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Property and inheritance rights newsletter

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WLSA attends Global Commission on HIV and the Law meeting

Welcome to our second newsletter on property and inheritance rights. It is comforting to know that issues of the law and HIV have taken a global significance especially through the establishment of the Global Commission of HIV and the law. The objectives of the Commission are 1. Analyze existing evidence and generate new evidence on rights and law in the context of HIV and develop rights-based and evidence – informed recommendations 2. Increase awareness among key constituencies on issues of rights and law in the context of HIV and engage with civil society and strengthen their ability to campaign, advocate and lobby. The commission's work is overseen by an eminent group of 15 Commissioners (currently 6 women and eight

men). African women Commissioners include Bience Gawanas (Namibia), Professor Sylvia Tamale (Uganda) and Professor Miriam K. Were (Kenya). The Commission provides a plat-



Sylvia Chirawu, with Zena Badawi of the BBC at the Global Commission on HIV and the Law, Pretoria

form for the gathering of a coherent evidence base on legal and human rights issues as related to HIV and Aids. Regional

Dialogues provide an opportunity for CSOs to share information with the Commissioners and UN agencies so as to mitigate the impact of HIV/Aids.

WLSA Zimbabwe submission was selected as one of the 70 out of 234 for presentation at the Africa Dialogue held in August 2011 in South Africa. The submission focused on the plight of women in unregistered marriages and how this impacts negatively on property and inheritance rights. The major recommendation was that there should be full recognition of unregistered marriages.

WLSA will continue advocacy on this issue

S CHIRAWU

National Coordinator

The dynamics of will writing

A will is a document that only takes effect when a person dies. The Wills Act has certain requirements for a will to be regarded as valid.

1. A will must be in writing and can be in any language
2. It must be signed by the person who has written

the will on every page.

3. It must be signed by two or more witnesses who are over the age of 16 years on every page.
4. The witnesses need not know what is in the will. They will be signing to confirm that they have

seen the person who has written the will signing it or acknowledging their signature.

5. A will must be dated.
6. Will must be kept in a safe place—e.g Master of the High Court's office or bank

Registering an estate



It is important that when a person dies, her or his estate be registered at court

It is important that when a person dies their estate be registered at the courts even if they left a will.

Below are the guidelines as to which court to register the estate :

1. If the deceased left a will, the estate must be registered at the High Court whether the deceased was female or male, married or single, black or white.
2. If the deceased had no will and is non African, the estate is registered at the High Court.
3. If the deceased was married according to the Customary Marriages Act Chapter 5:07 or an unregistered customary law union (where lobola is paid but marriage is not registered) the estate is registered at the Magistrate Court.
4. If the deceased was an African married according to the Marriage Act Chapter 5:11, then the estate must be registered at the High Court.
5. If the deceased was an unmarried African and her/his parents were married under a registered customary law marriage, the estate is registered at the Magistrate Court
6. If the deceased was an unmarried African whose parent had a Chapter 5:11 marriage, the estate will be registered at the High Court

When registering an estate take with you the original and copies of the death certificate, marriage certificate if any and birth certificates if any

Documents to take when registering an estate

The person who deals with deceased estates at the High Court is the Master and at the Magistrate Court , Assistant Master.

When registering an estate, take the following documents;

1. Death certificate and copy
2. Originals and copies of birth certificates all children of the deceased.

3. Marriage certificate if any.

For women who do not have marriage certificates, they can still register the estate at the Magistrate Court.

The Master's office or the deceased estate department will issue a death notice that has to be completed. This notice requires information on the date and place of death, marital status, details of

parents and children and will if any.

The other form is the inventory form. Information required is the property both movable and immovable left by the deceased , money, shares and debts. The Master upon receiving the required information proceeds to open a record of the deceased estate

Women whose marriages are not registered face hardships

Women who have marriage certificates need to just produce them on getting a death certificate for their late husband. Women who do not have marriage certificates however face challenges in getting the death certificate.

They are required to bring affidavits from their late husband's relatives to confirm that they were married under customary law to the deceased. Sometimes relatives categorically deny the existence of a customary law marriage and state that the customary law wife was a mere girlfriend. It is therefore

important that records of the lobola paying ceremony be kept and also details of the "go-between" or even affidavits that can be used as proof of the marriage.



Women whose marriages are not registered face hardships in getting death certificates

Empowerment Circles - A capacity and assertiveness skills building strategy : By Getrude Murungu— Matsika, Senior Programme Officer Research - WLSA Zimbabwe



Women in Hopley and Epworth are supporting each other

WLSA facilitated formation of empowerment circles for women infected and affected by HIV and Aids in Hopley and Epworth. A total of 18 empowerment circles were formed and each circle constitute of 10 women. The em-

powerment circles aim at building the capacity and assertiveness skills of women so that they can use the law to promote and protect their rights.

An empowerment circle is a group of women that meet regularly to provide guidance to each other, support each other in times of problems, encourage and help each other to report cases of violation of women's rights to law enforce-

ment agents, identify cases of abuse in the communities they live and report to respective authorities.

The women's empowerment circle training was structured into five sessions which are:

1. Self - empowerment
2. Self -identity.
3. Locating and knowing your neighbour
4. Resources identification
5. Outreach strategies and Constitutions for the empowerment circles.

Empowerment circles provide a platform for women to share information, support each other and watch out for and report cases of violations of property and inheritance rights

Law reform on property and inheritance rights by Dorcas

Makaza, Legal Programme Officer, WLSA Zimbabwe

The 1997 Administration of Estates Act number 6 is one of the most important pieces of legislation on the rights of women since independence. The spirit of the law, which is to protect the surviving spouse and the children remains relevant. Others laws include the Deceased Persons Family Maintenance Act. However there is need for improvement of the law so that it remains relevant

to the needs of women and children. Some of the issues that need to be attended to relate to the following: -Provision that surviving spouse should inherit the house that they lived in immediately before death places those who may be in the rural area at the time of death from getting the house.

Non- recognition of the customary law marriage means that the

surviving wife has to rely on the support of the husband's relatives. Such support is sometimes with held. Husbands are selling matrimonial property during the subsistence of the marriage. The law allows them to do this if the property is registered in their name only. WLSA Zimbabwe houses the Secretariat of the Property and Inheritance rights network that is working on the reforms.

Some strategies on protection and registration of estate

From WLSA experience below are some suggested strategies to protect one's rights at death of a spouse:

1. At death, call a trusted friend or relative for support. One can also call friends from the religious group that they belong to.
2. Seek legal advice urgently if problems are anticipated.
3. Report all cases of property grabbing actual or threatened to the Police or get someone to do that on your behalf.
4. Make sure that all important documents such as birth and marriage certificates are kept under lock and key.
5. Pension benefits do not form part of the estate. Approach late spouse's employees as

soon as possible so that the process of getting pension commences. Take all insurance policies to the insurers.

6. Do not be intimidated into surrendering important documents.



Protect important documents such as marriage certificates



Our mission is to be a renowned Southern Africa feminist and human rights organization that coordinates and supports evidence based interventions to promote and protect women and girls rights through legal and policy reform and changes to discriminatory socio-cultural practices.

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*OUR VISION IS A SOCIETY WHERE JUSTICE IS EQUITABLY ACCESSED, CLAIMED AND
ENJOYED BY WOMEN AND GIRLS IN ALL SPHERES OF LIFE*

MAKING THE LAW
WORK FOR WOMEN
CHALLENGING THE
LAW TO WORK FOR
WOMEN

