

# Home Affairs kick-starts dialogue on new marriage policy

The Home Affairs department has kick started discussions to align the country's current marriage laws with the Constitution.



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"We are starting a process to modernise our marriage laws to ensure that they adhere to the principles of the Constitution, which enjoins us to ensure that the State does not unfairly discriminate against any citizen," said Home Affairs Minister Aaron Motsoaledi.

Currently, marriages in the country are governed by three laws - all of which discriminate against some citizens.

These laws are contained in The Marriage Act 25 of 1961, The Recognition of Customary Marriages Act 120 of 1998 and The Civil Unions Act 17 of 2006.

Largely influenced by religion, the laws in relation to marriage prejudice certain segments of people and contravene the Constitution.

Current legislation does not regulate some religious marriages such as the Hindu, Muslim and other customary marriages that are practiced in some African or royal families.

The Recognition of Customary Marriages Act does not make provision for entering into a polygamous marriage with non-citizens. This poses a serious challenge when such marriages are entered into especially amongst the community members who are members of the same clan but are separated by a borderline.

The legislation does not make provision for couples who change their sex status but want to retain their marital status.

While in terms of the African tradition, chiefs or traditional leaders have a recognised role in the conclusion of a customary marriage; the legislation does not extend a similar responsibility to traditional leaders.

In light of this, government has sought to do away with the discrimination by crafting a new marriage policy.

"Your collective expertise, experiences, wisdom and indeed your views will go a long way in crafting and enriching a policy that will lay the ground for new legislation which is aligned and subscribes to the doctrine of the constitutional principles of equality and non-discrimination as per the Constitution of the Republic of South Africa.

"Through the consultations, we aim to identify key issues that should be addressed by the new marriage policy."

It is envisaged that the new marriage policy will be taken to Cabinet, in March 2021, for approval after an extensive public consultation process has been undertaken.

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