

**SPEAK IT
LOUD**

AMPLIFYING THE VOICES OF WOMEN'S MOVEMENTS
TO ADDRESS VAWG IN ZIMBABWE

WOMEN'S RIGHTS HANDBOOK



ACKNOWLEDGEMENTS.

Project Title: "Speak it loud" Amplifying the voices of women's movements to address VAWG in Zimbabwe

Lead Partner -Voluntary Service Overseas

Implementing Partners: Women and Law in Southern Africa

Country/ Region: Zimbabwe – Mashonaland Central, Mashonaland West and Manicaland

Funder: The United Nations Trust Fund to End Violence Against Women

This study material: Women's rights compiled by WLSA to enhance knowledge on women's rights. The material addresses all aspects of the women's rights as contained in the constitution and laws that deal with women's rights. It addresses the rights of women in the family during marriage, upon divorce and death. Beneficiaries can use the material as part of the study circle methodology where small groups of 7-12 adults or youths meet regularly and carry out planned studies under the leadership of an accepted group leader. The material is built around the participants search for knowledge according to their own needs and interests. The participants want to learn about a topic to help them solve problems affecting their daily lives.

National Director

Women and Law in Southern Africa (Zimbabwe).

CONTENTS

SESSION 1: INTRODUCTION TO STUDY CIRCLES	4
1.1. Introduction.	4
1.2. What is a study circle?	4
1.3. How do adults learn?	4
1.4. Choosing a study leader	5
1.5. Role of participants	5
1.6. Making the study learning plan	6
SESSION 2: Introduction to women rights & constitutional provisions on women's rights	7
2.1. Introduction	7
2.2. Constitutional Provisions on women's rights	7
2.3. Conclusion	10
SESSION 3: Regional and International instruments.	11
3.1. Introduction	11
3.2. Regional and International Instruments that promote women's rights	11
SESSION 4: Types of marriages	13
4.1. Introduction	13
4.2. Types of marriages	13
SESSION 5: Requirements for registering a customary and a civil marriage	16
5.1. Introduction	16
5.2. Requirements for registration of a civil marriage Chapter 5:11.	16
5.2.1. Church Blessings and certificate of blessings.	17
5.3. Requirements for the Customary Marriage Chapter 5:07	17
5.4. The marriage certificate	18
SESSION 6: Divorce	20
6.1. Introduction	20
6.2. Divorce	20
6.2.1. Ground one: irretrievable breakdown	20
6.2.2. Ground two: mental illness or continuous unconsciousness	20
6.3. Settlement	21
6.4. Divorce Procedures	21
6.5. Unregistered customary law Union and divorce	22
SESSION 7: Domestic Violence.	24
7.1. Introduction	24
7.2. Domestic violence	24
7.2.1. Who can use the Domestic Violence Act?	24
7.2.2. What is domestic violence?	24
7.2.3. Where does a person facing domestic violence go to?	25
7.3. What is a Protection Order?	26
7.3.1. Who can apply for a Protection Order?	26
7.3.2. How does one get a Protection Order?	26
7.3.3. For how long is a protection order valid?	27

SESSION 8: Maintenance for the wife or husband.	29
8.1. Introduction	29
8.2. Maintenance for the wife or husband.	29
8.3. Dividing up the family property.	30
8.4. Sharing of property in an Unregistered Customary Law Union.	31
SESSION 9: Inheritance.	33
9.1. Introduction	33
9.2. What types of inheritance are there?	33
9.3. The new Constitution and inheritance	33
9.3.1. Steps to take when a person dies	34
SESSION 10: Administration of estate	37
10.1. Introduction	37
10.2. Administration of estates	37
10.3. Administration of estates where there is a Will	37
10.4. How to register the Will	37
10.5. Administration of estate where there is no Will	38
10.6. General Law Inheritance (where there is no will)	38
10.7. Customary Law Inheritance (where there is no will)	39
SESSION 11: Steps to be taken after the registration of an estate governed by either civil or customary law.	41
11.1. Introduction	41
11.2. Steps to be taken after the registration of an estate governed by either civil or customary law.	41
11.3. What is an executor?	41
11.4. What is an inheritance plan?	42
11.5. Housing and land rights	43
11.6. 12.4 Pensions, Life Assurance, insurance, Employment benefits.	43
11.7. Property Grabbing	43

SESSION 1: INTRODUCTION TO STUDY CIRCLES

1.1. Introduction.

Greet each other and review the learning objectives for this session.

Learning objectives.

By the end of this session you will be able to explain:

- What a study circle is
- Why and how adults and youths learn
- The use of study circles
- The need for a study circle leader
- The role of your study circle leader and your role as participants.

1.2. What is a study circle?

Talk about what a study circle is. Then read the following:

A study circle is a group of 7-12 people who meet regularly to learn about a topic together. During the meetings group members share ideas and learn new things to improve their skills and knowledge. At the meetings, everyone in the group is encouraged to participate as an equal. The group meets once or twice per week for 8-16 weeks to study a selected topic for about two hours.

Study circle guidelines

- All group members (participants) wish to learn more about a subject to improve their daily lives.
- All participants are equal and have respect for one another.
- Participants sit in a circle, facing each other to promote effective communication
- Study materials are used to provide information that is relevant to the participants
- Participants are involved in planning and implementation of their work
- A study plan is developed to guide the participant to achieve their study objectives.

Answer the following questions;

DISCUSS

- Why did you join this study circle?
- How do you, as an adult/ youth, want to learn?
- Talk about how adult learning is different from the way children learn

Then read the following:

1.3. How do adults learn?

Unlike children, adults learn because they want to and their learning has a purpose. For instance, they might want to find out how to stop gender inequality or they might want to find out about how to write a will for purposes of inheritance.

Adults learn best when:

- The content is useful and relevant to their lives
- They are respected and appreciated for what they already know and proved wrong in front of others
- They can choose what to learn at their own pace and at a convenient time and place
- They are given an opportunity to share their knowledge and experiences
- Topics are practical and they can practice what they learn
- They learn from their peers through exchange visits.

Think about what advice have you recently sought from a neighbor that proved to be very useful. Share your thoughts with the group.

SELF REFLECTION

1.4. Choosing a study leader

To start a study circle, the participants need to elect a leader. The leader should be reliable and must have leadership qualities. The study circle leader should be trained in how to facilitate a study circle session. The leader requires continuous support during study circle work. He or she must be able to do the following roles:

- Motivate and encourage the participants to look actively for knowledge.
- Work in cooperation with the other participants
- Develop dialogue and team spirit so that the participants feel secure.
- Enable the participants to be confident, arrive at common decisions and apply what they have learnt in every day situation.
- To encourage respect on the basis of one's sex.
- Guide members in discussing the questions and ensure that answers are put down.
- Bring people together and motivate them to learn
- Help set goals for each session
- Help other participants achieve their learning goals.

DISCUSS

What are the important qualities for a study circle leader/You can include the following:

A good study leader can:

- Encourage the inclusion of members from different backgrounds
- Be honest and open
- Be equal (not superior) to other participants
- Control their temper and be tolerant
- Remain friendly and defuse disagreements within the group
- Encourage all participants and stimulate discussions
- Encourage participants to share their ideas
- Listen to others (ask questions and avoid lecturing others)
- Prepare, study ahead and be familiar with the study material
- Summarise discussions or key lessons
- Be approachable and be interested in other group members.

EXERCISE

Now elect your study circle leader

1.5. Role of participants

The study circle participants also have roles and responsibilities.

DISCUSS

Talk about the roles of the participants in the study circle. Then read the following:

Study circle participants help each other to search for knowledge and cooperate in solving problems. All participants must use their knowledge and experience to benefit others in the group. Once a participant has put forward an idea, it becomes a group idea. This improves group knowledge and allows each member to contribute. All study circle participants should encourage cooperation and discourage competition and be gender sensitive. The participants should share the responsibility for the success or failure of the study circle.

Work in a study circle is made up of:

- The study material.
- The skill of the study circle leader
- Knowledge and experiences of the members.

1.6. Making the study learning plan

The next step in setting up your study circle is to develop a study circle plan.

DISCUSS

Discuss and agree on the following

- What topic shall we study?
- Where shall we meet?
- How often and for how long shall we meet?
- What day and time?
- Responsibilities-who will do what in our group?
- Who can provide extra guidance if we get stuck and for which topics or session will we need an external resource person/
- Assessment-how shall we test our understanding and whether we have met our study objectives?
- Where can we find more information on our study topic?

What is a study plan?

The success of the study circle will depend on good planning and preparation to achieve goals in an effective manner. A study plan is the way learning sessions will be run and how the group will work together. A good study plan includes:

- Objectives of the study circle.
- Dividing the topic into suitable steps
- Providing information on the issues under study
- Providing advice to the group on making its learning sessions effective
- Setting the time frame: during the planning session, the group should agree on
- the how much time will be spent on a topic.

Summary

- A study circle is a group of 7-12 people who meet regularly to learn about a topic on issues that affects their lives.
- Adults learn differently from children and their learning has a purpose
- A study circle needs a reliable leader with strong leadership qualities.
- The study circle participants help each other to search for knowledge and cooperate in solving problems.
- A study circle needs a plan for each topic studied.

SESSION 2: INTRODUCTION TO WOMEN RIGHTS & CONSTITUTIONAL PROVISIONS ON WOMEN'S RIGHTS

2.1. Introduction

Greet each other and review the learning objectives for this session.

Learning objectives

By the end of this session participants will:

- Know about women's rights
- Know about the constitutional provisions.

Women occupy a critical role in society. Currently they constitute about 52% of the Zimbabwean population. Women's rights are found in various pieces of legislation and also regional and international instruments.

2.2. Constitutional Provisions on women's rights

The new Constitution of Zimbabwe provides many opportunities for women of Zimbabwe. It is therefore important that its provisions are implemented so that they become a reality in the lives of women and men in Zimbabwe. Although every section of the constitution is important there are some that are of critical importance in relation to women's rights and these are summed up below:

Preamble

The preamble acknowledges that nation building should be based on equality

Supremacy of the Constitution

Section 2 of the constitution establishes the supremacy of the Constitution. This means that all laws, customs, practices or conduct that do not conform to the Constitution are invalid. Further the constitution must be followed and respected by everyone in Zimbabwe. Hence, this section removes all gender stereotypes/ discrimination that hinder women to participate in all spheres of life.

Founding values and principles

Section 3 deals with the founding values and principles and provides for the recognition of the inherent dignity and worthy of each human being, equality of all human beings, gender equality and the specific recognition of the rights of women, the elderly, youths and children.

Languages

Section 6 recognises the importance of many languages. This is an important step in enabling communication by women even in official spheres. Section 6 prevents the exclusion of women who might not be able to communicate in English. Chewa, language, Sotho, Tonga, Tswana, Venda and Xhosa are all now recognised as official languages by the Constitution.

National Development

Section 13 recognizes the importance of national development in the empowerment of citizens. It recognises the right of women to equal opportunities in development. This is because women have been historically marginalized in development opportunities.

Empowerment and employment creation

Section 14 provides for fair and just affirmative action in the empowerment of

marginalised groups and communities in Zimbabwe and these include women and youth.

Gender balance

Section 17 provides for gender balance. It calls upon the State to create full gender balance through promoting the full participation of women in all spheres of Zimbabwean society on the basis of equality with men. The state is also called upon to ensure that women have access to resources including the land on an equal basis with men.

Persons with disabilities

Section 22 calls upon the State and other institutions to treat persons with disabilities with dignity. Persons with disabilities face many challenges in everyday life. However, it is worse for women living with disabilities. In terms of access to justice, persons with disabilities face challenges in physically accessing courts and the court signs and papers are not in Braille. The challenge with this section however, is that it does not provide for representation of people with disabilities in State bodies and agencies.

Protection of the family

Section 25 calls upon the State to protect the institution of the family and to also focus on the prevention of domestic violence. However, despite the existence of the Domestic violence Act, the levels of violence still remain high.

Marriage

Section 26 calls upon the state to ensure that no one is forced into marriage; children are not pledged into marriage, there is equality of rights and obligations of spouses and that in the event of dissolution of marriage by death or divorce, there is necessary provision for the protection of children and spouses.

DISCUSS

Talk about the following:

- What does section 2 say about supremacy of the constitution?
- What does section 26 say about marriage rights and child marriages?
- What does section 26 say about the rights of married persons upon divorce and death?

Legal Aid

In research conducted by WLSA on access to justice, one of the major findings is that women cannot access justice due to the huge costs involved. This ranges from court fees, Messenger of Court fees for lawyers. Therefore, section 31 states that the State must take all practical measures, within the limits of the resources available to it to provide legal representation for people who need it and are unable to afford legal practitioners of their choice.

Domestication of international instruments

Section 34 calls upon the state to domesticate international instruments. This section is important because although Zimbabwe has signed and ratified CEDAW, the SADC Protocol on Gender and Development and the African Union (AU) Protocol on the rights of Women in Africa, these have not been domesticated. These instruments contain provisions that can be used to enhance the rights of women in Zimbabwe.

Citizenship

Citizenship is covered in section 35 to 43. Of importance, is section 40 which provides that citizenship shall not be lost through marriage or the dissolution of marriage.

Interpretation of the declaration of rights

Zimbabwe is party to CEDAW, SADC Protocol on Gender and Development and the AU protocol on the Rights of Women in Africa. **Section 46 (10)** states that courts, tribunals and other forums must take into account international law and all treaties and conventions that Zimbabwe has signed when called upon to give meaning to or interpret the Declaration of rights. When implemented, this will serve to strengthen the national women's human rights framework.

Right to personal security

Section 52 states that right to personal security includes freedom from all forms of violence from public and private sources. It also provides for the protection of individual's right to make decisions concerning reproduction. This is an important right for women who are often denied autonomy to make decisions concerning reproduction.

Equality and non-discrimination

Section 56 provides for equality and non-discrimination before the law on the basis of sex, gender, marital status, pregnancy, religious belief, opinion, political affiliation, custom, culture, nationality, race, color, tribe, ethnic or social origin, language, class or economic status. This section is critical since it is a significant improvement from the previous constitution which had limited grounds for non-discrimination and which also allowed discrimination in matters of personal law and customary law.

DISCUSS

Talk about the following:

- What does section 56 say about the right to equality before the law and non-discrimination?
- Why does section 56 above provide for equality and non-discrimination before the law on the basis of sex, gender, marital status, pregnancy, religious belief, opinion, political affiliation, custom, culture, nationality, race, color, tribe, ethnic or social origin, language, class or economic status?

Labour rights

Section 65 provides for Labour rights of both men and women. Section 65 (6) states that women and men have a right to equal remuneration for similar work. Furthermore, **section 65(7)** also states that women employees have a right to fully paid maternity leave for a period for a period at least three month.

Property rights

Property ownership is one of the hallmarks of economic empowerment. **Section 71(2)** recognizes that every person has the right in any part of Zimbabwe of Zimbabwe to acquire, hold, occupy, use, transfer, ease or dispose of all forms of property. This means women too can own property in their own right.

Right to health care

Section 76(1) addresses issues to do with the reproductive health care of women. It provides that every citizen and permanent resident of Zimbabwe has the right to have access to basic health – care services, including reproductive health-care services

Marriage Rights

Section 78 provides for marriage rights, **Section 78 (1)** and **(2)** states that every person who has attained the age of 18 has the right to found a family and no person may be forced to enter into marriage meaning that marriage should be by consent.

Women's rights

Section 80 provides for the rights of women. **Section 80(1)** gives women and men equal custody and guardianship. This marks a departure from the previous legal position under the Guardianship and Minors Act which made fathers the natural guardians of children born in wedlock. **Section 80(3)** states that all laws, customs, traditions and cultural practices that interfere with the rights of women to equal custody and guardianship as conferred in the Constitution are invalid. This section recognises that certain customary beliefs and practices still hold that children belong to the father or his family.

Composition of Senate

Section 124 provides for the reservation of sixty seats for women under a party list proportional representation system for the first two cycles of Parliament starting with the Parliament elected in 2013. This provision is an affirmative action measure meant to correct a historical imbalance that has seen women being underrepresented in Parliament

Right to petition parliament

Section 149 provides that every citizen and permanent resident of Zimbabwe (both women and men) has a right to petition Parliament to consider any matter including the enactment, amendment or repeal of legislation.

Independent commissions supporting democracy: Gender Commission

Among the Independent commissions supporting democracy in Zimbabwe is the Gender Commission. Its functions are described in **section 246** as including among others gender equality, investigating possible violations and securing remedies where rights relating to gender have been violated

Traditional leadership

Section 280(2) states that a Chief or a head person can either be a female or male. Hence it promotes the participation of women in democratic processes. Furthermore, section 281(1) (c) provides that Traditional leaders must treat all persons within their areas with dignity and respect.

Membership of Commissions

Section 320(4) states that where a Commission has a chairperson and a deputy chairperson, they must be of different genders-female/male or male/female. This provision seeks to ensure equal representation of women and men in constitutional commissions.

2.3. Conclusion

It is clear that the new constitution besides containing and expanding the bill of rights , carries many other provisions that are of critical importance to women and that if implemented fully, have the scope to bring meaningful change to women's lives.

Talk about what you learnt during this session.

DISCUSS

Summary

- Women occupy a critical role in society.
- The new Constitution of Zimbabwe provides many opportunities for women of Zimbabwe. It is therefore important that its provisions listed above are implemented so that they become a reality in the lives of women and men in Zimbabwe.

SESSION 3: REGIONAL AND INTERNATIONAL INSTRUMENTS.

3.1. Introduction

Greet each other and review the lessons learnt in the previous session. Now read the learning objectives for this session.

Learning objectives

By the end of this session participants will know:

- International and regional instruments.
- The women's rights and gender international and regional instruments.

3.2. Regional and International Instruments that promote women's rights

The following regional and international instruments promote women's rights. The constitution was also drafted in line with the following instruments;

- Convention on the Elimination of all Forms of Discrimination Against Women (1979) (CEDAW) - Countries should eliminate discrimination against women in the field of health care in order to ensure access to health care services, including those related to family planning. Ensure women have appropriate services in connection with pregnancy. Take action to modify social and cultural patterns to eliminate prejudices and practices based on the idea of inferiority or superiority of either of the sexes or on stereo typed roles for men and women.

DISCUSS

Talk about the following;

- What does CEDAW stand for?
- What does the CEDAW say about women's rights?
- Why is CEDAW important to women?
- Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
- African Charter on Human and Peoples' Rights (1986)
- Convention on the Rights of the Child (1989)
- Convention on the Nationality of Married Women
- African Charter on the Rights and Welfare of the Child (1990)
- Protocol on the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003) better known as the Maputo Protocol- Gives broad protection to women's rights including sexual and reproductive rights. First international instrument to state women's right to abortion when pregnancy results from sexual assault, rape or incest. Calls for prohibition on harmful cultural practices such as female genital mutilation.

Talk about the following:

- What does the Protocol on the African charter on human and people's rights of women in Africa say about harmful cultural practices?
- What are harmful cultural practices?
- What does the constitution of Zimbabwe say about harmful; cultural practices and customs and traditions that are against the constitutional provisions.
- Optional protocol to the Convention on the Rights of the Child on the Sale of children, child prostitution and child pornography (2000)
- SADC Protocol on Gender and Development (revised with 2030 targets.)
- Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others (1950)
- Convention relating to the Status of Stateless Persons (1960)

- International Convention on Economic, Social and Cultural Rights
- Universal Declaration of Human Rights

DISCUSS

Talk about the following:

- Who develops international and regional instruments?
- Why are the international and regional instruments important for us as residents in Zimbabwe?

What instruments did you find interesting and why?

Talk about what you have learnt during this session.

DISCUSS

Summary.

- International instruments are developed by the United Nations and regional instruments by the African Union.
- The instruments cover civil, political, economic, social, environmental, women rights and gender.
- The international and regional instruments act as guideline through which states including our nation Zimbabwe must follow in line with other nations in the implementation of laws and policies.
- The 2013 Zimbabwe constitution was also drafted in line with some of the international and regional instruments.
- Women's rights have become increasingly well defined in recent years. Codified in international and regional human rights frameworks listed above, and national legal systems, they constitute a set of performance standards against which duty-bearers at all levels of society—but especially organs of the State—can be held accountable.

Think about interventions you can do to stop harmful cultural practices in your area. Read material on domestic violence and gender based violence. Tell your group about what you found out at the next session.

HOMEWORK

SESSION 4: TYPES OF MARRIAGES

4.1. Introduction

Greet each other and review the homework from the last session. Now read the learning objectives for this session.

Learning objectives

By the end of this session participants will know:

- Types of marriages.
- Current marriage law framework
- Who can marry?
- How binding are the marriages?

4.2. Types of marriages

Current marriage laws framework

There are two types of registered marriages in Zimbabwe namely the civil marriage in terms of the Marriage Act [chapter 5:11], the registered customary marriages under the Customary Marriages Act [chapter 5:07]. There is another form of an unregistered marriage called the unregistered customary law union.

DISCUSS

Talk about the following

- What types of marriages are recognized in Zimbabwe?
- What type of marriage do you have?

Now read the next section

The Marriage Act Chapter 5:11

This type of marriage was formerly known as [Chapter 37]. That title has now changed to the **Marriage Act** [Chapter 5: 11]. The correct legal term for this marriage is the “Civil” or “Monogamous” marriage. It is called a **monogamous** marriage because it allows a man to marry only one wife and a woman to marry only one husband. If anyone who is in this marriage tries to either marry someone else they commit a crime called bigamy or engage in an extramarital affair they also commit adultery and on bigamy can be arrested and jailed for up to six (6) months in prison or pay a level 5 fine. Whilst on adultery the spouses can sue for adultery damages. Bigamy occurs in either monogamous or polygamous marriage.

Who can marry under this Act?

To get into this type of marriage one must be above the age of 18 as stated in the constitution (section 78). However, there is a need for the Act to be realigned to the new constitution since it also states that a boy who is under the age of 18 years or a girl who is under the age of 16 years can marry if they get permission from the Minister responsible for justice. A minor child can marry if her or his legal guardian agrees.

How binding is the Chapter 5:11 marriage?

When two people enter into this marriage, they agree to take each other as husband and wife to the exclusion of all others until death or divorce or some order of a competent court separates them. The marriage creates a binding legal relationship which no ordinary person can break.

This marriage cannot be “down-graded, ” in other words a man who is already in this type of marriage cannot try and change it to an unregistered customary law union to allow him to marry other wives. The only option he has if he wishes to marry someone else is to divorce his wife.

Customary Marriage Act (chapter 5.07)

The other type of marriage in Zimbabwe is the customary marriage that is conducted in terms of the Customary Marriages Act [chapter 5:11]. Formerly known as Chapter 238 or “muchato wekwamudzviti” The correct legal term for this marriage is the “Customary marriage. “It is also called a potentially polygynous marriage because it only allows a man, if he so wishes to marry more than one wife. The woman however cannot have more than one husband.

How binding is this marriage?

When two people enter into this marriage, they are bound as husband and wife. The marriage creates a binding legal relationship which no ordinary person can break. They can only be separated if they ask for and are given a divorce by a court

This marriage can be “up-graded,” if the man only has one wife and intends to change the marriage type with the same wife. However, the man cannot try to enter into a civil marriage [Chapter 5:11] with another woman who is not his current wife. Reason being that if he does so, he will be committing bigamy.

Unregistered Customary Law Union

The Unregistered customary law union meets all the requirements of a customary law marriage except for registration. The Customary Marriage Act specifically states that no marriage entered into in terms of customary law shall be regarded as valid unless such a marriage is solemnized. Accordingly, it is not called a marriage but a union. A man may marry more than one wife in such a union. The marriage is valid therefore for purposes of customary law in relation to:

- In terms of section 3 of the Customary Marriages Act, the status, guardianship, custody and rights of succession of the children. Children born to parents married in terms of the unregistered customary law union have the same rights as children born to parents married in terms of other types of marriages.
- A woman and a man in a union can inherit each other property
- Pension- a woman or a man in a union can get the other's pension
- Although there is no “divorce “ through the courts, the union can be terminated in the customary law manner for example by giving a rejection token
- A woman and man in such a union can upon its dissolution go to court and make a claim for the sharing of property that they acquired.
- A man in a union can be prosecuted for marital rape if he forces his customary law wife to have sexual intercourse with him
- A widow within such a union has the right to sue anyone who has caused her husband's death for compensation for the loss of support that her husband used to provide her and the children.
- A woman in such a union has the right to claim maintenance from her husband for herself and the children should the husband be neglectful, either during or after the union.
- Despite non-registration as well, a husband can claim adultery from a man who has an adulterous relationship with his customary wife at death.
- For a woman married under customary, the position is different since she cannot sue another woman who has an adulterous relationship with her husband

Talk about the following:

- Why Chapter 5:11 is referred to as a monogamous marriage?
- What age can one get married?
- Why the Chapter 5:07 marriage is referred to as potentially polygamous?
- What crime is committed by a man/woman who tries to marry another woman/man if they already have a Chapter 5:11 marriage?
- Who can sue for adultery damages and under which marriage type?
- What is the difference between the Chapter 5:11 marriage, the Chapter 5:07 marriage and the unregistered customary law union?

DISCUSS

Problems associated with the unregistered customary law unions.

Many women in unregistered customary law unions face difficulties in proving the existence of a customary law union when it comes to inheritance issues. The challenges stem from the notion that there are no standard guidelines on when an unregistered customary law union comes into being hence the onus is placed on the relatives to confirm whether or not the woman was married to their relative e.g. on obtaining a death certificate and claiming pension.

- Getting birth certificates for children in their father's absence can be difficult without a marriage certificate.
- There is often core wife-rivalry and competition for resources. Another problem is also encountered at the dissolution of the union. Hence the need for women to register their marriages. We shall discuss the issue of dissolution of an unregistered customary in the section on dividing up the family property.

However if a man in an unregistered customary law union contracts a Chapter 5:11 marriage with another woman without divorcing the UCLU wife, he commits bigamy and can be sent to prison for up to one year or be made to pay a fine.

DISCUSS

Talk about the following:

- What problems are associated with the unregistered customary law union?
- Which marriage type do you prefer and why?
- In your own view which marriage type protects the rights of women in a marriage?

Summary:

- There are two types of registered marriages in Zimbabwe namely the civil marriage in terms of the Marriage Act [chapter 5:11], the registered customary marriages under the Customary Marriages Act [chapter 5:07]. There is another form of an unregistered marriage called the unregistered customary law union.
- The [Chapter 5:11] marriage is called a monogamous marriage because it allows a man to marry only one wife and a woman to marry only one husband.
- The [Chapter 5:07] marriage is also called a potentially polygynous marriage because it only allows a man, if he so wishes to marry more than one wife. The woman however cannot have more than one husband.
- The Unregistered customary law union meets all the requirements of a customary law marriage except for registration. Many women in unregistered customary law unions face difficulties in proving the existence of a customary law union when it comes to inheritance issues.

SESSION 5: REQUIREMENTS FOR REGISTERING A CUSTOMARY AND A CIVIL MARRIAGE

5.1. Introduction

Greet each other and review the homework from the last session. Now read the learning objectives for this session.

Learning objectives

By the end of this session participants will know:

- Will know requirements for registering marriages.
- Where marriages can be conducted
- The difference between a marriage certificate and a certificate of blessing

5.2. Requirements for registration of a civil marriage Chapter 5:11.

- The man and the woman who would like to marry can publish a notice showing that they want to marry, or they can marry under a marriage license. The publication can be done by way of banns when a priest or Minister of Religion announces in church or puts up a notice showing the names of the people who intend to get married. This is done for three weeks in a row.
- A notice can also be pinned at the magistrates' court notice Board. The reason for giving notice is that if anyone has an objection to the marriage, they can come forward before the marriage is conducted.
- People who do not want to give notice can marry by way of a marriage license.
- They approach a Magistrates Court and fill in a form that will allow them to marry by license.
- People who are divorced and want to marry need to produce proof of a divorce order.

However, lobola is not a requirement at law for a couple that wants to enter into this type of marriage to be able to marry.

DISCUSS

Talk about the following:

- What do you think about lobola not being a requirement at law for a couple that wants to enter into this type of marriage to be able to marry?
- How would you react if your child marries under this Act without lobola being paid?
- Does lobola promote abuse of women in the name of culture and should it be done away with?

Now read the next section

Where and when can this marriage be conducted?

This marriage may only be conducted by a Magistrate or a designated marriage officer in terms of section 3 of the Act. In terms of section 25 (2) of the act, this marriage can be conducted at any time of the day in a church, or other building used for a religious service or in public place or private dwelling house or other place approved by a marriage officer in the presence of the two parties and two witnesses who are over 18 years of age. The person who has been authorized to conduct marriage is called a marriage officer.

Who should be there?

Both people getting married should be physically present. A person cannot enter into this marriage in their absence and ask someone else to stand in for them. This kind of arrangement, known legally as marriage by proxy is strictly not allowed.

Two witnesses, who are both adults (over 18 years), should also be at the ceremony and will be required to sign the marriage register to certify that the two have gotten married.

The marriage certificate

After a marriage ceremony, the newlyweds will be given one (1) copy of their marriage certificate. It is wise to make copies of this certificate and keep them in safe places for the future. This certificate will become very important for many reasons including;

- Deriving spousal benefits from each other's places of work during the marriage and after death;
- Resolution of conflict in case of divorce;
- Suing for adultery damages in case of infidelity by one spouse; and
- Inheritance in the event of death (including pensions, debts owed to the other partner).

5.2.1. Church Blessings and certificate of blessings.

Some churches perform a ceremony for married couples called a "church blessing". At the end of the ceremony the husband and wife are issued with a document known as a certificate of blessing, showing their marriage has been blessed. This document is not a proper marriage certificate and the ceremony does not constitute a civil or church marriage in the sense explained above. Therefore the parties cannot use the document to get a divorce as proof of marriage, nor can the surviving spouse use it for inheritance purposes. It is therefore important for women and men getting married to make sure that they follow the proper channels and formalities mentioned above to get a proper marriage certificate under Marriage Act Chapter 5:11.

5.3. Requirements for the Customary Marriage Chapter 5:07

- A customary marriage can only be solemnized by Magistrate or an official or chief appointed by the Minister of Justice and Legal Affairs.
- This marriage is only available to "Africans" whose culture permitted the men to have many wives. People who are related within a certain degree of affinity e.g. in some areas people with the same totem are not allowed to marry each other.
- If people under the age of 18 wish to marry under this Act, they have to get permission from their parents or guardians.

However, the Customary Marriages Act, is not in line with the Constitution which stipulates persons must be above 18 in order for them to get married. The Act does not set an age limit for people who can enter into this type of marriage.

Is payment of lobola (marriage consideration) required when contracting the Chapter 5:07 marriage?

Although the act still retains aspects of payment of marriage consideration, in the case of *Katekwe versus Muchabaiwa (1984)*, the Supreme Court ruled that payment of lobola (marriage consideration) was no longer a legal requirement for persons who want to marry in terms of the Act. The then Chief Justice, Enoch Dumbutshena stated that the Legal age of Majority Act (LAMA) 1982 abolished the requirement for lobola/roora to be paid in order for a customary marriage to be valid unless the intended bride allows the father to ask for it.

However, the lived realities of women show that, paying lobola is culturally required to fulfill traditional expectations from the families of the parties getting married. Without paying lobola, a couple's marriage is frowned upon and the two are treated with the same contempt that cohabiting couples are subjected to,

The legal point to note is that a customary marriage remains legally valid without an

individual paying lobola. However, the anomaly of the Katekwe case arises relating to a girl who is below the age of 18 who if the reasoning in the Katekwe case is to be taken to its logical conclusion will require consent of the guardian and therefore payment of lobola. Currently there is no age restriction in the customary marriages act though the new constitution states that only people aged 18 years and above may found a family. Hence the need to realign this law to the new constitution so as to end child marriages.

5.4. The marriage certificate

After a marriage ceremony, the customary marriage officer makes the marriage certificate which he keeps for the official register and he also makes a duplicate which he gives to the woman.

DISCUSS

Talk about the following:

- What is the importance of a death certificate?
- What is the difference between a church blessings and a marriage certificate?
- What requirements must one meet to enter into a Chapter 5:07 marriage?

Marriage out of community of property

The marriage regime in Zimbabwe is currently that of out of community of property except for marriages entered into before the 1st of January 1929.

The Married Person Property Act [chapter 5:12} in Section 2(1) clearly spells out that parties who marry in Zimbabwe are married out of community of property. The only exception can agree to be married in community of property by signing an ante nuptial contract before their marriage is solemnized.

Out of community of property means that whatever each spouse amassed on their own before they were married. It is not subject to joint ownership. It confers sole ownership to the holder of the title.

It also means that the property that parties that the parties acquire during the subsistence of their marriage is owned by the person who has a title over the property be it movable or immovable. This is presenting a challenge to most women upon divorce since the husband can either sell the property without the wife's knowledge.

DISCUSS

Talk about the following:

- What does out of community of property marriage mean?
- What does out of community of property mean for women /men who get married to each other when they had both accrued properties before they get married?

Summary:

- The man and the woman who would like to marry under the [Chapter 5:11] can publish a notice showing that they want to marry, or they can marry under a marriage license. The publication can be done by way of banns when a priest or Minister of Religion announces in church or puts up a notice showing the names of the people who intend to get married. This is done for three weeks in a row.
- The Marriage [Chapter 5:11] may only be conducted by a Magistrate or a designated marriage officer in terms of section 3 of the Act.
- A customary marriage can only be solemnized by Magistrate or an official or chief appointed by the Minister of Justice and Legal Affairs.
- Some churches perform a ceremony for married couples called a “church blessing”. At the end of the ceremony the husband and wife are issued with a document known as a certificate of blessing, showing their marriage has been blessed. This document is not a proper marriage certificate and the ceremony does not constitute a civil or church marriage in the sense explained above.
- The marriage regime in Zimbabwe is currently that of out of community of property except for marriages entered into before the 1st of January 1929.
- Out of community of property means that whatever each spouse amassed on their own before they were married. It is not subject to joint ownership. It confers sole ownership to the holder of the title.

- Now that you are aware of the marriage types, go home and cross check to see what type of marriage do you have and is it the type of marriage which you thought you had?
- Also check whether your marriage certificate is not a certificate of church blessing.

SESSION 6: DIVORCE

6.1. Introduction

Greet each other and review the homework from the last session. Now read the learning objectives for this session

Learning objectives

By the end of this session you should learn:

- Grounds for divorce.
- Divorce procedures.
- Types of divorce.

6.2. Divorce

The divorce law in Zimbabwe is on the basis of no fault. That means when one party is claiming a divorce it is not always necessary to prove that the other was guilty of causing the marriage breakdown.

Grounds for divorce

It is important to note at the outset that there are grounds for divorce. These grounds are set out in the Matrimonial Causes Act (5:13). There are only two grounds that the courts will consider for allowing married people to divorce. These are irretrievable breakdown and continuous unconsciousness or mental illness. They apply to both on customary law marriages and civil law marriages.

Divorce under Marriage Act 5:11 are dealt with in the high court in Harare and Bulawayo. Divorce cases under Marriage Act 5:07 are also dealt with the High Court or Magistrate court.

6.2.1. Ground one: irretrievable breakdown

What this means is that the relationship between the parties is so bad that there are no reasons to believe or hope that things will return to normal between them.

What the court will consider

Each case depends on its facts but the Matrimonial Causes Act gives the following guidelines as showing irretrievable breakdown;

- The married couple has not stayed together under one roof as husband and wife for a period of one year or more
- One partner commits adultery and the innocent partner is unable to accept or forgive this act.
- Cruelty to mind and body (if one partner beats the other or is cruel to the other).
- Too much drinking or taking drugs
- If the other partner has been in prison for many years
- Other reasons; the court is not limited to the above grounds only. There might also be other factors. If one party wants to divorce and cannot be persuaded to reconcile, this is a strong reason why the court can grant a divorce.

6.2.2. Ground two: mental illness or continuous unconsciousness

If a partner is ill for a total period of five years within a period of ten years before the date of the divorce proceedings or has been unconscious for a period of six months before the divorce, the other party can apply for divorce. There must be proof that the person cannot be cured or recover. Evidence of mental illness is required from at least 3 doctors, two of whom must be psychiatrists.

Talk about the following:

- What are the grounds of divorce?
- What does the court consider before granting a divorce order?

DISCUSS

6.3. Settlement

Although it is only a court that will finally grant an order of divorce, parties can agree on issues such as sharing of property, custody of children and maintenance. The parties' agreement will be accepted by the court and will become part of the divorce order.

However, it is important to note that the parties are not obliged to settle the matter. There is a danger that women will accept less in the name of a settlement. If parties cannot agree, the matter is heard in court and a judge or Magistrate makes a decision.

There is a misconception that when parties go on separation for a period of a year divorce is automatic. Others go on to remarry without properly divorcing and this causes problems during inheritance as the other spouse can claim to be the surviving spouse using the marriage.

6.4. Divorce Procedures

Divorce can either be contested or uncontested.

Uncontested Divorce

This when the parties agree on the divorce and all the ancillary issues e.g. custody of the children, access, maintenance and property sharing, the matter can proceed on an uncontested basis in which case the parties sign relevant documents for filing with the Court. Where the Plaintiff is legally represented the parties will not have to appear in Court. Only the Plaintiff's lawyer appears in court to apply for the divorce decree. This is cost effective, quicker and convenient.

Contested Divorce

This is when the parties are not agreeing to divorce be it on the grounds or ancillary issues raised.

The contested divorce process consists of various stages:

- Pleadings
- Discovery of documents
- Pre-Trial Conference
- Trial
- Judgment

Pleadings

The formal documents in a matter for divorce are referred to as pleadings. The pleadings in a divorce consist of the following documents:

1. Summons, particulars of claim (Plaintiff's Declaration)
2. Appearance to Defend
3. Plea & Counter-claim (if any)
4. Replication
5. Plea to counterclaim (if any)

Only those facts that are necessary to support a cause of action or to disclose a proper defense should be pleaded in the pleadings. One often finds unnecessary detail and/or facts in the pleadings. The pleadings narrow the disputes and provide guidance to the court on the evidence that is to be led.

Discovery of documents

In the period between close of pleadings and waiting for a trial date, there is a process called discovery, during which each party asks to see the documentation and other material like tape recordings the other party intends to use at trial. Each and every document that a party will use at the trial must be 'discovered', i.e. the other party must be given an opportunity to read the document before the trial commences. The documentation may include bank statements, shareholdings in companies, credit card statements, bond accounts and tax returns. It is usually during the discovery process that most of the hidden documents are found, as there are processes that can require specific documents to be brought forward.

Pre-trial conference

The court may at any stage after close of pleadings, or at the request in writing of either party, direct that an informal conference be conducted in the presence of a judge in chambers, in order to consider a settlement or narrowing of disputes.

Trial

Trial proceedings commence with both parties legal representatives being given an opportunity to deliver an opening address, in which the court is informed of the issues that are in agreement and those that are in dispute between the parties. If, on the pleadings, the burden of proof is on the plaintiff, he/she must give evidence first. Where the burden of proof is on the defendant, the defendant will be first. After both parties have given evidence, whoever went first may again address the court. The other party then has a chance to respond and the party who went first may reply.

Judgment

A divorce trial must culminate in orders the granting of judgment. The court may grant any of the following:

1. judgment in favor of the Plaintiff in respect of his/her claim in so far as he/she has proved the same;
2. judgment in favor of the Defendant in respect of his/her defence in so far as he/she has proved the same; or
3. Absolution from the instance if it appears to the court that the evidence does not justify giving judgment for either party.

Costs

In giving judgment or in making any order including adjournment or amendment, the court may award such costs as may be just. These costs may also be subject to taxation. While costs are generally awarded to the successful party, this is not a fixed rule. The court may decide not to award costs at all, or may apportion the costs of the proceedings between the parties.

6.5.Unregistered customary law Union and divorce

In terms of people married under the Unregistered Customary law Union there is no divorce because the marriage is not registered in the 1st instance but they can dissolve the marriage in terms of their own practices and customs e.g. through a divorce token.

DISCUSS

Talk about the following:

- What does contested divorce mean?
- What does uncontested divorce mean?
- List the various stages of contested divorce procedure.
- How do couples in an unregistered customary law union end their marriage?

Summary:

- The divorce law in Zimbabwe is on the basis of no fault. That means when one party is claiming a divorce it is not always necessary to prove that the other was guilty of causing the marriage breakdown.
- It is important to note at the outset that there are grounds for divorce. These grounds are set out in the Matrimonial cause act (5:13). There are only two grounds that the courts will consider for allowing married people to divorce. These are irretrievable breakdown and continuous unconsciousness or mental illness. They apply to both on customary law marriages and civil law marriages.
- Although it is only a court that will finally grant an order of divorce, parties can agree on issues such as sharing of property, custody of children and maintenance. The parties' agreement will be accepted by the court and will become part of the divorce order.
- Divorce can either be contested or uncontested
- Uncontested Divorce, this is when the parties agree on the divorce and all the ancillary issues e.g. custody of the children, access, maintenance and property sharing, the matter can proceed on an uncontested basis in which case the parties sign relevant documents for filing with the Court. Where the Plaintiff is legally represented the parties will not have to appear in Court. Only the Plaintiff's lawyer appears in court to apply for the divorce decree. This is cost effective, quicker and convenient.
- Contested Divorce, this is when the parties are not agreeing to divorce be it on the grounds or ancillary issues raised.
- In terms of people married under the Unregistered Customary law Union there is no divorce because the marriage is not registered in the 1st instance but they can dissolve the marriage in terms of their own practices and customs e.g. through a divorce token.

SESSION 7: DOMESTIC VIOLENCE.

7.1. Introduction

Greet each other and do a recap of the lessons learnt from the previous session. Now read the learning objectives for this session.

Learning objectives

By the end of this session you should learn:

- What is domestic violence?
- What does the Domestic Violence Act say about the forms of domestic violence, where to report and relief granted?
- What is a protection order and how does one get it?

Talk about the following:

- What are some forms of domestic violence that you know?
- Have you ever been a victim/survivor of domestic violence?

DISCUSS

Now read the next section

7.2.Domestic violence

The governing act is the Domestic Violence Act (5:16). The act came into operation on the 25th of October 2007 after a long wait by women. This law was a huge achievement in Zimbabwe because for the first time the law acknowledged that domestic violence was not just a private matter between two people but was actually a criminal offence which needed people at various levels to act to end it. The purpose of the act is to protect victims of domestic violence and provide long term measures of prevention of domestic violence and also prevent domestic violence from occurring.

The Act has four aspects to it and these are:

1. Who can use the act/who is protected by the act
2. What is domestic violence?
3. Where can one go to?
4. How is one protected from violence?

7.2.1. Who can use the Domestic Violence Act?

All persons who are in relationship:

- A current, former wife or husband
- All children, whether born in or out of wedlock, adopted or step children
- People living with the perpetrator of the violence, for example relatives or domestic workers
- A girlfriend whether current or former
- Two people staying together but not yet married to each other.

7.2.2. What is domestic violence?

Domestic violence is any unlawful act, omission or behavior which results in the death or the direct causing of physical, sexual or mental injury to a complainant by a respondent. The Domestic Violence Act (5:16) gives a very wide definition of domestic violence as any of the following:

- Physical abuse which includes hitting, kicking, punching and other manner of physical abuse or assault or threat of such physical assault
- Sexual abuse and this includes, any conduct that humiliates, degrades or otherwise violates the sexual integrity of the complainant.

- Emotional, verbal and psychological abuse and this includes repeated insults, ridicule, name-calling or repeated threats to cause emotional pain, obsessive jealous and any behavior likely to cause mental injury.
- Economic abuse and this includes deprivation of economic resources for family use, such as household necessities, expenses or school fees.
- It also includes denying one the right to engage in an income generating activity or seek employment.
- Intimidation, which includes uttering or conveying of a threat or causing a complainant to receive a threat which induces fear of imminent harm in the complainant.
- Harassment which is watching or loitering around a person's home or workplace, telephoning a person's home or workplace or sending messages through the post, or electronically for instance emails that are offensive
- Stalking which is following, pursuing or accosting person
- Malicious damage to property
- Forcible entry into the residence of another person without consent where the parties are no longer living together
- Depriving a person reasonable use of the facilities in the home
- Unreasonable disposal of household goods or other property in which the complainant has an interest
- Abuse caused by some cultural or customary practices that discriminate or degrade women:
 - » virginity testing
 - » Female genital mutilation
 - » Forced Pledging of women and girls for purposes of appeasing of spirits
 - » Child marriages
 - » Forced marriages
 - » Forced wife inheritance
- Sexual intercourse between father in law and newly married daughters in law
- Abuse of a person because of their age, physical or mental incapacity
- Abuse due to complainant physical, mental or sensory disability including blindness, deafness or dumbness
- Abuse due to complainants' physical, mental illness, incomplete development of the mind or a psychotic disorder.

7.2.3. Where does a person facing domestic violence go to?

A domestic violence case can both be a civil and criminal case but all cases of economic, verbal, psychological, and emotional abuse are not criminal cases. The difference between a civil and a criminal case is that, in criminal cases the complainant is the state, is represented by a prosecutor and the penalty often given is imprisonment.

On civil cases only involve two or more persons and the penalty given is on payment of damages.

- ◇ A person facing violence can approach the courts. The Act defines courts as High court, Magistrates Courts and Chiefs or Headman's courts. However chiefs or headman only deals with cases of emotional, verbal, psychological and economic abuse only
- ◇ On cases to do with physical assault people can also report to the victim friendly police unit (VFU)

Court may also refer parties for counselling to ant-domestic violence counsellors

7.3.What is a Protection Order?

- This is an order given by the magistrate's court against a person causing domestic violence in any of its forms which is meant to ensure that such person does not continue to commit the violence. This may also order the person committing the violence to pay maintenance where there is economic abuse.
- The order is to be issued with a warrant of arrest which the police will use to arrest the perpetrator anytime that an act of domestic violence is committed.
- A protection order is different from a peace order. A peace order is not specific to domestic violence but can be obtained by anyone who alleges that their peace has been breached.

7.3.1. Who can apply for a Protection Order?

- The victim of domestic violence.
- Any person allowed by the victim to apply for them.
- Any person looking after a victim under the age of 18 years.
- Any person acting to represent the victim, without the permission of the victim but with the court's permission i.e. the police officer, social welfare officer, employer of complainant and a person acting on behalf of a church or religious institute or a private voluntary organization that deals with issues of domestic violence

7.3.2. How does one get a Protection Order?

The complainant does not have to wait until the actual harm is done. S/he may go to court if the respondent is threatening to commit an act of violence.

Step one

Take application to a clerk of court or registrar of the high court. The application should be done by way of an affidavit and the court may request affidavits from other people who are familiar with the case of domestic violence

Step two

When the application is made, there may be a delay between that date and the hearing date. This situation requires that an interim (temporary) order be issued by the court.

Step three

Step three is the serving of the interim protection order by a police officer with an attached warrant of arrest or a show cause order on the respondent

Step four

Step four is the court hearing. Both sides will give their side of the story. The court will

only issue a protection order if it is satisfied that an act of domestic violence is being committed or the respondent has threatened the complainant with domestic violence.

Step five

The protection order must be served in the same manner as the interim protection order that is by a police officer, messenger of court or deputy sheriff. The protection order will have attached to it a suspended warrant of arrest that will only be used if the respondent fails to comply with the protection order.

The protection order can do the following:

1. Stop the respondent or any other person acting on behalf of respondent from committing further acts of domestic violence
2. Order respondent to stay away from complainant. This could be from the place of work or home
3. Stop the respondent from going to any place or premise that the complainant resides or frequents.
4. Order the respondent to pay emergency maintenance for complainant or any child
5. Award temporary custody of any child or dependent of the respondent to any person
6. Order the respondent to give complainant any child or dependent of complainant access to their place of residence
7. Order respondent to compensate complainant for any injury, pain or trauma suffered
8. Order that complainant or respondent both go for counselling
9. Catch all phrases; order anything else that is helpful or necessary for the wellbeing of the complainant, any child or dependent. This should relate to the application for a protection order.

7.3.3. For how long is a protection order valid?

It remains in force for at least 5 years but may be cancelled, revoked or varied. The warrant shall be enforced only when the Respondent breaches the order that means that within the five year period, if the respondent does anything to violate the protection order, the respondent order, the respondent or complainant's representative can request any police officer to enforce the warrant of arrest.

DISCUSS

Talk about the following:

- Who can use the Domestic Violence Act?
- What is domestic violence?
- Where does a person facing domestic violence go to?
- What is a Protection Order?
- Who can apply for a Protection Order?
- How does one get a Protection Order?
- For how long is a protection order valid?

EXERCISE

As study circle members and empowerment circles, each member of the study circle must reach out to 10 people disseminating information about the domestic violence.

Summary:

The governing act is the Domestic Violence Act (5:16) which came into operation on the 25th of October 2007 after a long wait by women.

The purpose of the act is to protect victims of domestic violence and provide long term measures of prevention of domestic violence and also prevent domestic violence from occurring.

The Act addresses issues to do with who can use it, definition of domestic violence, where to report and how is one protected by a protection order.

SESSION 8: MAINTENANCE FOR THE WIFE OR HUSBAND.

8.1. Introduction

Greet each other and review the homework from the last session. Now read the learning objectives for this session

Learning objectives

By the end of this session participants will know:

- How is maintenance for a wife and husband is obtained?

8.2. Maintenance for the wife or husband.

According to the Maintenance Act [chapter 5:09] and the Matrimonial Causes Act [chapter 5:13], the two main categories of people who are entitled to maintenance are wives or husbands and children. Where there is no marriage certificate, the parties must have taken steps at customary law to get married. This includes for example the payment of roora or lobola. If they are just staying together; they will not be regarded as being married to each other and are thereof not entitled to maintenance from each other.

The duty of married people to support one another applies during the marriage and after the marriage. This means that if they divorced, the husband can claim maintenance from the wife or the wife from the husband. The only requirement is that the party who requires maintenance must show that he or she is unable to support himself or herself and that the other party is able to pay the maintenance. The maintenance for a former husband or wife is payable until death or until s/he marries someone else. Courts have stated that parties who divorce should not expect to get maintenance for life. Sometimes, they can also order that the maintenance be paid for a certain period until the other person is financially stable.

DISCUSS

Talk about the following:

- What categories of people should be maintained in terms of the Maintenance Act and the Matrimonial Causes Act?
- Does people cohabiting (staying together without a marriage certificate or paying lobola) entitled to maintain each other?

Now read the next section

On maintenance at divorce the court will look at the following:

- How much will the wife or husband earn in future?
- What are the future needs of the wife/husband?
- The standard of living of the family?
- Age, physical and mental condition of the wife/husband?
- How much the wife/husband will lose in terms of pension's benefits?
- For husband and wife –how long has the marriage lasted? The time frame depends on how long the parties have been married to each other.

However, in the case of *Chiomba vs Chiomba* 1992 (2) ZLR 197 the court stated that “marriage can no longer be seen as providing women a bread ticket for life. A marriage certificate is not a guarantee of maintenance after the marriage has been dissolved”. In a case where a spouse has been looking after themselves since separation and she or he is still young and is not disabled in any way, and earns a reasonable income then maintenance will not be granted. When the other party remarries the order will stop and also when the party receiving maintenance dies.

Talk about the following:

- What does the Maintenance Act [chapter 5:09] and the Matrimonial Causes Act [chapter 5:13] say about the people who are entitled to maintenance?
- To what extent does the duty of married people to support one another apply during the marriage and after the marriage?
- What requirement must a party who requires maintenance show to claim maintenance?
- A marriage certificate is not a guarantee of maintenance after the marriage has been dissolved true/false.

DISCUSS

Now read the next section

8.3. Dividing up the family property.

When dividing up the matrimonial property (movable and immovable) for persons with registered marriages the court will be governed by the Matrimonial causes Act. The High court gives an order for the division of property under the Marriage Act [Chapter 5:11].

An order for division of the property under the Customary Marriages Act [Chapter 5:07] is granted by the Magistrates courts.

DISCUSS

Talk about the following:

- Which court grants a divorce order for the Civil Marriages Chapter 5:11?
- Which court grants a divorce order for the Customary Marriages Act Chapter 5:07?

Now read the next section

In making an award of matrimonial property the court applies the principles set out in s7 of the Matrimonial Causes Act [Chapter 5:13.]. The rights claimed by the spouses under s 7(1) of the Act are dependent upon the exercise by the court of its broad discretion. Section 7(1) of the Act provides that the court may make an Order with regard to the division, apportionment or distribution of "the assets of the spouses including an order that any asset be transferred from one spouse to the other". It is important to note that the terms used are the "assets of the spouses" and not "matrimonial property". The term "the assets of the spouses" is clearly intended to have assets owned by the spouses individually (his or hers) or jointly (theirs) at the time of the dissolution of the marriage by the court considered when an order is made with regard to the division, apportionment or distribution of such assets. Hence, the court is guided by its own discretion in coming up with the order.

- These are some of the factors the court considers when making an order for division of property/assets:-
- The income-earning capacity, assets and other financial resources which each spouse and child has or is likely to have in the foreseeable future
- The financial needs, obligations and responsibilities which each spouse and child has or is likely to have in the foreseeable future;
- The standard of living of the family, including the manner in which any child was being educated or trained or expected to be educated or trained;
- The age and physical and mental condition of each spouse and child;
- The direct or indirect contribution made by each spouse to the family, including contributions made by looking after the home and caring for the family and any other domestic duties;
- The value to either of the spouses or to any child of any benefit, including a pension or gratuity, which such spouse or child will lose as a result of the dissolution of the marriage;
- The duration of the marriage;

By taking these factors into consideration the court endeavors as far as is reasonable and practicable to place the spouses and children in the position they would have been in had a normal marriage relationship continued between the spouses. It is important factor to consider indirect contributions by women like cooking, taking care of the children, taking care of the home and other duties done by women. For property sharing to be just and fair women must take steps to ensure that their contribution is recognized, some of the steps include:-

- Making sure that both names are on the title deeds or agreements of sale
- Keeping receipts for valuable items

8.4. Sharing of property in an Unregistered Customary Law Union.

An unregistered customary law union is not given full recognition under the law as a marriage; therefore, there is no “divorce” through the courts as in the other types of marriage. “Divorce” in the sense of the word is achieved by following customary traditions. A rejection token is given to the spouse as a sign that the other wants to dissolve the marriage. The token has to be in the form of money. It does not matter whether it is a coin or note. As unregistered customary law unions are still not recognized as marriages except for certain limited purposes, e.g. inheritance, the provisions of section 7 of the Matrimonial Causes Act, [Chapter 5:13] regarding distribution of property do not apply to them. Sometimes, there is a bruising battle just to prove that the union has been terminated.

As the marriage is not dissolved through the courts, in the absence of an agreement between the parties, the distribution of property may be done unfairly. One party (usually the husband) takes most of the property while the other party is left with very little or with nothing.

On the other hand women in unregistered customary law unions face an uphill task in getting a fair share of the property they acquired during the existence of the union. Firstly , they have to prove that even though they are “married “ in a customary law union, general law should apply to their case because under customary law, the only property they are entitled to is “mavoko” property meaning, property they acquired through proceeds from using their hands such as pottery and knitting. If they overcome the hurdle of convincing the court that general law should apply, they still face the added challenge that the courts themselves have no clear formula or guidelines on how to divide property. As a result, different Magistrates/ Judges have used different guidelines on how to apportion property as follows:

The union is treated as more like a business arrangement. For instance, the court may look at the unregistered union as a partnership and then go on to use rules applicable to the dissolution of a partnership. This leaves most women confused because to them rightly so, they were in a “marriage “and not a partnership. A partnership is a profit making venture that is very different from a marriage (Tacit universal partnership). The court may also look at the union as a mere contract and divide the assets in such a way as not to leave the other person richer than the other from assets they acquired(Unjust enrichment).

Talk about what you have learnt during this session.

DISCUSS

Summary

- In making an award of matrimonial property the court applies the principles set out in s7 of the Matrimonial Causes Act [Chapter 5:13.].
- It is important to note that the terms used are the “assets of the spouses” and not

“matrimonial property”. The term “the assets of the spouses” is clearly intended to have assets owned by the spouses individually (his or hers) or jointly (theirs) at the time of the dissolution of the marriage by the court considered when an order is made with regard to the division, apportionment or distribution of such assets.

- Unregistered customary law unions are still not recognized as marriages except for certain limited purposes, e.g. inheritance, the provisions of section 7 of the Matrimonial Causes Act, [Chapter 5:13] regarding distribution of property do not apply to them. Sometimes, there is a bruising battle just to prove that the union has been terminated.
- Unregistered customary law union is not dissolved through the courts, in the absence of an agreement between the parties, the distribution of property may be done unfairly. One party (usually the husband) takes most of the property while the other party is left with very little or with nothing.

The courts use the following two guidelines to share matrimonial property in an unregistered customary law union i.e. tacit universal partnership and unjust enrichment explained above.

SESSION 9: INHERITANCE.

9.1. Introduction

Greet each other and conduct a recap of the previous session. Now read the learning objectives for this session.

Learning objectives

By the end of this session participants will understand:

- The inheritance laws in Zimbabwe
- What happens where the deceased left a will
- What happens when the deceased did not leave a will
- The relationship between one's marriage type and inheritance.
- What the new constitution say about inheritance?

Inheritance

Inheritance relates to how the property (e.g. Land, livestock, furniture, motor vehicles, grinding mills, kitchen equipment or agricultural equipment) of a person who has died is to be properly protected and distributed according to law. Legally there are certain processes that are followed in taking over the ownership or use of someone's property when that person dies.

9.2. What types of inheritance are there?

With a will (testate)

If a person leaves a will, stating how he or she wants the property shared after dying, then the court will see that it is shared in the way the will requires

Without a will (intestate)

If a person leaves no will, inheritance may follow the rules of customary law, or the rules of general law. Since these rules are different, it is important to know which rule will apply to you when you die.

Customary law is the law of African people, as it has been administered by the chiefs and courts over the years. It varies from one ethnic group to another. Hence, customary law applies when there is either a registered customary law marriage or an unregistered customary law union.

General Law is the law which was brought to Zimbabwe by European settlers and has been added to by legislation and developed by court decisions. Thus, general law applies when there is a valid will or when there a civil marriage.

DISCUSS

Talk about the following:

- What is inheritance?
- What types of inheritance are there?

Now read the next section

9.3.The new Constitution and inheritance

Inheritance in the constitution of Zimbabwe is provided for in section 26 (d) which states that "in the event of dissolution of a marriage, whether through death or divorce, provision is made for the necessary protection of any children and spouses". There are several laws to be explained later, that deal with and are relevant to the distribution of the property of a person following his or her death. However, there is a need for all the laws to be explained below to be realigned with the constitution.

9.3.1. Steps to take when a person dies

There are three most important steps to take when a person dies and these are:

- a) Registering the estate
- b) Protecting the estate
- c) Reporting the estate

Registration of death

Every death in Zimbabwe must be registered at the nearest District Births & Deaths Registry office. No distribution of an estate can take place if the death has not yet been registered. There will be access to money or pension including NSSSA left behind by the deceased.

When a person dies from natural causes (illness or old age), the following must take place;

- The doctor issues a medical certificate of cause of death
- A relative gives notice of death
- The death is registered
- A death certificate is issued
- A burial order is issued. However, nowadays, it is more common for a burial order to be issued first and the death certificate later.

For deaths on unnatural causes, (murder and accidents) all such deaths must reported to the police.

Reporting the death

Any relative of the deceased who lives in an area where the deceased died or stayed with the deceased during the last illness can report the death. If this is not possible, any one of the following can report the death:

- ◇ Any person 18 years or older who was present when the deceased died
- ◇ Any person 18 years or older who lives in the house in which the deceased died and who knows about the death
- ◇ The headman of the community in which the deceased died if he knows about the death
- ◇ Any person 18 years or older who buried or arranged the burial of the deceased.

The report is made through a death notice, which is filled in and contains information on the deceased. The report must be made within thirty days but can still be made after thirty days.

Death certificate

The surviving spouse should keep the death certificate .There have been cases of relatives refusing to give surviving spouse usually woman, the death certificate and proceeding to register an estate. If a woman is denied a death certificate, she can approach organizations that offer legal aid or the Registry where the death was registered for assistance.

Protection of the estate

After someone dies, it is very important that his or her property, be it livestock, land, furniture, motor vehicles, kitchen equipment or agricultural equipment is properly protected and distributed according to the law. The law is meant to see to it that property belonging to a deceased person is not taken away soon after death leaving the widow/ widower and children desperate.

Protection of the estate is provided for in the Deceased Persons Family Maintenance Act

[chapter 6:03]. It states that the surviving spouse and the dependents must continue to occupy and use the property that they were using at the time of the deceased's death. The Act applies to all estates of all persons whether married in terms of the civil marriage, registered customary law marriage and unregistered customary law union. The objectives of the Act are to:

- Protect the rights of the dependents
- Stop property grabbing
- Provide maintenance.

Reporting the estate

After registering the death, the estate must be reported to either the Master of the High Court's offices in Harare or Bulawayo office or the nearest Magistrates Court. The person who is responsible for reporting the estate is the wife or husband of the deceased, his or her grown up children, a family member, a friend or even the person's employer. It is very important that a wife or husband is able to go and report the estate wherever possible as he or she is the person who is responsible for caring for the family and property.

Registration of deceased estate

Estates are registered either at the High Court or the Magistrate Court by way of a death notice.

Documents to take when reporting an estate

- Death certificate of the deceased
- The deceased Will if any
- A list of the deceased person's property with estimated value to help prepare an inventory. An inventory is a list of the deceased property including land, bank accounts, shares and movable property
- Marriage certificate
- Birth certificates of children

Where there is no marriage, the husband's relatives have to swear to an affidavit stating that the surviving spouse was married to the deceased according to customary law.

Guidelines on which Court to register an estate

- If the deceased left a will, the estate should be registered at the Master of the High Court office whether s/he was black, white, single or married
- If there is no Will and the deceased is a non-African, the estate should be registered at the Master of the High Court office,
- If the deceased was married according to the Customary Marriage Act or in an unregistered customary union, the estate should be registered at the Magistrate Court
- If the deceased was an African married under the Marriage Act, the estate should be registered at the Master of the High Court office.
- If the deceased was an unmarried African and her or his parents were married under a registered customary law marriage or have an unregistered customary law union, the estate is registered at Magistrate Court

DISCUSS

Talk about the following:

- What steps must be taken when a person dies?
- What documents must be taken when reporting an estate?
- Why is a death certificate important?
- State the guidelines which one must follow when registering an estate.

Summary:

- Inheritance relates to how the property (e.g. Land, livestock, furniture, motor vehicles, grinding mills, kitchen equipment or agricultural equipment) of a person who has died is to be properly protected and distributed according to law.
- Inheritance in the constitution of Zimbabwe is provided for in section 26 (d) which states that “in the event of dissolution of a marriage, whether through death or divorce, provision is made for the necessary protection of any children and spouses”.

There are three most important steps to take when a person dies and these are:

- Registering the estate
- Protecting the estate
- Reporting the estate

SESSION 10: ADMINISTRATION OF ESTATE

10.1. Introduction

Greet each other and do a recap of the previous session. Now read the learning objectives for this session.

Learning objectives

By the end of this session participants will know about:

- Administration of estates.
- Administration of estates where there is a will.
- Administration of estates where there is no will.

10.2. Administration of estates

It is the process of paying the debts and sharing out the property (both movable and immovable) of a person who has died. This has to be done under the supervision of the court to make sure that the law of inheritance is followed. As mentioned earlier on, the administration of estate is determined by whether a person has a will (testate succession) or not (intestate succession) and the type of marriage that one has.

10.3. Administration of estates where there is a Will

A will is a document that sets out the wishes of a person when they die. It can only come into use after the death of the person who made it. The Wills Act [chapter 6:06] provides a legal framework for regulating the making of Wills for ensuring that the document is genuine. The Act regulates how wills can be written and who can write a will among other issues. The formalities of writing a Will are writing, signing and attestation which include the following:

- It must be in writing and in any language
- The will must be signed on every page by the testator(the person who has written the will) as close to the end of the writing as possible
- The testator must sign the Will in the presence of two witnesses aged over 16 years
- The witnesses must sign the will in the presence of each other and the testator.
- The witnesses must not know the contents of the will.

The formalities make it possible to guard against false claims on what the deceased may have said or wanted to happen in the event of death.

10.4. How to register the Will

When the person who has made a Will dies , any person who has in his or her possession at the time of the death, a copy of the Will , must register the Will with the Master's Office in Harare or Bulawayo. However, the will can be challenged if it is not a responsible will e.g. if it disinherits a spouse. Hence people must write responsible wills.

DISCUSS

Talk about the following:

- What is administration of estates?
- What is a will?
- How many in our group have written wills, and are they responsible?
- How do you register the will?

10.5. Administration of estate where there is no Will

The Administration of Estates Amendment Act No 6 of 1997.

On 1st November 1997, the law was changed so as to ensure that the close family of a deceased person who dies without leaving a Will are better provided for. The main changes that this law made are designed to help and protect families where the husband and wife were married according to the customary law.

In terms of section 68G of the Administration of Estates Act, customary law applies to a person who at the date of his/her death is married according to customary law (Marriage Act Chapter 5:07 and unregistered customary law unions). General Law applies to a person at the date of his/her death is married in accordance with civil rights (Marriage Act Chapter 5:11) or the law of a foreign country.

In Zimbabwe, there are people from all walks of life living in different lifestyles. For the purposes of inheritance, an African married under the Marriage Act usually called a civil union is governed by general law. Even an unmarried child, whose parents are or were married in terms of a civil marriage like persons of other races, will have general law applied to their estates. This can however be challenged if someone was actually living a traditional life but married under a civil marriage in terms of the Customary Law and Local Courts Act chapter 7:05.

In determining whether or not general law or customary law applies the court will look at the surrounding circumstances which include:

- The way of life of the parties e.g. if someone lived traditionally, following a customary way of life, then customary law should apply. If someone lived in a more modern, westernized way, then general law should apply.
- How close are the parties to either general or customary law e.g. if a person is not married and has never been married, their style of life will determine which law to apply.
- However, general law automatically applies to anyone who is not African because a non -African cannot have a customary law marriage. Even if Lobola is paid, customary law of inheritance does not apply to non-Africans.

What if there is a dispute about which law to apply?

- The rules about which law applies are sometimes confusing.
- If someone in the family thinks that customary law should apply and someone else thinks general law should apply, the dispute can be taken to court, and the magistrate will make a decision.

What did you understand about :

The Administration of Estates Amendment Act No 6 of 1997.

DISCUSS

10.6. General Law Inheritance (where there is no will)

Inheritance under general law is governed by the Deceased Estates Succession Act Chapter 6:02. This is Inheritance under general law is governed by the Deceased Estates Succession Act Chapter 6:02. This is the law that provides for the distribution of the estate of someone who has died without a will. It is applicable to both Africans and non-Africans who were married in terms of the Marriage Act 5:11. The Act covers monogamous marriages only. If the person died after 1 November 1997 the surviving spouse will be entitled to the house hold goods and effects in terms of this Act.

Who is the beneficiary?

The main principle is that the spouse and children will inherit. It does not matter how old the children are, they are all treated equally.

The surviving spouse is the primary beneficiary. However, in terms of the common law, children born out of wedlock cannot inherit. This position was however changed by the new Zimbabwean Constitution Amendment (No.20), which places the best interests of the child at the Centre and does not permit discrimination on the ground that a child is born out of wedlock. Hence, children born out of wedlock will inherit from their natural father.

How will the estate be shared?

- If there is a surviving spouse and children, the household goods and effects go the spouse. If the remainder of the property is worth more than the amount fixed by Statute, it will be divided by the number of the children plus the spouse (i.e. if there are 3 children, by 4; if there are 4 children by 5.) This is called the "child's share".
- If there is a surviving spouse and no children, but a surviving parent. The house and household effects go to the spouse. Of the amount which then remains, half go to the spouse and half to the surviving parents in equal shares. If only one parent is surviving, the deceased parent's share will be inherited by the deceased's brothers and sisters.
- If there are surviving children but no surviving spouse. The children (including those born out of wedlock) will share all the property equally.
- If there is a surviving spouse, no surviving children or parents, but surviving brothers or sisters (including half brothers and sisters). The spouse will get the house and household effects. Of the remaining property, the spouse will get a half share, and the brothers and sisters will divide the other half share equally. Discuss

What did you understand about the General Law Inheritance in cases where there is no will?

DISCUSS

10.7. Customary Law Inheritance (where there is no will)

Generally, the property will be shared among the spouse or spouses and the children. The law applies in the same way whether a customary law marriage was registered or not.

- » In terms of the Administration of Estates Act, if a man dies leaving a widow whose marriage was registered and another widow whose marriage was not registered, they will be treated the same. Whichever, one was married first will be the first wife.
- » If the couple lived together but the families did not conclude any negotiation, the marriage will not be recognized.

The property will be shared as follows:

- Anyone who was being looked after by the deceased must be provided for from the property.
- A plan must be drawn up, which will have to be approved by a magistrate
- The magistrate must be sure that all the dependents are going to be looked after.
- If the family does not agree, the magistrate will make a decision which s/he thinks is fair.
- If there is only one surviving spouse, she or he will inherit the house and household goods, and the remaining will be divided between the spouse and the children. The spouse will get a larger share. If the estate is small, the children may get nothing.

- If there is more than one surviving wife and some children, each wife will inherit the house she was living in and its household goods. The wives will share one third of the remaining property with the senior wife getting a larger share. All the children will divide the other two thirds of the remaining property equally. The amount inherited by each wife does not relate to her contribution to the matrimonial property.
- If there are surviving children but no surviving spouse, the children will share the property equally
- If there is a surviving husband who has other wives, he will get one third of the value of the deceased wife's property, and the rest will be shared equally between the children.
- If there is a surviving wife but no children, the wife will get the house and household property, plus half of the rest of the property. The other half will be shared equally among the surviving parents, brothers and sisters of the deceased.
- The children do not have to be listed in the death notice in order to inherit.

DISCUSS

What did you understand about Customary Law Inheritance where there is no will?

Summary:

- Administration of estates is the process of paying the debts and sharing out the property (both movable and immovable) of a person who has died.
- A will is a document that sets out the wishes of a person when they die. It can only come into use after the death of the person who made it.
- Inheritance under general law is governed by the Deceased Estates Succession Act Chapter 6.02

The main principle is that the spouse and children will inherit. It does not matter how old the children are, they are all treated equally. The surviving spouse is the primary beneficiary.

SESSION 11: STEPS TO BE TAKEN AFTER THE REGISTRATION OF AN ESTATE GOVERNED BY EITHER CIVIL OR CUSTOMARY LAW.

11.1. Introduction

Greet each other and review the lessons learnt from the previous session. Now read the learning objectives for this session.

Learning objectives:

By the end of this session participants will know:

- The steps to be taken after registration of an estate.
- What is an executor?
- The duties of an executor.
- What is an inheritance plan?
- Property grabbing.

11.2. Steps to be taken after the registration of an estate governed by either civil or customary law.

After the estate has been, registered with the Magistrate's Court / Master of the High Court's Office within the province which the deceased died, the, Master will call a meeting for the deceased persons family to appoint an executor. The meeting is called an edict meeting. The Master is the person who supervises the winding up and distribution of deceased estates. In terms of the Act a Magistrate can also play the role of a Master.

11.3. What is an executor?

The executor is the person who is appointed by the Magistrate/ Master to administer the estate of the deceased. The executor will collect the debts owed to the estate and pay the creditors. Even though the family can decide on who can be appointed as the executor, the surviving spouse is often given preference to be appointed as executor. If there is a will, the executor will be already stated. The executor must follow the instructions of the court.

DISCUSS

Talk about the following:

- What is an executor?
- Can a woman be appointed as an executor?

Now read the next section

Duties of an executor

The duties of an executor can be split into two parts namely statutory duties and common law duties. The executor will be assisted by the court, which will tell her or him what to do and how to do it.

Common law duties

- The executor must act with utmost good faith in the performance of all his functions.
- The executor must not indulge in any fraudulent act, if he indulges this can result in his removal and also there should not be no question as to the integrity of the executor in the performance of his duties.
- It is prudent that the executor consult with the beneficiaries before disposing off any asset in the estate.

- In all legal actions against the estate, the executor must be cited as a party to the action.
- However, In order to justify removal, the court must be satisfied that the executor has failed to perform satisfactorily any duty or requirement imposed on him/her in terms of the law and where the removal of the executor will result in further financial bleeding by the estate unnecessarily, the Court will refuse an application for removal of the executor.

Statutory duties

- Governed in terms of statute law i.e. The Administration of Estates Act Chapter 6:01
- The executor gets letters of administration from the Master which gives him/her power to manage the estate A. A sample of the letter of Administration which is on FORM NUMBER 2 was shown to the network members for reference;
- In terms of section 38 of the Act, an executor, as soon as possible after being granted letters of administration is required to make an inventory showing the value of the property, movable and immovable which forms part of the estate;
- The inventory shall in terms of the Act be transmitted to the Master as soon as possible after its completion;
- In terms of section 42, any person who is not the executor who has in his possession property belonging to the estate must forthwith deliver the same to the executor or report the particulars thereof to the Master. It was further mentioned that it is the duty of the executor, to establish a complete picture of the deceased's finances, including identifying any debtors, creditors the purpose being to establish whether or not the deceased had any debts or liabilities.
- In terms of section 43, the executor is obliged to forthwith cause a notice to be published in the Government Gazette and some other newspapers circulating within the district calling upon all creditors and debtors to the estate to lodge claims with such executor Hence, the executor must take control of all the assets of the estate and realize as is necessary in order to meet the liabilities of the estate.
- The executor may then draft a final liquidation and distribution account, and after meeting the expenses, may proceed to distribute the assets amongst the heirs.
- The executor or executrix does not have to use her/his money if the money in the estate is not enough. The Dependents also do not have to pay for any debts from their own money.
- If there is any debt owed by the deceased the relatives and surviving spouse should simply refer the debt collectors to the executor.
- The creditors should make their claim and prove it to the executor. They can only be paid when the master approves
- The executor also draws the inheritance plan.

11.4. What is an inheritance plan?

- This is a plan which the executor draws up to show how the property of the deceased person will be shared.
- The executor must share the property following guidelines laid down in the law as already discussed.
- The executor is expected to consult with the family members when drawing up the plan.
- If the Master is satisfied, he then approves the inheritance plan and authorises the executor to distribute the estate according to the plan.S68E (3) (b).if the executor does not follow the plan, he will be charged with a criminal offence.

However, if the family does not agree to the executor's inheritance plan, the court will try to help the members of the family and the executor to reach an agreement that is fair

DISCUSS

Talk about the following:

- What is the duty of the executor regarding an inheritance plan?
- Now read the next section

11.5. Housing and land rights

Although houses and land that have title deeds are dealt with as part of the estate as set out above, there are houses and land that are controlled by the Municipalities. Town councils or municipal houses or flat or resettlement land, the wife, husband or children of the deceased should go to the housing or resettlement officer and report the death

11.6. 12.4 Pensions, Life Assurance, insurance, Employment benefits.

They do not form part of the estate and will not be looked after by the executor. When a person dies, who was a member of a pension scheme, had insurance policies or was employed, the surviving spouse, children or other relatives should go and see the employer, the insurance company or pension fund to deal with the benefits due.

The pension must be claimed by the surviving spouse or if there is more than one widow, be shared amongst them. If there is no spouse, the children may claim the pension. A life assurance policy usually states who is to benefit. That person is the one to whom the money is paid out. Documents such as the pension policy, evidence of employment, pension fund, papers, marriage.

DISCUSS

Talk about the following:

- What did you understand about pensions, life assurance, insurance and employment benefits?
 - Who must claim the pensions?
- Now read the next section

11.7. Property Grabbing

People often ignore what the law says and take property belonging to the deceased person forcefully and without permission from the supposed to be beneficiaries. Some justify the grabbing on the basis of custom. In terms of section 10 of the deceased person's family and maintenance act Chapter 6:03, property grabbing is a crime and anyone who grabs the property commits theft. No one must take any property which belonged to the deceased unless they have permission from the court to take that property. If the property is taken without the permission from the court:

- The family can apply to the court for an order which tells the person who is keeping the property to return it. This is called a spoliation order. Anyone who ignores a court order is in contempt of the court and may be sent to prison
- The family can also report to the police and have the person arrested on a charge of theft

DISCUSS

Talk about the following:

- What is property grabbing?
- If the property is taken without the permission of the court and consent from the beneficiaries, what can one do?

Summary:

- After the estate has been registered with the Magistrate's Court / Master of the High Court's Office within the province which the deceased died, the Master will call a meeting for the deceased person's family to appoint an executor. The meeting is called an edict meeting.
- The executor is the person who is appointed by the Magistrate/ Master to administer the estate of the deceased.
- An inheritance plan is a plan which the executor draws up to show how the property of the deceased person will be shared.
- Pensions, Life Assurance, insurance, Employment benefits, do not form part of the estate and will not be looked after by the executor. When a person dies, who was a member of a pension scheme, had insurance policies or was employed, the surviving spouse, children or other relatives should go and see the employer, the insurance company or pension fund to deal with the benefits due.
- People often ignore what the law says and take property belonging to the deceased person forcefully and without permission from the supposed to be beneficiaries. Some justify the property grabbing on the basis of custom.

The background of the page is a stylized illustration in shades of orange and light beige. It depicts a large crowd of people, with many hands raised in the air. Several hands are holding up rectangular signs of various sizes, suggesting a protest, rally, or a public demonstration. The overall tone is one of collective action and solidarity.

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