	CIPC NPC Registration 2021 / 157823 / 08	The Official Fathers 4 Justice South Africa https://www.f4j.co.za/home Email: Info@f4j.co.za Cell: 066 331 8972 Chairperson Gary Da Silva
--	---	---

Gary Da Silva

Noordhang

Olivdale, Randburg,
Gauteng

info@f4j.co.za

Cell 066 331 8972

9th July 2024

Attention Minister and Deputy Minister

Department of Social Development

Dear Minister Ms Tolashe, and Deputy Minister Mr Hendricks,


Subject: Urgent Meeting Request to Discuss Issues Affecting Fathers and Necessary Amendments to the Children's Act

Please receive our hearty congratulations on your appointment as new Minister and Deputy Minister for the Department of Social Development. We wish you all the very best for this very auspicious and important appointment.

We hope this message finds you both well.

We are writing to request an urgent meeting with you to discuss critical issues that fathers are facing across the country. Since 2019, we have been engaging with the Department of Social Development and presented our written and oral concerns to Parliament on 13 May 2021, highlighting the numerous unnecessary challenges that fathers encounter. Despite extensive discussions and presentations, including participating in hearings regarding changes to the Children's Act, the issues to date remain unresolved.

The existing provisions of the Children's Act concerning parental rights and responsibilities, particularly Sections 19, 20, and 21, are being undermined by unscrupulous lawyers, advocates, psychologists, and social welfare workers. This exploitation has led to SIGNIFICANT direct emotional, financial, and psychological abuse of fathers and has caused DIRECT severe emotional, and psychological trauma and, harm to our children.

	<p>CIPC NPC Registration 2021 / 157823 / 08</p>	<p>The Official Fathers 4 Justice South Africa https://www.f4j.co.za/home Email: Info@f4j.co.za Cell: 066 331 8972 Chairperson Gary Da Silva</p>
--	---	---

The Centre for Gender Equality agreed with us that sections 20 and 21 are discriminatory and potentially unconstitutional in their findings of Relationships Disentangled (which we have attached for your information please see page 56 paragraph 3).

Further in mid-2023, the constitutional court found that section 40 was indeed unconstitutional. The constitutional court ruling on 29 June 2023 advising that the children act - specifically Section 40 and Section 4 of the Mediation in Certain Divorce Matters Act 24 of 1987 is unconstitutional in that it unfairly discriminates between children of married and those of never-married parents when having their best interests investigated by the Office of the Family Advocate. (Please see attachment)

- Section 40 of the Children's Act 38 of 2005 is unconstitutional to the extent that it excludes permanent life partners as the automatic recipients of parental rights and responsibilities

Further in the same ruling


- Section 4 of the Mediation in Certain Divorce Matters Act 24 of 1987 is unconstitutional in that it unfairly discriminates between children of married and those of never-married parents when having their best interests investigated by the Office of the Family Advocate See attachment
- Should Parliament fail to cure the defects within the 24-month period mentioned in paragraph 2 above, the reading-in will continue to be operative.
 - There is an expectation in this ruling that these changes must be addressed by the minister, and the minister has less than a year to address this.

We also have Judge President of the High Court Limpopo Division EM Makgoba letter dated 20 July 2021 further instructing attorneys to mediate all civil matters which includes family-related law. (See attachment)

We understand that earlier this year, the Department of Social Development abandoned the much-needed changes to the Children's Act due to the election process. However, this excuse is fundamentally unacceptable and inexcusable, we cannot and will not continue to endure the degradation of fathers' rights and responsibilities to their children.

Fathers can no longer be seen as the problem. We urgently seek your engagement to address and rectify these and many other issues. Specifically, we propose the following amendments and actions:


1. A child from birth must have an immediate automatic and inherent right to immediately and automatically enjoy joint equal, shared, daily, physical, emotional, and psychological contact, care, guardianship, and maintenance (CCGM) of both of its biological parents at all times.
2. In the absence of quantifiable, defined, provable violence, abuse, or neglect both biological parents (meaning the biological mother and biological father) must immediately and automatically have the same rights and responsibilities of the child from birth. Both biological parents must

	<p>CIPC NPC Registration 2021 / 157823 / 08</p>	<p>The Official Fathers 4 Justice South Africa https://www.f4j.co.za/home Email: Info@f4j.co.za Cell: 066 331 8972 Chairperson Gary Da Silva</p>
--	---	---

immediately and automatically enjoy joint equal, shared, daily, physical, emotional, and psychological contact, care, guardianship, and maintenance of their child.

3. That marital status, culture, religion, tradition, and other accepted social norms and practices must have absolutely no bearing whatsoever on the child's automatic and inherent right to immediately and automatically enjoy joint equal, shared, daily, physical, emotional, and psychological contact, care, guardianship, and maintenance of both of their parents.
4. Any parent, parents, lawyer, advocate, psychologist, social worker, or other persons or entity who attempts in part or in whole to deny the child's right of and inherent right to immediately and automatically enjoy joint equal, shared, daily, physical, emotional, and psychological contact, care, guardianship, and maintenance (CCGM) of both of its parents, must immediately and automatically be charged with child abuse and that they must face immediate direct incarceration as contemplated in section 33 of the children's act. The presiding officer (judge or magistrate) must have zero discretion in applying the sentence.
5. Amend Sections 19, 20, and 21 of the Children's Act to better protect fathers' rights and responsibilities. (this has been extensively documented and sent to the DSD – please see attached)
6. Further, under customary law, black biological fathers of a child born out of wedlock may, in addition to paying maintenance or attempting to pay maintenance, pay a “fine” called Isondolo or damages under cultural or traditional practice.

1. **Current Legal Status:** According to the latest Children's Act (Act 38 of 2005, updated as of 8 November 2023), there is no legal requirement for fathers to pay Isondolo or damages to obtain rights and responsibilities towards their children.
2. **Customary vs. Legal Requirement:** Isondolo or paying damages is a traditional or cultural practice, not a legal mandate. Therefore, it cannot be enforced as a legal condition for fathers to gain contact or care rights for their children.
3. **Rights of Fathers:** Similarly, fathers who have paid or attempted to pay maintenance should automatically qualify for contact, care, and rights and responsibilities towards their children, as per section 21 of the Children's Act. The same assumption must be made for black fathers who have paid or attempted to pay Isondolo. If they have met the criteria similar to maintenance, there should be no impediment either traditional or legal to further impede their right of contact with their child.
4. **Unconstitutionality of Isondolo Requirement:** Making Isondolo a legal requirement is unconstitutional, as it would unfairly target black fathers by imposing an additional legal and financial requirement and potentially impose cultural obligations on individuals from different cultural, traditions, and religious backgrounds.

	<p>CIPC NPC Registration 2021 / 157823 / 08</p>	<p>The Official Fathers 4 Justice South Africa https://www.f4j.co.za/home Email: Info@f4j.co.za Cell: 066 331 8972 Chairperson Gary Da Silva</p>
--	---	---

5. **Clear Directive Needed:** The Children's Act should explicitly state that the failure to pay Isondolo cannot be used as a legal or traditional impediment to deny black fathers their responsibilities, rights to contact and care for their children.

6. **Action Steps:**

1. Ensure the Children's Act clearly reflects that Isondolo is NOT a legal requirement.
2. Legislation must reflect for automatic application of rights and responsibilities for fathers who meet the criteria under section 21, and no Marital, cultural, religious, traditional or other norms and practice conditions may apply under any circumstances whatsoever.

7. Criminalize Parental Alienation Syndrome and integrate it into the Domestic Violence Act. The presiding officer (judge or magistrate) must have zero discretion in applying the sentence.

8. Implement stringent measures against parents and their legal representatives who make false allegations to deny contact or alienate the child from the other parent, tying these actions to the criminal act of perjury. The presiding officer (judge or magistrate) must have zero discretion in applying the sentence.


9. Further lawyers, advocates, psychologists, and social workers must have a draconian set of laws regarding their conduct when handling family law-related matters, that have automatic, dire immediate consequences for failure to abide by this LEGAL code of conduct.

10. Ensure that mediation in parental plans is automatic, immediate, and concluded within 90 days of the date of the parent's separation. If mediation fails, the case must automatically default to arbitration with a final and binding outcome that ensures nothing less than a 50/50 split in care, contact, guardianship, and maintenance.

11. Confusing and unnecessary court system aside from being deliberately long and completely unnecessarily costly both family court at the high court level and children court at the magisterial level MUST be combined into a single entity like the CCMA and operate on a similar basis as the CCMA: Expand the rolls and responsibilities of the Family Advocates Office regarding mediation, arbitration, and only then may you proceed to combined "children and family court" along the same lines as the labour court.

Further,

1. Lawyers, advocates, psychologists, mediators, social workers, Family Advocates, arbitrators, judges, magistrates, guardian or curator ad litem, etc must be under a draconian set of laws regarding their conduct when handling family law-related matters, that have automatic, dire immediate consequences for failure to abide by this LEGAL code of conduct.

	<p>CIPC NPC Registration 2021 / 157823 / 08</p>	<p>The Official Fathers 4 Justice South Africa https://www.f4j.co.za/home Email: Info@f4j.co.za Cell: 066 331 8972 Chairperson Gary Da Silva</p>
--	---	---

In conclusion, Honourable Minister's, it is unacceptable to continuously blame fathers for all issues within family law when the government, and specifically the Department of Social Development, who has consistently refused to amend legislation to further enshrine fathers' rights and responsibilities towards their children. In the last 5 years, we have communicated with everyone from the State President down, and engaged with the department and various ministers, all to no avail. To put it bluntly and simply, fathers are simply not the problem any longer.

We believe that these changes are urgently and critically fundamental for the well-being of our children and the fair treatment of fathers. We kindly request an urgent face-to-face meeting with you at your earliest convenience to discuss these matters in detail.

Thank you for your attention to this urgent matter. We look forward to your prompt response and the opportunity to work together to make the vitally necessary changes to the Children's Act.

Yours sincerely,

_____ (Please advise were signed originals can be couriered to)

Gary Da Silva

Chairman

The Official Fathers 4 Justice South Africa

WHATS APP MESSAGES ONLY 066 331 8972

Email info@f4j.co.za

Website <https://www.f4j.co.za/home>

Linkedin <https://www.linkedin.com/company/fathers-4-justice-south-africa/?viewAsMember=true>

Facebook <https://www.facebook.com/fathers4justicesouthafrica/>

Twitter https://twitter.com/fathers4J_SA