

# 'Make sure you divorce'

*Lawyers advise that customary marriages, like civil unions, must be ended in court*

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SOUTH Africa needs to develop a culture of dissolving customary marriages in court by form of divorce, just as it is done with civil unions. After all, this is what the law requires.

Simply walking away from your customary marriage partner should not be equated to divorce, lawyers have told The Star.

This became a thorny issue last Friday as the urgent application brought by Lerato Sengadi played out at the South Gauteng High Court.

Sengadi maintained that the late Jabulani Tsambo, popularly known as HHP, was still her husband, though

admitting to have walked out of their matrimonial home.

Melusi Xulu, managing director at Donda Attorneys in KwaZulu-Natal, said there was strong indication that many people in the country were still married to people they have been separated from for years.

"Many people are not aware of the Recognition of Customary Marriages Act of 1998. This act has a section specifically for dissolution of customary marriages.

"It says a customary marriage may only be dissolved by a court by decree of divorce on a ground of irretrievable breakdown of the marriage," Xulu said.

This meant customary marriages should be dissolved in the same way

as civil marriages, despite there being no need to register the former with Home Affairs.

"By definition of current law, Sengadi was married in community of property by customary marriage," Xulu said.

"When she moved away from HHP's home, they were separated, they were not divorced. Many people are asking, even on Twitter, 'What if the woman leaves?' It means you've only separated.

"The safest thing is to go to court and file for divorce once you know that you have separated.

"If you're separated from the woman and the divorce process is taking a long time, in the meantime draft

a will. So, if it happens that you die, your things are in order and protected.

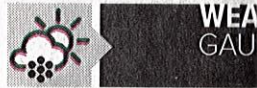
"It can be a woman by the way. It can happen that once she passes on and her things are not in order, the (estranged) husband can come back," Xulu said.

Shando Theron, divorce lawyer from Theron and Theron's, concurred that customary marriages too can only be dissolved by court.

"The biggest question here is were these people legally married? It seems they were. That means they have to get legally divorced.

"A person absconding or leaving the marital home for a period of a year, that is a ground for divorce. It's not an automatic divorce." | @BonganiNkosi87

GOODBYE



**TODAY'S FORECAST**

Cloudy with rain



**TEMPERATURES**

JOHANNESBURG

Pretoria  
Vereeniging  
Heidelberg  
Polokwane  
Nelspruit  
Durban  
Cape Town  
Plettenberg Bay  
Port Elizabeth  
Kimberley  
Bloemfontein

**JOBURG FIVE-DAY FORECAST**

Tuesday Sunny