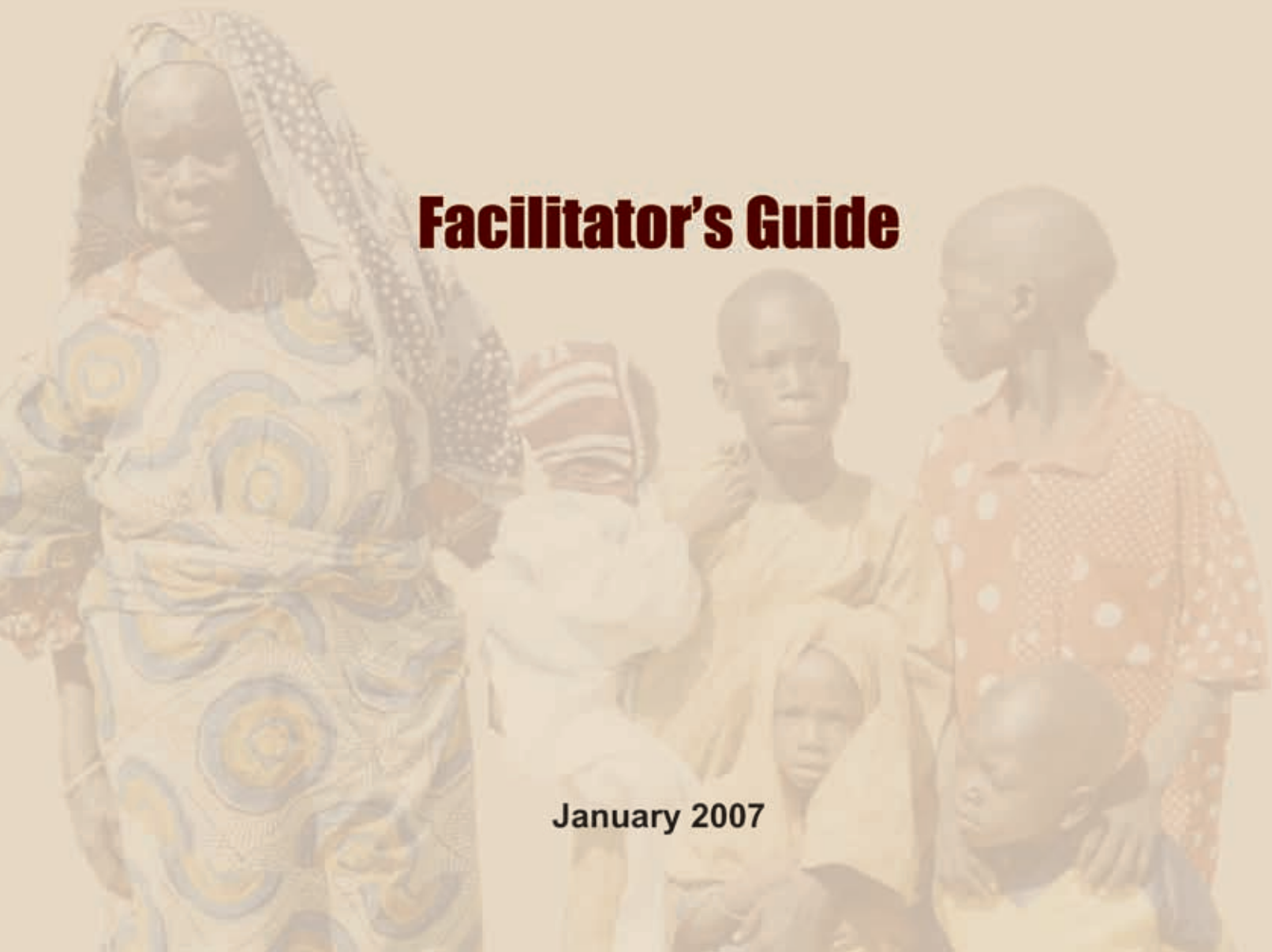


# **LEGAL EDUCATION AND WILL WRITING**

**For the Support of  
Orphans and Vulnerable Children,  
Persons Living with HIV  
and other Persons Affected by HIV**

## **Facilitator's Guide**

**January 2007**



# **LEGAL EDUCATION AND WILL WRITING**

For the Support of Orphans and Vulnerable Children,  
Persons Living with HIV and other Persons Affected by HIV

## **Facilitator's Guide**

January 2007

# **LEGAL EDUCATION AND WILL WRITING**

© 2007 Global HIV/AIDS Initiative Nigeria (GHAIN)

Citation: Legal Education and Will Writing (GHAIN 2007)

Information in this publication may be freely reproduced, published or otherwise used for non-profit purposes without permission from Global HIV/AIDS Initiative Nigeria or Family Health International. However, Family Health International requests that it be cited as the source of the information.

The Global HIV/AIDS Initiative Nigeria is the largest comprehensive HIV/AIDS Project ever implemented in a single developing country. Funded by the President's Emergency Plan for AIDS Relief through the United States Agency for International Development, the five-year GHAIN project is rapidly strengthening and expanding a wide range of HIV/AIDS services to support the government of Nigeria's response to the epidemic. GHAIN is a partnership between international organisations coordinated by Family Health International/Nigeria.

Website: <http://www.fhi.org/en/HIVAIDS/country/Nigeria/nigeriaprograms>

Key words: HIV/AIDS, orphans and vulnerable children, will writing, Islamic inheritance laws, succession planning, legal education

Printed in Abuja, Nigeria

# Table of Contents

Title .....	Page
<b>FOREWORD</b> .....	v
<b>ACKNOWLEDGMENTS</b> .....	vi
<b>ABBREVIATIONS AND ACRONYMS</b> .....	viii
<b>GLOSSARY</b> .....	ix
<b>INTRODUCTION</b> .....	1
<b>TRAINING OBJECTIVES</b> .....	3
<b>HOW TO USE THIS MANUAL</b> .....	4
<b>PARTICIPANTS' LIST: A SAMPLE</b> .....	6
<b>TRAINING SCHEDULE: A SAMPLE</b> .....	7
<b>MODULE 1     Legal Education</b> .....	<b>9</b>
Legal Education and the Legal System.....	10
How to Organise Community Legal Education.....	14
<b>MODULE 2     Fundamental Human Rights</b> .....	<b>19</b>
What are Human Rights?.....	21
What is the Constitution?.....	29
Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) .....	32
The Rights of the Child .....	35
How to Seek Redress for Human Rights Violations .....	38
<b>MODULE 3     Inheritance Rights</b> .....	<b>41</b>
What is Inheritance?.....	42
Islamic Inheritance Laws.....	45
The Relationship Between Marriage and Inheritance.....	51
Steps to Take on Infringement .....	53
The Relationship Between Poverty, Economic and Social Rights and Denial of Inheritance .....	54

<b>MODULE 4</b>	<b>Will writing.....</b>	<b>57</b>
	What is a Will?.....	58
	How to Make a Will.....	61
	Practical Solutions to Will and Inheritance Rights Violations.....	67
	Steps to Take After the Death of a Testator .....	69
<b>MODULE 5</b>	<b>Legal Support Network.....</b>	<b>73</b>
	Setting Up a Legal Support Network .....	74
	Developing an Action Plan.....	77
<b>Appendix A</b>	Will Template .....	79
<b>Appendix B</b>	Abridged Will Template.....	88
<b>Appendix C</b>	Legal Support Organisations .....	89
<b>Bibliography</b>	.....	95

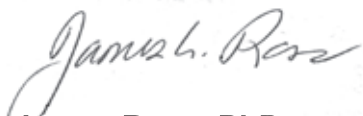
## Foreword

I am pleased to present this simple and easy to use manual to our stakeholders, colleagues and friends who have a passion to see a marked improvement in the lives of the many orphans and vulnerable children and their families who we work with. While no cure has been found for HIV, antiretroviral therapies have greatly improved the quality of life of persons living or affected by HIV. Likewise, on the social and psychological levels, we can contribute in little ways to alleviating the suffering and injustice we see around us. It is harrowing enough to watch a loved one pass away. To be subjected to avoidable strife over property or disinherited in the middle of this tragedy and left utterly desolate is unfair and unacceptable.

Knowing one's basic rights and being able to write a will is critical. Once the initial trepidation and fear of planning for death is overcome, we realise that if we really love our family, we need to protect them from avoidable pain when we pass away. While writing a will does not automatically lead to its implementation, it is a first step in the right direction. The good things in life are completely free. So are the fundamental human rights that we should enjoy. The trouble is oftentimes, we do not know what is ours by right, or what is contained in our country's Constitution and international documents on human rights, including those that have been ratified by our governments.

This manual presents the basic facts contained in the Nigerian Constitution, CEDAW, and the Child's Right Act 2003, and provides practical tips on will writing. It promotes community awareness about fundamental rights, and provides a road map on how to harness critical resources in the community – government legal structures, NGOs, political and community leaders – to defend the rights of orphans, widows and other vulnerable persons. It makes a case for communities to work together to promote and defend the rights of all individuals irrespective of age, gender, class and health status. The fact that a child has parents who are HIV positive gives no one the right to expel the child from school! The manual also shows vividly the connections between violation of rights (such as disinheritance), and poverty.

I recommend this manual to all those working in communities to improve the well-being of orphans and vulnerable children, and those living or affected by HIV. In the end, it is critical that WE all know our rights when we begin to navigate the murky waters of discrimination and stigmatisation. It is our responsibility to defend and fight for our own rights, and to speak out and defend the rights of those around us when we see a violation. And when one is no longer alive to do this, let your written will speak for you. Let it protect your spouse, children and family.



**James Ross, PhD**  
FHI Nigeria Country Director  
and GHAIN Chief of Party

Abuja, January 2007

## Acknowledgments

Funding for this manual has been made possible through a grant by United States Agency for International Development under the President's Emergency Plan for AIDS Relief Contract Cooperative Agreement number 620-A-00-04-00122-00.

Many individuals contributed to the development of this training manual on *Legal Education and Will Writing for the Support of Orphans and Vulnerable Children, Persons Living with HIV and other Persons Affected by HIV*.

Our sincere appreciation goes to James Ross, Chief of Party GHAIN whose persistent requests for a simple-to-use will template gave birth to this training manual.

We are also grateful for the immeasurable contributions of the International Federation of Women Lawyers (FIDA), Nigeria (Lagos State Branch), through the team of Chigoziri Ojiaka (Coordinator), Gertrude Onyewuche, Marian Jones, Sylvia Okoroegbe, Chinyere Ike, who developed this manual in collaboration with Angela Odiachi, GHAIN Senior OVC Advisor. We also thank Angela for providing technical direction and support for the manual, and contributing to its layout design, formatting and editing.

We thank the representatives of the following organisations who participated in the field testing of the manual in the six GHAIN supported states (Edo, Anambra, Federal Capital Territory (FCT), Kano, Lagos, and Cross River): Federal and state ministries of Women Affairs; FIDA, National Human Rights Commission (NHRC), Legal Aid Council, Probate Registry, traditional and religious institutions; GHAIN supported implementing agencies **FCT:** Ummah Support Group, Catholic Action Committee on AIDS, Society for Community Development, Unique AIDS Control Organisation; **Edo State:** Owan East Support Group, Women Enhancement Organisation, Society for Women and AIDS in Africa Nigeria, Catholic Action Committee on AIDS, Oriaifo Support Group; **Kano State:** Voice of the Hopefuls, Council of Positive People, Wazobia Support Group, Muslim Sisters Organisation, Foundation For Women's Health, Research and Development, (FORWARD); **Anambra State:** Care for the Child Organisation, Hopegivers Organisation, Formative Alliance Against AIDS, Anglican Diocese of Nnewi, Save the World Organisation; **Cross River State:** Catholic Archdiocese Action Committee on AIDS, Integrated Development Initiative, Positive Development Foundation, Presbycom, People Arise Initiative; **Lagos State:** Positive Life Organisation of Nigeria, Community of Positive Women, The Redeemed Evangelical Mission, The Redeemed AIDS Programme Action Committee, Methodist Care and Support project, Coyatohan, Society for Women and AIDS in Africa Nigeria.

We specially acknowledge the contributions of Imam Umar Rufai of the Ummah Support Group at the Central Mosque, Abuja for his insightful comments on Islamic inheritance law during the field testing of the manual. He also reviewed the abridged will template developed for use by Muslims (Appendix B) with Ustaz Odera Igwebe (Director Administration, Nigeria Supreme Council for Islamic Affairs), Danjuma Abdullahi (Project Manager, Ummah Support Group), and other Muslim clerics of the Central Mosque, Abuja. We also thank Caroline Nicolson (Save the Children UK) for her valuable comments and contributions.

The following GHAIN staff participated in the field testing of the manual- Angela Odiachi, Gloria Onyeabor, Linus Onoh, Josephine Ilokanuno, Uche Eze, Victor Bifom, Olawunmi Ashiru, Olamide Agbaje, Taiwo Ojelabi, Sikiru Baruwa, Philomena Irene, Emmanuel Ayoson, and Aminu Gadama.

Facilitators at the field-testing in the six states were Chigoziri Ojiaka, Gertrude Onyewuche, Marian Jones (FIDA Lagos), Chinelo Iriele (FIDA Abuja), Amina Adamu Aliyu (FIDA Kano), and Harry Obe (NHRC Lagos).

Adamu Imam (GHAIN Director Community Services), Tijjani Mohammed (GHAIN State Programme Manager Kano), Uju Edebeatu (GHAIN Programme Officer), Olamide Agbaje (GHAIN OVC Officer), Suzi Peel (Associate Director for OVC, FHI Arlington), Jerome Mafeni (Chief of Party, ENHANSE), Lane Porter (Law & Human Rights Advisor, Constella Futures), Rosemary Nnamdi-Okagbue (HIV/AIDS Consultant), Joshua Emmanuel (UNICEF), Joshua Samson (ENHANSE), Richmond IHEME ( NHRC) and Ogechi Obiajulu (FIDA Abuja) reviewed the manual and provided helpful suggestions.

We also appreciate the contributions of Arit Oku-Egbas who worked on the final proofs, editing and formatting the manual, and Peter Obiekea (GHAIN Documentation Officer) and Godwin Ondoma (GHAIN Graphic Designer) who also contributed to the layout design.

*The opinions expressed herein do not necessarily reflect the views of USAID or PEPFAR.*



## Abbreviations and Acronyms

<b>AIDS</b>	Acquired Immune Deficiency Syndrome
<b>APLWH</b>	Association of Persons Living With HIV
<b>CBO</b>	Community-Based Organisation
<b>CEDAW</b>	Convention on the Elimination of all forms of Discrimination Against Women
<b>CRA</b>	Child's Right Act
<b>CRC</b>	Convention on the Rights of the Child
<b>CSO</b>	Civil Society Organisation
<b>ENHANSE</b>	The Enabling HIV/AIDS+TB and Social Sector Environment Project
<b>FBO</b>	Faith-Based Organisation
<b>FCT</b>	Federal Capital Territory
<b>FHI</b>	Family Health International
<b>FIDA</b>	International Federation of Women Lawyers
<b>GHAIN</b>	Global HIV/AIDS Initiative Nigeria
<b>HIV</b>	Human Immunodeficiency Virus
<b>IA</b>	Implementing Agency
<b>LGA</b>	Local Government Area
<b>NHRC</b>	National Human Rights Commission
<b>NGO</b>	Non Governmental Organisation
<b>OVC</b>	Orphans and Vulnerable Children
<b>PEPFAR</b>	(US) President's Emergency Plan for AIDS Relief
<b>PLWH</b>	Person(s) Living with HIV
<b>UDHR</b>	Universal Declaration on Human Rights
<b>UNICEF</b>	United Nations Children's Fund
<b>USAID</b>	United States Agency for International Development

# Glossary

<b>Bequeath</b>	Grant through a will
<b>Codicil</b>	A supplementary will by which a testator adds to, alters or revokes what is contained in a will
<b>Customary Law</b>	The law based on traditional customs and practices
<b>Discrimination</b>	An act or behaviour based on prejudice. Discrimination is a way of expressing, either on purpose or unknowingly, stigmatising thoughts
<b>Execute (a will)</b>	Sign (a will)
<b>Executor/Executrix</b>	The person responsible for making sure the will is followed
<b>Guardian</b>	The person appointed to look after children under 18 years
<b>Heir(ess)</b>	The person who has the legal right to receive property or title of another person when they die (Female who will receive money, property or title when an older member of her family dies)
<b>Illiterate jurat</b>	Official memorandum at the end of an affidavit, showing the date and magistrate before whom it was sworn and interpreted
<b>Indigent</b>	A person who earns below the minimum wage, or is unemployed
<b>Inter vivos</b>	Giving gifts while the person is alive
<b>Intestate</b>	A person who dies without making a will
<b>Khadi</b>	Chief Judge of an Islamic ( <i>Shari'a</i> ) court
<b>Letter of Administration</b>	Letter issued by a court to enable the trustees administer the estate of a deceased person who did not make a will
<b>Minor</b>	A person who is under 18 years
<b>Probate</b>	The process of establishing that a will is valid
<b>Pro bono</b>	Legal service rendered free of charge
<b>Testate</b>	A person who makes a will (noun); having made a legally valid will before death (adjective)
<b>Testator</b>	A person who has made a legally valid will
<b>Will</b>	An expression by a person of wishes he/she intends to take effect after death
<b>Witness</b>	Someone who adds his/her signature to confirm the authenticity of a signature just put on a document
<b>Writ of possession</b>	A formal document from a court showing that a person is the owner of a property



## Introduction

Many children and young people in developing countries who have been made vulnerable by HIV face problems when their parents die. They may have their property taken by relatives. The situation can be made worse if no prior planning has been made, for instance in the form of a written will. Yet, people rarely write wills in developing countries because of the belief that writing wills and preparing for death can lead to the premature death of the testator. There is also the fear that the beneficiaries of the will may choose to end the life of the testator.

Other challenges experienced by these children and young people include discrimination, stigma and violation of their fundamental human rights. Stories abound of children who have been denied access to schools because they or their parents are HIV positive. Many families have been unfairly evicted from their homes, or breadwinners dismissed from their jobs when employers learnt they were HIV positive. These discriminatory practices further compound the psychosocial stress experienced by affected families.

Due to limited knowledge or ignorance of the provisions of the law (for instance fundamental human rights and inheritance laws) and because, in practice, these laws are often not enforced by relevant authorities, the population at large rarely seek redress when violations occur.

It is, however, easy for people to write their own will using a standard format. Such a written will can also be used to appoint a legal guardian in the case of the death of a child's parent(s). Thus, persons who write wills can be assured that their assets will pass on to their desired dependants. They are also afforded the opportunity of appointing trusted people to handle their affairs when they have passed on. With proper legal support structures in place, children and families whose rights have been violated can seek and receive legal support to protect their fundamental human rights.

This training manual on *Legal Education and Will Writing for the Support of Orphans and Vulnerable Children, Persons Living with HIV and other Persons Affected by HIV* has therefore, been developed to encourage succession planning through will writing. First, the objective is to train those who are capable of influencing behaviour in the communities where affected children and families live. Such trainees would include staff of civil society organisations (CSOs) who work with orphans and vulnerable children and their families; caregivers and guardians of young children; older orphans and vulnerable children; community leaders; faith-based leaders; and other adults and custodians of culture and tradition.

Second, the aim is to create awareness on fundamental human rights, especially child rights, build skills in will writing, and on how to mobilise community support for legal education and will writing. This manual also aims to facilitate the creation of legal support structures in communities where affected children and their families live. Finally, the hope is that the manual will also encourage CSOs to bring discrimination and other legal abuses to the attention of human rights organisations such as International Federation of Women Lawyers (FIDA), National Human Rights Commission, Legal Aid Council, and Citizens' Rights Mediation Centre.




The manual is written in simple language for easy understanding. It is interactive and gives room for suggestions by participants on customs, traditions and religious (Islamic and Christian) positions on will writing and inheritance. It takes the different cultural backgrounds and state laws into consideration.




## Training Objectives

The purpose of the training manual is to:

- Increase knowledge on legal education
- Develop an understanding of fundamental human rights, child rights and the Constitution of the Federal Republic of Nigeria
- Increase knowledge on inheritance rights
- Improve skills in will writing, and promote acceptance for will writing
- Formulate strategies and set up structures for legal support of orphans and vulnerable children and their families

## How to use this Manual

<p><b>Title</b></p>	<p>Identifies the main topic of the module</p>
<p><b>Learner Objectives</b></p>	<p>Describe what participants will be able to do by the end of the module in order to demonstrate increased knowledge or improved skills. Objectives should be written on a flipchart or computer for projection before the commencement of each training module. The facilitator should start each module by presenting the learner objectives.</p>
<p> <b>Time</b></p>	<p>Indicates the approximate duration of the module or session.</p>
<p><b>Session Overview</b></p>	<p>Provides a breakdown of the module into sessions.</p>
<p> <b>Facilitator's Notes</b></p>	<p>Are written in italics. They may include expected or possible responses to a question, definitions, or other key points the facilitator should try to elicit during the session.</p>
<p> <b>Advance Preparation</b></p>	<p>Indicates any arrangements that the facilitator needs to make prior to the session.</p>
<p><b>Training Materials</b></p>	<p>Lists all the materials that will be required for the module.</p>
<p><b>Exercise</b></p>	<p>Is an instruction for carrying out short activities. Before the session, the facilitator may copy the tasks onto a flipchart or computer for projection. Participants may also be asked to break up into groups of 8-10 persons to brainstorm, discuss specific issues and come to an agreement. A representative of each group then presents group findings in a plenary session.</p>

<p><b>Handouts</b></p>	<p>Indicates handout(s) for the module. Handouts should be distributed to participants preferably, at the end of the module, except otherwise indicated.</p>
<p> <b>Make these Points</b></p>	<p>Describes the key messages that the facilitator should stress during the session.</p>
<p> <b>Presentation</b></p>	<p>Indicates important information and facts for the facilitator to present</p>
<p><b>Case Study</b></p>	<p>Is an account of a development or event in the life of a particular person, group or community that can serve as a point of reference or learning point for the participants.</p>
<p> <b>Discussion</b></p>	<p>Describes instruction for participants to brainstorm in plenary. The facilitator should note participants' comments on flipchart.</p>



## PARTICIPANTS' LIST: A SAMPLE

It is important that the appropriate persons are invited to participate in the workshop. This is especially critical to creating a follow-up legal support network for orphans and vulnerable children and their households (See Module 5). Participants expected at such training workshops therefore, will include staff of CSOs that care for orphans and vulnerable children, faith-based and community organizations, staff of State Ministries of Women Affairs, representatives of Legal Aid Council, FIDA state branches, Probate Registry in the State High Court, Citizens' Rights Mediation Centre, and other stakeholders who can mobilise communities and create awareness on legal education and will writing, as shown in the table below.

S/N	Organisation	# Persons
1	NGO/CBO/FBO	2
2	NGO/CBO/FBO	2
3	NGO/CBO/FBO (APLWHs) male and female	2
4	Young person affected by HIV (18 years and below - boy and girl)	2
5	Ministry of Women Affairs	2
6	FIDA	2
7	Legal Aid Council	1 or 2
8	Islamic cleric	1 or 2
9	Christian cleric	1 or 2
10	Traditional ruler	1 or 2
11	Youth leader	1 or 2
12	Women leader	1 or 2
13	Probate Registry	1 or 2
14	Khadi – Shari'a court	1
15	Citizens' Rights Mediation Centre	1
16	National Human Rights Commission	1
	<b>Total</b>	<b>22 - 29</b>

*One may consider the need to also invite participants from Islamic (Shari'a) courts, especially for predominantly Muslim communities.*

## Training Schedule

Time	Day 1	Day 2
9.00 am – 10.00 am	Registration Welcome address Introduction of participants Workshop expectations Workshop objectives Ground rules Pre-test	9.00 – 9.15 am Recap of previous day's activities
		9.15 -10. 00 am <b>Module 3:</b> Inheritance Laws
10.00am- 11.00 am	<b>Module 1:</b> Legal Education	<b>Module 4:</b> Will Writing
11.00 am – 11.15 am	Tea Break	Tea Break
11.15am – 2.00pm	<b>Module 2:</b> Fundamental Human Rights	<b>Module 4:</b> Will Writing
2.00pm – 3.00 pm	Lunch	Lunch
3.00pm- 5.00 pm	<b>Module 3:</b> Inheritance Laws	<b>Module 5:</b> Legal Support Network
5.00 – 5.15 pm	Workshop evaluation/ Housekeeping/Tea Break	Post test/ Workshop evaluation/ Tea break

*Participants travelling from out of town are expected to arrive on Day 0, and depart on Day 3.*



# 1

# LEGAL EDUCATION



Total Time: 2 hours

## General Introduction

There are two sessions in this module that introduce participants to the concept of legal education and the importance and benefits of this type of education. The module also examines how one can carry out legal education in a manner that benefits the community.

## SESSION OVERVIEW

### SESSIONS

1. Legal Education and the Legal System
2. How to Organise Community Legal Education

### LEARNER OBJECTIVES

By the end of this module, participants will be able to:

1. Understand what legal education is and the reason why it is important
2. Explain the parts of the Nigerian legal system
3. Describe how to organise community legal education

### TRAINING MATERIALS

- ⇒ Flipchart board, paper and markers
- ⇒ A4 Paper
- ⇒ Post-it
- ⇒ Notepads

### HANDOUTS

- ⇒ 1: Conditions for Effective Community Legal Education

# SESSION ONE

## Legal Education and the Legal System



Total Time: 45 minutes

### Session Objectives

By the end of the session, participants will be able to:

1. Understand what legal education is and the reason why it is important
2. Explain the parts of the Nigerian legal system

### Training Methods

- ⇒ Discussion
- ⇒ Exercise
- ⇒ Presentation



### Discussion



10 minutes

*Introduce the session by asking participants the following:*

1. What are some of the problems women and children face in communities?
2. What measures are available in communities to support and protect such women and children?

*Note their responses on flipchart. From their responses, the facilitator should introduce the concept of legal frameworks as structures for supporting and protecting citizens.*

## Module 1 Exercise 1: Understanding the Legal System

<b>Purpose</b>	To familiarise participants with the meaning of legal education and the parts of the legal system
<b>Duration</b>	10 minutes
<b>Activity</b>	<p><i>The Facilitator should distribute two blank A4-sized papers or Post-it sheets to each participant. Each participant should answer the following questions – putting each answer on a separate piece of paper.</i></p> <ol style="list-style-type: none"><li>1. What do you understand by the term 'legal education'?</li><li>2. Describe the parts of the legal system</li></ol> <p><i>Allow 3 minutes for this task. Then collect the answers to the questions separately. Read out a couple of the responses to Question 1. You may also choose to have each participant read out their own response. This will depend on how large the group is, and the available time. For groups where some participants may be unable to write, the facilitator may ask participants to respond verbally in a plenary, and record the responses on flipchart.</i></p>

*The facilitator should display on flipchart or project from a computer screen, the definition of legal education (in Box 1 below). Read out or ask a participant to read aloud the definition. Take time to explain the definition, giving examples. Allow time for questions and comments.*

### **Box 1 – LEGAL EDUCATION**

**Legal education is the process of teaching and creating knowledge of the law and the legal system. Simply put, it is education on legal rights. In this present case legal education means training non-lawyers on the provisions of the law; for instance, training on human and inheritance rights and will writing. Legal education therefore, creates awareness on the legal rights of individuals (such as orphans and vulnerable children), and communities.**



## Discussion

 10 minutes

*Participants should break up into pairs to discuss the importance of legal education to them as individuals and to their communities. Answers should be recorded on notepads. The facilitator should invite two to three participants to read out their recordings. Other participants can call out any additional information that has not already been mentioned.*



### Make These Points

Legal education is important to:

- ⇒ Sensitize individuals and communities on the laws relating to human rights and inheritance rights issues
- ⇒ Create awareness on rights protected by the law, so that implementing agencies will be able to protect orphans and vulnerable children whose rights are violated
- ⇒ Give information about how and where to get (free) legal support
- ⇒ Provide critical skills such as will writing in a simple format or using already prepared templates



## Presentation

 10 minutes

## THE LEGAL SYSTEM

*The facilitator should read out a couple of the responses earlier provided to Question 2 (Module 1 Exercise 1). You may also choose to have each participant read out their own response. This will depend on how large the group is, and the available time. For groups where some of the participants may be unable to write, the facilitator may ask participants to respond verbally in a plenary, and record their responses on flipchart. Then summarise as follows:*

The Legal system consists of three parts: the substantive law, structures, and culture.

### **1. Substantive Law**

They are rules of law which define acceptable behaviour in the society. Examples include the Constitution of the Federal Republic of Nigeria 1999, the Child's Right Act 2003, State Legislations, State Customary laws, and Islamic (*Shari'a*) laws in Northern States.

### **2. Structures**

Structures are the institutions set up by the Government of Nigeria to enforce the substantive laws. Examples of institutions are the Federal High Courts, State High Courts, Islamic (*Shari'a*) Courts, Magistrate Courts, Customary Courts, and law enforcement agencies like the Police, Economic and Financial Crimes Commission (EFCC), Medical Tribunals and Local Government bodies.

### **3. Culture**

The interpretation of the law and the general functioning of the legal system are influenced by the cultures, traditions and religious beliefs of the people. For example, most administration of Estate Laws of the states takes cognisance of the customary laws in the state, such as the Administration of Estates laws of Lagos State 2003. In other words, the cultures of the Nigerian peoples have a great influence on how the laws of the country are interpreted, and enforced.



# SESSION TWO

## How to Organise Community Legal Education



Total Time: 1 hour 15 minutes

### Session Objectives

By the end of the session, participants will be able to:

1. Describe how to organise community legal education

### Training Methods

- ⇒ Case Study
- ⇒ Group Work
- ⇒ Discussion
- ⇒ Presentation

## COMMUNITY LEGAL EDUCATION

*Introduce the session by providing participants with the following information:*

Community legal education raises the awareness of the community or public on the legal system and their rights; and provides information that empowers people to respond knowledgeably to legal issues.

### Case Study

*The facilitator should have the participants break up into groups to discuss the following Case Study and answer the questions on the case study recording their responses on a flipchart. Group representatives should share their findings in a plenary session.*

#### CASE STUDY

15 minutes

An organization of lawyers has been implementing a legal education project in a rural area in Abuja for three months. The project has another three months to run before the implementing organization moves to another area. Women in the area are worried that the project will not survive once the organization leaves. (Most of the project beneficiaries have only very basic education).

1. What steps can be taken to ensure that the legal education project continues even after the implementing organisation pulls out?
2. Apart from lawyers, what other categories of persons can carry out legal education activities?
3. Why may it be necessary to involve non- lawyers in legal education?

*Facilitator should read out some of the responses from the Group work.*



### Make These Points

- ⇒ Provided there is adequate interest, commitment and preparation, there are almost no serious factors preventing a group, individual or community from carrying out legal education activities, regardless of professional background or level of literacy.
- ⇒ Involving non-lawyers (community members) in legal education programmes is also a means of ensuring sustainability of the programme.
- ⇒ The beneficiaries of these legal education programmes should include youth, women, men, schools, local administrators, religious leaders, traditional rulers, existing organized groups, and government departments.

## Module 1 Exercise 2: How To Organise Community Legal Education

<b>Purpose</b>	To familiarise participants with how to organise legal education in their communities.
<b>Duration</b>	35 minutes (25 minutes group work; 10 minutes presentation in plenary)
<b>Activity</b>	<p><i>Facilitator should organise the participants into two or three groups. The groups should carry out the following tasks:</i></p> <ol style="list-style-type: none"><li>1. Choose one issue related to HIV/AIDS, orphans and vulnerable children, or their families that should be the focus of legal education in their community.</li><li>2. Identify the categories of people who can plan and implement the legal education programme.</li><li>3. What strategies should be used in providing the community legal education?</li></ol> <p><i>Each group should write their responses on flipchart, and select a rapporteur to present their findings in plenary.</i></p>



### CONDITIONS FOR EFFECTIVE COMMUNITY LEGAL EDUCATION

Mobilising the community is critical for effective legal education. It ensures the readiness of the community to support and participate in the programme(s).



#### Facilitator's Notes

*The information contained in Handout 1 on Community Legal Education should guide the facilitator to generate discussion among participants and assist them to improve their understanding. You should not just read out the information to the participants, but read and understand the information beforehand in order to facilitate the discussion. The facilitator should ask the participants in a plenary to name some conditions for effective community legal education. The questions may be projected from a computer or written on flipchart paper. Record the responses on flipchart. Facilitate a discussion on the issues raised by participants. Distribute Handout 1 and emphasize the major issues in the handout. Allow time for comments, questions and general discussions.*



#### Make These Points

- ⇒ Social change is the ultimate goal of legal education programmes. Organizations implementing any legal education programme should therefore, appreciate this as their goal.
- ⇒ Some traditions and customs that will need to be changed will include:
  - Male preference whereby only sons have the right to inherit property; females do not inherit.
  - Widow inheritance (levirate)
  - Non -confidentiality of patient's medical information
  - Mandatory HIV test before marriage

# HANDOUT 1

## Conditions for Effective Community Legal Education

### 1. Choice of Issues

- ⇒ **Issues or topics identified or emphasized must be relevant to members of the targeted community:** Community learning and action will arise from genuine concern and interest in the subject areas than from any other factors.
- ⇒ **Focus of legal education must be based on the felt needs of the community:** This means that the members of the target community must have experienced the problem that forms the focus of the legal education. It is this connection with the subject area which makes the legal education project important to the community. Therefore, dialogue, reflection, the search for solutions including legal solutions must arise from community's felt needs and experiences.

### 2. Choice of Strategies

- ⇒ Strategies chosen for community legal education must be based on the **knowledge of, and appreciation of the values, customs, interests and concerns of the community**. This is the foundation for mutual respect and a positive learning environment.
- ⇒ **Community participation** in conception, planning, implementation, monitoring and evaluation of the legal education activity or project will promote community ownership of project or activity.
- ⇒ The process of legal education should be an **open-ended process**. This means that the facilitator, together with the community should raise questions, analyse the causes and context, discuss possible solutions, and decide on the most appropriate way of using the law as part of the solution.
- ⇒ The strategies should facilitate **learning through discovery**. This means that the methods and techniques that are chosen for community legal education must allow members of the community to discover for themselves how the law works and how it may be used by them in their daily affairs; especially how to use the law to protect orphans and vulnerable children, and people living with HIV.
- ⇒ **Appropriate facilitation methods and language** should be chosen. Considering all the characteristics of the community, the methods selected for carrying out the legal education within the community must be appropriate. For example, the sitting arrangement may give the impression that the facilitator has more knowledge and power than the participants. This may make the participants feel they should not challenge or contribute to the information given by the trainer.
- ⇒ **Appropriate Dressing:** The facilitator should make every effort to conform to the acceptable dressing codes of the people in the area. For example, if you are conducting legal education training in the northern part of Nigeria, it may be more appropriate to put on traditional attire that covers the body, and hair, so that the participants will have the confidence to listen to you.



# 2

## FUNDAMENTAL HUMAN RIGHTS



**Total Time:** 3 hours

### General Introduction

There are five sessions in this module that examine pertinent legal and human rights issues and instruments.

## SESSION OVERVIEW

### SESSIONS

1. What are Human Rights?
2. What is the Constitution?
3. Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)
4. The Rights of the Child
5. How to Seek Redress for Human Rights Violations

### LEARNER OBJECTIVES

By the end of this module, participants will be able to:

1. Explain the basic ideas behind the concept of human rights
2. Appreciate that fundamental human rights are not “foreign”
3. Define discrimination
4. Describe the rights guaranteed in the Constitution
5. Determine when there is an infringement, and how to seek redress
6. Demonstrate an understanding of the rights of children and youth

### TRAINING MATERIALS

- ⇒ Flip chart board, paper and markers
- ⇒ Cardboard Paper or A4 paper
- ⇒ Discrimination cards, Rights Cards
- ⇒ Masking Tape
- ⇒ Child’s Right Act 2003, Nigerian Constitution, CEDAW, UN Charter on Fundamental Human Rights, other Rights instruments

## HANDOUTS

- ⇒ 2A: The Universal Declaration of Human Rights
- ⇒ 2B: Instruments which contain Human Rights Provisions
- ⇒ 2C: Classification of Human Rights
- ⇒ 3: Rights Enshrined in the Nigerian Constitution
- ⇒ 4: Child Rights instruments



### **Advance Preparation**

The facilitator should arrange to have copies of the Nigerian Constitution, Child's Right Act 2003, CEDAW, the UN Charter on Fundamental Human Rights, and other Rights available for participants to view.

# SESSION ONE

## What Are Human Rights?

 **Total Time:** 55 minutes

### Session Objectives

By the end of the session, participants will be able to:

1. Explain the basic ideas behind the concept of human rights
2. Appreciate that fundamental human rights are not “foreign”
3. Define Discrimination

### Training Methods

- ⇒ Group Work
- ⇒ Presentation
- ⇒ Discussion



### Advance Preparation

The facilitator should write out on cardboard paper or type boldly on A4 paper the discrimination scenarios and the Rights cards, as shown at the end of this session. These cards should be pasted on the wall before the session begins.

## UNDERSTANDING HUMAN RIGHTS

*Introduce the session by providing participants with the following information:*

Oftentimes when we hear about human rights we tend to imagine that these refer to realities far removed from our everyday lives, something we read about in books. But these are wrong notions because everyone is born with these rights and should enjoy the benefits that these rights provide.

### The Island Story

*The facilitator should split the participants into two groups, to carry out the following task.*



## Module 2 Exercise 1: 'The Island Story'

<b>Purpose</b>	To demonstrate that fundamental human rights are not foreign to Nigerian cultures.
<b>Duration</b>	25 minutes (15 minutes group work; 10 minutes presentation in plenary)
<b>Activity</b>	<p><i>The facilitator should read out the following scenario or have it typed out on sheets of paper and distributed to the participants, or projected on a screen:</i></p> <p>Imagine you are a group of children about to be born on an island. You have been asked to decide the rules that will govern life on the island. None of you knows who your parents will be – whether they will be rich or poor, educated or uneducated; their ethnic origin or their religious beliefs. Also, you do not know if you will be born as a girl or boy, with a disability or without a disability; out of wedlock or by married parents, or how soon one or both of your parents will die after you birth. In your groups, develop a list of rules that will guide life for everybody on the island.</p> <p><i>Each group should write their responses on flipchart, and select a rapporteur to present these in a plenary</i></p>



### Make These Points

- ⇒ Emphasise that the rules that have been described for life on the island are basically fundamental human rights.
- ⇒ Human rights are not foreign to Nigerian cultures. Rather, they are the foundation for the peaceful co-existence of peoples in the various communities.
- ⇒ Emphasize the points in Box 2 below. (The definition should be written on flipchart, or projected from a computer).

### BOX 2 – HUMAN RIGHTS

**Human rights are the rights people have simply because they are human beings, regardless of their nationality, ethnicity, gender, language, race or other status. They are the basic standards without which people cannot live in dignity. They are held by all persons equally, universally, and forever. Human rights are *universal, interdependent, inalienable and indivisible*, and are based on *equality, human dignity, non-discrimination and responsibility*.**

<sup>1</sup> Adapted from Delap et al (2005) Protecting Children During Emergencies in Nigeria.: A toolkit for trainers. Save the Children UK. Kaduna, Nigeria.



The facilitator should prepare a presentation based on the information contained in Handouts 2A, B and C on fundamental human rights. Be sure to facilitate discussion as you go along with the presentation.

## **DISCRIMINATION**

<b>Module 2 Exercise 2: Discrimination</b>	
<b>Purpose</b>	To familiarise participants with the concept of discrimination
<b>Duration</b>	15 minutes
<b>Activity</b>	<p><i>The facilitator should ask the participants to attempt to explain what they understand by the term:</i></p> <ul style="list-style-type: none"><li>• <b>Discrimination</b></li></ul> <p><i>Note their responses on flipchart, and then read out or ask one participant at a time to read out each Discrimination Card (The cards should already be pasted on the wall, before the session begins and are available at the end of this session). After each Discrimination Card is read out, participants should brainstorm in a plenary and decide which rights are being violated. Then paste the Discrimination card next to the relevant right. The participants should also feel free to suggest other rights not indicated on the Rights Cards.</i></p>

## \* Discrimination Cards

### Card 1

36 year old Mrs Omo has two children aged 8 and 11 years. After her husband's death in 2002, she was disowned by her in-laws, and driven to the outskirts of the village. She was also accused of being a witch, and responsible for her husband's death. Her two children have had to drop out of school.

### Card 2

9-year old Halima was sent out of school, when the school authorities learnt her father was HIV-positive. Shortly after this, the landlord asked her family to move on the pretext that he wanted to renovate their flat.

### Card 3

Henry is 14 years. He has two brothers and one sister. They lived with their parents who were very rich in Lagos. However, their father died in 2001. A year later their mother also died. Relatives came and moved them to the village. Since then, their father's big house in the village, and other assets in Lagos have been taken over by relatives, under the guise of looking after them. They are being maltreated beyond words.

### Card 4

Patricia was 20 years when she fell sick. While in hospital, she tested HIV-positive. Her status was revealed to her family by a nurse in the hospital without her consent. On knowing her HIV status, her father disowned her, saying she had brought disgrace and shame on her family. Since she left the hospital, she has been sleeping under the staircase of her home – more or less left to die.

*\* These are based on real life stories from GHAIN-supported project communities*

## **Rights Cards**

**Card 1**

**RIGHT TO EQUALITY**

**Card 2**

**RIGHT TO ACCESS TO A  
BASIC EDUCATION**

**Card 3**

**RIGHT TO A HEALTHY  
ENVIRONMENT**

**Card 4**

**RIGHT TO PRIVACY**

**Card 5**

**RIGHT TO BODILY  
INTEGRITY**

**Card 6**

**RIGHT TO LIFE**

**Card 7**

**RIGHT TO FREEDOM FROM  
DISCRIMINATION**

**Card 8**

**RIGHT TO DIGNITY OF THE  
HUMAN PERSON**

## HANDOUT 2A

### The Universal Declaration on Human Rights

The Universal Declaration on Human Rights (UDHR) in its preamble recognized the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. Human rights are universal and apply to all persons without discrimination. To violate someone's human rights is to treat that person as though she or he were not a human being. To promote human rights is to demand that the human dignity of all people be *respected*.

The following basic ideas or principles are important to understanding human rights:

**Universal** means that human rights are applicable all over the world.

**Inalienable** is a word that describes something that cannot be taken or given away. Human rights that individuals have cannot be taken away, surrendered, or transferred. You cannot lose these rights any more than you can cease being a human being.

**Indivisible** is a word that describes something that cannot be divided or reduced. All classes of human rights are interrelated and inseparable whether civil, political, economic and/or social rights. This is because a violation of a class of rights, may lead to an infringement of other rights. For example, denial of food and shelter may lead to loss of life. Therefore human rights should be addressed as an indivisible body, including civil, political, social, economic, cultural, and collective rights of human rights.

**Interdependent** – Human rights concerns appear in all spheres of life, such as in the home, school, workplace, court, and markets. Human rights violations are interconnected; the loss of one right detracts from other rights. Similarly, promotion of human rights in one area supports other human rights.

**Equality** – This human rights principle provides for the same treatment of persons. It is based on the idea of fairness and respect for the inherent dignity of all human beings, as all human beings are born free and equal in dignity and rights.

**Human Dignity** – This principle of human rights signifies that each individual - regardless of age, ethnic origin, race, religion or belief, birth, colour, disability, family status, gender, language, marital status or sex - deserves to be honoured, esteemed, and respected.

**Non-Discrimination (Opposite: Discrimination)** – Non-discrimination is important for equality. It ensures that no one is denied the protection of their human rights based on age, religion, ethnic origin, family status, gender, marital status, or disability. In other words, discrimination is not allowed on any grounds.

**Responsibility** – This refers to obligation, duty, and/or accountability.

**Government responsibility** – Human rights are not gifts to be given by governments only when they like. Governments should also not withhold them from people, or apply them to some people but not to others. Governments must be held accountable for promoting and protecting the human rights of all persons.

**Individual responsibility** – These are duties possessed by individuals. For example, every individual has a responsibility to teach human rights, to respect human rights, and to challenge institutions and individuals that abuse human rights.

**Other responsible entities** – Every organ of society, including corporations, educational institutions, foundations, and non-governmental organizations also share responsibility for the promotion and protection of human rights.

## **HANDOUT 2B**

### **Instruments Which Contain Human Rights Provisions**

- ⇒ The International Bill of Rights, which consists of the Universal Declaration of Human Rights (UDHR);
- ⇒ The International Covenant on Civil and Political Rights (ICCPR);
- ⇒ The International Covenant on Economic, Social and Cultural Rights (ICESCR).
- ⇒ The Convention on the Elimination of all forms of discrimination Against Women (CEDAW). This has still not been domesticated in Nigeria.
- ⇒ The Convention on the Rights of the Child,  
As well as other regional human rights treaties, like
- ⇒ The African Charter on Human and Peoples' Rights, which took African culture into cognizance and has been made part of our local laws.
- ⇒ The Constitution of the Federal Republic of Nigeria 1999, which made provision for the protection of fundamental rights, under Chapter Four.

Today the concept of human rights refers to the relationship between the individual and the state or its government; their right to political participation, the freedoms that the individual should enjoy, and their claims on the state most especially with regard to the provision of basic needs of life, such as education, health care, housing and water. In recent times human rights can also be enforced against individuals.

## Classification of Human Rights

Human rights are classified into civil rights, social rights, political rights, economic rights, and cultural rights and recently right to self determination and development.

### 1. Civil Rights

- ⇒ Right to life, liberty, freedom from torture and cruel or inhuman treatment, freedom from slavery, servitude and forced labour
- ⇒ Freedom of thought, conscience, religion and expression
- ⇒ Freedom of information, freedom of assembly, freedom of movement
- ⇒ Right to justice, the right to the services of a lawyer, fair trial in criminal cases, the right to be considered innocent until proven guilty
- ⇒ Family rights: the right to the respect of one's privacy and the right to protection, respect and sanctity of the family and of married life
- ⇒ Right of every child to necessary measures of protection without discrimination

### 2. Political Rights

- ⇒ Right of every citizen to take part in the affairs of the state
- ⇒ Right to vote and be voted for
- ⇒ Right to equal access to public service of one's country

### 3. Economic Rights

- ⇒ Right to work and equal pay for equal work
- ⇒ Right to adequate standard of living, including adequate food, clothing and housing
- ⇒ Right to freely dispose of natural wealth and resources
- ⇒ Right to acquire movable and immovable property

### 4. Social Rights

- ⇒ Equality of all persons and non-discrimination
- ⇒ Right to the highest attainable standard of physical and mental health
- ⇒ Right to physical and mental integrity
- ⇒ Right to education

### 5. Cultural Rights

- ⇒ Right to take part in cultural life
- ⇒ Right to enjoy scientific discoveries
- ⇒ Right to scientific research and creative activity

These rights can also be described as **first**, **second** and **third** generation rights, as follows:

- ⇒ **First generation**: namely, civil and political rights
- ⇒ **Second generation**: namely, economic, social and cultural rights
- ⇒ **Third generation**: These are emergent areas of human rights, which are now increasingly being accepted by many nations and governments as rights that need to be protected. They include:
  - \* Collective rights or the rights of people groups, especially minorities and indigenous natives.
  - \* The rights of women and other disadvantaged people in society

# SESSION TWO

## What is the Constitution?

 **Total Time:** 15 minutes

### Session Objectives

By the end of the session, participants will be able to:

1. Describe the rights guaranteed in the Nigerian Constitution

### Training Methods

- ⇒ Discussion
- ⇒ Presentation

*The facilitator should ask the participants to define “Constitution”. Note their responses on flipchart, then share the definition below.*

### BOX 3 – THE CONSTITUTION

The Constitution is the body of laws made by the National Assembly of a country, which states the laws, duties, rights and obligations governing its citizens. It is regarded as the most supreme law of the land. Therefore, any law inconsistent with its provisions is null and void.



### Presentation



10 minutes

*The facilitator should present the information in Handout 3, on the fundamental rights of the citizens, which has been taken from Chapter Four of the 1999 Constitution of the Federal Republic of Nigeria (See Section 33 to 46).*



### Make These Points

- ⇒ The Constitution provides for special procedures to ensure that these rights are protected in Nigeria without unnecessary delay. This forms the basis for the protection of orphans and vulnerable children, and people living with HIV who are discriminated against at their



places of work, school, community, and other areas. It is a violation of their human rights to treat them differently.

- ⇒ Every human being has certain fundamental human rights which other individuals and government must uphold and respect in order for peace, justice and equality to reign in the world. These rights are universally recognized and applied to all persons without discrimination.

## **HANDOUT 3**

### **Rights Enshrined in the Nigerian Constitution**

- ⇒ Right to life
- ⇒ Right to dignity of the human person
- ⇒ Right to personal liberty
- ⇒ Right to fair hearing
- ⇒ Right to private and family life
- ⇒ Right to freedom of thought, conscience and religion
- ⇒ Right to peaceful assembly and association
- ⇒ Right to freedom of movement
- ⇒ Right to freedom of expression and the press
- ⇒ Right to freedom from discrimination
- ⇒ Right to acquire and own immoveable property anywhere in Nigeria

# SESSION THREE

## Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)



Total Time: 30 minutes

### Session Objectives

By the end of the session, participants will be able to:

1. Demonstrate an understanding of the rights of women

### Training Methods

- ⇒ Discussion
- ⇒ Group Work
- ⇒ Presentation
- ⇒ Experience sharing

### Advance preparation



- (1) Write the words “The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)” at the centre of a flipchart sheet and put a circle round this. Leave enough space around the circle for writing information generated during this exercise. Just before this session put up the sheet.
- (2) Write the words contained in article 1 of CEDAW (Box 4) on a Power-Point or in bold letters on flipchart sheet for projection or display at the appropriate time during the session.

### Module 2 Exercise 3: CEDAW

<b>Purpose</b>	To familiarise participants with the human rights instrument - CEDAW
<b>Duration</b>	15 minutes
<b>Activity</b>	The facilitator should introduce the session by referring to the exercise on discrimination. The facilitator should ask how women and young girls are treated differently in their communities and society at large – in families, schools, the work place, and politics. What are the reasons for such differential treatment? What can be done by communities and CSOs? Ask how many participants have heard of “CEDAW”? Ask participants to think of a word or phrase that CEDAW brings to their mind or that best describes what they know about the convention. Ask one of the participants to write these words and phrases in the spaces around the circle. Based on the information generated facilitate a discussion in which participants share what they know about CEDAW. Find out if any of the participants has an experience to share, which involved working with CEDAW.



## WHAT CEDAW STANDS FOR

*The facilitator should explain the following:*

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):

- ⇒ Is both an international human rights treaty and a framework for ensuring that women participate in the development process and are not discriminated against
- ⇒ Was established not only as an international bill of rights for women, but also an agenda for action by countries to guarantee the enjoyment of those rights
- ⇒ Explicitly acknowledges the continual discrimination against women which violates the principles of equality of rights and respect for human dignity
- ⇒ Is based on the principle of non-discrimination
- ⇒ Urges governments to take appropriate steps to change the social, economic and cultural practices that promote discrimination against women.

*Display article 1 of CEDAW (See Box 4) by projecting the definition from a computer or by writing the words in bold letters on flipchart sheet.*

### **BOX 4 – CEDAW**

**Article 1 of CEDAW defines discrimination as any distinction, exclusion, or restriction made on the basis of sex in the political, economic, social, cultural, civil or any other field.**



*Facilitate a discussion on practices (whether religious, traditional or cultural) that promote discrimination against women. An example would be a practice that denies females the right of inheritance but grants the full rights to males.*



### **Make These Points**

- ⇒ Based on such discriminatory practices, a woman living with HIV may suffer untold discrimination and may even be forced to leave her husband's house.
- ⇒ A widow may suffer many forms of psychological, physical and mental torture as a result of discriminatory practices against her, all aimed at humiliating and intimidating her. At times she is not allowed to inherit her husband's property.
- ⇒ Because society often looks on women as inferior to men, and discriminates against them, women are given special protection under CEDAW. Unfortunately, many women are not aware of the protection provided for them under the law.

*The facilitator should invite participants to share their experiences regarding other acts of discrimination against women infected with, or affected by HIV.*

# SESSION FOUR

## The Rights of the Child

 **Total Time:** 30 minutes

### Session Objectives

By the end of the session, participants will be able to:


1. Demonstrate an understanding of the rights of children and youth

### Training Methods

⇒ Discussion



**Discussion**

 15 minutes

## WHO IS A CHILD?

*Participants should brainstorm in a plenary the following questions:*

1. *How is a child defined in your community?*
2. *What does a child need to grow into a strong and responsible adult?*

*Note the responses on flipchart paper, then provide the following information:*

### **BOX 5 – WHO IS A CHILD?**

**A child is defined as a person under the age of 18 years**



**Make These Points**

- ⇒ Children have different needs that must be met to ensure that they grow into strong and responsible adults.
- ⇒ These needs may be physical (food, shelter); intellectual (education); spiritual (belief in a higher being); emotional (love); or social (a sense of belonging to a family and community).
- ⇒ Children's needs are children's rights.
- ⇒ Tools (instruments) have been developed internationally and in Nigeria to protect children by promoting child rights. Examples of such tools are the Convention on the Rights of the Child (CRC), and the Child's Right Act (CRA) 2003.



## Discussion

 15 minutes

*To familiarise participants with child rights instruments, the facilitator should find out from the participants if they have heard of these tools. What do they know about them? Note participants' responses on flipchart paper, and compare with information in Handout 4 which presents the contents of the Convention on the Rights of the Child and the Child's Right Act.*

*The facilitator should find out from participants if the Child's Right Act 2003 has been passed by their states. If not, the facilitator should try to ascertain why the law has not been passed in the affected states. What can be done to facilitate the passing of the bill in their state(s)?*



### Make These Points

- ⇒ The CRA was enacted before the law on Universal Basic Education was passed, which calls for free and compulsory education for all children up to Junior Secondary School.
- ⇒ The essence of going through these international and national rights instruments is to help participants appreciate the rights accruable to adults and children, and the need to protect orphans and vulnerable children from all forms of violation of their human rights and discriminatory practices in the society in general.
- ⇒ It is the right of a child not to be discriminated against in all circumstances, even if the child is HIV positive.
- ⇒ Children have the right to education and should not be sent away from school for any reason.
- ⇒ Everyone's right to privacy must be protected. Therefore, health workers should not disclose the HIV status of anyone except with the person's consent.
- ⇒ Discrimination is a violation of human rights, because it prevents a person from socially integrating into the community.
- ⇒ All human beings should have access to all facilities on equal terms.

## HANDOUT 4

### Child Rights Instruments

<b>The Convention on the Rights of the Child (International)</b>	<b>Child's Right Act 2003 (Nigerian)</b>
<p>Deals specifically with the rights of the child at the international level. It is the most complete statement on children's rights ever made and the first to give these rights the force of international law.</p>	<ul style="list-style-type: none"><li>⇒ A Nigerian national legislation on the rights of the child. *To date, Rivers, Nassarawa, Plateau, Taraba, Ekiti, Ogun, Anambra, Imo, Ebonyi, Abia states and FCT have ratified the CRA</li><li>⇒ The best interest of the child is of paramount importance and was made the guiding principle in all matters concerning the child. The CRA incorporated all the fundamental rights as enshrined in the Constitution, plus other rights, responsibilities and obligations of the child, parents and government. It stresses that the child must be protected and cared for in all situations even where the parents are not available.</li><li>⇒ The child is conferred with the rights to:<ul style="list-style-type: none"><li>• Life, survival and development of body and mind.</li><li>• A name and registration as a citizen of the country where he/she was born</li><li>• Non-discrimination irrespective of circumstances of birth and other circumstances</li><li>• Dignity and respect</li><li>• Privacy, family life and parental care, protection and maintenance</li><li>• Education – free and compulsory primary education and encouraged to attend secondary and tertiary education.</li><li>• Health and health services.</li><li>• Freedom of association and peaceful assembly, thought, conscience and religion, with the necessary guidance and directions of his or her parents</li><li>• Enjoy their culture, religion, and language, and be given the opportunity for recreational activities.</li></ul></li><li>⇒ The CRA stipulates that States shall protect children from<ul style="list-style-type: none"><li>• All forms of sexual abuse, neglect or exploitation</li><li>• Child marriage and betrothal</li><li>• Tattoos and skin marks</li><li>• Economic and other forms of exploitation</li><li>• Exploitative labour, except non-harmful labour within the family</li><li>• Use for the purpose of prostitution, begging and hawking</li><li>• Recruitment into the armed forces</li></ul></li></ul>

\* September 2006



# SESSION FIVE

## How to Seek Redress for Human Rights Violations



**Total Time:** 50 minutes

### Session Objectives

By the end of the session, participants will be able to:

1. Determine when there is an infringement on one's right, and know how to seek redress

### Training Methods

- ⇒ Group Work
- ⇒ Presentation

## PROTECTING HUMAN RIGHTS

<b>Module 2 Exercise 4 : Protecting Human Rights</b>	
<b>Purpose</b>	To promote the protection of human rights by identifying the structures for seeking legal redress for violation of human rights, the barriers to seeking redress, and how to overcome the barriers.
<b>Duration</b>	40 minutes (30 minutes group work; 10 minutes presentation in plenary)
<b>Activity</b>	<p><i>Participants should break up into two groups, and discuss the following.</i></p> <p><i>Group 1:</i></p> <ol style="list-style-type: none"> <li>1. List some ways the various rights discussed so far may be infringed upon (as they relate to orphans and vulnerable children, and persons living with HIV), using the classifications civil, political, economic, social and cultural rights</li> <li>2. Who violates these rights?</li> <li>3. Why do people not seek redress?</li> <li>4. What are the existing structures and legal frameworks that exist in communities to protect children, women and persons living with HIV whose rights are violated?</li> <li>5. How can these infringements be prevented from occurring or how can they be addressed when they occur?</li> </ol> <p><i>Group 2:</i></p> <ol style="list-style-type: none"> <li>1. Are Nigerians familiar with rights so far discussed?</li> <li>2. Why is the level of knowledge low or high?</li> <li>3. Why are people reluctant to demand the protection of their human rights?</li> <li>4. What strategies can be employed for raising awareness on fundamental human rights?</li> </ol> <p><i>Each group should record their responses on flipchart paper, and select a rapporteur to present in plenary.</i></p>



Facilitator's notes

*The following information should be highlighted in the form of a presentation by the facilitator if these were not mentioned during the presentations and discussions by participants.*



**Presentation**



10 minutes

## **SEEKING REDRESS FOR VIOLATIONS**

One does not have to wait until one's right is violated before seeking redress. The Nigerian Constitution has made provision for the enforcement of fundamental rights once there is any appearance of an imminent violation. This is normally done through an application to a high court in the state in question, for leave to enforce human rights and an order of the court to restrain the perpetrator from further action.

- ⇒ Visit any FIDA office, Legal Aid Council, National Human Rights Commission or NGO for legal advice, counselling and necessary action.
- ⇒ Visit any Public defender or Citizens' Rights Mediation Centre based in the State Ministry of Justice.
- ⇒ Advocacy and mediation may bring redress, while litigation (i.e. going to court to seek redress) is used as a last option.
- ⇒ Mediation refers to attempts to reconcile persons in crisis as the first instance without resorting to the police or courts. It involves counselling the parties in question. Mediation is an advocacy step; trying to protect the weaker party, and resolve the issues. Litigation means going to court – as a last resort.

### **The following factors contribute to inability of victims to seek redress:**

- ⇒ Ignorance of the protection offered by law
- ⇒ Lack of or difficult access to legal remedy
- ⇒ Poverty and high cost of filing fees
- ⇒ Lack of confidence in the legal system as a result of corruption and favouritism
- ⇒ Disobedience of court order by government and some agencies
- ⇒ Fear of stigmatisation
- ⇒ Fear of excommunication or being perceived as an “iron lady” or “iron man.”



# 3

# INHERITANCE RIGHTS



**Total Time:** 2 hours 15 minutes

## General Introduction

There are five sessions in this module that explore inheritance rights as applicable under the Marriage Act, Islamic and Customary laws. The module further explores the impact on the socio-economic well-being of persons, especially women and children whose inheritance rights are denied them.

## SESSION OVERVIEW

### SESSIONS

1. What is Inheritance?
2. Islamic Inheritance Laws
3. The Relationship Between Marriage and Inheritance
4. Steps to Take on Infringement
5. The Relationship Between Poverty, Economic and Social Rights and Denial of Inheritance

### LEARNER OBJECTIVES

By the end of this module, participants will be able to:

1. Define inheritance rights
2. Describe types of inheritance
3. Explain the relationship between types of marriage and inheritance rights
4. Understand inheritance issues as contained in the applicable customs, Islamic laws and the Marriage Act
5. Know the steps to take should an infringement on rights occur
6. Explain the relationship between poverty, violation of economic, social and cultural rights, and denial of inheritance

### TRAINING MATERIALS

- ⇒ Flip chart board, paper and markers
- ⇒ Masking tape

### HANDOUTS

- ⇒ 5: Islamic Inheritance Laws on Women, Wives and Children
- ⇒ 6: Islamic Inheritance Laws on Guardianship and Custody
- ⇒ 7: Marriage and Inheritance

# SESSION ONE

## What Is Inheritance?

 **Total Time:** 1 hour

### Session Objectives

By the end of the session, participants will be able to:

1. Define inheritance rights
2. Describe types of inheritance
3. Explain the relationship between types of marriage and inheritance rights

### Training Methods

- ⇒ Discussion
- ⇒ Group Exercise
- ⇒ Presentation



### Discussion

 5 minutes

*The facilitator should introduce the session by asking participants to state what they understand by the term 'inheritance.' Note their responses on flipchart, and compare with the following:*

### **BOX 6 – INHERITANCE**

**Inheritance is the act of passing valuables, investment and property from one person to another by virtue of a will, in accordance with customs, tradition, religion or law. It may be from parents, spouse, friend or relation to offspring, spouse or friend.**

## Module 3 Exercise 1: Inheritance Customs

<b>Purpose</b>	To explore the various inheritance customs among the different ethnic groups, and the level of awareness of these customs and Islamic inheritance laws
<b>Duration</b>	45 minutes (30 minutes group work; 15 minutes presentation in plenary)
<b>Activity</b>	<p><i>Participants may be divided into two groups (Muslims and non-Muslims), with each group discussing only one activity.</i></p> <p><i>Activity 1</i></p> <ol style="list-style-type: none"><li>1. What are the Islamic laws on inheritance?</li><li>2. To what extent are the inheritance laws known by most Muslims, especially among families of orphans and vulnerable children?</li><li>3. To what extent are Islamic inheritance laws applied or obeyed in the sharing of assets?</li><li>4. Give reasons why these laws may not be obeyed</li><li>5. What legal support structures are available or should be set up to monitor compliance and ensure adequate provision for Muslim children under the Islamic inheritance laws?</li><li>6. Who are the critical people to work with to ensure effectiveness of these structures?</li></ol> <p><i>Activity 2</i></p> <ol style="list-style-type: none"><li>1. Mention the customs and traditions guiding inheritance in your various ethnic groups and state(s).</li><li>2. Mention what the customs and traditions say regarding the legitimacy of a child as it relates to inheritance issues.</li><li>3. What are the options open to a person who is prevented from inheriting from a parent or spouse?</li><li>4. What is the socio- economic impact on persons whose inheritance rights are denied?</li></ol> <p><i>(Alternatively, Activity 2 can be given as homework to participants. Each participant would then submit to the facilitator the next day. Or, participants can be given five minutes to write down their responses on a sheet of paper, and submit to the facilitator, who can then collate these responses and share with all participants in plenary. The facilitator could also defer the presentation of Activity 1 to the beginning of the next session (Session Two) on Islamic Inheritance Rights.</i></p> <p><i>Each group should record their discussions on flipchart paper, and select a rapporteur to present in plenary.</i></p>



## TYPES OF INHERITANCE / LAWS THAT GOVERN INHERITANCE IN NIGERIA

*The facilitator should present the following and try to make the session as participatory as possible by asking for contributions at appropriate times.*

There are two types of inheritance:

- ⇒ **Testate Inheritance:** This is inheritance where there is a will - a will being a legal documentation of a person's wishes with respect to the disposal of his/her estate, valuables and property.
- ⇒ **Intestate Inheritance:** This is inheritance where there is no will. The deceased's property will be subject to either customary law of his tribe or if a Muslim, to Islamic law –which ever is applicable.

Testate succession or inheritance by will in Nigeria is governed by statutes of general application, which are English laws in force in England on January 1, 1900, and are applicable in the country. The various states of the federation have their own applicable Wills Law.

In the former Western region and Old Bendel, which includes Edo state, the Wills Law of 1959, which is a re-enactment of the English law, is applicable. The Wills Law of Lagos State, Cap W2, Lagos State, 2003 is now operational. The Wills Laws of Cross River, Kano, and Abuja are also applicable in these states.

Where there is a will, the real and personal property of the deceased will be administered by the **Executor** appointed in the will, according to the intention of the deceased as expressed in the will.

For intestate succession (where there is no will) the administration of Estate Law of the applicable state will be in force. In Anambra, Ebonyi and Enugu states, the Administration and Succession (Estate of Deceased Persons) law, 1987 is operational. In Lagos and Edo it is the Administration of Estates Law, 1959 that is applicable.

**Letters of administration**, issued by the probate registry in the high courts, will be required to deal with the estate. Until that grant is made, no bank, insurance company or former employer is obliged to release money or entitlement to anybody irrespective of the relationship or urgency. It costs a lot more to obtain a letter of administration (10 percent of value of estate) from the probate where there is no will, than when there is a will (charge is often six percent of the value of the estate). These percentages vary from state to state.

Other issues that impact on inheritance rights include the native law and custom acknowledged as binding on a person's ethnic group, the type of marriage contract entered into with a spouse, and the presence or absence of children in a marriage. All these factors determine the right of administration and distribution of the estate. Religion per se does not determine transfer of property except in the case of Muslims.

# SESSION TWO

## Islamic Inheritance Laws



Total Time: 40 minutes

### Session Objectives

By the end of the session, participants will be able to:

1. Understand inheritance issues as contained in Islamic laws

### Training Methods

- ⇒ Presentation
- ⇒ Discussion

## ISLAMIC INHERITANCE LAWS



### Discussion



10 minutes

*Introduce this session by referring to and discussing some of the responses of participants to Activity 1 of Module 3, Exercise 1. Explain that:*

Inheritance is an integral part of the Islamic legal system. The issue of inheritance is so important that the Qur'an adequately provides the formula for the distribution of the estate of a deceased person. The Qur'an has set out persons who should inherit in accordance with their relationship to the deceased, whether male, female, child or adult. Under the Islamic legal system the individual is the exclusive owner of all his earthly possession. But upon his death his estate devolves among his heirs, irrespective of whether they were on good terms or not. In other words, a person cannot disinherit any of his heirs so long as they are eligible (that is, they are Muslims, and legitimate children. In the case of a spouse, the marriage must still be "in force" at the time of death). This is unlike what obtains in other legal systems where a person can disinherit his legal heirs by bequest. A Muslim cannot **bequeath** (i.e. grant through a will) more than one third of his property to non-heirs, and only if the heirs give their consent.

The law of inheritance has been provided in the Qur'an in Surah Al Nisa verses 11, 12 and 176. According to these verses, the first right on the property of the deceased person is that of the creditors; after that any will made by the deceased person takes precedence so long as not more than one-third of his estate is bequeathed. The heirs take third place.



### Presentation



10 minutes

*The facilitator should present the information contained in Handouts 5 and 6 on Islamic inheritance laws on women, wives, children, guardianship, and custody. Make sure to*



*generate some discussion points as you go along to encourage participation. The facilitator should ask participants to compare Islamic inheritance laws with some customs that share property according to the number of wives of the deceased, and children inherit through their mothers.*



### **Make These Points**



15 minutes

- ⇒ A non-Muslim, no matter the strength of the relationship (father/child, mother/child, husband/wife and so on), cannot inherit from the Muslim relative except such inheritance is made through a will (See section below).

## **THE WILL UNDER ISLAMIC LAW**



### **Presentation**



15 minutes

The making of a will is so important that after the payment of debts owed by the deceased, and funeral expenses, the will has to be executed and thereafter the balance is shared to the heirs. It has been reported by Malik from Nafi on the authority of Abdullah bin Umar (RA) that the Prophet Muhammad {S.A.W}, said, “Any Muslim who has anything to bequeath has no right to stay two days without a will written with him.”

The Islamic legal system allows a person - man, woman, and child of sound mind – to make a will bequeathing his or her property to persons other than his legal heirs – including non-Muslims (but not concubines). However, this must not exceed one-third of his estate. The other heirs need to give their consent where such bequest exceeds one-third of the estate. Where the legal heirs refuse such bequest, it becomes invalid.

Such a will can be verbal or written. It can also be lodged with trusted friends, in the home, or with the probate registry. It is however, advised that as much as possible such a will is written and lodged with the probate registry. This is especially important where landed property is involved, so the probate registry can issue a **letter of devolution**, which can then be taken to the lands registry for the transfer of ownership.

It should be noted that where a bequest is made in an attempt to cheat the legal heirs of their inheritance the will becomes invalid. The Holy Prophet [S.A.W] is reported to have said, “It is better you leave your heirs some wealth rather than leave them poor.”

## HEIRS IN ISLAM

The following are regarded as the main heirs in Islam: Children, wives and parents. No will can include these major heirs. The will is only accepted when the beneficiaries do not include these main heirs. For a will to be recognised, the will has to be witnessed by people of reputable standing in the community. There is no restriction to how much of one's estate one can give out (as gifts) while one is still alive.



### Make These Points

- ⇒ An adopted<sup>2</sup> child has no place in Islamic inheritance statutes since inheritance is through a blood line. Parents are therefore, advised to give a gift *inter vivos* (i.e. while one is still alive) to such adopted children.

## DISTRIBUTION OF ESTATE

The Shari'a courts are charged with the interpretation and enforcement of Shari'a laws. The distribution of the deceased's estate is done by *Khadis* of the Shari'a courts, although persons learned in the Islamic law of inheritance also distribute the estate of a deceased person since the Holy Qur'an has allotted each beneficiary his/her percentage. After the distribution, the **writ of possession** is then registered with the probate division of the high court.

## DOCUMENTATION OF ASSETS

People should be encouraged to adequately document their assets. Often, women especially, do not purchase property or assets in their name for fear of their assets being known by their spouses. When they die family members may not even know of such assets for them to be shared appropriately. People should therefore, adequately document their assets and keep the documents safe in banks or with trusted friends.

---

<sup>2</sup> Adoption is making a child like a biological child i.e. formalizing custody and care for the child. The child then has the same rights as the biological children. The laws of consanguinity and affinity apply. Adoption is permanent. It severs the relationship of the adopted child and the biological parents. Fostering, on the other hand, is simply taking care of a child, and is not permanent. The child can go back to the biological family.



### **Make These Points**

- ⇒ Without over emphasizing the need for a will, it should be noted that the intent of any person as expressed in a will supersedes the legal position relating to the sharing of assets of a deceased person.
  
- ⇒ Please note that bequest under Islamic will is not regarded as “inheritance,” but as a “gift.”

## **HANDOUT 5**

### **Islamic Inheritance Laws on Women, Wives and Children**

#### **Islamic Inheritance Laws on Women**

Under the Islamic legal system women, howsoever described, are accorded the same right of inheritance as the men. A woman can inherit and also be inherited. The same law applies to both women and men. The Qur'an has categorically stated shares to be given to daughters, wives, sisters, nieces, aunts, granddaughters, grandmothers and their successors in title.

The daughter gets half the share of the son. This does not change, no matter how rich or poor the daughter or the son is. The logic behind this is that the male siblings are always responsible for their female siblings, no matter how rich the female is. If she is married the husband is responsible for her upkeep. If unmarried, her father or brother is responsible for her. Where there is no male relation, she becomes the state's responsibility.

Where there is only one child – a daughter in the family – she gets half of the estate, after the wife's/wives' one-eighth (See below). The remaining portion goes to the State, after all other heirs have been given their share. However, in a non-Islamic state, the residue goes round all the heirs once again.

#### **Islamic Inheritance Laws on Wives**

Wives have a fixed percentage of the estate - that is, one-eighth. This percentage is shared among the wives, irrespective of age, number of children, or position (senior or junior wife).

#### **Islamic Inheritance Laws on Children**

As stated earlier, the Qur'an has provided the formula on how a deceased's property is to be shared among the heirs. The formula is fixed irrespective of age or sex. For example, a son gets twice the share of the daughter after the shares of spouse and parents have been removed from the estate. The child could be one day old or 60 years old. However, an illegitimate child cannot inherit from the father, even if acknowledged by, known or living with the father. In fact the child cannot inherit, even where the mother subsequently marries the father of the child. The child can however, inherit the mother.

## **HANDOUT 6**

### **Islamic Inheritance Laws on Guardianship and Custody**

#### **Guardianship**

A father may appoint a guardian to administer the estate for the young children until the age of maturity or when the guardian is satisfied that the children can manage their affairs on their own. The court can also appoint a guardian for the child in the event the father and/or mother did not appoint any before their death. The guardian does not have to be a family member. He must however, be adjudged responsible. The guardian has to render account of his guardianship upon the child attaining maturity. If he refuses the court will compel him to do so. Where the guardian is found wanting the court can appoint another irrespective of the fact that he was appointed by a parent. The estate of the child cannot be touched except where there is no other means for the upkeep of the child.

#### **Custody**

Being appointed a guardian does not necessarily mean one also gets custody of the child. The custody of an orphan<sup>3</sup> (that is, a child who has lost the father) is with the mother and nobody else. This is the case even if the mother is not a Muslim, unless she is found to be insane, or is of questionable character, or is not a Muslim and is likely to convert her child to her religion, or if a Muslim leaves the religion.

In the case where a child's parents are divorced, the custody of the child is also with the mother. However, when the mother remarries, custody shifts to her maternal relations until exhausted. In other words, the mother always has first right of custody of the children, except if she chooses not to. The father must provide for the mother of the child to enable her take care of the child.

---

<sup>3</sup> In Islam, a child is regarded as an orphan only when the father is dead.

# SESSION THREE

## The Relationship Between Marriage and Inheritance



**Total Time:** 15 minutes

### Session Objectives

By the end of the session, participants will be able to:

1. Understand inheritance issues as contained in the applicable customs, Islamic Law and Marriage Act

### Training Methods

- ⇒ Discussion
- ⇒ Presentation



### Presentation



10 minutes



### Facilitator's Notes

*The facilitator should make a presentation based on the information in Handout 7. Be sure to generate discussion among participants by referring to responses generated during Module 3 Exercise 1 Activity 2 on inheritance customs. Also compare these responses with information contained in Handout 7.*



### Make These Points

- ⇒ Where there is no will and the person in question is not a Muslim, the form of marriage between a man and a woman may determine the right to inheritance and administration of estate for the children and the surviving spouse of the intestate. If the intestate married under customary laws, then his personal law i.e. native law and custom will be applicable.
- ⇒ Where an Islamic marriage is registered under the Marriage Act in the Registry, such a marriage can be contested in court (for the purposes of inheritance) as a marriage under the Act, and no longer a marriage under Islam. Muslims therefore, who wish their assets to be shared according to Islamic inheritance laws should be aware of this.

## HANDOUT 7

### Marriage and Inheritance

#### Yoruba Customary Law

Among the Yoruba ethnic group, there are two forms of succession

- *Idi-igi* –where property is shared equally among all the wives and then the children of each wife will share equally among themselves.
- *Ori o j'ori* - where property is shared equally among all the children whether male or female.

#### The Marriage Act

For marriage contracted under the Marriage Act or ceremony of the Church of England, which is derived from the English law system, the rules under the Act will apply. On intestacy, the surviving widow takes one-third of the estate, while the remaining two-thirds is divided equally among the children. If there is no child the wife takes half of the personal property of the deceased, while the relatives take the remaining half. The wife's interest lasts until her death or until she remarries, whichever comes first. The Act accords equal right of inheritance to both male and female children.

This implies that for children, the type of marriage contracted by the parents is important in determining the child's right to parental obligation and succession rights. Thus, a child is termed legitimate or illegitimate based on whether or not it is born in or out of wedlock. Note however, that the Nigerian Constitution and Child's Right Act 2003 do not consider any child as illegitimate. It is therefore, illegal to discriminate against a person on account of the circumstances of his or her birth. (See Chapter Four of the Constitution of Nigeria). Acknowledgement of paternity also ensures that no child is considered illegitimate.

#### Customary Marriage

In some customs, it is a question of whether a child is recognized and accepted by the father or not, rather than the paternity or maternity of the child. This is because the father of a child may refuse to accept a child as his for one reason or the other. Example is where a child is born out of wedlock, before marriage, or is adopted.

#### Inheritance and Adoption

An adopted child assumes the same position as the biological child of the parents. Under the Child's Right Act, the child is treated as the biological child of the parents and can inherit from the parents. Under customary law the child will inherit provided the father recognizes him/her as his child. But under Islamic law, an adopted child cannot inherit from adoptive parents. Only property, bequeathed through a will (and which cannot exceed one-third of the estate) can be given to an adopted child. A parent can also provide gifts to an adopted child while still alive.

# SESSION FOUR

## Steps To Take On Infringement

 **Total Time:** 15 minutes

### Session Objectives

By the end of the session, participants will be able to:

1. Know the steps to take should an infringement on rights occur

### Training Methods

- ⇒ Experience sharing
- ⇒ Discussion
- ⇒ Case Study



### Discussion

 5 minutes

*The facilitator should introduce the session by asking one or two participants to share any real life stories known to them where persons were cheated of their inheritance, and what form of redress the persons sought. Then compare these stories with the suggestions below:*

The person may seek legal redress in the state high court, in any customary court or Shari'a court as applicable in his/her state. The courts may declare some customs invalid if they are found repugnant to natural justice, equity and good conscience. An example is the case of *Mojekwu versus Mojekwu (1997) 7NWLR (pt. 512)283*. Here, the Oli-Ekpe custom of Nnewi in Igbo land (southeast Nigeria), in which the female children of a man who did not leave a will (an intestate) could not inherit the estate of their late father, was declared invalid for being repugnant to natural justice by the Court of Appeal. While the lower court upheld the custom of Nnewi, the High Court of Appeal ruled against the custom as unjust.



### Make These Points

- ⇒ It is necessary to make a will today, so that you can safeguard the future of your family before it becomes too late.



# SESSION FIVE

## The Relationship Between Poverty, Economic And Social Rights And Denial of Inheritance

 **Total Time:** 10 minutes

### Session Objectives

By the end of the session, participants will be able to:


1. Explain the relationship between poverty, violation of economic, social and cultural rights, and denial of inheritance

### Training Methods

⇒ Discussion



### Discussion

 5 minutes

*The facilitator should refer participants to the responses on the relationship between denial of inheritance rights and poverty (discussed under Module 3, Exercise 1 Activity 2). The facilitator should make the points below as a way of reinforcing the responses.*



### Make These Points

- ⇒ It is a violation of economic, social and cultural rights to deprive someone of his or her inheritance through legal or other means.
- ⇒ If discrimination against any person based on their gender is allowed in issues of inheritance, it has implications on the enjoyment of economic rights which are recognized as human rights.
- ⇒ Denial of inheritance may:
  - Render certain persons homeless. For example, orphans and vulnerable children
  - Lead to children not having access to education – which is a child right
- ⇒ Children may also take to the streets and get involved in crime, when deprived of their inheritance.
- ⇒ Deprivation of inheritance may breed enmity, frustration and family conflict.
- ⇒ Standard of living may become very low and access to good food and healthy living will be difficult.
- ⇒ It is a violation of human rights to deprive any person of their inheritance.

To summarise the Module,



**Make These Points**

- ⇒ It costs a lot more to obtain a letter of administration (10 percent) from the probate where there is no will, than when there is a will where the charge is often six percent of the value of the estate). However, this varies from state to state.
- ⇒ Religion per se does not determine devolution of property, except for Muslims.
- ⇒ There is no restriction on what a person can give out while alive, even as a Muslim. It may therefore, be advisable to give out one's property while still alive to forestall quarrels when one is no more.
- ⇒ For children, whether the parents were married or not, and type of marriage, is very important in deciding what a child can inherit from their parents.
- ⇒ Participants should think about other implications and linkages between poverty and deprivation of inheritance rights in order to better appreciate the need to protect the right to inheritance.



# 4

# WILL WRITING



**Total Time:** 3 hours

## General Introduction

There are four sessions in this module that explain the issues surrounding will writing, providing insight into the importance of this legal document and the necessary steps to take to administer a will after the death of the testator.

## SESSION OVERVIEW

### SESSIONS

1. What is a Will?
2. How to Make a Will
3. Practical Solutions to Will and Inheritance Rights Violations
4. Steps to Take after the Death of a Testator

### LEARNER OBJECTIVES

By the end of this module, participants will be able to:

1. Understand what a will is
2. Appreciate the need to make a will
3. Know the basic information and requirements for writing a will
4. Explain the steps to take when there is a probate problem
5. Describe the steps to take after the death of a testator

### TRAINING MATERIALS

- ⇒ Flip chart board, paper and markers, masking tape
- ⇒ Sample envelope and wax / seal

### HANDOUTS

- ⇒ 8: Fundamentals of a will
- ⇒ 9: Contents of a will
- ⇒ Appendix A: Will template
- ⇒ Appendix B: Abridged will template



### Advance Preparation

The Facilitator should arrange, at least a day before, to make photocopies of the will templates. The photocopies should be distributed to the participants at the beginning of Session 2.

# SESSION ONE

## What Is A Will?



**Total Time:** 55 minutes

### Session Objectives

By the end of the session, participants will be able to:

1. Understand what a will is
2. Appreciate the need to make a will

### Training Methods

- ⇒ Exercise
- ⇒ Presentation
- ⇒ Experience Sharing

### Module 4 Exercise 1 : The Journey of Life

<b>Purpose</b>	To explore the benefits of, and experience of writing a will
<b>Duration</b>	30 minutes
<b>Activity</b>	<p><sup>4</sup> The Journey of Life</p> <p><i>The facilitator should ask participants to sit around in a big circle. Then ask all participants to close their eyes for five minutes, while you read out the following:</i></p> <p>Imagine you are going on a very long journey in a month's time. You do not know when you will come back to your home – if ever. Each participant should attempt to answer the following questions: <i>(facilitator should pause after each question to allow participants think through responses to the question. Possibly, repeat each question a few times before moving to the next).</i></p> <ol style="list-style-type: none"><li>1. WHO would you like to speak to before you go?</li><li>2. WHAT would you like to say to each of them?</li><li>3. WHO would you trust to look after your children, land and possessions while you were away?</li><li>4. HOW would you ensure that your wishes were fulfilled in your absence?</li></ol> <p>After the five minutes are up, ask participants:</p> <ol style="list-style-type: none"><li>1. What did you learn from this exercise?</li><li>2. In what way does the exercise relate to real life?</li><li>3. Did you find the exercise scary? Helpful? Encouraging? Difficult? <i>(Probably all of these emotions and others too will be mentioned!)</i></li><li>4. How would you have felt if you had to go on the journey the following day, without being given any notice?</li></ol> <p><i>Note that participants are not asked at this point to share their responses with the group, only their feelings.</i></p>

<sup>4</sup> Adapted from Stepping Stones: A training package in HIV/AIDS, communications and relationship skills adapted by Matthew Shaw 2002, published by ActionAid, The Gambia.



### Facilitator's Notes

*Participants will probably have worked out for themselves that they can relate this exercise to death. But if no one has mentioned the issue of death by now, you should introduce this gently. Explain that we all have to die one day. This can be very frightening for many of us, and this is one reason why many people do not like to talk about AIDS. But to be able to plan for a journey can often be much less terrifying than having to go with nothing prepared.*

*Ask the participants to discuss whether they have experienced a situation whereby relatives of a deceased person were left in a confused or unacceptable situation. For example, situations that led to property-grabbing by relatives and unanswered questions regarding the financial support of children, including children born outside marriage, among others.*



### Presentation



25 minutes

*Introduce participants to the fundamental principles around the will. Start by defining a will (Box 7). Then ask the participants in plenary if any one has written or seen a will. If so, can they talk about the information contained in the will; and why it is important to make a will? Note their responses on flipchart. To inform your discussions, see Handout 8 for details about who can make a will, why it is important to make a will, requirements of a valid will, and so on. Be sure to provide information not mentioned by participants.*

### **BOX 7 - A WILL**

**A will is a legal declaration in a document of a person's intention, which the person wants to be performed after his death**

## HANDOUT 8

### Fundamentals of a Will

#### Who can make a will?

Any person, whether young, old, healthy, sick, is free to make a will devising (leaving) all or part of his property to anybody of his choice. The person making the will is called a **testator**. A will must be made in the language the testator understands.

#### Why it is important to make a will

In Nigeria today, relatives are always fighting over the property of a deceased member of the family. Wives and children are left to suffer as a result of greed on the part of other members of the deceased's family. Orphaned children eat less, have less clothes, and free time, as well as less access to education, health care and other essential services. Often this is because parents did not plan and make arrangements for their children while alive. It is therefore important for people to make a will so they can express their wishes regarding devolution of their properties or the type of funeral they want.

#### When to make a will

A will should be made when one is healthy, and of a sound mind. Writing a will before one falls ill has many advantages. You and your children can decide the best person to care for them, as their guardian. You can then approach that person to ask if he/she would be willing to take on the role. It is then possible to discuss with the potential guardian what support will be needed to enable the person take on the role of a guardian.

#### Requirements of a valid will

- ⇒ The will must be made in writing. It cannot be made verbally.
- ⇒ The person writing/making a will must be an adult and of sound mind (i.e. 18 years or above and able to understand the nature and consequences of what he has written).
- ⇒ The will must be signed by the testator in the presence of at least two witnesses, who will witness the signature of the testator. The witnesses do not need to know the content of the will. They are mainly to witness the testator's signature.
- ⇒ The witnesses must sign in each other's presence.
- ⇒ The will must be sealed, so it can be easily shown that the envelope has not been tampered with.
- ⇒ The will must be lodged at the Probate registry of the state high court.

# SESSION TWO

## How To Make A Will



Total Time: 1 hour 35 minutes

### Session Objectives

By the end of this session, participants will be able to:

1. Know the basic information and requirements for writing a will

### Training methods

- ⇒ Presentation
- ⇒ Discussion
- ⇒ Experience sharing
- ⇒ Group Work



### Presentation



30 minutes

## MAKING A WILL

- ⇒ To make a will, the person must put it in writing or obtain a WILL FORM/Template as in the handout you will receive.
- ⇒ You may seek assistance from a lawyer or other agencies that have legal expertise.
- ⇒ If the person who wants to write a will is illiterate or blind, another person can help to write the will. But the helper must explain carefully what is being written. The helper must not be a person who will inherit from the will.

## CONTENTS OF A WILL

*The facilitator should distribute Handout 9, and discuss contents in detail with participants. If possible, also project information in the handout on a screen.*



### Make These Points

## THE WILL UNDER ISLAMIC LAW

- ⇒ A beneficiary of the one-third of the estate that can be bequeathed under Islamic laws by a will can write a will for the testator. This does not invalidate the will.
  - ⇒ It is also not a requirement for a will under Islam to be written, in order to be in effect. It can be expressed verbally, and even recorded on video. However, people should



be encouraged to document their wishes and intentions in writing.


- ⇒ Such a will also does not need to be lodged with the probate registry. When a Muslim dies the Shari'a court will function as the overseer or administrator of the person's estate. The court will issue letters to the banks with respect to bank accounts and share certificates, and then oversee the distribution of assets according to Islamic injunctions.

*The facilitator should distribute Appendix B: Will template (abridged version) for use by Muslims. Remember to point out that this abridged version has been reviewed by notable Muslim clerics.*

## APPOINTING A GUARDIAN



### Presentation

 30 minutes

*The facilitator should ask two to three participants who wish to share some of their responses from Module 4 Exercise 1 (The Journey of Life) to the question: "WHO would you trust to look after your children, land and possessions while you were away?" Use this as an entry point to the presentation below on how to appoint a guardian. Remember to be sensitive, as the exercise may be emotional for some participants.*

- ⇒ Discuss with your spouse, children and family who would be the best person.
- ⇒ Make a list of people you think would be able and willing to do this. Remember to take into consideration how your children feel about the people on the list.
- ⇒ Approach the person you chose. Ask him or her whether he or she would be prepared to look after your children in the event of your death.
- ⇒ Ask him or her what their worries may be.
- ⇒ Share your own worries and concerns.
- ⇒ Make a plan with the person who agrees to be your children's guardian.
- ⇒ Explain how you would want your children to be cared for.
- ⇒ Come to a mutual agreement.
- ⇒ Let your family know about your plans, if possible. This enables all members of the family to avoid conflict and misunderstandings. However, you must be the judge of how people will deal with this information in your family.



## Make These Points

- ⇒ Often, many families choose the wealthiest relative because they feel this person will be the only one who can meet the material needs of the children. It is important however, to make sure this person has the best interests of the children at heart. Make sure the guardian is liked by the children, and is affectionate.
- ⇒ Often men are chosen as guardians of children. But it is women who take care of children on a daily basis. One can therefore, give joint custody to a husband and wife to ensure the children will be well cared for.

### Module 4 Exercise 2: Promoting Will Writing

<b>Purpose</b>	To create and promote an enabling environment for writing a will, thereby protecting the inheritance of orphans and vulnerable children
<b>Duration</b>	45 minutes (30 minutes group work; 15 minutes of presentations in plenary)
<b>Activity</b>	<p><i>Participants should break into two groups to discuss the following:</i></p> <p><b>Group 1</b></p> <ol style="list-style-type: none"><li>1. How should one address violations where the contents of a will are not respected?</li><li>2. What are the steps to be taken in mobilizing individuals and communities to write wills?</li><li>3. How should one address people's fear of will writing?</li><li>4. Outline the advantages and possible disadvantages of writing wills</li></ol> <p><b>Group 2:</b></p> <ol style="list-style-type: none"><li>1. Should a person who writes a will make the contents of the will known to certain persons? Give reasons for your answer.</li><li>2. If yes, what would be the best way of doing this? Should this be achieved through meetings between the executors, and persons who are likely to contest the will?</li><li>3. What are the possible advantages and disadvantages of this process?</li><li>4. How can any disadvantages be minimized?</li></ol> <p><i>Each group should record their discussions on flipchart paper, and select a rapporteur to present in plenary.</i></p>



### Facilitator's Notes

*The following information should be highlighted by the facilitator if these were not mentioned during the presentations and discussions among participants.*

## **ADVANTAGES OF MAKING A WILL**

- ⇒ Except a will is made, the deceased's properties could end up with people he or she did not intend as beneficiaries.
- ⇒ The testator has the power to choose the type of personal representatives trusted by him or her during their lifetime.
- ⇒ The testator is still in control of his/her riches even after death.
- ⇒ The welfare of children is taken care of to avoid hardship for the children, and the family.
- ⇒ The testator could direct on the specific burial rites he or she wants.
- ⇒ The executor could act immediately the testator dies, unlike the case of death intestate (i.e. where there is no will).
- ⇒ It is cheaper to process applications for grant of probate (i.e. registering the will) than it is to grant letters of administration (i.e. grant from the court to administer the estate of someone who did not make a will).
- ⇒ Any gesture of parting with any part of his belonging is well documented and will be carried out by the executors.
- ⇒ It will give the testator peace of mind.

# HANDOUT 9

## Contents of a Will

### I. Body of the Will

The following information should be provided in a will:

1. *Personal data*: Fill in information about the testators' name, date of birth, marital status, and state of origin/village/town and current address (See sections 1, 2 and 3 of the will template).
2. *Name of dependants*: The law recognizes certain persons as being entitled to share in the property of the person making the will. These are usually the relatives, such as children, wife or husband, parents and dependant close relatives. Therefore, state their names and the nature of the relationship to enable the viewer see at a glance that you are aware of such persons. (See sections 3 and 4 of Appendix A: will template).
3. *Executors/Executrixes*: The testator should appoint men and women of integrity whom he/she thinks will take care of their affairs properly after death. The law recognizes them subsequently as the **Executors** or **Executrixes** to administer the estate and direct the manner in which your property is to be distributed. (See section 6 of the will template).
4. *Guardians*: The testator should also appoint someone who will look after the interest of any child who is a minor. Such persons are called **Guardian(s)** and are entitled to exercise parental rights and duties over the child after the death of parent(s). (See section 7 of the will template).
5. *Detailed particulars of personal belongings*, landed property belonging to the testator during his lifetime (NOT FAMILY PROPERTY), monies in the bank, and the branch of the bank, shares held in any private or public company and the names of such companies should be outlined. (See sections 8 and 9 of the will template).
6. *Employment*: It is important for the person to give details of his or her employer and or business if self employed. (See section 8d of the will template).
7. *Residence*: It is also important to state the testator's principal place of residence and who among the children, spouse(s), and other dependants will reside there, and what he or she wishes about their residence after his death. (See sections 1, 8 and 10 of the will template).
8. *Beneficiaries*: List the beneficiaries - their names, address, and relationship with the testator. Properties, monies or shares given to them should be stated specifically. (See section 10 of the will template).
9. *Debtors and Creditors*: A detailed list of your debtors and creditors, their addresses and amount involved should be outlined. (See section 12 of the will template).
10. *Special conditions*: If the testator has special conditions for distributing his personal property, he should give details of such, especially his reason for disinheriting a relation who ordinarily should inherit. (See section 11 of the will template).
11. *Burial wishes*: The testator's wish concerning his burial should also be specifically stated in the will. (See sections 13 and 14 of the will template).

## HANDOUT 9 (CONT'D)

### II. Signatures:

The testator should sign each page of the will and the last page in the presence of at least two persons called the witnesses. The witnesses need not know the content of the will. They are to witness the signature.

If the will is translated by another person in a different language the person should state his name close to the testator's signature and state that he or she translated the language to the person making the will. This procedure is called an *illiterate jurat*. This could also apply to a visually disabled person who will need somebody to translate the will.

### III: Witness

The testator should ensure before he signs the will that there are two witnesses present at the time of the signing (execution) of the will. The two witnesses must be present at the same time in the testator's presence, and in each other's presence write their names, occupation, address, signature and date.

### Who can be a witness?

It is suggested that such a person be a doctor, or a trusted friend, priest/pastor, lawyer, or NGO staff. Any person who is a beneficiary, executor and/or executrix cannot be a witness to the will.

### IV: Sealing a will

After the witnesses have signed the various copies of the will they should be folded and put into envelopes then sealed round the edges with a wax of any colour as a sign of its authenticity.

### V: What do I do after sealing?

Address the envelope to the probate registry.  
(See illustration in box).

Take the sealed envelope addressed to the probate registry to the high court in the state where the testator resides. Pay the official filing fees and obtain a receipt. Then the will has been successfully lodged in the probate registry.

**The Probate Registrar  
High Court of Justice**

.....**State,**  
**Nigeria.**

After that, advise the person to take two or more copies of the will, (also in sealed envelopes), to either his or her banker, lawyer, priest, pastor, spouse, trusted friend, doctor and any other person of their choice who can notify the probate registry after the person's death.

### What do I do if I remember other things after sealing my will (Codicil)?

You can make a supplementary written document varying, adding or revoking what is in the first will. This is known as the **Codicil**. The procedure is the same as explained above, but it must be specially stated that an earlier will existed, including the date and other relevant particulars of the previous will.

# SESSION THREE

## Practical Solutions to Will and Inheritance Rights Violations



Total Time: 15 minutes

### Session Objectives

By the end of this session, participants should be able to:

1. Explain the steps to take when there is a probate problem

### Training methods

- ⇒ Presentation



### Presentation



10 minutes

*Summarise the responses from the presentation by Group 1 during Module 4 Exercise 2 on how to seek redress when there is violation of the contents of a will, then present the following information on the steps to take when a violation of inheritance rights or a will occurs.*

## SEEKING LEGAL AID

- ⇒ Visit a lawyer attached to any Legal Aid Council, FIDA Legal aid services or NGO (See Appendix C: Legal Support Organisations). FIDA branches all over the federation have laid down procedures in all their legal aid clinics and mediation centres for addressing such cases. You will usually have to apply formally for legal aid.
- ⇒ Mediation and conciliation (which means the act of settling disputes through amicable settlement without resort to the law court) may be used.
- ⇒ When mediation or conciliation fails, one can instruct the lawyer to seek legal redress in court.

## MOBILIZING INDIVIDUALS AND COMMUNITIES

- ⇒ Empower individuals and communities through legal education. This will make them aware of their rights and responsibilities.
- ⇒ Carry out legal education specifically focused on the importance of writing wills. Provide education on how to complete the will template. This will lay a proper foundation for

acceptance of wills, and will encourage people to make a will in their life time.

- ⇒ Advise people to give out their properties in their lifetime under a deed of gift. This will prevent the effect of harmful customs that disinherit women and children.
- ⇒ Involve traditional rulers who are custodians of customs in community legal education. They will then be able to act as change agents to their kinsmen in their communities.



**Make These Points**

- ⇒ Wills must be made in writing, and not verbally.
- ⇒ Children need to know where they will live, or who will care for them when a parent dies.
- ⇒ Assets of the household must be secured through a will to protect the children's future.
- ⇒ Failure to plan can leave children homeless and destitute.
- ⇒ Writing a will is an essential aspect of responsible parenting.
- ⇒ The witnesses need not know the content of the will.

# SESSION FOUR

## Steps to Take After the Death of a Testate



**Total Time:** 15 minutes

### Session Objectives

By the end of this session, participants should be able to:

1. Describe the steps to take after the death of a testator

### Training methods

- ⇒ Experience sharing
- ⇒ Presentation



### Presentation



10 minutes



#### Facilitator's Notes

*The facilitator should introduce the session by asking if any of the participants has been involved in will reading following the death of a relative, friend, and so on. Invite one or two participants to describe the process that was involved.*

*The following information will guide the facilitator to generate discussion among participants and assist them to improve their understanding. You should not read the information aloud to the participants, but understand the information in order to facilitate discussion.*

You should bear in mind the applicable customary law or Islamic law guiding the individual's inheritance rights, when giving any assistance. For example, if the person in question was a Muslim, or was from a particular ethnic group, or was married under the Act or customs, then the relevant laws should be used to determine the best course of action, or advice to give.

(Refer to Module 3).



## FOR A TESTATE UNDER STATE LAW

1. Apply to the probate registry for a copy of the will of the person who died. You can use a standard application form from the probate registry, if such a form exists. If not, simply write an application letter informing the registry that the testator is dead.
2. The application letter should be accompanied by a death certificate of the testator. The death certificate can be obtained from the hospital where the testator died. The death certificate should be kept by the spouse. If both parents are dead the adult children of the deceased or the guardian of the minor children should keep the certificate.
3. Register the death of the testator within 30 days of the death at the National Population Commission registration centre in the LGA where the deceased person resided. Such registration centres are available in every LGA in the country.
4. The probate registry will write a letter inviting members of the family to the reading of the will. This needs to be followed up.
5. The named executors and executrixes will now apply for probate and pay certain fees (for example, in Lagos state, this fee is currently 5% of the value of the property or shares) to the high court in the state.
6. After the executors/executrixes have obtained probate, they can now distribute the properties and monies according to the request of the testator.



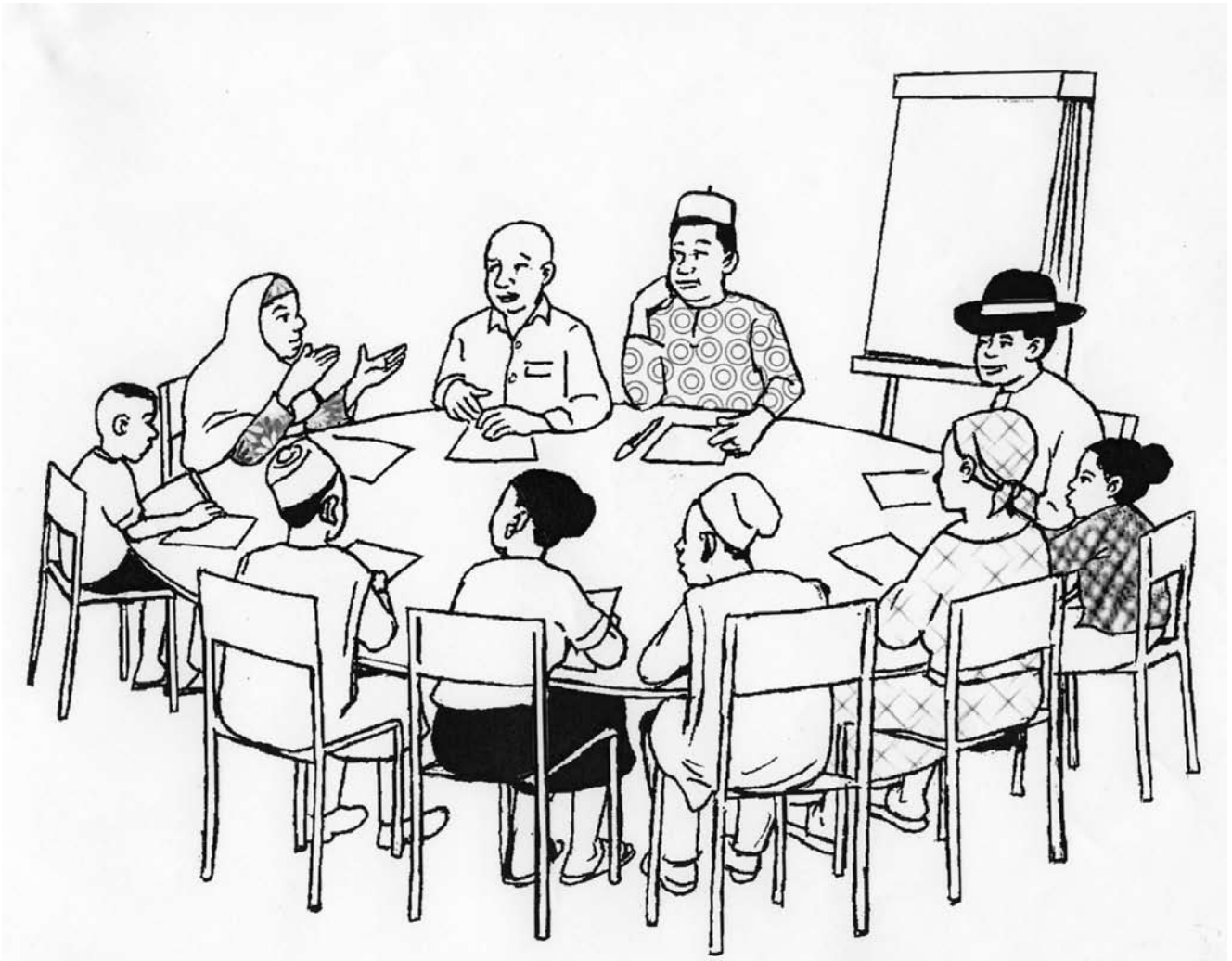
### Make These Points

- ⇒ If there is no money to get probate, the probate registry has power under the laws of the state to apply for funds from the testator's bank account to offset the probate fees.
- ⇒ If an individual has any legal problem, advise them on their rights. (See Modules 2 and 3). Then visit any of the legal support organisations mentioned in Appendix C, who can provide professional legal aid services, for assistance. Some of the cases may need legal counselling, mediation and/or litigation.

## FOR A TESTATE UNDER ISLAMIC LAW

The one-third of his estate that can be bequeathed in a will shall be administered by the Shari'a court.





# 5

## LEGAL SUPPORT NETWORK



Total Time: 1 hour 50 minutes

### General Introduction

There are two sessions in this module that describe strategies for harnessing resources and structures that can support individuals and communities to access and realise their human rights through legal means.

## SESSION OVERVIEW

### SESSIONS

1. Setting Up a Legal Support Network
2. Developing an Action Plan

### LEARNER OBJECTIVES

By the end of this module, participants will be able to:

1. Identify available legal support organisations that can assist in the protection of the rights and inheritance of vulnerable children and their families
2. State three roles of each partner in the legal support network
3. Develop an action plan that demonstrates the formation of a network that will protect the rights and inheritance of orphans and vulnerable children.

### TRAINING MATERIALS

- ⇒ Flip chart board, paper and markers
- ⇒ Masking tape

### HANDOUTS

- ⇒ Appendix C
- ⇒ Handout 10: Action Plan format
- ⇒ Information brochures on participating organisations

# SESSION ONE

## Setting Up a Legal Support Network



**Total Time:** 50 minutes

### Session objectives

By the end of this session, participants will be able to:

1. Identify available legal support organisations that can assist in the protection of the rights and inheritance of vulnerable children and their families
2. State three roles of each partner in the legal support network

### Training methods

- ⇒ Presentation
- ⇒ Discussion

### Advance Preparation

1. The Facilitator should start weeks before the session to arrange for representatives of each partner organization i.e. FIDA, Probate Registry, Legal Aid Council, National Human Rights Commission, and Citizens' Rights Mediation Centre, to make presentations on their organisations and activities. The presentations should be limited to a maximum of 5 minutes per organisation. The presentation should be written on flipchart paper or computer for projection.



The following format is suggested for the presentation:

- ⇒ Name of Organisation
- ⇒ Office address, telephone number, contact person
- ⇒ Services rendered by the organisation
- ⇒ Procedure for assistance – Is it necessary to submit a formal request in writing?
- ⇒ Their willingness to be part of the legal support network.

Where possible, organisations should also come along with information brochures on their organisations so these can be (photocopied and) distributed to all the participants at the workshop.

2. Prepare on flipchart paper the format for presenting the Action plans (Handout 10). Prepare one flipchart for each group.



## **PARTNER ORGANISATIONS PRESENT THEIR PROFILES**



### **Facilitator's Notes**

*After the presentations, the facilitator should assist participants to fully appreciate each organization's responsibilities, in order to promote effective collaboration, and as a way to reach a wider audience.*

*Each organisation should relate in detail the type of assistance it will render to the other organizations in the course of this collaboration so that every one will be aware of where to go at the appropriate time for assistance.*

*The facilitator should assist participants to identify and discuss factors that will facilitate easier implementation of the programme in their communities and states. They should also identify some possible challenges, and discuss solutions.*

*The facilitator should hand out Appendix C: Legal Support Organisations to participants. The facilitator should also arrange to type up contact addresses and information on the organisations present at the workshop, and distribute to all participants before the end of the training. If necessary, make photocopies of information brochures, so each participant gets a copy.*



### **Make These Points**

- ⇒ It should be up to the organisations represented at the training whether they want to formalise the network with regular meetings (monthly, quarterly, etc) or limit collaboration to active (ad hoc) support when needed. The facilitator should ensure everyone present is aware of the agreed way forward.
- ⇒ Organizations should ensure their commitment and involvement in the legal network activities.
- ⇒ Information should be shared freely among organisations in the legal support network.
- ⇒ Effort should be made to support each other by collaborating to strengthen the network, and maximize each other's strength, rather than competition.
- ⇒ Members of the network should freely express differences within the network. However, they should endeavour to speak with one voice in public, and be able to keep confidential matters within the network.

## **PROCEDURES FOR PROVIDING LEGAL SUPPORT**

- ⇒ It is suggested that individuals with inheritance problems, fundamental human rights violation and difficulties in administering the estate of their loved ones should approach the organisations in the network, FIDA branches, social welfare offices and legal aid councils in their states.
- ⇒ The implementing agencies should attend to cases in their communities, and then refer to FIDA, Legal Aid Council, NHRC, and so on, if they cannot handle such, or if serious legal consultation is needed. If it is a probate matter, the implementing agency could approach the probate registry for advice and assistance.

# SESSION TWO

## Developing An Action Plan



**Total Time:** 1 hour

### Session objectives

By the end of this session, participants should be able to:

1. Develop an action plan that demonstrates the formation of a network that will protect the rights and inheritance of orphans and vulnerable children

### Training methods

- ⇒ Group Exercise
- ⇒ Discussion

### Module 5 Exercise 1: Legal Support Network

<b>Purpose</b>	To develop an effective network and legal support structures to support orphans, vulnerable children and their families in communities
<b>Duration</b>	45 minutes (30 minutes group work; 15 minutes presentation in plenary)
<b>Activity</b>	<p><i>Participants should break into two or three groups and develop an action plan to be implemented in the next three months on how to network among the groups represented at the training.</i></p> <p>The organisations could be grouped as follows: Group 1: CSOs, FBOs Group 2: Legal support agencies e.g. FIDA, Legal Aid Council, NHRC, Citizens' Rights Mediation Centre, Probate Registry, etc. Group 3: Ministries and other Government agencies</p> <p><i>The action plan should be presented using the format in Handout 10.</i></p>

### FOCUS OF ACTION PLAN

Below are some suggestions on activities the action plans could focus on:

- ⇒ Awareness creation activities in schools, churches, mosques and markets on will writing and/or on the existence of legal support organisations and the services they offer.
- ⇒ How an adult individual can be assisted with the guide to will writing after the agency has given advice concerning the legal requirement of a valid will.
- ⇒ How to assist children whose parents or guardians kept a will for their interest and welfare to enjoy the inheritance of their parents

*The facilitator should ensure all the participants agree on the procedure for follow-up on the implementation of the action plan by all the organisations at the training.*



# HANDOUT 10

## Action Plan Format

S/ N	Activity	Objective	Target Audience	When	Who will do it	Budget
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

## Appendix A: Will Template

This is the Last Will and Testament of

1. I Name: ..... of  
(Residence/Postal Address) .....

This ..... day of ..... Year .....

I hereby revoke all former wills and testamentary dispositions made by me and declare this as my last will.

I have made this Will voluntarily while of sound mind.

2. (a) I was born on the ..... day of .....(Month)  
..... (Year), at ..... (Village/Town)  
..... (State) ..... (Country)

(b) My Home Country is .....  
Village/Town .....

(i) Father's Name: .....

(ii) Mother's Name: .....

(iii) Grandparents: .....

(a) Maternal: .....

(b) Paternal: .....

(iv) My Village is .....

(v) My Town is .....

(vi) My Tribe is .....

(vii) My Religion is .....

3. (a) I am single/married/widowed/divorced/separated from my spouse. *(Delete whichever is not applicable).*

.....  
Signature/Thumb Print

Complete this section if you are married.

(b) The name(s) of my spouse(s) is (are):

1. ....
2. ....
3. ....
4. ....

(c) We got married as follows:

*(State the time and place e.g. Church/Mosque/Place of Customary Marriage where ceremony took place).*

- (i) On ..... (date), at .....
- (ii) On ..... (date), at .....
- (iii) On ..... (date), at .....

(d) I am divorced/separated from my spouse(s) named.

*(Cancel whichever does not apply).*

1. ....
2. ....
3. ....

.....  
Signature/Thumb Print

4. (a) These are my children:

S/N	NAMES	SEX	DATE OF BIRTH	NAMES OF MOTHER/ FATHER
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				

(b) These are my dependants:

*(These should be relatives or other people whom you would like to provide for in your will).*

S/N	NAMES (IN FULL)	RELATIONSHIP	ADDRESS/RESIDENCE
1			
2			
3			
4			
5			

.....  
Signature/Thumb Print

5. I have chosen ..... who is my son/  
daughter/grandchild/brother/sister/to be heir/ heiress/(specify)

.....  
.....  
.....  
.....

6. I appoint the following persons as Executors/Executrix of my will:

S/N	NAMES (IN FULL)	ADDRESS/VILLAGE/TOWN
1		
2		
3		
4		
5		

7. I appoint the following people to be Guardians of my young children:

S/N	NAMES (IN FULL)	ADDRESS/VILLAGE/TOWN
1		
2		
3		
4		
5		

.....  
Signature/Thumbprint

8. I own the following property:

S/N	PROPERTY	PARTICULARS	LOCATION
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

9. (a) I have the following bank account(s):

S/N	ACCOUNT NO.	TYPE OF ACCOUNT	BANK/BRANCH
1			
2			
3			
4			
5			

(b) I have shares/interest in the following business(es):

NAMES AND ADDRESSES OF BUSINESS/ COMPANY/ INSURANCE POLICY	PERCENTAGE OF SHARES/ INTEREST

.....  
Signature/Thumb Print

- (c) NSITF No.....  
 Provident Fund No. ....
- (d) I am employed by .....(Name)  
 of ..... (Address)  
 at .....  
 as..... (Position of Employment)

10. I give my property to the following:  
*(Note: If your spouse and children are living in your principal residence, do not include your home and household property among the property to be distributed).*

S/N	NAMES (IN FULL)	RELATIONSHIP	PARTICULARS OF PROPERTY GIVEN
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			

.....  
 Signature/Thumb print

11. (a) I want my property to be distributed by my Executors/Executrix as follows:

*(Write in this space if you have special conditions for distributing your property. You may also add here people who you want to disinherit, and give reasons)*

.....  
 .....  
 .....  
 .....

(b) The property I have given to my children below the age of 21 years WILL/WILL NOT be distributed to them immediately. It will be dealt with as follows: *(Cancel whichever is not applicable. If you wish you may leave guidelines for your spouse, Executors or your children’s Guardians on how to maintain the property for the children until they are of age).*

.....  
 .....  
 .....  
 .....

12. (a) I have the following creditors:

S/N	CREDITOR’S NAME AND ADDRESS	PARTICULARS	AMOUNT OWED
1			
2			
3			
4			
5			

(b) I have the following debtors:

S/N	DEBTOR’S NAME AND ADDRESS	PARTICULARS	AMOUNT OWED
1			
2			
3			
4			
5			

.....  
 Signature/Thumb Print



13. I wish to be buried at .....  
Village: .....  
Town:.....  
State:.....  
Country:.....

14. Any other information/wishes related to my funeral ceremony or any other matter not previously mentioned:

.....  
.....  
.....  
.....  
.....  
.....

IN WITNESS WHEREOF I have set my hands and made this will while of sound mind this .....day of .....

SIGNED by the TESTATOR  
in our presence  
And attested by us  
in the presence of him and each other.

.....  
Signature/Thumb print of Testator

# WITNESSES

## Witness No. 1

Full Names: .....

Postal Address .....

Residential Address: .....

Occupation .....

Signature/Thumb print: .....

Date: ..... Day of (Month) ..... Year.....

## Witness No. 2

Full Names: .....

Postal Address .....

Residential Address: .....

Occupation .....

Signature/Thumb print: .....

Date: ..... Day of (Month) ..... Year.....

.....  
Signature/Thumb print

## \*Appendix B: Abridged Will Template

This is the Last Will and Testament of

1. Name: .....of.....  
(Residence/Postal Address) .....

This ..... day of ..... Year .....

I hereby revoke all former wills and testamentary dispositions made by me and declare this as my last will.

I have made this will voluntarily while of sound mind.

2. I appoint ..... (full name) who resides at .....  
.....  
..... (address) to be the Guardian of my  
minor children.

3. The following is what I want done with my property

.....  
.....  
.....  
.....  
.....

4. I reserve the right to amend this will in part or in full at any time

Signed by the testator at..... (place) on this...  
.....day of..... (year)

Your signature

.....

As Witnesses:

1. Name..... 2. Name.....

Signature..... Signature.....

*\*This abridged will template has been reviewed by notable Muslim clerics for use by Muslims*

## Appendix C: Legal Support Organisations

### International Federation of Women Lawyers (FIDA)

FIDA is an international organization of all women called to the practice of law all over the world. The organisation started in Spain over 60 years ago. The Nigerian chapter is over 40 years old. The main objectives of FIDA are:

1. To promote, preserve, protect and enforce the rights of women and children
2. Render *pro bono* i.e. free services and assistance to indigent women and children in distress. (FIDA/Nigeria defines indigent persons as persons who are unemployed, or earn a salary below the minimum wage)
3. Continuing legal education
4. Promote the ideas and philosophies of the United Nations

FIDA Nigeria has about 25 state chapters. FIDA has an observer status at the United Nations.

Procedure for obtaining legal assistance from FIDA:

1. Write an application to the chairperson of the state branch.
2. A discussion (briefing) will then be held with the applicant.
3. FIDA will assess the financial status of the applicant.
4. Appropriate legal counsel or action will then be given by FIDA.

<p>The Chairman <b>FIDA</b> Secretariat Suite D10 Bobsar Complex Plot 1035 Michika Street, Off Ahmadu Bello Way, Area 11, Garki, Abuja Tel: 09 – 314 5066 Email: fidaabuja@yahoo.com</p>	<p>Mrs Margaret Nwagbo (Chairperson ) <b>FIDA</b> Anambra State 335 Ziks Avenue, Awka, Anambra State Tel: 048 - 551405, Fax: 048 - 55140. Mobile: 08033133763 or 08035481444 Email:fidanambra11@yahoo. com</p>	<p><b>FIDA</b> Lagos State Branch, 14/16 Makoko Road; Off Herbert Macaulay Way, Yaba, Lagos. Email: fida_lagos@yahoo.co.uk Fax: 01-2646695. Tel: 01-7911625, 01-2646694.</p>
<p><b>FIDA</b> c/o Geraldine Ekanem Governor's office Calabar. Cross River State Tel: 08037136185</p>	<p>c/o Dr. (Mrs) Irene O. Odaro <b>FIDA</b> Civil Litigation Department Ministry of Justice Ezoti Street, Benin City Edo State Tel: 08023514847 Email: ireneodaro@yahoo.com</p>	<p>c/o Amina Adamu Aliyu <b>FIDA</b> Ya Fatima Chambers, Ahmadu Bello Road, Kano Email: aaliyu4@yahoo.co.uk</p>

## Legal Aid Council of Nigeria

The Legal Aid Council of Nigeria is an independent body established by the Legal Aid Council Act of 1976, now Legal Aid Act Cap 205 Laws of the Federal Republic of Nigeria 1990.

The Legal Aid Council has the responsibility to provide free legal services to persons who cannot afford a legal representative either because they are unemployed or though employed earn below the minimum wage. The services provided by the council are absolutely free. Legal assistance provided ranges from consultation, advice or actual representation in a court of justice.

The Legal Aid Council handles specific criminal & civil matters. Criminal matters handled by the Council include murder, manslaughter, malicious or willful wounding or inflicting grievous bodily harm, assault occasioning actual bodily harm, common assault, affray, stealing, rape, aiding and abetting or counseling or procuring the commission or being an accessory before or after the fact or attempting or conspiring to commit any of the offences listed above. Civil matters include civil claims in respect of accident, and civil claims arising from breach of fundamental human rights as enshrined in Chapter IV of the Constitution of the Federal Republic of Nigeria. The Council has an office in all states of the Federation, and a zonal office, in addition to the headquarters.

How to seek legal assistance from the Council:

A person wishing to apply for legal aid should go to the nearest Legal Aid Council office. He/she has to carry with them the necessary particulars. He/she then has to complete form AC2 if the matter is a criminal case or form AC3 if the matter is a civil case. If the applicant is unable to read or write a legal aid officer will fill the form on their behalf. After the application has been approved he/she is then assigned a lawyer who will render the appropriate legal services.

The assistance offered to a person seeking legal aid include:

- 1 Representation in court
- 2 Representation at the police station
- 3 Advice and assistance (written or in conference) e.g. writing letters, negotiating and mediation.
- 4 Legal counseling and financial welfare assistance. For example to women and children either standing trial or in custody.

The council also does not merely wait for persons seeking legal aid to contact them but also carries out routine visits to prisons with a view to taking up the cases of "awaiting trial" accused persons or suspected offenders in prison or police custody.

The Director General  
**Legal Aid Council**  
Federal Secretariat,  
Central Area,  
Near Three Arm Zone,  
Abuja

Zonal office  
**Legal Aid Council**  
Block D Open University  
Complex  
Area 3, Garki,  
Abuja

c/o Nurruddeen Ishola  
**Legal Aid Council**  
Gidan Murtala,  
Kano.  
Email: isholalo@yahoo.com

<p><b>Legal Aid Council</b>  c/o Maureen N Ogba (Mrs.)  Federal Secretariat  Aduwawa,  Benin City.  Edo State</p>	<p><b>Legal Aid Council</b>  10, Okotie Eboh Road  South West Ikoyi  Lagos.  Tel: 01-2671009, 01 -2671010</p>	<p><b>Legal Aid Council</b>  Kenneth O. Mozea  No. 1 Secretariat Road  (Jezco Plaza)  Arroma Junction  Off Enugu/Onitsha Express  Road, Awka. Anambra State  Tel: 08036748492</p>
<p><b>Legal Aid Council</b>  c/o A E Akpan Esq. HOD  Second Floor, Left wing  Federal Secretariat  (along the high way).  Calabar, Cross River State  Tel: 080 3969 7287</p>		

## National Human Rights Commission

The National Human Rights Commission was established by the Government of Nigeria under the National Human Rights Act, 1995. This was in line with the resolution of the United Nations which enjoins all member states to establish human rights institutions for the promotion and protection of human rights in their countries.

The mandate of the Commission include:

1. Deal with all matters relating to the protection of human rights as guaranteed by the Constitution of the Federal Republic of Nigeria, the African Charter, the United Nations Charter, the Universal Declaration on Human Rights and other international treaties.
2. Monitor and investigate all alleged cases of human rights violation in Nigeria and make appropriate recommendations to the Federal Government for the prosecution and other necessary actions.
3. Assist victims of human rights violations and seek appropriate redress and remedies on their behalf.

Procedure for Assistance & Intervention:

1. Complainants are advised to address all alleged cases of human rights violation to the Executive Secretary, National Human Rights Commission, No.40 Blantyre Street, Wuse II, Abuja, or to the nearest zonal office.
2. Complaints could be written or verbal.
3. All complaints must include:
  - The name and address of the person making the complaint (known as complainant); and the name and address of the person who committed the offence (known as violator). Complaints without the names of the person making the complaint are rejected.
  - The nature of the violation, injustice or harm suffered by the complainant.
  - The type of help the complainant wants

The complaint should not be in abusive language. No fees are charged for the lodging of complaint.

<p>The Director General <b>National Human Rights Commission</b> 40 Blantyre Street Off Ademola Adetokunbo Crescent Wuse II Abuja</p>	<p><b>National Human Rights Commission</b> c/o Maryam Abdullahi Sani Plot 313, New Hospital Road, Opp. Aminu Kano Teaching Hospital, Kano State. Email : <a href="mailto:info@nigeriarights.gov.ng">info@nigeriarights.gov.ng</a></p>	<p><b>National Human Rights Commission</b> 17 Balogun Street, Off Alhaja Kudirat Abiola Way, Old Oregun Road, Alausa, Ikeja, Lagos. Tel: 01- 8506708 Tel/Fax: 01-4934138 Email: <a href="mailto:obeharry@yahoo.com">obeharry@yahoo.com</a></p>
<p><b>National Human Rights Commission</b> Zonal Headquarters <b>South-South Zone</b> (Akwa-Ibom, Bayelsa, Cross River, Delta, Edo, Rivers). Plot H, Block 157, Port-Harcourt Township No. 203, Bonny Street Port-Harcourt.</p>	<p><b>National Human Rights Commission</b> Zonal Headquarters <b>North-East Zone</b> (Adamawa, Bauchi, Borno, Gombe, Taraba, Yobe) No. 4 Bama Road, Opp. University Teaching Hospital, Maiduguri.</p>	<p><b>National Human Rights Commission</b> Zonal Headquarters <b>North-West Zone</b> (Kaduna, Kano, Katsina, Kebbi, Jigawa, Sokoto, Zamfara) Plot 313, New Hospital Road, 12 Aminu Kano Teaching Hospital Road Gyadi-Gyadi, Kano.</p>

<p><b>National Human Rights Commission</b> Zonal Headquarters</p> <p><b>North-Central Zone</b> (Benue, Kogi, Kwara, Nasarawa, Niger, Plateau) Plot 12677, Lamingo, Liberty Dam Road, Rikko Village Opp. National Civil Registration Centre Jos, Plateau State.</p>	<p><b>National Human Rights Commission</b> Zonal Headquarters</p> <p><b>South-East Zone</b> (Anambra, Abia, Ebonyi, Enugu, Imo) No. 3 Ezeagu Street New Haven, Enugu.</p>	<p><b>National Human Rights Commission</b> Zonal Headquarters</p> <p><b>South-West Zone</b> (Ekiti, Lagos, Ogun, Ondo, Osun, Oyo) Plot 17, Balogun Street Alausa – Ikeja Lagos.</p>
--	---	---



## Citizens' Rights Mediation Centre

The Citizens' Rights Mediation Centre is one of the five units of the Directorate for Citizens' Rights in the Lagos State Ministry of Justice. The Directorate was established as part of the Lagos State Government's policy of providing access to justice in the state. The initiative presents an alternative to the expensive and often delayed court process. The Centre therefore, serves as an Alternative Dispute Resolution Centre that provides mediation and settlement of a wide range of disputes by trained and seasoned mediators. Disputes on matters such as rent, landlord/tenant, debts, employer/employee, family disagreement, and so on, are settled on daily basis at the centre.

Services are rendered FREE of charge to the residents of Lagos State, irrespective of religion, tribe or educational background.

Assistance could be sought both formally and informally. It could be done formally through a written petition in cases of human rights abuses, such as re-arrest. It could be informal by simply walking in to lodge complaints.

Complaints are received at the Complaint Room, Room 109 Block 2, Lagos State Ministry of Justice, Alausa, Ikeja, from 8.00 a.m to 4.30 p.m. every Monday to Friday.

<p><b>Citizens' Rights Mediation Centre</b>  <b>Main Office:</b>            Lagos State Ministry of Justice,            Secretariat Complex,            1st Floor, Room 109            Alausa, Ikeja.            Lagos            Tel: 01-7926929</p>	<p><b>Citizens' Rights Mediation Centre</b>            YABA            Crusader House, 8<sup>th</sup> Floor            Sabo, Yaba            Lagos            Tel: 01-895391</p>	<p><b>Citizens' Rights Mediation Centre</b>            ALLEN            11 Folawewo Avenue,            Via Ogundana Street,            Allen Avenue,            Ikeja, Lagos            Tel: 01-8945485</p>
<p><b>Citizens' Rights Mediation Centre</b>            LAGOS            18 King George VB,            Opposite Ghana High            Commission,            Onikan            Tel: 01-8958007</p>	<p><b>Citizens' Rights Mediation Centre</b>            IKORODU            Ikorodu Local Government            Secretariat,            Opposite General Hospital,            Ebute, Lagos            Tel: 01-8910720</p>	<p><b>Citizens' Rights Mediation Centre</b>            c/o Mrs Rosemary Onah HOD            Ministry of Justice            New Secretariat            Along Murtala Mohammed Highway            Calabar, Cross River State.            Tel: 087 239 243</p>

## Bibliography

- Abayomi, Kunle (2004) *Wills: Law and Practice*, Lagos.
- Abdur-Raheem, Tajudeen. Ola O. (2001) *Islamic Law of Inheritance Made Simple*. Academy Press Plc, Lagos.
- Adubi, C. O. (1995) *Drafting, Conveyances & Wills*. The Lighthouse, Lagos.
- Atsenuwa, Ayo, et al (1999) *Human Rights Made Easy*. Legal Research & Resource Development Centre, Lagos.
- Brakarsh, Jonathan and the Community Information and Inspiration Team Regional Psychosocial Support Initiative (2004) *The Journey of Life: A Community Workshop to Support Children*. Bulawayo, Zimbabwe.
- Delap, E., F. Kasozi & D. Onoise (2005) *Protecting Children During Emergencies in Nigeria: A toolkit for trainers*. Save the Children UK. Kaduna, Nigeria
- Federal Ministry of Justice (1990) *Laws of the Federation of Nigeria*. Federal Government Press, Lagos.
- Federal Ministry of Justice (2001) *Towards a Restatement of Nigerian Customary Laws*. Law review series Vol. 10, Lagos.
- Obiora, Uju (2001) *Women and the Right to Inheritance in Nigeria*. Shelter Rights Initiative, Lagos.
- Obilade, Akintunde Olusegun. (1979) *The Nigerian Legal System*. Sweet and Maxwell, London.
- Ojiaka, Chigoziri (2003) *Gender Issues and Political Development in Nigeria*. Gender Rights Initiative, Lagos
- Ramage, R. W. (1986) *Kelly's Draftsman*. 15<sup>th</sup> edition, Buttersworth
- Shaw, M. (2002) *Stepping Stones: A training package in HIV/AIDS, Communication and Relationship Skills*. Action Aid, Gambia
- Southern Africa HIV/AIDS Information Dissemination Service (2004) *A Future Planning Notebook for Families and Communities for the support of Orphans, Widows, Widowers and the Guardian of Minor Children*. Bardwell Printers, Harare, Zimbabwe
- Strengthening Community Participation for the Empowerment of Orphans and Vulnerable Children (2004) *Training Programme. Psychosocial Support for Orphans and Vulnerable Children. Facilitators Manual*. Zambia
- Strode, A., & K. B. Grant *The Rights of Children and Youth Infected and Affected by HIV/AIDS: Trainers' Handbook*. Save the Children (South Africa Programme)
- United Nations Department of Public Information (1996) *The Beijing Declaration and the Platform for Action*. New York.
- Women in Law and Development in Africa (2000) *Legal Rights Organising for Women in Africa: A Trainers Manual*. Revised Edition. Benaby, Harare.
- The Constitution of the Federal Republic of Nigeria (1999) available at <http://www.nigeria-law.org/constitution>
- [www.hrusa.org/thisismyhome](http://www.hrusa.org/thisismyhome). (Viewed 10 June 2006)

## Notes

A series of horizontal dotted lines for taking notes, spanning the width of the page.



**USAID**  
FROM THE AMERICAN PEOPLE



NIGERIANS AND AMERICANS  
IN PARTNERSHIP TO FIGHT HIV/AIDS

Funded by the President's Emergency Plan for AIDS Relief through U.S. Agency for International Development