

## The Magistrates Commission

Template for a complaint to the Magistrates Commission and the Children's Court regarding the conduct of magistrates in matters involving parental rights and responsibilities:

I, [Your Full Name], hereby lodge a formal complaint against the following magistrates:

1. [Magistrate 1 Name], [Court]
2. [Magistrate 2 Name], [Court]
3. [Add more if applicable]

I am the biological father of [Child/Children's Names and Ages]. The biological mother is [Mother's Full Name].

In proceedings before the above-mentioned magistrates involving the allocation of parental rights and responsibilities, I believe that the magistrates have acted unconstitutionally and unethically by:

1. Applying the maternal preference rule and unfairly discriminating against me as a father, despite the rule being inconsistent with the equality provisions in the Constitution, the Children's Act and the Promotion of Equality and Prevention of Unfair Discrimination Act. The Constitutional Court in *President of the Republic of South Africa v Hugo* affirmed that there is no rule of law favouring mothers over fathers.
2. Failing to uphold their duty under the Constitution and their oath of office to apply the law impartially and without fear, favour or prejudice. Equality before the law requires that both parents have equal rights and responsibilities from the birth of their child, and the burden of proof is on the party seeking to deprive a parent of those rights.

3. Issuing orders that unjustly deprive me of my parental rights and responsibilities, effectively facilitating the mother's unlawful withholding of the child from me. This may amount to parental child abduction or kidnapping under South African criminal law. By enabling such conduct, the magistrates may be exposing themselves to potential liability as accomplices to these crimes.
4. Breaching the ethical duties in the Code of Conduct for Magistrates to uphold the Constitution, maintain independence and impartiality, and act honourably and in a manner befitting judicial office. Knowingly violating parents' constitutional rights and issuing discriminatory orders brings the magistracy into disrepute.

In light of these serious allegations of unconstitutional, unlawful and unethical conduct, I request that the Magistrates Commission and Children's Court investigate this complaint thoroughly. If the magistrates are found to have violated their constitutional and ethical duties, I urge the Commission and Court to take appropriate disciplinary action, including but not limited to:

- Recommending to the Minister that the magistrates be removed from office under section 13 of the Magistrates Act;
- Ordering the magistrates to undergo additional training on parental rights, children's best interests and constitutional non-discrimination;
- Overturning orders that unfairly discriminate against fathers and reformulating parenting arrangements in line with the constitutional principle of parental equality.

The conduct of these magistrates not only prejudices my individual rights as a father, but undermines public confidence in the impartiality and integrity of the magistracy as a whole. Swift and decisive action is needed to uphold the Constitution, protect children's best interests, and ensure that all parents, regardless of gender, are treated equally before the law.

I am willing to cooperate fully with any investigation and provide further information as required.

Sincerely,

[Your Name]