

Criminal Complaint Affidavit to the National Prosecuting Authority of South Africa (NPA)

I, [Full Name], [ID Number], residing at [Address], do hereby make oath and state as follows:

1. I am the complainant in this matter, and unless otherwise stated, the facts contained herein are within my personal knowledge and are both true and correct.
2. I am the biological father of [Child's Full Name], born on [Date of Birth]. The child's biological mother is [Mother's Full Name].
3. On [Date], the mother unlawfully and intentionally deprived me of my parental rights and responsibilities over our child by [Describe the actions taken by the mother, e.g., unilaterally relocating with the child without consent, denying access to the child, etc.]. This deprivation is in violation of the equality provisions enshrined in the Constitution of the Republic of South Africa, 1996, the Children's Act 38 of 2005, and the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA).
4. Section 9 of the Constitution guarantees equality before the law and prohibits unfair discrimination on various grounds, including gender. The Children's Act and PEPUDA further reinforce these principles. The Constitutional Court, in *President of the Republic of South Africa v Hugo* 1997 (4) SA 1 (CC), affirmed that there is no rule of law that favours mothers over fathers or vice versa.
5. Equality before the law means that both parents have equal rights and responsibilities from the moment of the child's conception. This right is effective from the day the Constitution came into effect and applies equally to both parents from the day they assert their rights.

6. I have not consented to this deprivation of my parental rights and responsibilities, and I believe that the mother's actions constitute parental child abduction or kidnapping as defined in South African criminal law.
7. Furthermore, I believe that certain legal practitioners and courts have facilitated or endorsed this unlawful deprivation of my parental rights by [Describe the actions taken by legal practitioners and courts, e.g., pursuing settlements or issuing court orders that unfairly discriminate against the father]. These actions are not only unethical and unconstitutional but may also amount to accomplice liability for parental child abduction or kidnapping.
8. The recent High Court case of Van Wyk and Others v Minister of Employment and Labour [2023] ZAGPPHC 1213 emphasised the importance of parental equality and the need to eliminate unfair discrimination between mothers and fathers in the context of parental leave. This judgement further supports my contention that the deprivation of my parental rights is unlawful and discriminatory.
9. The burden of proof lies with the party claiming that a father should not have equal parental rights and responsibilities, not on the father asserting his rights. Any party interfering with a father's assertion of equal rights without providing constitutionally valid reasons is in breach of the highest law of the land.
10. In support of my complaint, I attach the following evidence: a) [List and attach relevant documents, such as court orders, correspondence, etc.] b) [List and attach any other relevant evidence, such as witness statements, recordings, etc.]
11. I request that the South African Police Service (SAPS) investigate this matter and take appropriate action against the alleged perpetrators, including the mother, legal practitioners, and courts involved, for their role in the unlawful deprivation of my parental rights and responsibilities.
12. I am willing to cooperate fully with the investigation and provide any further information or evidence as required.

THUS SIGNED AND SWORN before me at [Place] on this [Day] day of [Month], [Year], the deponent having acknowledged that he/she knows and understands the contents of this affidavit, has no objection to taking the prescribed oath, and considers the oath to be binding on his/her conscience.

COMMISSIONER OF OATHS

Full name:

Designation:

Area: