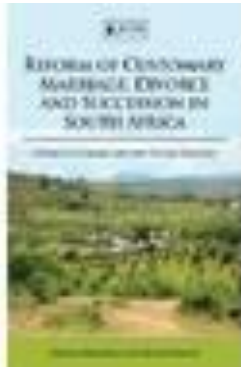


Book Review



REFORM OF CUSTOMARY MARRIAGE, DIVORCE AND SUCCESSION IN SOUTH AFRICA

By Chuma Himonga and
and Elena Moore

(392 pages)

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"I was married to my husband for many years; one day he decided to leave our marriage and go shack up with another woman. While he was away, his sisters came to chase me out of the house we shared. I left our home and went to build a new life for myself."

This rich and finely-researched study sets out to examine the impact in practice of the reforms contained in the **Recognition of Customary Marriages Act** 120 of 1998, and the groundbreaking judgment of the Constitutional Court in the case of *Bhe v Magistrate, Khayelitsha* 2005 (1) SA 580 (CC).

So often the legislative proclamations of Parliament and the dry decisions of the courtroom fail to reach or penetrate the lives of those persons most in need of their regulation and protection.

The co-authors correctly state: *"Law is intended to benefit and improve the lives of people targeted by it."* They adopt a socio-legal approach to measuring and assessing the impact and success of legislation. They seek to show how legal rights are translated into reality by paying attention to the practicalities, norms and perceptions of how the people living according to customary law perceive and adopt the reformed laws.

The extensive field research, data gathered and interpreted, observations made, and interviews conducted (many of which are quoted *verbatim* and make for compelling reading) will undoubtedly contribute to the effectiveness of legal policy in providing a tangible context within which to understand, interpret and apply the law. This will enable constitutional rights and the protection of family members to be more effectively implemented.

Every aspect of customary marriages is dealt with, as are polygamous marriages, their registration and dissolution. Equality of spouses, the role of the Department of Home Affairs, Churches and Traditional Leaders, family dispute resolution and the custody and maintenance of children are all examined.

Special attention is given to intestate succession and the challenges this presents. The importance of family life, gender equality and the protection of children in our often fractured communities and society cannot be over-emphasised.

This remarkable and comprehensive contribution to a hitherto sparse area of research impressively maintains a calm, objective and realistic tone which underscores the credibility of the conclusions of the co-authors. They point out how some of the inconsistencies between the law and its application have positive outcomes, while others do not.

Congratulations are due to the co-authors Professor **Chuma Himonga** of the Department of Private Law at the University of Cape Town, where she holds the Chair in Customary Law, Indigenous Values and Human Rights established by the Department of Science and Technology's South African Research Chairs Initiative, managed by the National Research Foundation of South Africa, and **Elena Moore**, a Senior Lecturer in the Department of Sociology at UCT where she is Director of the Families and Societies Research Unit at the Centre for Social Science Research.

Special mention should be made of law publishers Juta who once again demonstrate their sure grasp that law has to be seen in a much broader context, and law reform both draws upon and shapes that context.

"The insights gained into the way in which both individuals and communities are responding to the changes in the law are invaluable... (This book) makes a remarkable contribution to our understanding of how law reform affects communities, how effective it is, and most importantly how it becomes absorbed as part of 'living customary law'."

- Professor Julie Stewart, University of Zimbabwe.

Review by Louis Rood BA LLB (UCT) of Fairbridges Wertheim Becker.