



## **Press Release: Human Rights Organisations Urge the President to Sign Civil Union Amendment Bill into Law**

August 2020 - Leading Human Rights organisations have urged President Cyril Ramaphosa to sign off on the [Civil Union Amendment Bill](#) that affords same-sex or same-gender couples the right to be married by any state-employed marriage officer and magistrate they so choose.

South Africa became the fifth country in the world, and the first in Africa to legalise same-sex marriages through the adoption of the Civil Union Act 17 of 2006, ('Civil Union Act'). However, under Section 6 of the Civil Union Act, government-employed marriage officers can refuse to solemnize same-sex unions if they state their religious objection in writing to the Minister of Home Affairs.

In 2017, [the then Minister of Home Affairs acknowledged](#) that 421 of the Ministry's 1,130 marriage officers were exempt from performing same-sex civil unions as they "objected on the grounds of conscience, religion or belief".

Same-sex and same-gender couples attempting to enter into civil unions or partnerships in terms of the Civil Union Act have reported persistent systematic refusals by some officials of the Department of Home Affairs (DHA) to offer services to them including those related to the civil unions and partnerships because of their sexual orientation.

The challenges by LGBTQI+ persons to access appropriate services from the DHA do not only end with civil unions and partnerships. Spouses who transitioned while married under the Marriage Act, and applied to change their gender marker, were compelled by DHA to divorce and remarry under the Civil Union Act. They had to approach courts for assistance. In 2017, a Western Cape High Court judgment, *KOS v Minister of Home Affairs*, stated that actions of the DHA were unlawful and inconsistent with the Constitution.

Iranti, along with Legal Resources Centre, Women's Legal Centre, Sonke Gender Justice, Triangle Project and Gender Dynamix are therefore calling on the President to take steps to address by signing into law the Civil Union Amendment Bill.

**Jabu Pereira, Director, Iranti,** said the organisation believed same-sex persons had not been afforded their full rights: “Iranti signed the open letter to the President because the Constitution is the highest law. We must protect and preserve and supersede our religious beliefs and personal value choices. The President must protect the most vulnerable, and in this matter same-sex persons have not been afforded their full rights.”

“Iranti believes that there should be one law for both homosexual and heterosexual marriages because of the issues trans persons face when attempting to change their gender markers after they are married under the Marriage Act. Changing one’s gender marker should not impact the marriage legislation. It is, therefore, imperative that South Africa adopts one marriage act that does not distinguish between same-sex and heterosexual marriages,” Pereira said.

**Kayan Leung, Policy Development and Advocacy Manager, Sonke Gender Justice,** noted: “Sonke believes that the amendment does not encroach on the Section 15 right of state-employed officers in their capacity as private citizens. Section 15 cannot allow officers of the state to discriminate against the rights of others because of beliefs that they hold as private citizens. State officials must act in accordance with the state’s constitutional obligations and not based on their personal prejudices. The Section 36 limitation clause does not give justification for state-employed officials to provide discriminatory services to same-sex or same-gender couples based on personal religious belief or conscience.”

“We implore the President to sign the bill into law,” Leung said.

**Estian Smit, Research, Advocacy and Policy Manager, Triangle Project,** said: “Denial of marriage equality for LGBTQI+ people and same-gender couples have a severely detrimental impact on the lives of these couples, their families and broader communities. Homophobic, transphobic and intersexphobic discrimination is unconstitutional and has no place in South Africa’s laws, policies and practices.”

“Triangle Project calls on the President to urgently affirm our rights to equality and dignity, and our rights to sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) by signing the Civil Union Amendment Bill.”

**Mandi Mudarikwa, Attorney, Legal Resources Centre,** said: “The LRC is committed to seeing a South Africa where all people are substantively equal and enjoy all the promises that are envisaged by the Constitution. Undoubtedly, this has not been the case for LGBTQI+ persons in South Africa and the state must immediately take steps to address their continued marginalization and undermining of rights.” We are requesting the President to sign the Civil Union Amendment Bill into law as a way to re-affirm the commitment to realizing the rights of LGBTQI+ persons.

**Charlene May, Attorney, Women's Legal Centre,** said: “We are asking the President to sign the Civil Union Amendment Bill into law as a way to re-affirm the commitment to realizing the rights of LGBTQI+ persons and, generally, to a more substantively equal in South Africa.

“WLC is committed to the equal recognition of all marriages in South Africa and believe that the State has an obligation to address discrimination and not enforce it. We call on the President to meet the State’s Constitutional obligations and sign the Bill into effect,” said May.

**Zoey Black, Legal and Education Advocacy Officer, Gender Dynamix,** said: “Gender Dynamix, in the strongest terms, endorses the Civil Union Amendment Bill and urges the President to sign this bill into law, so that the Civil Union Act may comply with the rights to equality and dignity as enshrined in the Bill of Rights of the Constitution. We do so in the interest of advancing the realisation of the rights of transgender and gender diverse persons in South Africa, as well as all other persons who require access to non-discriminatory, unbiased and inclusive services from the Department of Home Affairs.

The repeal of Section 6 of the Civil Union Act was passed by the National Assembly almost two years ago and then passed by the National Council of Provinces (NCOP) on July 1 this year in a 33-5 vote.

The Civil Union Amendment Bill is now in the Office the President.

The open letter, which can be found [here](#), concludes: “We support in the strongest terms the adoption of the Civil Union Amendment Bill and urge the President to sign this bill into law. It is time to bring the Civil Union Act in line with the rights to equality and dignity as enshrined in the Bill of Rights in the Constitution of the Republic of South Africa.”

**ENDS**

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