

SUBMISSION FOR THE CHANGES TO THE CHILDRENS ACT 38 OF 2005

Address to the Members of Parliament

Good afternoon to honourable Chairperson, the members, and the public.

I thank you for this opportunity to speak to you today. I represent the active association Fathers 4 Justice, and we have been in existence for more than 19 years in South Africa. The focus of our association is to represent and fight for children and fathers' rights to be enforced in the divorce process. Our association disagrees with any violence against men, women, and children, and agrees with legal processes and laws protecting all innocent parties.

It is with a sense of Irony that I present to this committee on the birthday of my eldest daughter Indygo Carla Winship Da Silva who turns 18 today.

Divorces and separations in South Africa are unnecessarily protracted, adversarial, and criminalised. The only people benefiting are the parties who are meant to assist the parents. In 2019 there were more than 23 000 divorces in South Africa. From the information we have received the average cost is over R100 000 per divorce. This multibillion-rand divorce industry is very lucrative for everyone bearing the person(s) paying for the divorce!

The average contact and care or child related case of access to the child can take upwards of 5 to 8 years at a cost of anything between R600 thousand and two million rand per individual parent.

Two of our members who have joined and form part of the class action suit that we will launch 90 days hence should our demands not be met have spent R 5 million rand in legal, psychological, and other related services. The first father Stuart Mitchell has full rights and responsibilities as enshrined in an order of court has been completely alienated from his eldest son and the younger son is currently being alienated. Brother Derrick hunter is unable to see his children as he is now compelled under order of court to have a full Forensic psychological report on his family at a cost of R 80 thousand per family member or a total of R400 thousand rand for the entire family – all the while the children's constitutional, legal, emotional, and psychological wellbeing obliterated.

Then there is my brother Solomon Mondlane – who is presenting to this honourable committee on the 18th of May - along with my other brother Castro Masiela. Please understand that Fathers 4 justice is working with the other fathers' rights movements 68 thousand to be exact. But I digress back to Brother Solomon who this department the department of social welfare and development have unilaterally and deliberately removed his and his two children constitutional, legal, and psychological rights, and what is brother Solomons crime wanting to be a father - But I know and trust that brother Solomon will be more than capable of presenting the FACTs on the 18th of May during his session.

In all instances these fathers and hundreds of thousands if not millions of fathers must spend hundreds of thousands if not millions of Rands in addition to what they have already paid to have their and their children's legal rights enforced. Yet the government wants to tell us that all men are garbage, and we are accused of taking no responsibility towards and of our children.

The family advocates office admitted in responding affidavit in the Von Gunkel, Loue et al case that 91% of children are automatically awarded to the mother. A recent poll run by Fathers 4 justice

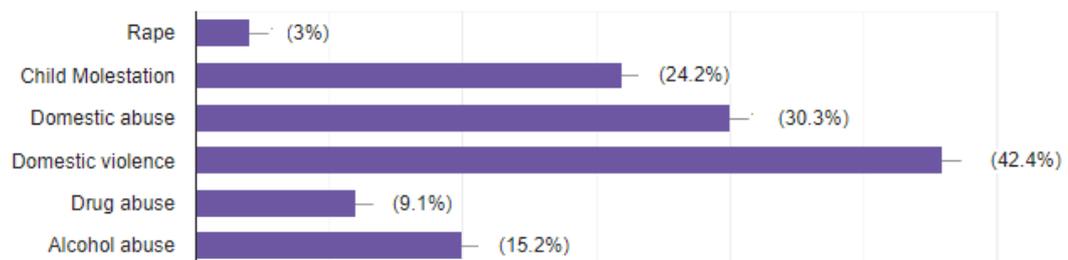
South Africa indicates that in 50 to 74% of contact care and related responsibilities fathers are partially or totally alienated from their children. Yet fathers are constantly vilified as being absent, toxic and garbage.

We know that the Honourable Minister Lindiwe Sisulu has expressed her concern about fatherless homes. Fathers both married and unmarried spend an inordinately and unnecessary amount of money – having to simply walk away because they have run out of funds – the fathers that do not have the money in the first instance to take up the fight do not even get into the ring because of lack of understanding and financing – yet fathers are vilified for not participating in their children's lives.

It is our opinion that in the effort to protect women from the men who behave badly, the system has become overtly biased and sensitive against all men in general. Now instead of being innocent until proven guilty, the fathers are being dealt with as guilty and unworthy and must fight to prove their innocence! In the process the children are deprived of their Rights to have their fathers in their lives, often resulting in alienation of the fathers, and further depriving the child of funds that should be put to the child's welfare, education and wellbeing as it is spent defending false allegations and Protection Orders, Perjury, false arrests and Restraining Orders to name only a few of the legal tricks used to defeat the man and bring him to his knees all while still expecting him to perform and pay!

False protection orders is used with the sole purpose of removing the child out of the father's life. It is used as a weapon of mass destruction. We are advised that in 52% of the cases protection orders are issued under false or fake pretence.

Have you been Falsely accused of



We know it for a fact that the courts will simply not charge a mother and her legal advisors for perjury – in the meantime the fathers constitutional and legal rights are unilaterally ignored and abused, and, in the process, he is psychologically and financially destroyed. The openly hostile and hypocritical gender bias against men is glaringly obvious. Yet the state, the courts and feminist movement love to point out how useless, toxic, and hostile men are.

Parental alienation syndrome is recognised in Sweden Brazil, Gibraltar, Puerto Rico, Mexico Romania. The world health organisation recognised that Parental alienation syndrome is child abuse and that circa 2019 it announced that it will promulgate it as such on the first of January 2022. We are aware of lawyers and psychologists on global basis attempt to have this definition removed simply because lawyers and psychologists will suffer the loss of a very lucrative income.

Parental alienation follows the same strategy of people being influenced to join cults, being groomed for human, sex, and child trafficking which we like to point out is a criminal offence in south Africa. Parental alienation includes emotional psychological physical and sexual abuse

degradation and isolation of the alienated child. The alienated parent is vilified where no just cause exists. If the state does not classify Parental alienation syndrome a crime as a matter of extreme urgency -then the state is directly complicit in child abuse. the state has no alternative, and we are not negotiating or discussing this, Parental Alienation Syndrome should have already been classified as child abuse as stated if you do not action this as a matter of extreme urgency. 78.1% of our members claim they are victims of partial to full blown parental alienation syndrome.

Our experiences within the divorce processes have caused severe disillusionment and frustration as fathers have increasingly become side lined, persecuted, defamed, and abused emotionally, financially, and spiritually. Their children have been alienated; separated from their fathers; deprived of access to paternal family; deprived of the benefit of money that should be directed to their wellbeing and education; deprived of balanced parenting. The behaviour of too many members of court, Court officials, Lawyers, Psychologists, Social Workers, Mediators, Family Advocates, Magistrates have acted in contravention of fair legal and unbiased rulings against fathers are ignored and turned blind eyes on the often highly illegal behaviour and obstructive actions of the opposing parties, and in all those cases, to the detriment of the children. Instead of being hailed for stepping up to want to be engaged in their children's lives, these fathers are castigated, humiliated, financially fleeced and emotionally destroyed.

Let me reiterate between 50% and 74% of our fathers claim they are partially and completely alienated from their children. Yet the constant narrative that one hears is about all the dead-beat dads.

The fathers are fed up with being obliterated by the legal system and by those delegated to uphold the laws of this country, and we are demanding changes that would institute a more fair and better regulated system to eliminate ruinous, prejudicial behaviour of all detractors in the divorce procedures and processes that will ensure the Childs Rights and the Rights of the father are not ignored to the benefit of someone else's agenda.

34,4% of our fathers claim that they are threatened by the mother's lawyers and advocates if they dare to have the child's and fathers' rights of contact care guardianship and maintenance enshrined. Our members are busy preparing statements to the effect that if the father should dare to take legal or other action against the mother's attorney of record that they will destroy the father.

We sent letters to the Law Society of South Africa, the legal practices council, the health professional council of South Africa and to the department of justice asking if it was legal for the opposing council and the psychologist to issue writs or edicts same or similar of a judge or magistrate issuing an order of court. We asked a) was it legal and b) was it legal for a lawyer or psychologist to impersonate a judge or magistrate. To date we have only had a response from the health professional council indicating that it was indeed illegal for a psychologist to issue edicts and or impersonate a judge or magistrate. The others response has been deafeningly silent – These lawyers are therefore impersonating judges and magistrates and unilaterally destroying both the child's and fathers' constitutional rights. To that end we will be taking these cases to the Law society of south Africa and the legal practices council.

It is Fathers 4 justice considered opinion that the courts, judiciary, and family advocates time are being unnecessarily overburdened with unnecessary case load simply because the best interest of the child has not been absolutely and finitely defined, that in the absence of quantifiable provable defined evidence of violence abuse or neglect that both biological parents MUST automatically enjoy automatic joint equal shared rights and responsibilities. Irrespective and irrelevant of whether they

were married or not. That parental alienation syndrome and the illegal removal of a child to another town province or country must be criminalised, be forbidden under the children's act, and classified and fall under the domestic violence act. False or fake or false claims of abuse must be handled as perjury that is already permissible in law and that the parent and his or her legal advisers must be, immediately and automatically fully prosecuted of the law allowable which is 10 years imprisonment.

Amazingly countries around the world are redressing Fathers Rights and most importantly – **CHILDRENS RIGHTS** with the **CHILDS BEST INTERESTS paramount** in the changes and recommendations. Why is South Africa lacking in this response? As based on prima facia evidence the state, the judiciary and the child abusing divorce industry are simply NOT acting in the best interest of the children of South Africa .

THE CHANGES

- Bearing in mind we placed the state on notice some 18 months ago and it is not as if our children are put into cryogenic homeostasis until the parents and the law sort each other's nonsense out – our children are NOT getting younger - We are there for seeking the following immediate changes to be made to the Child Act on the following basis.
- To institute an automatic 50/50 responsibility and Rights for custody, care, guardianship, and maintenance to both biological parents.
 - It is fundamentally irrelevant if the parents where in a one-night stand or a twenty-year marriage. The parents, status (married unmarried), culture, religion, or any other impediments have absolutely no bearing on whether they are obligated and intituled to automatic shared contact care, guardianship, and maintenance. If you had the child together, you raise the child together. Irrespective of whether you are in a relationship or not.
- That Mediation must be made mandatory.
- If mediation should fail, then it automatically defaults to mandatory Arbitration.
- Where the couple were married that the Family Advocate endorsed Parenting Plan must be presented prior to granting the divorce to ensure joint equal shared fair and equitable outcome for both parties.
- The process of mediation / Arbitration must be completed within 10 weeks of separation.
- **ANY** protractor, obstructor should be imprisoned until they are willing to compromise to the benefit of the child/children.
- **Thus, ensuring the Best Interest of the children being the Primary outcome**
- To prevent unilateral changes being made to custody, care, and maintenance of the relationship between child by either parent when there is an absence of violence, abuse or neglect or no other just cause exists.
- To remove sections 19, 20 and 21 in their current format as they are hostile, gender biased and contrary to the Bill of Rights. This clauses must be replaced with representation giving biological parents the automatic Right to 50/50 Rights and Responsibilities for Contact, Care, Guardianship and Maintenance regardless of martial union or not. Prevention of this by any party should be punishable by financial fine of up to 25 million rand , and or imprisonment of up to 25 year.

- To have the Best Interest of the Child or Children properly defined to prevent personal interpretation; to impress that the child or children have automatic without interruption contact with both parents daily to promote physical, emotional, spiritual, and psychological support from both parents. Unjust intervention of care and contact by any party should be automatically punishable by financial fine and or imprisonment.
 - The best interest of the child must be clearly defined to read the following – the child must have automatic, daily, physical, emotional, contact, care, guardianship, and maintenance with and by both parents always. Any parent, parent's, person, or entity that attempts in part or in whole to deny the child its inherent automatic right must be automatically charged with child abuse.
- To have Maintenance responsibility shared on a 50/50 basis between both parents, and within the realistic financial means of both parties.
- Spousal maintenance must fall away.
- To prevent the removal of the child to another town, province, or country without the expressed written agreement of the other parent. Access for the child to the parents must be a fundamental Right and infringement should be dealt with as kidnapping. The Authorities (Police, Courts, Legal Professionals) must enforce the penalty for kidnapping on the guilty party. Loss of parental Rights should follow and imprisonment for the crime should be the penalty.
- To have Parental Alienation Syndrome classified as Child Abuse and should carry immediate and automatic criminal charges with imprisonment.
- Where there has been Parental Alienation shown to the Court, the family members must be Court Ordered to complete a period of reintroduction, association, and reunification therapy and there must be immediate access permitted for the alienated parent with his/her child/children.
- Should the alienating parent refuse access to the children he/she should be imprisoned for disobeying the Court Order and or lose his/her parental Rights either temporarily or permanently.
- The burden of the cost of all and any therapies and or interventions must immediately be borne solely by the alienating parent and his or her legal and psychological advisors.
- The alienator and his or her legal and psychological advisors will have no say whatsoever under any circumstances as to who the professional will be with regards to reunification and other related therapies so mandated by the court.
- To have Lawyers, Psychologists, Social Welfare practitioners, held automatically directly personally and severally liable in both personal and official capacity as criminal acts if they obstruct, deviate, or frustrate the Childs' automatic Rights to Care, Contact, Guardianship and Maintenance with both parents. This should carry a penalty of R25 million rand fine or imprisonment per incident.
- If there is any form of abuse, neglect, alienation factually present, the burden must lie with the lawyers to ensure that the court address the matter as an urgent issue. Factual evidence must be present. No lawyer should have the right to act unilaterally decide the outcome or fate of the child without a full investigation and court order. Should a lawyer, social worker, psychologist act in any way that would infringe on the child's Rights or the parental Rights in the light of false allegations, he/she should be charged with Child Abuse and automatically imprisoned and lose their licence to Practice their profession.

- To have ensure that any Judge, Magistrate, Advocate, Lawyer, Social Worker, Psychologist recuse themselves from the case if they are in anyway personally associated with either of the opposing parties. Under no circumstances should a CCGM case document be sealed.
- To ensure that Social Workers do not benefit financially from removal of a child or children from their biological parent/s to have them placed in foster care or in state care. Removal of children without Just Cause should be treated the same as kidnapping with sanction being automatic imprisonment.
- Family Court Judges, Magistrates and Family Advocates must be retrained to deal with Parental alienation, as well as false accusations and allegations. The laws exist to deal with Perjury, false statements, false allegations, and malicious intent to defeat the ends of justice. These laws are rarely exercised even in the face of a dramatic increase in cases of these Breaches in Law. Lawyers, social workers, psychologists colluding with a parent to win at all costs, destroy the other parent and their extended family, to secure favourable outcome to suit their personal agenda must be sanctioned along with the opposing litigants. Most of these instances have no bearing on the benefit of the child/children or to the benefit of the children. Perpetrators of these crimes must be taken to task. The legal personnel not acting on factual and obvious Breaches of the Law must automatically lose their Licence to Practice the Law.

CONCLUSION:

Fathers 4 Justice known as F4J has put the government on Notice with a Class Action Suit in January of last year – we have sent numerous email reminders to the state to no avail.

This is a last formal attempt to engage the government and roll players in a mature and adult manner.

Should our reasonable requests not be met we intend to escalate the claims and demands to the Constitutional Court if changes are not made within 90 days of this hearing to ensure the Parental Rights of Fathers. Each member of the Class Action Suit is claiming R1 billion rand in damages – The clock and history is no longer in the favour of the state and the child abusing divorce industry. And currently the state has an exposure of R32 billion in damages and is growing every day as we bring on new applicants to the class action suit.

We must insist the Honourable Members take this seriously and spearhead the changes that must be made as a matter of extreme urgency and without ANY! further delay. We as FATHERS cannot and will not fail our children any longer simply because we do not have in the first instance or run out of money. We feel it is incumbent upon the State, the Ministers, the Legal and psychological Profession to ensure children's Rights are respected and that the children are not deprived of their Fathers for one second longer. I thank you.