

Traditional marriage rights concern

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THE Women's Legal Centre has expressed concern over the rights of women in traditional marriages.

This comes after the Supreme Court of Appeal (SCA) ruled in favour of a widow whose deceased husband had failed to register his marriage to her under the Recognition of Customary Marriages Act 120 of 1998.

The centre is a nonprofit organisation that litigates and provides free legal advice to poor women in the interests of justice.

The organisation said this particular case highlighted the "inadequacy of the South African legal system".

"The SCA found that Ngwenyama's marriage was still valid even though

her deceased husband had failed to register the marriage in terms of the customary marriages act. In doing so, the SCA overturned a judgment of the High Court, which had found that such marriages are not valid," the organisation said in a statement.

"The effect of the SCA ruling is that wives in polygamous marriages, whose husbands have not done the required contract, are no longer barred from asserting claims for maintenance and inheritance."

Non-recognition of customary marriages will, according to the centre, result in women being denied the administrative rights over their late husband's estate.

"It is for this reason that the law is clear that a failure to register a customary marriage does not affect the validity of the marriage," said the centre.

"According to the law, it's a husband's duty to register a marriage."

"The husband is the breadwinner in the family, which makes him economically empowered, as well as placing him in a dominant position, which means the wife may not feel that she is able to enforce the registration of the marriage," said Hoodlah Abrahams-Fayker, an attorney at the centre.

"Notwithstanding the constitutional judgement on Friday, we know that many women continue to experience acute discrimination with regards to our legal system. This is due to myriad of reasons, but mostly they do not have access to the legal and financial support required to fully benefit from our democracy and the rule of law," said Abrahams-Fayker.

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