

# **Module for B.Ed Primary/Junior High School Programme**

**2nd Semester  
April, 2023**

**IoE/MoF/TUC/GHANA CARES TRAINING AND RETRAINING  
PROGRAMME FOR PRIVATE SCHOOL TEACHERS**



**Ministry of Finance**



**Trade Union Congress**



**Institute of Education, UCC**

**SOCIAL STRUCTURE OF GHANA**  
**UNIT 4: SESSION 1**

**Dr. Atta Kwenin**

## SESSION 1: THE CONCEPT OF INHERITANCE

- The concept “inheritance” can be explained from different perspectives.
- Inheritance is the arrangement that is made to allow an individual to receive material benefits or title upon the death of a person.
- It is a form of privilege that is given to the individual upon the death of a close family member or an individual.
- It should be noted that individuals who are not related can also receive material benefit from the deceased through adoption.
- Inheritance is a mechanism of acquiring the features and behaviors of a class by another class.
- The class whose members are inherited is called the base class, and the class that inherits those members is called the derived class

## SESSION 1: THE CONCEPT OF INHERITANCE

- The inheritance may be either under the terms of a will or by intestate laws if the deceased had no will.
- However, the will must comply with the laws of the jurisdiction at the time it was created.
- If it does not comply with the laws, it will be declared invalid (for example, some states do not recognize holographic wills as valid, or only in specific circumstances) and the intestate laws then apply.
- A person does not become an heir before the death of the deceased, since the exact identity of the persons entitled to inherit is determined only then.



## SESSION 1: THE CONCEPT OF INHERITANCE

- Members of ruling noble or royal houses who are expected to become heirs are called heirs apparent if first in line and incapable of being displaced from inheriting by another claim;
- otherwise, they are heirs presumptive.
- There is a further concept of joint inheritance, pending renunciation by all but one, which is called Coparceny.
- In modern law, the terms inheritance and heir refer exclusively to succession to property by descent from a deceased dying intestate.
- Takers in property succeeded to under a will are termed generally beneficiaries, and specifically devisees for real property, be quester for personal property (except money), or legatees for money.

# SESSION 1: THE CONCEPT OF INHERITANCE

- **History of Inheritance**
- Some ancient societies and most modern states employ egalitarian inheritance, without discrimination based on gender and/or birth order.
- **Jewish Laws**
- The inheritance is patrilineal.
- The father that is, the owner of the land bequeaths only to his male descendants, so the Promised Land passes from one Jewish father to his sons

# SESSION 1: THE CONCEPT OF INHERITANCE

- **History of Inheritance**
- **Christian Laws**
- The New Testament does not specifically mention anything about inheritance rights:
- the only story even mentioning inheritance is that of the Prodigal Son, but that involved the father voluntarily passing his estate to his two sons prior to his death;
- the younger son receiving his inheritance  $\frac{1}{3}$ ;
- the older son would have received  $\frac{2}{3}$  under then existing Jewish law

# SESSION 1: THE CONCEPT OF INHERITANCE

- **History of Inheritance**
- **Islamic Inheritance**
- The Quran introduced a number of different rights and restrictions on matters of inheritance, including general improvements to the treatment of women and family life
- the inheritance rights of women remained inferior to those of men because in Islam someone always has a responsibility of looking after a woman's expenses.
- According to the Quran, for example, a son is entitled to twice as much inheritance as a daughter.
- The Quran also presented efforts to fix the laws of inheritance, and thus forming a complete legal system.



**SOCIAL STRUCTURE OF GHANA**  
**UNIT 4: SESSION 2**

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## SESSION 2: FORMS OR TYPES OF INHERITANCE

- **Traditional System of Inheritance**
- The traditional system of inheritance is type of inheritance in which individuals inherit property from either father's line or their mother's line or based on the traditions of the society under consideration
- **Types of Traditional System of Inheritance**
- There are two basic types of traditional forms inheritance and they are patrilineal and matrilineal system of inheritance.
- **Patrilineal System of Inheritance**
- In a patrilineal system, children inherit their father's property and succeed his office. Unlike the matrilineal system, children belong to, or owned by the family of their father (Nukunya, 1972).

## SESSION 2: FORMS OR TYPES OF INHERITANCE

- **Traditional System of Inheritance**
- In a clear reverse order of the matrilineal system, the wives in the patrilineal system are rather 'strangers' who belong to their own patrilineage
- Children in a patrilineal system belong to their father and therefore their father's lineage.
- Patrilineal communities in Ghana include
  - Ewe,
  - Ga,
  - Dangbe and
  - Krobo.

## SESSION 2: FORMS OR TYPES OF INHERITANCE

- **Advantages of Patrilineal Inheritance**
- **It encourages hard work:**
- **It ensures fairness:** the children and the mother enjoy the fruit of their labor.
- **It ensures legitimacy:** this is because it is only the biological children of the death person who have the right to inherit the property or wealth that belongs to them
- **It prevents hardship:** This is because after the death of the father his properties will shared or given to his children.

## SESSION 2: FORMS OR TYPES OF INHERITANCE

- **Disadvantage of Patrilineal System of Inheritance**
- Women are sidelined
- It may create factionalism
- among children
- It may bring hardship: In a situation where a father dies without leaving properties behind, children may be confronted with economic hardship
- It may breed hatred: In patrilineal system of inheritance, the eldest son usually inherits the major share of the father's properties



**SOCIAL STRUCTURE OF GHANA**  
**UNIT 4: SESSION 3**

**Dr. Atta Kwenin**

## SESSION 3: MATRILINEAL SYSTEM OF INHERITANCE

- The matrilineal system of inheritance refers to the traditional system of inheritance in which people inherit property through their mother's line.
- It is where a person inherits the property of his or her mother's brother; that is, his uncle or her uncle upon his death.
- This system of inheritance is supported by the 'Akan Theory of procreation'
- The Akan Theory of Procreation states that during mating, the mother provides the blood (biologists would call this *egg*),
- while the father provides '*ntoro*' or *spirit* (that is to say, the biological sperm).
- Among the Akan, it is believed that blood is thicker than the '**ntoro**'.
- Consequently, people who belong to the same blood are believed to have greater affinity than those in the '*ntoro*' linkage.
- The matrilineage is seen by the Akan as the unilineal descent group.

## SESSION 3: MATRILINEAL SYSTEM OF INHERITANCE

- **Advantages of Matrilineal Inheritance**
- Matrilineal system of inheritance ensures proper maintenance of family property:
- This is because the nephew who is a blood relation of the uncle will ensure the property or wealth of that he inherits from the uncle is well taken care of
- Another important worthy of consideration is that it is fair to blood relation:
- Also, because matrilineal system does not allow of fragmentation of ancestral property it is a good insurance against the abject poverty of its members
- The system also aims at a brotherhood of the state not at individualism

## SESSION 3: MATRILINEAL SYSTEM OF INHERITANCE

- **Disadvantages of Matrilineal Inheritance**
- Because succession in the Akan family is elective it does not make it possible to give special training to the successor
- It weakens paternal authority. A boy working for his father may be advised by their mother not to do so
- It encourages laziness as a result of the fact that because the nephews know they will inherit the properties of their uncles upon his death, they sometimes turn not to do any work
- The system is unfair and unjust in the sense that a woman and her children will suffer with in life with the husband and upon his death his nephew will take over
- It leads to waywardness: In the case where the successor does not use family property in the interest of all entitled to benefit.

**SOCIAL STRUCTURE OF GHANA**  
**UNIT 4: SESSION 4**

**Dr. Atta Kwenin**



## SESSION 4: PRINCIPLES OF SUCCESSION

- **The Principle of First Male Born Succession**
- Amongst most tribes in Africa, succession to status in African customary law is based on the principle of male first born succession (primogeniture).
- This principle may be expressed as follows:
- On the death of a Native his estate devolves on his eldest son or his eldest son's eldest male descendant.
- If the eldest son has died leaving no male issue, the next son, or his eldest male descendent inherits, and so on through the sons respectively.
- The effect of the rule of primogeniture means that African customary law does not permit women or females to inherit property or to succeed to positions of authority.

## SESSION 4: PRINCIPLES OF SUCCESSION

- **Factors Affecting the Order of Succession**
- **Sex or gender**
- Traditionally, sex played a definitive role in the determination of a person's status.
- Women were considered as perpetual minors and either fell under:
  - the guardianship of their fathers (if they were unmarried or single),
  - or husbands (if they were married),
  - or his successor (if they were widows).
- Only male persons were eligible to succeed to positions of status.
- A woman was incapable of succeeding to the position of family head or to general or house property,

## SESSION 4: PRINCIPLES OF SUCCESSION

- **Factors Affecting the Order of Succession**

- **Rank**

Due to the polygynous nature of the customary marriage, African customary law

distinguishes between “family rank” and “house rank”. Each of these categories of rank will be discussed individually immediately hereunder.

- **Family rank**

- Family rank refers to the status of family members within the family group.
- In customary law, males held a higher rank than their female counterparts
- A person’s rank was ultimately determined by the principle of primogeniture.

## SESSION 4: PRINCIPLES OF SUCCESSION

- **Factors Affecting the Order of Succession**
- **House rank**
- House rank simply refers to the hierarchy of the various houses that constitute a family group.
- In a polygynous marriage, each marriage creates a separate family or household with the husband as the common spouse to all the families.

## SESSION 4: PRINCIPLES OF SUCCESSION

- **Factors Affecting the Order of Succession**
- The rank of a household is determined by either of the following factors:
- **When the house came into existence**
- Amongst the indigenous African peoples, the wife married first is known as the “main wife” or the “great wife”.
- The rank of the children born in a specific household is thus solely dependent upon the rank of their mother’s house or house rank.
- **The descent group of the main or great wife**
- With regards to this factor, the order in which the wives are married is not crucial for the ranking.
- The only requirement here is that the main wife must come from a particular descent group, and does not necessarily have to be the wife whom the man marries first.



## SESSION 4: PRINCIPLES OF SUCCESSION

- **Factors Affecting the Order of Succession**
- This means that the children's rank within the household will once again be determined by their mother's house rank.
- This type of ranking is common amongst the Swazi.
- **Forms of Succession**
- Succession in African customary law may be further subdivided into general succession and special succession.
- General succession may be defined as succession to the entire household and the property of the general estate.
- This means that for this type of succession, the general successor would therefore succeed to all the property belonging to the family group as a whole

## SESSION 4: PRINCIPLES OF SUCCESSION

- Special succession may be defined as succession in a specific house and succession to its house property.
- This means that for this type of succession, the house successor would only succeed to the property belonging to the household to which he belongs (here again, the distinction between family rank and house rank is particularly relevant).
- **The Powers and Duties of a Successor**
- caring for and supporting the members of the house;
- managing the payment and collection of debts;
- ensuring the provision of marriage goods for sons and wedding garments for daughters;
- maintaining and catering for the needs of the widow and her minor children; and the responsibility for the delicts committed by members of his household

## SESSION 4: PRINCIPLES OF SUCCESSION

- **4.5 The general successor's duties included:**
- assuming the role of the deceased family head albeit limited in respect of the authority over the various houses;
- acquiring control over the general property;
- responsibility for the general debts of the household;
- the collection of outstanding debts; and
- the performing of family rituals on behalf of family members.

## SESSION 4: PRINCIPLES OF SUCCESSION

- **The Successor's Rights and Responsibilities to the Widow**
- The widow has a right to continue living in the family homestead
- The successor may not arbitrarily dispose of or sell house property unless he has first consulted with the widow and the sale or disposal is essential for the maintenance of the widow and her children.
- If the successor fails to adequately maintain the widow and her children or if he neglects them in any way, the widow (with the permission of the chief or the court) may be allowed to establish her own homestead
- In cases where the successor is a minor, then he, his mother and other minor children fall under the guardianship of a senior male relative of the deceased family head.

**SOCIAL STRUCTURE OF GHANA**  
**UNIT 4: SESSION 5**

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## SESSION 5: THE ORDER OF SUCCESSION

- **Succession in Monogamous Families**
- The order of succession in a monogamous family is as follows:
- The eldest son, or, if he is deceased, his eldest son.
- If the eldest son died without any male heirs, the second born son or his male heirs succeed, in order of their birth.
- If the deceased died without leaving behind any male heirs, or if he outlived all his male heirs, the deceased's father is the successor.
- If the deceased outlived all his male heirs and his father, he is succeeded by his eldest brother.
- If the deceased outlived all his male heirs and his father and his eldest brother, he is succeeded to by his eldest brother's oldest son

## SESSION 5: THE ORDER OF SUCCESSION

- **Succession in Monogamous Families**
- If the deceased's father or the deceased's brothers have no male heirs to succeed him, the deceased is succeeded to by his grandfather or one of the grandfather's male heirs according to their rank and status
- If the list of eligible heirs above is exhausted, meaning that there are no available male heirs to succeed the deceased, the deceased is succeeded to by the traditional ruler of his traditional authority
- If the deceased's traditional authority does not have a traditional ruler, the President of the country succeeds the deceased.

## SESSION 5: THE ORDER OF SUCCESSION

- **Succession in Polygynous Families**

- **Simple polygynous succession**

Here succession is similar to succession in monogamous families.

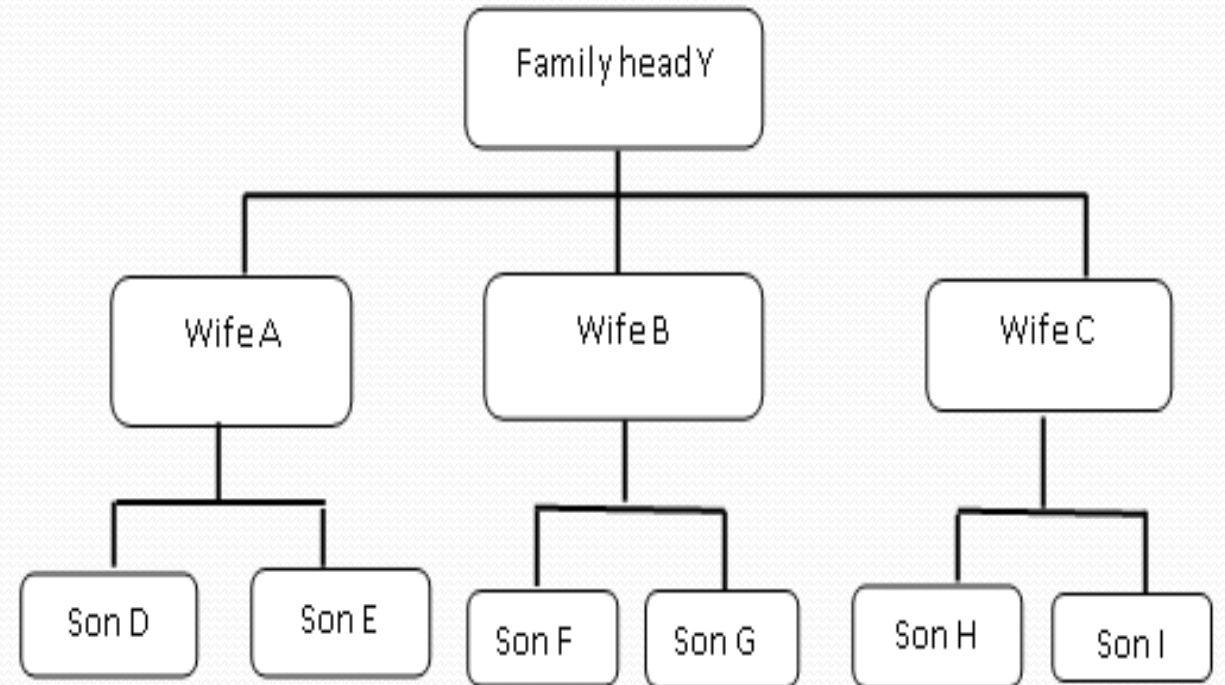
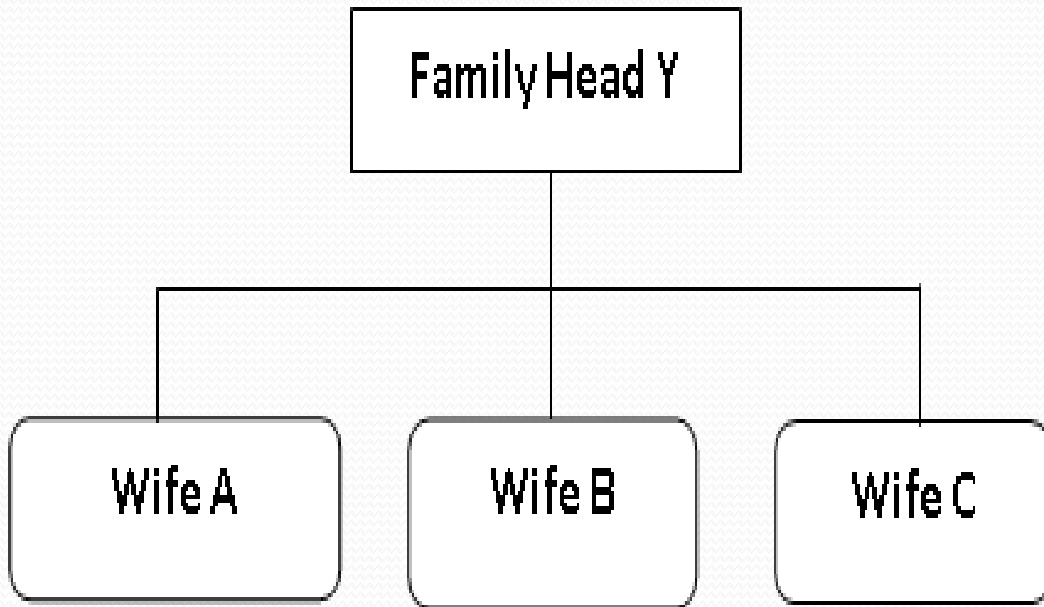
- The eldest son (or if he is deceased, his eldest son) of the senior wife succeeds to the status of the deceased.
- If the eldest son died without any male descendants, the second born son (or his male heirs in order of their birth) of the senior wife succeeds.
- If the senior house failed to produce any sons or other male descendants, the eldest son (and his descendants) of the wife married second would be the next eligible successor in the order of succession.
- This type of succession is practiced amongst the Tsonga tribes.

## SESSION 5: THE ORDER OF SUCCESSION

- **Succession in Polygynous Families**
- **Complex Polygynous Succession**
- For this type of succession, the rank of each wife or her house and the time at which she was married is imperative.
- The wife married first is known as the main or great wife.
- All wives married after the main or great wife are subordinate to her and to each other depending upon the time at which they were married.

# SESSION 5: THE ORDER OF SUCCESSION

- Succession in Polygynous Families



## **SESSION 5: THE ORDER OF SUCCESSION**

- **The Institution of a Legitimate Son in one House as Successor in Another House**
- Amongst some indigenous communities it is an accepted customary practice for a son from one house to be instituted as successor in another house that has no successor.
- In such cases, the instituted son “loses his right of succession to the house or family from which he was taken”.
- If a male child or successor is subsequently born in the house having no successor, the instituted son reverts back to his former position.
- The institution of a legitimate son in one house as successor in another house must be publicly sanctioned by the family group concerned and notification of the formal declaration must be sent to the chief of the tribe.



## SESSION 5: THE ORDER OF SUCCESSION

- **The Institution of an Illegitimate Son as Successor**
- Amongst some indigenous communities it is an accepted customary practice for a head of a house to institute an illegitimate son (spinster and not by another man's wife) as successor in cases where he has no legitimate male children.
- Such an institution is only valid if the head of the house has paid damages to the guardian of the women concerned and that the necessary formalities must have been complied with or performed.
- Logic dictates that if the head of a house subsequently marries the woman who is the mother of his illegitimate son or successor, the son is automatically legitimised and entitled to the usual rights of succession.

## SESSION 5: THE ORDER OF SUCCESSION

- **The Adoption of a Successor**
- Amongst some indigenous communities it is an accepted customary practice for the head of a house to adopt a successor in instances where he has no sons at all.
- In customary law, it is preferable that the head adopt the son of a close relative in his own family group rather than one having no relationship by blood through the male line.
- The male person who is adopted as successor does not have to be a child, but may be a young male or a youth.
- The adoption of a son for purposes of succession must be consented to and must be publicly approved by the family group concerned.
- It is sometimes customary, but not compulsory, for the head to compensate the child's father with cattle for the adoption

## SESSION 5: THE ORDER OF SUCCESSION

- **Disposition of Assets by the Family Head before Death (Disposition Inter Vivos)**
- **Disposition of Assets by Means of a Final Disposition**
- According to Olivier, a family head may on his deathbed or while he is still in good health make a declaration as to how his assets should be dealt with.
- In his final disposition, the family head must still comply with the principles of customary law. For example, the family head may not:
  - disinherit his sons in favour of daughters;
  - disregard the principle of primogeniture;
  - exclude an heir from the law of succession unless it is not according to customary law and procedure; and
  - alter the status of the different houses in order to favour certain descendants.

## SESSION 5: THE ORDER OF SUCCESSION

- **Disposition of Assets by the Family Head before Death (Disposition Inter Vivos)**
- **Disposition of Assets by Means of a Final Disposition**
- The family head must make his disposition known to at least several persons of the wider family circle (including the family council and the main successor).
- The deathbed wishes of the family head are usually respected and honoured. The family head must ensure that the final disposition of property is done by him and that it is conducted in the presence of all concerned parties including those who would also probably be disadvantaged as a result of a disposition.
- In cases where an heir is dissatisfied with the disposition, he or she must object immediately and may even have recourse to the courts.
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## SESSION 5: THE ORDER OF SUCCESSION

- **Disposition of Assets According to Customary Law**
- During his lifetime a family head may employ the following methods to dispose of his assets according to customary law:
  - the allocation of property to a particular house or son
  - the adoption of a young child (usually the child of a relative)
  - the transfer of a younger son from one house to another house without a son
  - seed-raising is also a possibility when trying to secure a successor in a house where there is no male heir;
  - the transferral of daughters to sons in a house as a way of securing the marriage goods of these sons
  - disherison (disinheritance) the means of excluding a successor from the sequence of succession (disherison can only be done if there are special reasons and certain formalities have been complied with)

**SOCIAL STRUCTURE OF GHANA**  
**UNIT 4: SESSION 6**

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## SESSION 6: DISINHERITANCE

- Disinheritance refers to the manner in which a person who might otherwise have received a gift from a loved one's estate is left nothing.
- A common example would be where a parent leaves a child out of their will and trust, for whatever reason, or no reason at all.
- It may also be said exclude from inheritance or the right to inherit or to deprive one of a natural or established right or privilege.
- In terms of customary law, a family head may (under certain circumstances and according to the prescribed formalities) disinherit his son and eliminate him from his lawful right of succession.

## SESSION 6: DISINHERITANCE

- **Ways of Disinheritance**
- Expressed disinheritance is executed so that, in the deed of disinheritance or in another disposition mortis causa, the decedent states that he disinherits the forced heir, i.e. the decedent excludes the heir from his right to mandatory share, completely or partly
- Implicit disinheritance or disinheritance without giving reason is a suitable way of disinheritance in a situation when the decedent does not wish the disinherited forced heir to acquire anything of the decedent's estate and, at the same time, the decedent has no interest in defaming that heir before others.

## SESSION 6: DISINHERITANCE

- **Reasons for Disinheritance**
- Serious misconduct making him unworthy to succeed his father as family head e.g. misconduct of a criminal nature, prodigality, etc.
- Behaviour towards his father that is irreconcilable with being his father's successor, e.g. assaulting his father or serious disobedience;
- Wastefulness or extravagance in respect of the personal property of the family head, the family estate
- Persistent refusal to contribute to the maintenance of the family;
- If he is an illegitimate child begotten by an outsider
- Being an idiot or insane
- Specific circumstances such as an attempt to murder his father in order to expedite his succession, adultery with the younger wives of his father,

## SESSION 6: DISINHERITANCE

- **Consequences of disinheritance**
- One of the main and most obvious consequences of disinheritance is that the disinherited son is no longer eligible for succession
- The family head's successor will now be the individual (son or male) second in rank to the disinherited heir
- A disinherited son is only excluded from his right of succession in respect of his own father, and it does not affect his qualification to inherit in respect of another member of his family group
- Finally, the disinheritance of a successor does not have the effect of disqualifying his male descendant.

## SESSION 6: DISINHERITANCE

- **Disputes on Disinheritance**
- Legal dispute
- Legal dispute occurs in a matter of disinheritance when the disinherited person does not deny his performance of an act, which the testator states as the reason of disinheritance, but the disinherited person insists that the act shall not establish a reason of disinheritance.
- Factual dispute
- Different situation occurs when the disinherited forced heir defends himself, insisting that the statements in the declaration of disinheritance are not true.



*THANK*

*YOU*

*FOR YOUR*

*ATTENTION!!!*

