

Ignorance of family law denying Kenyans justice

By Faith Muiruri

For many Kenyan families, access to justice remains more of an aspiration than a reality. Although laws governing marriage, divorce, child custody, inheritance, maintenance and domestic violence exist, millions remain unaware of the rights and protections available to them.

The result is that family disputes often spiral into prolonged conflict, abuse and injustice, with the most vulnerable women and children bearing the greatest burden.

According to Brenda Yambo, Legal Counsel at the Federation of Women Lawyers in Kenya (FIDA-Kenya), public awareness of family law is critical to ensuring that people can protect their rights and access justice.

She said low awareness among the public, including the media, of the key law provisions that protect, particularly women and children, remain unknown to them. Neither do they know the pathways they need to pursue to get justice.

Speaking during a media training in Nairobi aimed at strengthening journalists' reporting on family law, Yambo said unawareness of legal rights is the biggest impediment needing legal redress.

"Ignorance of legal rights and procedures discourages people from seeking help," she said, noting that many victims remain in abusive relationships or accept unfair settlements simply because they are unaware of legal protections against domestic violence or their entitlement to maintenance after separation.

Yambo observed that women and children are disproportionately affected, as cultural norms, poverty and limited education often compound the lack of legal awareness.

She noted that even when courts are accessible, complicated legal procedures, including filing requirements, evidentiary rules, timelines and legal costs, can discourage litigants from pursuing justice.

"The result is underuse of legal remedies and sustained injustice," she said.

Senior Counsel Leah Kagwatha echoed her concerns, saying inadequate knowledge of family law often delays the resolution of disputes that require urgent intervention.

"Family disputes are often time-sensitive. Custody and safety concerns demand rapid responses, and delays can have lasting negative effects on children's well-being and family cohesion," she said.

Kagwatha warned that without awareness of mediation, alternative dispute resolution and emergency legal remedies, many families miss opportunities to resolve conflicts early. Instead,

disagreements escalate into lengthy court battles or informal settlements that may violate legal rights and deepen existing inequalities.

She also pointed to widespread misconceptions surrounding marriage, inheritance and gender roles, saying they continue to undermine justice despite clear legal provisions.

"Widows are still dispossessed of property despite inheritance laws. Many people wrongly believe customary marriages deny them formal legal rights, while child custody is often viewed solely through patriarchal lenses," she said.

According to Kagwatha, the media must take deliberate steps to promote public education and demystify how statutory, customary and religious laws interact, enabling families to make informed decisions that respect both culture and individual rights.

She further noted that lack of legal knowledge disproportionately disadvantages women, children, persons with disabilities, rural communities and low-income households.

"Those with resources, literacy or legal representation are better positioned to navigate the justice system. Public legal education helps level the playing field by showing vulnerable groups where to access legal aid, how to obtain protection orders and how to present evidence."

Beyond improving access to justice, she said greater awareness can also challenge the stigma surrounding domestic violence and marital breakdown.

When communities understand that domestic violence is a criminal offence and that survivors have access to legal protection and support services, they are more likely to report abuse, support victims and encourage survivors to seek help.

Yambo urged journalists to play a greater role in public legal education by producing accurate, accessible and people-centred reporting on family law.

She encouraged media practitioners to complement traditional reporting with community engagement through radio programmes, community forums and theatre, while using social media platforms to reach younger audiences.

Both experts agreed that sustained public sensitisation is essential to strengthen families and improve access to justice.

An informed public, they said, is more likely to seek legal protection, resolve disputes peacefully, safeguard children's welfare and hold perpetrators accountable.

Ultimately, bridging the knowledge gap in family law is about more than understanding legislation; it is about transforming legal rights on paper into meaningful protection for families and ensuring justice is accessible to all.