

# THE COURT and THE CITIZEN

*A Guide to Understanding the Court Process*

*Published by:*



Women Information  
Network (WINET)

*Funded by:*



GLOBAL FUND  
FOR WOMEN

*WINET Informative Series 2*



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© Women Information Network (WINET), 2004

First published September 2004

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ISBN: 978-064-772-4

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## TABLE OF CONTENTS

Title Pages .....	i-iii
Acknowledgement .....	iv
Introduction .....	v
 <b>Chapter One</b>	
The Judicial System in Nigeria .....	1
Courts in Nigeria .....	3
 <b>Chapter Two</b>	
Key Personnel in the Court System and their Duties .....	11
(a) The Judge .....	11
(b) The Magistrate .....	12
(c) The Lawyer .....	13
 <b>Chapter Three</b>	
A Typical Day in Court .....	15
 <b>Chapter Four</b>	
Obtaining Free Legal Services and Assistance .....	19
Procedure for Seeking Redress in Court .....	22
 Explanatory Notes .....	27



### ACKNOWLEDGEMENT

Women Information Network (WINET) acknowledges the funding of this publication by Global Fund for Women

## INTRODUCTION

**M**any Nigerians, especially women, do not choose the option of going to court when their rights have been violated. This is because they are poor and afraid of the system. Infact, the mere mention of the word "court" is intimidating to the average citizen. For this reason, they fail to utilize the constitutional protection which the nation's Judiciary is meant to provide.

The objective of this manual therefore, is to enable Nigerians, especially women, to understand how the judicial system operates and how to access the courts.

To be able to do this effectively, the citizens need to learn the workings of the courts and its key personnel including the role of Judges, Magistrates and Lawyers in adjudicating among opposing parties. These issues have been simplified in this manual for easy reading.

September 2004





## **CHAPTER ONE**

# **THE JUDICIAL SYSTEM IN NIGERIA**

**T**he Constitution of the Federal Republic of Nigeria, 1999 provides for the three arms of Government namely, the Legislature, the Executive and the Judiciary. The Legislature is charged with the duty of making laws, while the Executive is charged with the execution of laws. By section 6 of the Constitution, the judicial powers of the Federation are vested in the Judiciary, which is the third arm of government.

The Judiciary is the arm of Government, whose duty it is to construe, interpret and apply the law. It consists of a system of courts, which is set up in hierarchical order. The functions of the Judges (Magistrates included) involve administering the law in a court of justice, controlling the proceedings in the court and making decisions on matters of law and facts. Although, it is not in doubt that the courts constitute the last hope of the common man in the settlement of disputes, and the civilized way to settle matters, people still shy away from seeking redress in the courts for various reasons.

These include:

**a. High Cost of Litigation**

The cost of briefing lawyers and payment of filing and other court fees is a major impediment to obtaining justice from the law courts for some people.

**b. Fear of the Court**



The sober atmosphere of the court is quite intimidating for some people. News about how some people have been sent to jail for a little error has helped to magnify this fear.

**c. Delay**

A matter, which a kindred meeting can settle in a week, may last for three or more years in a law court. Sometimes, lawyers help to prolong matters by filling frivolous applications, raising unreasonable objections or asking for unnecessary adjournments. All these are extremely frustrating.

**d. Technicalities Breeding Injustice**

An aggrieved person who truly believes that justice is on his/her side would not understand why he/she should lose a case in court simply because of mere technicalities. For example, he/she would not understand why he/she lost a land case because his/her lawyer did not bring the case in the proper court.

**THE WAY FORWARD**

However, all hope should not be lost because all these issues have been noted and are being addressed under the present democratic dispensation. There have been serious moves to sanitize the Judiciary. This involves, discipline, dismissal or retirement of corrupt and erring judicial officers. Flimsy and frivolous applications are being discouraged in law courts to minimize the length of time a case stays in court and judges are now being encouraged to determine matters on substantial

justice rather than on mere technicalities. Also the Legal Aid Council of Nigeria is being revitalized to carry out its function of providing free legal services to the indigent.

There is therefore need for people especially women and the poor to be encouraged to take advantage of the present democracy to approach the courts for the settlement of disputes. It is a fact that some people whose cases have been settled by other means, renege on the agreement and refuse to abide by them. One finds that only cases determined by the courts are fully acceptable to the people and are enforceable as well as binding.

## **COURTS IN NIGERIA**

### **What is A Court?**

A court is a body established by law for the purpose of resolution of conflicts between parties, settlement of disputes and for the redressing of wrongs done to the aggrieved persons. Its function is the public administration of justice.

### **Who Can Go to Court?**

Any aggrieved person be it a man or a woman, single or married, corporate body or government, that is, anyone whose legal rights have been infringed, can go to court seeking redress. Any person who has a cause of action and has the locus standi, that is the legal capacity to bring the action, can seek redress in court. He/she must also have an enforceable right which he/she wants the court to determine. A litigant must



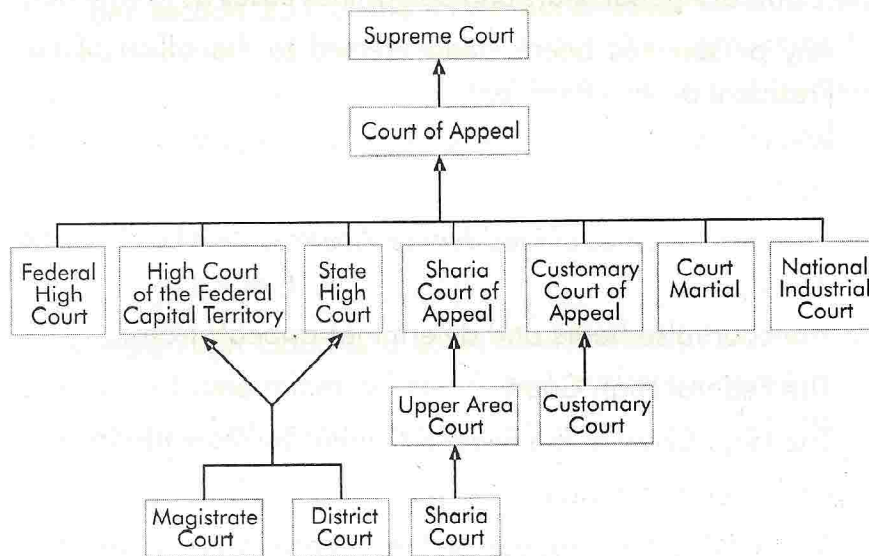
in addition show that his/her right has been breached or that there is a threat to do so.

### **The Nigerian Court System**

The different Courts in Nigeria are:

- Supreme Court
- The Court of Appeal
- The Federal High Court
- High Court of the Federal Capital Territory Abuja
- State High Courts
- Customary Court of Appeal
- Sharia Court of Appeal
- Magistrate Courts
- District Courts
- Customary Courts
- Upper Area Courts
- Area Courts
- Sharia Courts
- Juvenile Courts
- Military Courts (Court Martial)
- National Industrial Courts
- Such other Court as may be authorized by an act of the National Assembly or a law of the State House of Assembly.

## HIERARCHY OF COURTS IN NIGERIA



### Supreme Court

The Supreme Court handles disputes between the Federal Government and a State or between States in any case involving the existence of a legal right. It has jurisdiction in such other matters as may be conferred on it by any act of the National Assembly.

The Supreme Court also handles cases that come on appeal from the courts of Appeal.

## **Court of Appeal**

The Court of Appeal hears and determines cases as to whether;

- a. Any person has been validly elected to the office of the President or Vice President, or
- b. Whether the term of office of the President or Vice President has ceased, or
- c. Whether the office of President or Vice President has become vacant.

The court also hears and determines appeals from:

- The Federal High Court
- The High Court of the Federal Capital Territory Abuja
- High Court of a State
- Sharia Court of Appeal of the Federal Capital Territory Abuja
- Sharia Court of Appeal of a State
- Customary Court of Appeal of the Federal Capital Territory Abuja
- Customary Court of Appeal of a State
- Decisions of a court martial or other tribunals as may be prescribed by an Act of the National Assembly
- National Assembly Election Tribunal, Governorship and Legislative Houses Election Tribunal.



### **Federal High Court**

The Federal High Court hears and determines cases ascribed to it under section 251 of the 1999 Constitution which include matters relating to the revenue of the Government of the federation, taxation of companies, Custom and Excise duties, banking, banks and other financial institutions, as well as copyrights.

### **State High Court**

The State High Court is a court of unlimited jurisdiction and hears and determines all cases, civil and criminal, involving persons against persons or persons against the state or vice versa, excluding cases ascribed to the Federal High Court under section 251 of the 1999 Constitution.

### **Sharia Court of Appeal**

The Sharia Court of Appeal hears and determines civil cases that come on appeal from the Sharia Courts involving questions of Islamic personal law.

### **Customary Court of Appeal**

The Customary Court of Appeal hears and determines civil appeals from the Customary Courts involving questions of customary law.

### **Magistrate Court**

A Magistrate court is a court of summary jurisdiction. It hears and determines both civil and criminal cases within its limits of jurisdiction except in the Northern parts of the country where they exercise only criminal jurisdiction, while the civil jurisdiction is exercised by district courts. It does not handle capital offences like murder, arson and armed robbery

### **District Court**

This court exists only in the Northern States of Nigeria. It hears and determines civil cases only within its limits of jurisdiction.

### **Sharia Court**

This Court hears and determines matters of Islamic personal law affecting persons who are Moslems or persons who consent to be tried before it. A person who is not a Moslem can tell the Sharia court that he/she does not want it to handle his/her case.

### **Customary Court**

A Customary court is a court that administers the customary laws of the area in which it is situated over persons who are subject to the customary laws of that area. It handles both civil and criminal cases. For example, it handles land cases in the rural areas, divorce cases, custody of children in customary

marriages and other matters including those relating to inheritance and succession under customary law.

### **Area Court**

A customary court in the Northern states of Nigeria is called an Area court. The applicable customary law in most states in Northern Nigeria is Islamic law. The Upper Area court hears and determines appeals from the area courts involving Islamic law.

### **Juvenile Court**

The Juvenile Court exists in the Southern States of Nigeria and is established under the Children and Young Persons Law of the state. It handles cases in which children and young persons are involved. The main aim of the court is for the rehabilitation of the offenders. Cases brought for trial in such courts are not exposed to the public. The young offender is usually brought to the court by either a police officer or the parents or guardians.

### **Military Court (Court Martial)**

A military court is established under the Nigerian Army Act, Air Force Act or Navy Act. A military court hears and determines cases involving offences created under the Act establishing the force.



### **National Industrial Court**

This court handles cases relating to trade disputes, that is disputes between an employer and the worker or dispute between workers in relation to the employer. It also handles cases relating to any agreement in writing made between an employer or group of employers and representative organization of workers.

## CHAPTER TWO

# **KEY PERSONNEL IN THE COURT SYSTEM AND THEIR DUTIES**

### **Who is A Judge?**

**A** Judge is a superior judicial officer appointed by the government to decide questions in dispute between parties in court and to award the proper punishment to offenders. He/she is the presiding officer of a court.



A male Judge



A female judge

### **What Are the Duties of A Judge?**

The duties of a Judge include the interpretation and application of the laws in the administration of justice. He/she is also charged with the control of proceedings of the court and the decisions of questions of law or facts. A judge can hear both criminal and civil cases. The power of a judge far exceeds those of a magistrate and the judge can hear cases, which cannot be

brought before a magistrate. The jurisdiction of a judge is generally said to be unlimited. A judge can in appropriate cases sentence a person to life imprisonment or even to death. There is no limit to the amount a judge can award as damages. It could be up to one billion naira.

### **Who is A Magistrate?**

A Magistrate is a person trained as a lawyer, who is appointed by the State government and invested with judicial powers to administer justice in the magistrate court. Magistrates are classified into grades for example, Chief Magistrate, Senior Magistrate and Magistrate. It is this classification that determines the kind of case each magistrate can hear.



A female magistrate

### **What Are the Duties of A Magistrate?**

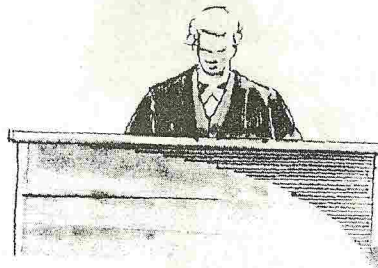
The duties of a Magistrate include, determining civil and criminal cases and matters that fall within their jurisdiction. His/her jurisdiction is restricted to the handling of non-capital offences, small claims and preliminary hearings. He/she decides questions in dispute between parties and awards proper punishment to offenders. He/she is the presiding officer in a



magistrate court. A magistrate court cannot try any offence punishable with death or life imprisonment.

### Who is A Lawyer?

A lawyer is a person who studied law and is authorized to practice it. He/she is a person authorized to prosecute and defend cases and matters in courts on behalf of others. He/she also renders legal advice or assistance in any matter whatsoever.



A male lawyer

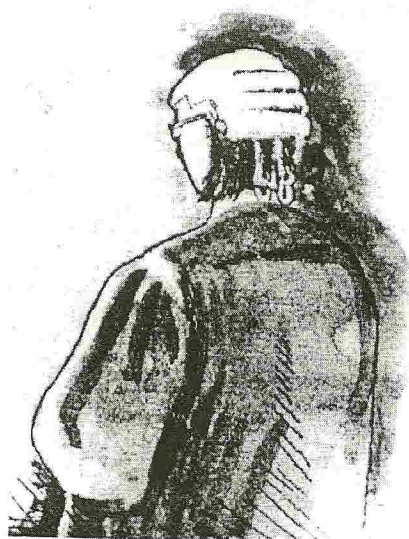
### What Are the Duties of A Lawyer?

The Lawyer:

- Accepts briefs (cases) from clients.
- Takes instruction from the clients, in chambers.
- Represents the clients in courts.
- Prosecutes or defends cases in law courts.



A female lawyer



A lawyer in robe



A lawyer in robe for a court sitting

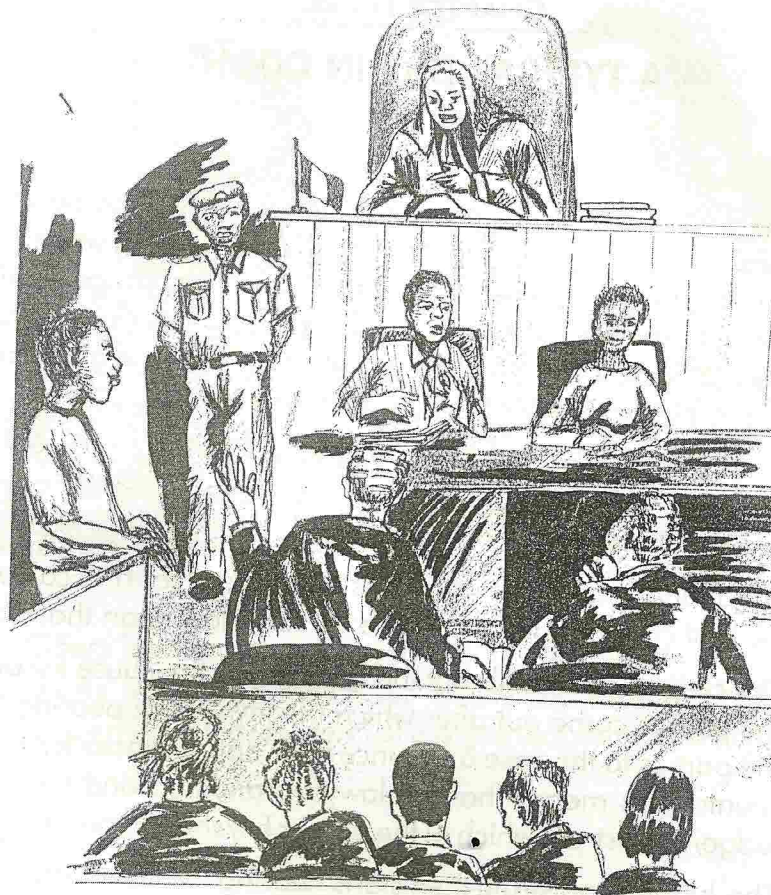
- Offers legal advice or assistance in any matter.
- Drafts legal documents for clients for example, tenancy agreements, leases, deed of assignment, contracts and wills.

### CHAPTER THREE

## **A TYPICAL DAY IN COURT**

- The parties to a case, including their witnesses, come into the courtroom as from eight o'clock in the morning when the courtrooms are opened and sit down on the seats provided for non-lawyers. The lawyers sit in the area reserved for them, which is called the bar. The presiding Judge/Magistrate sits facing the court audience.
- Usually at nine o'clock in the morning, which is the time the court starts sitting, the Judge/Magistrate hearing the cases comes into the courtroom and sits down.
- The Judge/Magistrate then asks the clerk of court to call out the first case listed in the cause list for hearing on that day.
- The clerk of court calls out the first case in the cause list and the parties come out after which the lawyers appearing for the parties to the case announce their appearances for their clients. This means that the lawyer stands up and tells the judge/magistrate which of the parties he/she is representing.
- The Judge/Magistrate then starts hearing the cases listed for the day.
- At the conclusion of hearing of the first case listed in the cause list of the court for the day, the Judge/Magistrate adjourns the case and directs the clerk of court to call out the next case for hearing. When that has been done, the Judge/Magistrate hears the case at the end of which he





A typical sitting day in court

adjourns it and directs the clerk of court to call out the next case for hearing.

- On a Judgement day, as soon as the Judge/Magistrate enters the courtroom he/she directs the clerk of court to call



A male lawyer arguing a case in court

out the case listed for judgement for that day. The clerk of court then calls out the case and the parties in the case come out after which the lawyers appearing for the parties announce their appearances for their clients. The Judge/Magistrate reads out his/her judgement in the case. At the conclusion of the Judgement, the Judge/Magistrate starts hearing the other cases listed in the

court's cause list for the day.

- Once a case has been adjourned, the lawyers in the case, the parties and their witnesses can leave the courtroom for their various destinations.
- The clerk of court and other staff of the court sit back in the courtroom and continue with their work and attending to persons who come to them for assistance in respect of any matter in their court.



A female lawyer arguing a case in court

- After the Judge/Magistrate must have heard all cases listed in the court's cause list for the day, the Judge/Magistrate rises and retires to his chambers and continues work there.
- At about 4.00 pm, which is the official closing time, the clerk of court and other staff of court disperse to their various homes.

## **CHAPTER FOUR**

# **OBTAINING FREE LEGAL SERVICES AND ASSISTANCE**

**F**ree legal services are offered by the Legal Aid Council of Nigeria and some Non-Governmental Organisations.

### **WHAT IS THE LEGAL AID COUNCIL?**

The Legal Aid Council is a body set up by the Federal Government to offer free legal assistance and advice to indigent citizens whose income do not exceed the minimum wage and those whose income exceed the minimum wage but cannot otherwise afford the services of private legal practitioners. The Council therefore offers free legal services to persons with inadequate resources.

### **What is Legal Aid?**

It is the assistance given to people who cannot afford legal representation due to unemployment or inadequate funds and resources. This includes representation in courts and in police stations, legal advice/assistance, counselling and mediation.

### **How Does the Legal Aid Council Operate?**

The Council gives free legal services to applicants in any of their offices throughout the federation, in courts, police stations or in



prisons, in any civil or criminal matter by the legal practitioners appointed by them or in the service of the Council.

Application forms are available at the Council's headquarters in Abuja, Council's offices in each of the state capitals, prison custodies, police stations and the courts.

### **What Qualifies One to Benefit From the Service of Legal Aid Council?**

#### **a. Poverty**

- The person has no income of any type or has an income but the income per annum does not exceed the minimum wage for the time being.
- The person's income per annum exceeds the minimum wage but cannot afford the services of a private legal practitioner.
- The Council considers it reasonable in the circumstances to grant him/her legal aid.
- The person has no relations who are willing to assist him/her.
- The matter falls within the jurisdiction of the Council, that is, the matter is one being handled by the Council.

### **Cases handled by the Legal Aid Council**

The council handles both criminal and civil cases. The criminal cases handled by the council include:

- Murder, manslaughter, maliciously or willfully wounding or inflicting grievous bodily harm, assaults occasioning bodily harm, assault (common), affray, stealing and rape.

- Aiding and abetting, or counselling or procuring the commission of offence or being an accessory before or after the fact, or attempting or conspiring to commit any of the offences listed above.

**Civil cases handled by the Council are:**

- a. Claims in respect of accidents.
- b. Claims arising from breach of Fundamental Human Rights enshrined in Chapter IV of the 1999 Constitution.

**How does one access the Court through the Legal Aid Council?**

- a. The person seeking legal aid should present his/her problem to any Legal Aid Council office and request for assistance.
- b. He/she will be interviewed by the officers of the Legal Aid Council to see if he/she is qualified for legal aid and to know also if his/her problem falls within those for which the aid is rendered.
- c. If he/she is qualified to receive the aid and his case falls within those the Council handles, the person will fill a form furnishing the council with all necessary information about himself/herself.
- d. After the person's application has been approved, he/she is then assigned a lawyer to represent him/her in the matter.
- e. The lawyer assigned to him/her will then render legal services to him/her.

### Non-Governmental Organisations

There are some human rights non-governmental organisations which receive financial support and institutional grants to offer free legal assistance to indigent members of the society, especially the poor and oppressed women and children who are victims of human rights abuses.



A client consulting a lawyer in an NGO's office

They undertake cases on issues including rape, disinheritance of widows and enforcement of fundamental rights.

Other activities by some of the NGOs include application for discharge of prisoners through prerogative of mercy.

### PROCEDURE FOR SEEKING REDRESS IN A LAW COURT

#### Step One

##### *Consult a lawyer and lay your complaints*

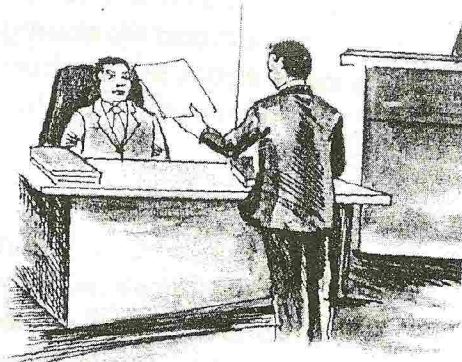
If you have a legal problem it will be best to consult a lawyer and lay your complaints. Ensure that you tell the truth about the matter. It is very important to let the lawyer have all the details of your complaints so that he/she will be in a position to offer the best advice on the issue. Nowadays, it is usually

advisable to put down your story in writing and hand it over to your lawyer.

### Step Two

*Lawyer advises client on options available to him/her*

After listening attentively to the client's complaints, the Lawyer will advise the client on available options of action to follow.



A client consulting a lawyer

### Step Three

*Lawyer files claims in court*

If the lawyer and the clients decide on taking the matter to court, the lawyer will file claims in court and pays the filing fees. The lawyer begins to prepare for the case and holds interviews and meetings with the client and his/her witnesses.

### Step Four

*The court issues writ of summons on persons being sued*

After the lawyer has filed his claims, the court issues a writ of summons commanding the defendant, that is the person who is sued, to appear in court. The writ will indicate the date when all parties in the suit will come to court, or will be required to file their papers in court.



## **Step Five**

### *Day of first sitting*

On the date stated in the writ, all parties in the suit will appear in court and the court gives the date for the hearing of the case.

## **Step Six**

### *First hearing*

On the day fixed for the hearing of the case, the hearing of the case commences in a court. The plaintiff, that is the person who brought the matter to court will first of all open his/her case. When he/she concludes same, he/she will be cross-examined by the defendant's lawyer, after which the plaintiff's witnesses will be called upon to give evidence to support plaintiff's case. When each of the plaintiff's witnesses have finished giving evidence, he/she will be cross-examined by the defendant's lawyer.

After all the plaintiff's witnesses have given evidence, the defendant will be called upon to open his/her defence. At the conclusion of same, he/she will be cross-examined by the plaintiff's lawyer. The defendant's witnesses will be called upon to give evidence to support the defendant's case. When each of the defendant's witnesses have finished giving evidence he/she will be cross-examined by the plaintiff's lawyer.

### **Step Seven**

#### *Continuation of Hearing*

After all the parties in the case and their witnesses have given evidence, the lawyers in the case will address the court. At the end of the address the Judge/Magistrate will adjourn the case to any date for Judgement.

### **Step Eight**

#### *Judgement Day*

On the day reserved for judgement the Judge/Magistrate will read his/her Judgement in the case.

### **Step Nine**

#### *Appeal*

Any one who is not satisfied with the Judgement of a court can go on appeal to a higher court. For instance, anyone who is not satisfied with the judgment of a magistrate court goes on appeal to a High court; if still not satisfied with the judgment of the High court the person can still appeal to the Court of Appeal and if still not satisfied goes to the Supreme Court which is the highest court in the country. The Supreme Court's decision is the final.

## **EXPLANATORY NOTES**

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### **Who is A Citizen?**

A citizen is a person who has full rights as a member of a country either by birth or by being given such rights, for example by Naturalization.

### **What is Litigation?**

Litigation is legal action, that is taking or defending an action in a law court.

### **What is Civil Case?**

A Civil case is a case instituted to enforce, redress or protect private rights.

### **What is Criminal Case?**

Criminal case is a case by which a person who committed a crime is brought to trial and either not found guilty or found guilty and sentenced.

### **What is a Brief?**

A Brief is a written statement prepared by a lawyer arguing a case in a law court containing the facts of the case, the issues involved, the relevant laws and arguments in support of the lawyer's case.

**What Does it Mean to Brief A Lawyer?**

To brief a lawyer means to engage the services of a lawyer with instructions on what action the lawyer is to take on behalf of the client.

**What is Locus Standi?**

It is the legal capacity to bring the action to court.

**Who is A Plaintiff?**

A plaintiff is the person who brings a matter to court.

**Who is A Defendant?**

A defendant is the person who is brought to court to answer to the case against him/her.



**WINET Objectives Include To:**

- Inform, educate and raise awareness on women's issues.
- Disseminate information on HIV/AIDS, Safe Motherhood, Reproductive Health, Democracy and Good Governance.
- Promote women's political rights agenda and advocate legislative reforms to eliminate institutional discrimination against women.
- Engage in media campaigns to promote the rights of women and youths.
- Organize workshops and meetings on topical issues of concern to the society.
- Network with Government and non-governmental organizations with the aim of promoting women's rights, information and experience sharing.
- Provide library services for research on women.
- Engage in research and publications of outcomes of WINETs' activities.

**Our Program Areas Include:**

- Media Campaigns/Information Dissemination
- Democracy and Good Governance
- Women's Rights
- Safe Motherhood/Reproductive Right/Health and HIV/AIDS
- Training
- Peace Building
- Research
- Human Rights Education

### **About Women Information Network (WINET)**

WINET Nigeria is a media focused, independent, non-governmental organization established in January 2000 and is registered with the Corporate Affairs Commission, Nigeria, No. RC 14892, as a non-profit organisation.

Our mission is to uplift Nigerians, especially women and youths by providing them with information to enable them to live a fruitful life in the society.

Our vision is to have an informed society where the people will know their rights and obligations.

WINET is gender sensitive and works towards the dissemination of information to promote gender equality, women's rights, human and political rights as well as democracy and good governance through citizen's participation. We use media advocacy and campaigns for outreach.

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**ISBN: 978-064-772-4**