WIN NETWORK HOLDS MEETINGS AT THE 56TH CSW 2012

The Women Inheritance Now network comprises of organizations from Zimbabwe, Malawi, Kenya, Tanzania, Ethiopia, Namibia, Uganda, South Africa, Zambia, Lesotho and Swaziland that focus on the property and inheritance rights of women. WLSA Zimbabwe is part of WIN.

WIN is the brainchild of WLSA Malawi and FIDA Kenya that was formed after the realization that African women face some common problems in property and inheritance rights that range from customary and religious laws, outdated laws, legal pluralism and lack of implementation of positive laws.

WIN convened two meetings at the CSW 2012 with support from the Open Society Foundation. The 1st meeting involved WIN and non-WIN members with a focus on identifying the critical issues women face in relation to property and inheritance rights. One of the recommendations from the first meeting was that research should be conducted on the different land tenure systems and implications for women’s property and inheritance rights. Interlinkages between the rights were also emphasized so that a more holistic approach is adopted. The link between HIV/AIDS and property and inheritance rights was particularly emphasized.

The second meeting was a WIN strategic meeting. The major recommendation was the strengthening of the network so that the rights of women can be heard loud and clear.

TOGETHER WE CAN!

Sylvia Chirawu
National Coordinator
WLSA ZIMBABWE

Can a person who signs a will as a witness receive a benefit from the will?

WLSA Zimbabwe as part of its project on Women, Property and Inheritance Rights in the context of AIDS is encouraging participants to write wills. One of the major contentions is of witnesses benefitting from the will. A will needs to be signed by two or more witnesses who are over 16 years of age. The Wills Act states that the following persons as a general rule may not receive benefits from a will:

1. Anyone who signs the will as a witness or a witness to an amendment to will.
2. Any persons who signs a will on behalf of a writer of a will who cannot sign on their own.
3. Any person who writes will on behalf of someone.

However the writer can confirm the benefit orally or in writing and it is only when the witness can receive the benefit.
Unpacking the Administration Of Estates Amendment Act

The Administration of Estates Amendment Act was passed in 1997 and it affects estates of persons who die on or after the 1st of November 1997. This applies to estates of persons governed by customary law.

The deceased's family must come up with an inheritance plan. The following are the guidelines of an inheritance plan:

1. Personal articles such as clothing are distributed according to customary law.
2. If the deceased was male and had two or more wives and children or had no children, each wife gets the house she was living in at the time of death and household goods and contents.
3. If the deceased was male and had two or more wives and children, the remaining property is shared between the wives and the children.
4. If the deceased had one wife and a child or children, the wife will get the house and household goods.
5. If there are no children, or surviving spouse the property goes to the deceased's parents, brothers and sisters.

The Executor is appointed at an Edict meeting which is attended by the deceased's surviving spouse/husband and three other relatives.

The Executor is supervised by the Master of the High Court or Assistant Master at the Magistrate Court to oversee the distribution of the property of a deceased person. If there is competition for the appointment as Executor, first preference is given to the surviving wife or husband. Professional Executors can also be appointed but they will charge fees.

The Executor is appointed at an Edict meeting which is attended by the deceased's surviving spouse/husband and three other relatives.

The Executor is given letters of Administration that enable her/him to administer the estate.

The Executor is supervised by the Master of the High Court or Assistant Master of the Magistrate Court in managing the estate.
Will writing by persons who cannot write or sign

Persons who cannot read and write can still have wills. Sometimes it also happens that someone cannot write or sign due to illness or disability. The law permits the writing and signing of the will by someone else and also signing can be done by someone else or by the making of a mark such as an X or thumb mark. However the law put additional safeguards to ensure that no fraudulent activities may take place.

For a will that has been signed using a mark or by someone else on the instructions of the writer of the will, the following additional safeguards have been put in place:

A Magistrate or Commissioner of Oaths must certify the identity of the writer of the will. This could be done by asking for an identification card and inquiring from the particular person whether the will is theirs and whether it expresses her or his free will. Once satisfied, the Magistrate or Commissioner of Oaths will then certify and sign every page of the will to confirm that indeed the person who says that the will is theirs is the correct person. This should be done during the life time of the writer of the will.

Memory Book Project

WLSA with support from the UN Women Property and Inheritance Rights Grant supported women and men in a memory book project. Such projects involve the woman or man documenting their experiences in relation to HIV/ Aids.

The project proved very popular among those who took part. They were able to tell their stories in words, drawings and pictures.

Memory books are a realization that sometimes it is helpful to document one’s experience as a self empowerment process.

Some participants documented their experiences of how they had almost given up in life after being diagnosed with HIV and others on how they lost property due to greedy relatives. In one case, all property was taken away by the relatives of a deceased husband and they only left behind a cat and its kittens.

An outstanding factor was that of the support received from support groups and the knowledge they received from WLSA on property and inheritance rights. They were able to use this knowledge to exert their entitlements through the courts and to write responsible wills.

WLSA to publish a law journal on property and inheritance rights

Since 1987, WLSA Zimbabwe has conducted action research and published on maintenance law, inheritance law; women’s access to resources and the family; women’s access to justice; HIV/ Aids and the law.

All these publications have interrogated the lived realities of women and the law.

In a first of its kind, WLSA Zimbabwe will publish a journal on property and inheritance rights.

The journal will cover various aspects of property and inheritance such as executorship, will writing, widowhood and the WLSA experience in dealing with property and inheritance rights issues.

We believe that the journal will serve as a spring board for useful interrogation of ideas and exchange of information and ideas.

It is particularly encouraging that University students have also submitted articles for publication in the journal.

The Property and Inheritance journal is the first of its kind in Zimbabwe