

FROM STIGMA TO GRACE

From Separation to Divorce

CONTENTS

**Chapter one
INTRODUCTION**

**Chapter Two
WHAT IS STIGMA OF SEPARATION?**

**Chapter Three
WHERE IS THERE GRACE IN DIVORCE?**

**Chapter Four
HOW DO I START THE PROCESS?**

**Chapter Five
YOUR DIVORCE TEAM**

**Chapter Six
CHILDREN**

**Chapter Seven
CONCLUSION**

CHAPTER ONE

INTRODUCTION

The failure of a marriage is not the failure of a person. A marriage can never be conducted alone, without a spouse; a significant other so when it fails it is at best a failure of an endeavour by two people. However a marriage breakdown need not be the end of life. Many people have given the stigma of divorce as a reason for not having one. Others have said the cost of a divorce is prohibitive, while the women have given the reasons of stigma of change of name back to their maiden names as their reasons for not getting a divorce.

In Nigeria the law of divorce is governed by Matrimonial Causes Act and each country have laws of divorce that are very not dissimilar to each other. There have been several attempts by many people to interpret the various facts of divorce albeit wrongly many times. This book is not about the law of divorce but the planning of divorce. It will certainly make references to that law and others but it is intended to be a helpful support in the course of having a divorce.

It is therefore a manual for those who have taken the decision that their marriage is not worth saving; it gently takes them through the process of planning their divorce.

Whatever decision you take about your conjugal state, I trust that you will have taken it with all the advice you can get and have weighed the pros and cons of each kind of support, as ultimately you are responsible for your life's happiness, not anyone else.

CHAPTER TWO

WHAT IS STIGMA OF SEPARATION?

Separation is when two people decide to bring co-habitation and conjugal rights to an end. It is a state of living alone or away from each other. It is usually seen as a precursor to a divorce, by some and as an end of marriage by others.

Physical separation is not the same as judicial separation. Judicial separation is dealt with under our Matrimonial Causes Act, and while it grants the parties the right to live apart from each other, it doesn't dissolve the marriage. Proof of reasons for judicial separation is the same as for divorce and the process is just as rigorous.

Many people who separate physically do not think of or are not aware of the law regarding judicial separation, and the purpose of this short booklet is not to let you know what it is. It would require an entire booklet to talk about judicial separation.

When two people separate physically they do so despite the urgings of friends and family including pastors. Many people who urge others to remain in marriages never stop to think what the reason for the separation is, but simply counsel sticking with a bad marriage. In the same breath they tell their friend, family or flock that their happiness is what matters and can only be found in that marriage. The fact that one person chooses to remain in an unhealthy marriage, and has a high threshold for lack lustre living, does not mean that everyone else has that threshold.

Happiness is found in many things and certainly a violent, abusive and careless marriage is not one of such places. We all have our reasons why we choose to separate from our spouses and it is sad that stigma actually starts from those same people we have trusted our stories to. They are the ones who know we have issues at home and tell on us.

Stigma comes from having done something wrong. Women more than men feel the sense of shame when a marriage fails. It is strange that stigma comes from tradition and not from law. There is now what is generally known as a no-fault divorce and so the law does not attach any stigma to being divorced.

Tradition keeps us in the place of separation because then we console ourselves with the fact that we are not divorced. We stay in the place of stigma, because when you are separated, you are not married or legally available for marriage. Such a person is seen as constituting themselves into

the other woman or the irresponsible male. Whereas a married woman may get away with certain things, a separated woman will be called all kinds of names for the same action. She is regarded as a home breaker simply because she does not have a husband.

Remaining separated means that one is legally married yet does not enjoy the love and comfort of being valued by anyone in the capacity of a spouse.

CHAPTER THREE

IS THERE GRACE IN DIVORCE?

The law allows no fault divorces today. It allows parties to divorce when they have been separated for two years and they both do not object to the divorce being granted; where there is an objection the party who wants a divorce may get one without fault or consent once they have lived apart for three years.

Many couples separate with a lot of rancorous issues between themselves; but by the time a couple have been separated for two years, it is neater and better for them to sit down and mediate their divorce, so that they can have an uncontested and sane divorce.

What is the benefit of an uncontested and non-rancour divorce? Who wins? No-one does. Who loses? Everyone does. When two people go to court to have a 'battle' because they want to divorce each other they invariably wash their dirty linen in public; they open each other to orders granted by someone(the judge) who really isn't involved in the issues and may not have the privilege of knowing the full story. The court contest prevents the parties from managing their affairs as far as the dissolution of their marriage is concerned.

- It is strange that when people get married, they have the freedom of choosing the details of the ceremony, yet in divorce they are subject to the decisions of a third party(the judge). Since mediation is allowed in family or divorce matters, it is saner to have your arrangements about your post-marriage affairs discussed and agreed before going to court. Even though in Nigeria a couple still has to go to court to get a dissolution order, a mediated arrangement takes less time and is less emotionally destabilising.
- A dignified divorce helps you both to try out your arrangements before you go to court. For instance, where there are children involved, you may wish to have worked out custody arrangements including where the children will live in term time or during the week etc. it is a gracious way for the children to adjust to the divorce without the fierceness of a court order.
- Financial matters are kept confidential and parties get a chance to work out realistic financial arrangements. Parties are able to enter into financial settlements that have been worked out and acceptable to those who are affected. Negotiated financial settlements are more likely to be kept to than those enforced by court order.

- Litigation takes time and in the process of waiting emotions reach a high pitch. Each person wants to outdo each other but it must always be remembered that divorce is not war. It is a neat and decent end to a failed marriage. Once the parties are agreed as to their outcomes, the time can be shortened by proper application made by lawyers to the court, since such divorce is a no-fault case.

CHAPTER FOUR

HOW DO I START THE PROCESS?

You need first to decide that you want to divorce. That is not a decision that is easy to take. I have a 3 module online course that should help you decide whether or not divorce is the right option for you. It is titled IS DIVORCE THE RIGHT OPTION? It is short and very much to the point. It teaches issues that are germane to taking a decision. It is ought not to be taken by someone else for you. It is a decision that is very close to your heart and once started; even if you walk away from it further harm may have been done to the relationship. There are pros and cons to taking a decision about whether or not to get divorced but you must not stay in the place of separation. You must be satisfied that you wish to remain in the marriage or you want out completely.

The question to ask yourself is what you want out of the marriage. Is there a possibility of getting a home settlement – property? What kind of money do you think you can get – a bulk amount – more like a settlement or gratuity as it is called in public service? That might be a reasonable sum to tide you over until you are settled in a job, especially if you have financial challenges. Many people shy away from this because they feel they won't get anything. If your spouse really wants out of the marriage and feels that would settle you they may be willing to consider a fair sum. Do not expect to get whatever you ask for. It is in the nature of man to negotiate.

If there are children in the marriage work out in your mind what you think you require for their upkeep, bearing inflation in mind; or would you rather your spouse has upkeep of them?

In considering what you want in a settlement, know that if you have made a will, it automatically abates upon a divorce. If you have reached a settlement, it is wise to write a new will after the divorce. This is particularly important where the settlement disentitles you to some property.

There are re-marriage issues to be considered too. If you are receiving a monthly maintenance fee would this stop upon your being re-married? Would you want to pay monthly maintenance for ever, or a fixed period? Would you want custody and access arrangements to change when either of you re-marries?

Conversely as you plan what you want your settlement to contain, you need to think of what the other side may demand too. Are you able to talk to them

calmly about this? Would they prefer to save the marriage? What would be their motive in saving the marriage? Is it to keep you in the bondage of a failed marriage or because of a genuine desire to make things work out? Are they the problem or you? It is usually both of the spouses in a marriage.

You need to think up what other issues are peculiar to your circumstance and think deep and hard about them, then head off to see a family law expert. Please don't simply go to the lawyer down the street or the cheap lawyer hanging around the courts. They will delay your matter because they are not conversant with such issues. Ask around. Go to the High Court or the Family Court and watch proceedings; look for the lawyers that seem to make the judges sit up. Ask the court clerks to suggest a few names of lawyers who come to the Family Court to you. If you live in a state where they don't have Family Courts yet, ask at the local Bar Association office or even from lawyer colleagues. Whatever you do, search hard and properly.

You may not like your spouse at this time and that is expected but it's important to plan your divorce so that you get the maximum acceptable arrangements that would suit each one of you. These matters are preliminary to your divorce journey and need to be well thought through. Until you think them through by yourself it is better you do not share this with anyone. However it is wise after you are certain in your mind to discuss with a trusted friend or relative. They may be able to help you in getting clarity on your expectations not your decisions.

That is the place to start.

CHAPTER FIVE

YOUR DIVORCE TEAM

While divorce need not be regarded as war, without doubt there will be battles to be fought. Even though it has been said that a dignified divorce is one where there is a no-fault approach, being human, our emotions will get the better of us at various times and we will not be at our best to negotiate our settlement. It is wise to have a team of people who are in your kitchen cabinet as you navigate the process. Divorce, even a no-fault one, is stressful.

LEGAL

It is the law that only a High Court can grant a divorce. Unlike in some jurisdictions, where you simply file papers and get a decree of dissolution in the mail, here you have to file a petition and go to court to give evidence. The Rules of Court insist on a conference where these kinds of issues in this report are discussed, unfortunately still before a judge, who is expected to be impartial in his assessments of what the maintenance and custody arrangements will be. This process is what this e-book seeks to discuss so as to smoothen the process of divorce, custody and maintenance and invariably to get the ancillary orders in accordance with your agreement and convenient arrangement.

The best interest of the children are of paramount consideration in making orders regarding them and the court cannot make better arrangements than what the parents could make. It is therefore wise for the parties to sit down, with their lawyers, with a sincere intention to sort these matters out. That is why you need a lawyer who can advise you on the blueprint that you would have prepared and given to him.

Another reason why you need to know what you want and what you are willing to concede is because sometimes lawyers set expectations of parties low in a divorce. This attitude, I believe, is to enable the client feel that they have won a greater victory than expected. Many times the parties don't really get as much as they could have, if they don't let their lawyers know what their expectations are.

EMOTIONAL

- a) If your family members don't support your divorce for any reason, do not confide in them. By all means tell those who need to know but don't

allow anyone to distract you from what your mind has confirmed to you. It is always to follow one's heart.

- b) If you are a religious person get a partner from your pool of praying friends. Be specific in what your prayer request should be. since the church is also full of people who will not support you you need to choose wisely.
- c) If you have friends who have gone through divorce and have recovered, not those who are still reeling from the effects of being divorced, seek their Comfort. Plan to do things together. If there is a divorce group you may know about, join them. If there isn't one, you may wish to start one, as you will all give each other emotional support.

There are many benefits in joining a divorce support group or starting one.

- 1) You will learn from each other's' mistakes and how they are moving forward in their lives;
- 2) You'll know that you are not alone, so the issue of stigma can be defeated in your mind;
- 3) You will be among people who aren't judging you;
- 4) If you have children you will support each other in child sitting as well as generate a treasure trove of how people are handling issues of child trauma;
- 5) If you are in a support group, you will meet new people and it may lead to new relationships and re-marriage.

FINANCIAL

Finances get tight with a divorce. For the person who is paying child support and maintenance, it may be a hard time, adjustments have to be made. School fees must be paid during and after the process, so it's important to get your emotions in check and not all over the place for greater ability to make a greater income.

Typically for many women divorce is hard on their finances. However most women usually have been separated for a while and have had opportunity to earn their own money. By its very nature however there is still a settling in period, because lawyers' and court fees must be paid. This can be quite colossal and a number of women, especially, have remained in the separation rut for this reason. It is wise therefore to bear in mind that this time will come and to get help in preparation of a budget to cover the initial expenses that arise due to divorce.

There are more people who give financial advice now than hitherto. Find such a one; they are expert in their field and will advise on budgeting and financial planning.

CHAPTER SIX

CHILDREN

Divorce is a very difficult process, in particular for the children. While they may show signs of strength, it is good to let them know what is happening throughout the process. You must learn not to accuse the other parent as children have a way of taking sides with the absent parent. If it's possible the two of you should have the job of letting them know that adults get to the point where they disagree, and that it is necessary for you to get a divorce. You need to let them know that it is the parents that must separate and does not reduce the love the parents have for them as they remain their children.

If it is not possible to tell them together then the two of you must make it as non-accusatory of the other party as much as possible.

It is important to be gentle with them and support them as much as you can throughout the process. I personally do not support keeping children in an unhappy marriage, that's not teaching them love, but tension. Divorce is clearly difficult for all, but living in a tense atmosphere is a greater time bomb for all.

Studies conducted over many years have actually shown that children of divorced parents are actually better off than children of those who stay together in a war zone.

Many parents, especially mothers refrain from re-marriage citing the upbringing of the children as their reason. It has been observed however that they are usually full of venom and bitterness and thus defeat the purpose of remaining single. Such children grow up with an unusual resentment of their mothers or greater love for the fathers than they deserve. They grow up in an atmosphere of perpetual condemnation of the absent parent.

CHAPTER SEVEN

CONCLUSION

Where the parties are unable to mediate their divorce by themselves, and insist on getting a dirty or heavily contested divorce, they run the following risks

- 1) They will be granted orders that they would rather not have;
- 2) They will pay a lot more fees to lawyers;
- 3) The time for the litigation will be extended as the preliminary work that could have been done will have to be handled by the court;
- 4) There will always be malice and rancour and this will permeate to the children, increasing the delay of their recovery process.

In my **DIVORCE PREPARATION COURSE** I take you through the details of preparation that have been highlighted here in greater depth. It is a course that comes with a monthly opportunity to discuss issues in greater detail after you have taken the decision to have a divorce. Find out more about the curriculum here.

Remember that if you are not yet quote sure you definitely need to take the course titled **IS DIVORCE RIGHT FOR ME?**

Whatever decisions you take and however long your divorce journey lasts it is my prayer that you find true joy in a new and fulfilling life, where you will flourish all your days.

I am Aronke Omame aka Sisi Lawyer. I help people transition from difficulties in their relationships to happiness in their lives.

My contact details are

Whatsapp +234 803 380 7165

Twitter www.twitter.com/sisilawyer101

Facebook – www.facebook.com/groups/sisilawyer

Instagram – www.instagram.com/sisilawyer