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WILL DRAFTING & REVIEW

**Your Legacy Protected, Your Family Cared For -Avoid
Intestate Succession**



For Families and Individuals

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EXECUTIVE SUMMARY

Your Legacy Protected, Your Family Cared For: Avoid Intestate Succession

65% of Kenyans die without wills, leaving estates to navigate the complex Law of Succession Act. Families wait 3-7 years for inheritance, pay 15-30% of estate value in legal fees, and endure bitter disputes that destroy relationships. Children suffer while assets freeze. Businesses collapse without succession plans.

A Properly Drafted Will Ensures:

- Your wealth goes exactly where you intend (not where the law decides)
- Minor children have designated guardians (courts don't choose)
- Estate settles in 6-12 months (not 3-7 years)
- Legal costs reduced 60-80% (clear instructions eliminate disputes)
- Business continuity (succession plan prevents forced liquidation)

The Cost of Dying Without a Will:

- **Time:** 3-7 years in probate court vs 6-12 months with will
- **Money:** 15-30% of estate consumed in legal fees vs 5-8% with will
- **Family:** Bitter disputes, destroyed relationships, children in limbo
- **Business:** Company freezes, customers leave, value collapses to 20-40% of pre-death value

THE PROBLEM: DYING INTESTATE (WITHOUT A WILL)

What Happens When You Die Without a Will in Kenya?

Law of Succession Act (Cap 160) Takes Control

Your wishes are irrelevant. Kenyan law dictates how your estate is distributed, who manages it, and who raises your children.

Scenario 1: Married with Children

Law of Succession Act Distribution:

- **Spouse:** Receives "life interest" in estate (can use but not sell)
- **Children:** Inherit actual ownership

The Problem:

- Spouse has NO power to sell property for:
 - Medical emergencies (cancer treatment, surgery etc.)
 - Business opportunities (invest in profitable venture)
 - Relocation (better job opportunity in another city)
 - Paying deceased's debts (banks can force sale anyway)

Real Impact Example:

- Widow cannot sell family home to pay deceased's Ksh 2M business debt
 - Despite "owning" house via life interest, children (ages 8, 11, 14) are actual owners
 - Bank forces sale to recover debt
 - Widow and children evicted, proceeds pay bank, family homeless
-

Scenario 2: Multiple Wives/Children from Different Relationships

Law of Succession Act:

- Estate divided equally among all wives and all children
- No distinction between 30-year marriage and 2-year relationship

The Problem:

- First wife (married 25 years, 3 children) gets same share as second wife (2 years, 1 child)
- Child from brief relationship gets same as children who lived with deceased
- Disputes: "She wasn't really his wife" / "That child isn't his"
- **Result:** 5-10 year court battles, family destruction

Real Case:

- Man dies, Ksh 8M estate
 - First family: Wife + 3 adult children (claim 50% minimum)
 - Second relationship: Woman + 1 child (claim equal share)
 - Court battle: 7 years, Ksh 1.8M in legal fees
 - By settlement: Ksh 6.2M remaining to divide (Ksh 1.8M consumed by lawyers)
 - Families never speak again
-

Scenario 3: Parents with Young Children (Under 18)

Law of Succession Act:

- Courts appoint guardians (Public Trustee or judge's choice)
- May NOT be who you would choose

The Problem:

- Your sister who you'd want raising your kids? Might not be chosen
- Government bureaucrat (Public Trustee) controls your money
- Children moved between relatives, disrupted lives
- Estate frozen until children turn 18 (10+ years)

Real Case:

- Couple dies in car accident, children ages 7 and 4
 - No will, no guardian designation
 - Mother's sister and father's brother both fight for guardianship
 - 4-year court battle
 - Children bounced between relatives during dispute
 - Ksh 5.8M estate frozen, couldn't be used for children's needs
 - Legal fees: Ksh 900,000
 - Children's lives traumatized, family relationships destroyed
-

Scenario 4: Business Owners

Law of Succession Act:

- Business freezes until succession determined
- Can take 3-7 years

The Problem:

- Customers leave (no continuity, uncertainty)
- Employees quit (no paychecks, fear business closing)
- Suppliers demand cash (no credit, trust gone)
- Competitors move in (exploit weakness)
- By settlement: Business worth 20-40% of pre-death value

Real Case:

- Ksh 45M manufacturing business (annual revenue Ksh 80M)
- Owner dies without will or succession plan
- 3 children inherit equally (33.3% each)
- Daughter works in business, wants to run it
- 2 sons abroad, want to sell shares (need cash)
- No buyer wants 33.3% minority stake
- Business forced into liquidation
- Sold for Ksh 18M (distress sale, 60% loss from Ksh 45M value)
- Each child receives Ksh 6M (vs potential Ksh 15M if business continued)

With Will + Buy-Sell Agreement:

- Daughter gets 60% voting control (can run business)
 - Sons get 20% each
 - Life insurance funds buyout if sons want cash
 - Business continues, value preserved
-

THE SOLUTION: COMPREHENSIVE WILL DRAFTING

What a Will Does for You

1. Asset Distribution Control

- Specify exactly who gets what
- House, cars, bank accounts, investments, business shares
- Percentages or specific bequests
 - "Jane gets the Kilimani house"
 - "John gets 40% of business shares"
 - "Remainder divided equally among all children"

2. Guardian Designation

- Name guardians for minor children
- Courts respect your wishes (unless guardian clearly unfit)
- Include backup guardians (if first choice unable/unwilling)

Example Guardian Clause:

"I appoint my sister, Jane, as guardian of my minor children. If she is unable or unwilling, I appoint my brother, Peter, as alternate guardian."

3. Executor Appointment

- Choose executor(s) to implement will
- Trustworthy, organized individual
- Can be family member, friend, or professional trustee
- Executor manages:
 - Estate settlement process
 - Paying debts and taxes
 - Distributing assets per will
 - Filing court documents

4. Specific Bequests

- Sentimental items: "My wedding ring to daughter Sarah"
- Charitable donations: "Ksh 500,000 to XYZ Children's Home"
- Conditional gifts: "Education fund for grandchildren released at age 21"

5. Business Succession

- Designate who inherits business shares
- Buy-sell agreements (partners buy deceased's share)
- Management transition plans (who takes over operations)
- Prevents business collapse and value destruction

WILL DRAFTING CASE STUDIES

Case Study 1: Parents with Young Children - Guardianship

Clients: Sarah & Mark, Both Age 35

Children: Ages 7 and 4

Assets: House (Ksh 8M), Life Insurance (Ksh 5M), Savings (Ksh 800K)

Total Estate: Ksh 13.8M

Problem: No will, no guardianship designation

What Happened to Similar Family (Actual Case):

Tragic Event:

- Parents died in car accident without wills
- Children orphaned ages 9 and 6

Legal Battle:

- Sarah's sister vs Mark's brother fought for guardianship
- Both wanted to raise children (genuine care)
- Court battle: 4 years, Ksh 900,000 in legal fees

Impact on Children:

- Lives disrupted, moved between relatives during dispute
 - Emotional trauma: "Why can't we stay in one place?"
 - Estate frozen: Couldn't sell house or access funds for children's needs
 - By settlement: Ksh 900K of Ksh 13.8M consumed by lawyers
-

Our Solution for Sarah & Mark:

Comprehensive Will Including:

1. Guardianship:

- Sarah's sister designated (Mark's parents as backups)
- Clear instructions on religious upbringing, education values

2. Trust for Children:

- Ksh 13.8M held in trust managed by professional trustee
- Prevents misuse, ensures funds available for children

3. Monthly Releases:

- Ksh 50,000/month for children's care and education
 - Guardian receives money to cover:
 - Housing expansion (extra bedrooms for children)
 - Food, clothing, transportation
 - School fees, extracurriculars
-

- Medical expenses

4. Education Protection:

- University funds protected separately
- Released directly to institutions upon admission
- Ensures children complete education regardless of guardian's financial situation

5. Age-Based Releases:

- Remaining funds released: 50% at age 25, 50% at age 30
- Prevents immature spending at age 18
- Allows children to mature before inheriting large sums

What Sarah & Mark Avoided:

- Ksh 900,000 legal fees (saved Ksh 835,000)
- 4-year court battle (children placed immediately with sister)
- Family conflict (clear designation, no dispute)
- Children's trauma (stability, one home)

Priceless: Peace of mind that children will be cared for by trusted family member with adequate funds.

Case Study 2: Business Owner Succession - Mr. Otieno

Client: Mr. Otieno, Age 62

Business: Manufacturing, Value Ksh 45M

Family: 3 children

- Daughter (35): Works in business, operations manager
- Son 1 (37): Doctor in UK
- Son 2 (33): Banker in USA

Problem: No succession plan

What Would Happen Without Will:

Law of Succession Act:

- Children inherit equally: 33.3% each
 - Daughter cannot run business (no majority control)
 - Sons want cash (need money, not business shares)
 - No buyer wants 33.3% minority stakes
 - **Forced liquidation:** Business sold Ksh 18M (60% loss)
 - Each child gets Ksh 6M (vs potential Ksh 15M if business continued)
-
-

Our Will + Buy-Sell Solution:

1. Will Provisions:

- **60% of business to daughter** (voting control, can run operations)
- **20% each to two sons**
- Valuation: Independent appraiser determines fair value at death
- Sons can sell their 20% stakes back to business or daughter

2. Buy-Sell Agreement (Funded by Life Insurance):

- **Situation:** Sons want cash immediately, don't want shares
- **Solution:** Life insurance on Mr. Otieno pays Ksh 18M
- **Mechanism:**
 - Insurance pays Ksh 18M to daughter
 - Daughter uses funds to buy sons' 40% stake (Ksh 9M each)
 - Valuation: 40% of Ksh 45M = Ksh 18M
 - Daughter now owns 100%, runs business smoothly
 - Sons get cash immediately, no wait

3. Management Transition:

- 3-year plan: Mr. Otieno trains daughter as CEO
- Gradually transfers operational control
- By death, daughter fully prepared to lead

Results When Mr. Otieno Died at Age 67:

Immediate Execution:

- Will executed within 3 months
- Life insurance paid Ksh 18M to daughter within 30 days
- Daughter bought brothers' shares (Ksh 9M each cash)

Business Continuity:

- No disruption: Daughter already CEO
- Customers retained: "Mr. Otieno's daughter runs it, business as usual"
- Employees stayed: Stable leadership
- Suppliers extended credit: Trust in daughter's management

5 Years Later:

- Business worth Ksh 72M (grew 60% under daughter's leadership)
- Brothers happy: Received Ksh 9M each immediately, invested wisely
- Daughter happy: Owns profitable business, honors father's legacy
- Family harmony: Clear plan prevented disputes

Value Created:

- Business preserved: Ksh 45M → Ksh 72M
 - Family harmony: No legal battles
 - Children satisfied: Fair distribution (daughter gets business, sons get cash)
-

Case Study 3: Blended Family - James (Age 58)

Profile:

- First marriage (divorced): 2 adult children (ages 32, 30)
- Second marriage (current): 1 child (age 8)
- Assets: House (Ksh 12M), Investments (Ksh 8M), Business (Ksh 15M)
- **Total Estate:** Ksh 35M

Problem: No will, complex family dynamics

Without Will (Law of Succession Act):

- Current wife gets life interest in estate
- 3 children share ownership equally (33.3% each)

Problem 1: Adult children want assets sold and divided NOW

Problem 2: Current wife and young child need family home and income

Conflict: 5-10 year court battle likely, relationships destroyed

Our Customized Will Solution:

Fair Distribution Reflecting Relationships:

1. Family Home (Ksh 12M):

- **Current wife and young child (outright ownership)**
- Ensures stability for minor child
- Wife can sell if needed (downsizing, relocation)

2. Business (Ksh 15M):

- **Adult children from first marriage (50% each = Ksh 7.5M each)**
- Recognizes their role helping build business over years
- Ensures fair inheritance for older children

3. Investments (Ksh 8M):

- **Young child (age 8) in trust until age 25**
- Protects minor child's future
- Managed by professional trustee

Distribution Summary:

- Adult child 1: Ksh 7.5M (business share)
- Adult child 2: Ksh 7.5M (business share)
- Current wife + young child: Ksh 20M (house Ksh 12M + investments Ksh 8M)

Fairness Rationale:

- Adult children: Larger immediate cash (business liquidated/sold)
- Young child: Larger total (house + investments) but needs support for 17+ years
- Roughly equal: Ksh 7.5M vs Ksh 10M per child (considering young child's longer dependency)

Result:

- Clear, fair distribution
- Adult children satisfied: Received substantial inheritance (Ksh 7.5M each)
- Current wife and young child secure: Home + education funds
- **No court disputes, estate settled in 8 months**

OUR WILL DRAFTING SERVICES

Package 1: Standard Will (Simple Estate)

Ideal For:

- Married couple with children
- Straightforward asset distribution
- No business interests or complex trusts

Included:

- Initial consultation (1.5 hours): Understand assets, family, wishes
- Asset inventory: Document all property, accounts, investments
- Will drafting: Asset distribution, guardianship, executor designation
- Review meeting: Explain will clause-by-clause, answer questions
- Signing ceremony: Witnesses provided, legal formalities handled
- Will storage: Secure storage + copy to you

Package 2: Comprehensive Will (Complex Estate)

Ideal For:

- Business owners
- Blended families
- High net worth individuals (Ksh 10M+ estates)
- Multiple properties or investments

Included:

- Everything in Package 1, PLUS:
 - Estate audit: Identify all assets, liabilities, ownership structures
 - Tax optimization: Minimize estate transfer costs
 - Trust recommendations: When trusts needed for minors or asset protection
 - Letter of wishes: Non-binding guidance for executors (family dynamics, specific wishes)
 - Business succession planning: Buy-sell agreements, key person insurance coordination
 - Beneficiary review: Life insurance, pension, bank accounts (ensure alignment with will)
-

Package 3: Complete Estate Plan (Ultra-High Net Worth)

Ideal For:

- Estates over Ksh 50M
- Multiple businesses and investments
- Complex family structures
- Desire for privacy and asset protection

Included:

- Everything in Package 2, PLUS:
 - Family living trust setup (see separate Trust proposal)
 - Power of attorney arrangements (financial and medical)
 - Offshore asset coordination (if applicable)
 - Charitable foundation guidance (legacy giving)
 - Annual estate plan reviews (3 years included)
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WILL REVIEW & UPDATE SERVICE

Why Review Your Will?

Life Changes Requiring Will Updates:

- Marriage or divorce
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- Birth of children or grandchildren
- Death of beneficiary or executor
- Significant asset changes (buy/sell property, business)
- Change in financial situation (inheritance received, business sale)
- Relocation (different country/county)
- Change in wishes (relationship changes)

Recommended Review Frequency: Every 3-5 years or after major life event

Will Review Service:

What We Do:

- Review existing will (clause-by-clause)
 - Identify outdated provisions (deceased beneficiaries, old addresses)
 - Check alignment with current assets (new property, closed accounts)
 - Verify executor still willing and able
 - Assess if guardians still appropriate (if children still minors)
 - Recommend updates or complete redraft
-

POWER OF ATTORNEY (POA) SERVICES

What is Power of Attorney?

POA allows trusted individual to manage your affairs if you become incapacitated (accident, stroke, dementia, coma).

Two Types:

1. Financial Power of Attorney

Authority to:

- Access bank accounts
- Pay bills and debts
- Manage investments
- Sell property (if needed for medical care)
- Run business operations
- Sign contracts on your behalf

Example Use:

- You suffer severe stroke, unconscious for 3 months
- Without POA: Family cannot access your accounts, pay mortgage, run business
- With POA: Designated person (spouse, adult child) manages everything seamlessly

2. Medical Power of Attorney

Authority to:

- Make healthcare decisions
- Authorize treatments
- Choose medical facilities
- Choose doctors and specialists
- End-of-life decisions (per your pre-stated wishes)

Example Use:

- Terminal illness, unable to communicate
- Without POA: Doctors ask family, family disagrees on treatment approach
- With POA: Designated person makes decisions based on your previously stated wishes

When POA Activates:

- Upon incapacity (doctor's certification required)
- Can be "springing" (only activates when incapacitated) or "durable" (effective immediately and continues through incapacity)

Why You Need POA:

Without POA:

- Family must go to court for conservatorship (legal guardianship of adult)
- Process takes 6-12 months
- Legal fees: Ksh 150,000 - 300,000
- Court supervises all financial decisions (slow, bureaucratic)
- Medical decisions delayed while court processes petitions

With POA:

- Activates immediately when needed (no court)
- Trusted person you chose (not court-appointed stranger)
- Seamless management of affairs
- Cost: Ksh 20,000 - 30,000 one-time

OUR ROLE AS YOUR FINANCIAL ADVISOR IN DRAFTING AND REVIEWING WILLS

- **Asset Inventory:** Gathers and organizes docs for all assets (investments, real estate, insurance, debts) for accurate will drafting.
- **Heir Guidance:** Builds ties with heirs/executor for ongoing asset management per wishes.
- **Attorney Coordination:** Bridges client finances/goals to attorney for aligned legal docs (will, trusts, POAs etc.).

To provide your **estate planning needs package**, we collaborate with reputable and regulated organizations and law firms.

FREQUENTLY ASKED QUESTIONS

Q1: Do I need a lawyer to draft my will?

A: Not legally required, but highly recommended. DIY wills often have errors that make them invalid or ambiguous (causing disputes). Professional drafting ensures legal validity and clarity. We collaborate with reputable and regulated organizations and law firms to deliver your estate planning needs.

Q2: Can I handwrite my will?

A: Yes, handwritten (holographic) wills are valid if signed and witnessed properly. However, typed wills are clearer, less ambiguous, and less likely to be contested.

Q3: Can I change my will after signing?

A: Yes, anytime. You can:

- **Codicil:** Small amendment document (adds to will without rewriting)
- **New Will:** Complete redraft (revokes old will)

Q4: What if I get divorced after making will?

A: Update immediately. Divorced spouse typically disinherited automatically by law, but clear updated will prevents disputes.

Q5: Can I disinherit someone?

A: Mostly yes, with exceptions:

- **Cannot disinherit:** Dependent minors (court can override to protect children)
- **Can disinherit:** Adult children, siblings, other relatives
- **Recommendation:** State reasons in will to prevent contest

Q6: Do I need separate wills for husband and wife?

A: Yes, each spouse needs individual will. Cannot have joint will (not recognized in Kenya).

Q7: What happens to jointly owned property?

A: Depends on ownership type:

- **Joint tenancy:** Automatically passes to surviving owner (outside will)
- **Tenants in common:** Your share passes per your will

Q8: Should I list all my assets in will?

A: Not necessary. Use "rest, residue, and remainder" clause to catch all assets. Specific bequests for sentimental items or particular properties.

Q9: Can executor be a beneficiary?

A: Yes, common for spouse or adult child to be both executor and beneficiary. Just ensure executor is trustworthy and capable.

Q10: What if executor dies before me?

A: Name alternate executor in will. If all executors dead/unable, court appoints administrator.

TAKE ACTION TODAY

Let's connect on drafting and / or reviewing your will

Contact Me Today

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Disclaimer: This proposal provides general information about wills and estate planning under Kenyan law. It does not constitute legal advice. Will drafting services are provided in partnership with qualified estate planning attorneys. Individual circumstances vary, and customized advice should be sought after thorough consultation. Laws governing succession and estate planning may change.