PART TIME COMMISSIONER

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Ms. Stella Longway  
PART TIME COMMISSIONER

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Harold R. Nsekela  
PART TIME COMMISSIONER

## LETTER CONTAINING THE REFERENCE

JC/J.10/35/100  
January, 1987

27<sup>th</sup>

The Honourable Mr. Justice H.A. Msumi,  
Chairman,  
Law Reform Commission of Tanzania,  
P.O. Box 3580,  
**DARES SALAAM.**

Ndugu Chairman,

- 1 You might recall that when in 1971 Parliament passed the Marriage Act which introduced, a uniform law of marriage a request was made that the law of succession should also be made uniform. The Government agreed with this proposal and it is now its intention to see how best it can be effected.
2. You will note that so far in this country, there are three main systems of succession in operation i.e. the customary law of succession system which governs Africans; the Islamic law of succession system which governs Muslims and the Hindu law of succession system which governs Hindus. This set up certainly has the negative effect of reinforcing and perpetuating racial and tribal divisions amongst citizens. In addition, some features of the said systems are inconsistent with the principle of equality, which is the cornerstone of our policy of Ujamaa, while others are repugnant to our morality and sense of justice. The Government is therefore of the mind that this set up should be replaced by one under which a uniform law applicable to all citizens could be operated.
3. Accordingly I am referring this matter to you so that you study and determine weaknesses in the present system of laws of succession and make recommendations with a view to the institution of a system of succession with a law which is uniformly applicable as in the regime of the Law of marriage.
4. In making its report the Commission shall have regard the principle of equality; freedom of worship and conscience.

Yours sincerely,

sgd.  
D.S. Meela  
**ACTING ATTORNEY-GENERAL**

DSM / ha

N.O.O

c.c. File: JC/S.50/3  
File: JC/P. 80/3

## ACKNOWLEDGEMENTS

The Commission is grateful to the committee charged with the duty to prepare the first draft Report on the Law of Succession and expresses its sincere appreciation for the effort, diligence and many hours placed at the disposal of carrying out this assignment.

At this juncture the commission would like to place on record its indebtedness to the following:

1. Co-opted members from the University of Dar es Salaam, and the Ministry of Justice and Constitutional Affairs who worked hand in hand with the sub-committee of the Commission in preparing the Discussion paper, questionnaires, and undertaking tours to Regions and neighbouring countries.
2. All the Donors to the Project. These include:
  - i. The Canadian High Commission
  - ii. The Royal Netherlands Embassy
  - iii. The Centre for Human Rights, Geneva
  - iv. The Ministry of Higher Education, Science Technology and
  - v. The Ministry of Community Development, Women and Children Affairs.

The Commission would also wish to record its appreciation to everyone who made its task easy including those who might have had invariably contributed somehow e.g. the Secretaries, those who made the coffee and tea e.t.c as well as those who had contributed unnoticeably.

The Commission, however, bears full collective responsibility for both the form and contents of the report.

“Man is mortal, but the objects of this property do not disappear with him. They are left behind him in this World and community must see to it that they are allotted to new owner. Such definite allotment is indispensable lest society be shaken quarrel, fight or scuffle whenever one of its members departs life leaving property behind him.”

Max Rheinstein, Cases on Decedent's Estates pp 1-220 and extract from Njenga, F.X: law of Succession in East Africa, Faculty of Law, The University College of Dar es salaam 1966 (mimeo) pg. 1.