

THE RELATIONSHIP BETWEEN CIVIL AND CUSTOMARY MARRIAGES
Part2 CONTINUES FROM LAST WEEKS ISSUE

Does the act make provision for polygynous marriages? If my husband wants to take another wife, how will the law protect me?

The Act does allow a man to enter into multiple marriages. However, this has to be done in accordance with the provisions of the Act. The Act stipulates that in the event that a man wishes to enter into a polygynous marriage he has to apply to the court for permission. In his application he must set out the property systems for all of his wives.

All interested parties must be represented in the application, particularly the existing and future wives. The court must consider the circumstances of the existing spouse(s) and family members and ensure that the contract fairly divides the existing marital property.

The court has the power to accept, add a condition or refuse to accept the contract. This provision is intended to protect all wives, children and family members.

How do I go about terminating my customary marriage?

In terms of section 8(1) of the Act a customary marriage may only be dissolved by a court by a decree of divorce, on the ground of the irretrievable breakdown of the marriage.

As with all other estates administered by the Master, a copy of the divorce order and any settlement between the parties, which has been made an order of court, must be called for in appropriate circumstances, e.g. to establish whether the deceased estate is liable for future maintenance

Initially customary marriages were dissolved by a negotiated agreement between the spouse's families. Where the families could not reach a resolution, the traditional leaders and the courts intervened with a limited role of achieving a satisfactory outcome.

With the implementation of the Act, courts have unfettered power to dissolve customary marriages. Women now have the same rights as men to institute divorce proceedings. The courts must be very careful when they dissolve polygynous marriages. The court must ensure that property is divided fairly and must take into account

all other family members involved. The court must pay particular attention to the fact that what appear to be the assets of the husband, may indeed be the assets of the wives, children or family members.

What powers do the courts have?

The court has the power to determine the custody of the children and order the payment of their maintenance. Additionally, the court has the power to divide the marital assets and order the payment of maintenance to a vulnerable spouse.

Recent case law , there has been a victory for women in customary marriages. The Supreme Court of Appeal has ruled that the Road Accident Fund has to treat women who have been married in customary marriages the same as those married under the Marriage Act.

According to a report on the Legalbrief Today site, the SCA ordered the state to review provisions still existing in SA law that preclude support claims.

Seven years ago, the applicant who lost her husband in a road accident lodged a claim for loss of support with the Road Accident Fund. Her claim was refused by the fund on the basis that her husband had previously married another woman in terms of the Marriage Act, thereby nullifying her own marriage.

She challenged this decision in the Cape High Court and lost on the basis of remnants of apartheid legislation still on the statute books. The Recognition of Customary Marriages Act came in effect in 2000, only months after her husband's death. Jennifer Williams, Director of the Women's Legal Centre, an amicus curiae in the proceedings, said the ruling was 'a victory for women married in terms of customary law'.

The matter also throws into sharp relief the moral reasoning behind the tendency to give civil marriages primacy over customary marriages. This approach impacts negatively on women married under customary law as they are deprived of the rights that spouses married under civil law have.' The President of the SCA, Judge Craig Howie, said the agreement had 'tied up all the loose ends'

The Publisher's Ink

THINKING ALLOWED



Austin Moyo Snr.
austin@khanyisamedia.co.za
083 512 7096
Facebook, Twitter, Skype
LinkedIn, WhatsApp

ALBERT LUTHULI ECONOMIC SUMMIT A SUCCESS

Tangible and realistic recommendations and implementable projects have been arrived at.

The Albert Luthuli's two day Economic Summit, that pulled business and government together to chat the way forward in taking the Local Municipality's economy to the next level, with a special focus on job creation, was a huge success.

Khanyisa is proud to have been there not only to cover the event but also to be part of it as well as to become the automatic watch dog on the implementation of the agreed resolutions.

The Economic summit was attended by renowned business, local municipality's Local Economic Development department led by the Mayor herself as well as Gert Sibande District representatives. The second day of the summit took a serious turn to come up with recommendations that are tangible and mean business as there are key performance indicators that with give red lights if the LED unit falls short.

Since the focus was on developing small business with a view of creating jobs in the Municipality. The program director had it all set out, first to identify, through four different commissions:

- SMME Sector Development
- Good Governance and human capacity Development
- Mining & Energy
- Agriculture & Rural Development

The key challenges to each sector and go on to suggest probable solutions. Recommend programs for implementation were followed by specifying partners for implementation to include funding models.

Having identified that there was no dedicated support for SMMEs within the Municipality, this gap needed to be filled with immediate effect so that all recommendation could start to breath life. Several opportunities for the small business sector were identified and paired with corporate or

Government partners for implementation.

There was an out cry for the provision of education and skills to business owners so as to enhance an entrepreneurial culture as opposed the tenderpreneurial culture.

Some of the projects Identified include furniture Manufacturing (Beneficiation) as the district has a lot of tree growing.

Charcoal is important as it is used in many products including celphones.

Tourist attraction places like Baadplass need to be well marketed and exposed so as to have spinoffs to benefit SMMEs.

Municipality needs to come up with a package for business and it must be well marketed with an Investment strategy and portfolio listing all possible industries.

SAPPI: Opportunity to grow trees to be subcontracted to SMMEs..

LEMON Project: Essential Oils for drinks & perfumes.

Look at other bi-products from coal.

Pigetry and poultry (co-operatives)

Fisheries

Bakery

Brick making

Chemical manufacturing

Cattle farming - beef

Dairy farming

Compost and fertilizer

Panel Boat Manufacturing (saw dust)

Mines contribution to local business eg supply of rubber gloves

A Mega mall needed.

Information and opportunities portal needed

Recycling

Truck INN (Resolution already taken by Municipality for one)

Diesel For mines and trucks

Service stations not there (e.g. full car services) and for tyres.

Malls for Don Donald, Comdrai, Oshook, Elukwatini (Franchises spring offs can be looked at)

Under Good Governance and human capacity Development it was noted that there is inadequate LED personnel capacitation and there is a need to train them. There is a need for training centers and FET Colleges to align their curriculum.

Community not properly informed calling for a need to form partnerships with local media houses.

There was a feeling that the lack of a formalised business chamber calls for an urgent need to organize the business sector.

The Municipality must enforce by laws so as to collect tax and promote heath. Our people are poor and they like cheaper staff. Foreign nationals take advantage of that and that poses a problem as they do not pay taxes.

Under Mining and Ernegy it was felt that the life span of mines is short and they are not sustainable. The municipality should find mineral reserves and create an industry that will live beyond the life span of the mine. It must come up with a strategy of industrialization that links the region to coal. This will change the region with clusters linked to each other for sustainability.

Under agriculture & Rural Development there was the issue of title deeds, water rights and conflict of interest. The ageing infrastructure is a challenge. Training and skills transfer is needed in this sector.

Coments to:
austin@khanyisamedia.co.za

SMS / MMS/ WhatsApp

083 512 7096

You can get back copies of Khanyisa

NOTICE TO OUR READERS

Due to concluded sponsorship arrangement for our street sellers with Zonke Bonke Funeral Plan, Khanyisa weekly will now become freely available to all our readers from 4 May 2012

Ngesivumelwano esesenziwe ne Zonke Bonke Funeral Plan ukukhokhela abahambisa iKhanyisa, usuzolithola mahala iphephandaba lakho eliligugu

KHANYISA & MGM LAW ASSIST

Bring YOU FREE Legal Advice

CALL: 011 034 1703

WE ARE AT YOUR SERVICE
Contact Details

Chief Administrator **Ester Sigasa** +2778 221 0398 E-mail: admin@khanyisamedia.co.za; Corporate Sponsorship Manager (Sports) **Milton Malatse** +2778 792 7910 / 0839564588 E-mail: milton@khanyisamedia.co.za E-mail: vuvuzela@webmail.co.za Distribution Manager **Godfrey Mdluli** +2783 315 8939
Special Projects / Advertising Manager **Sebolelo Paraborwa** +2773 058 2688; Graphic Artist **Nonceba Xezu** +2776 126 2776 E-mail: nonceba@khanyisamedia.co.za
Journalist Contributors **Lindokuhle Simelane** 073 634 5005 Delisile Manana , Sonto Mazibuko , Sikhulile Simelane **Guest Columnist** , Grace Phiri

DISTRIBUTION SATELLITES Lekwa : 079 036 0021(Suzan) Govan Mbeki: 082 697 1967 Depaliseng: 078 676 6297 (Ntombi) Albert Luthuli: 073 867 3106 (Mpumelelo) Mkhondo: 079 318 2728 Pixley Kaseme: 079 838 5690 (Mbali) Msukaligwa: 071 550 7068(Busi)

KHANYISA Weekly Newspaper is published by **Khanyisa Provincial Media9 (Pty) Ltd.** Reg: 2008//006489/07 Tel: 081 575 8393; ADDRESS: Suite 102 Mutual Plein Bldg. Cnr. Joubert & Kerk Streets, 2351 Website: www.khanyisamedia.co.za

SEND Press Releases, Articles & Letters to: Fax: 086 505 0060 -Email: admin@khanyisamedia.co.za **ADVERTISING** Tel: 081 595 8393
Fax: 086 505 0060; E-mail: admin@khanyisamedia.co.za
CEO / Publisher **Mr Austin Moyo** +2783 512 7096 E-mail: austin@khanyisamedia.co.za;
C.O.O **Mr Sibuso Dladla** +2773 769 8784 E-mail: sibusiso@khanyisamedia.co.za