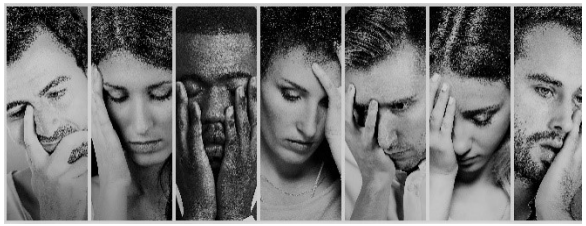
MEDIATION NETWORK

FIGHT, FLIGHT OR MEDIATE



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RIGHTS OF AN UNWED FATHER

What does a "child born out of wedlock" mean?

A child born out of wedlock is a child whose parents were not married to each other at the time of the child's conception or at any time during the mother's pregnancy or after the birth of the child.

How do I obtain full rights and responsibilities to my child?

You **acquire** full parental rights and responsibilities in respect of your child if at the time of your child's birth you have been living with the mother in a permanent life-partnership. You can also acquire full parental rights and responsibilities in respect of your child regardless of whether you have lived or are living with the mother of your child:

"FAMILY MEDIATION SERVICES THAT ARE FAIR, AFFORDABLE and EFFICIENT"

- consent to be identified or successfully apply to be identified as the child's father or pay damages in terms of customary law;
- contribute or have attempted in good faith to contribute to your child's upbringing;
- contribute or have attempted in good faith to contribute towards expenses in connection with the maintenance of your child for a reasonable period.

What if my child's mother disputes my version of the requirements for full responsibilities and rights?

If you and the child's mother disagree about the requirements for full responsibilities and rights, you must refer the matter for mediation.

What does full responsibilities and rights mean?

Once it is established that you comply with all the requirements for full responsibilities and rights concerning your child, you hold these responsibilities and rights together with your child's mother.

Full responsibilities and rights include, but are not limited to, the right to care for the child, to have contact with the child and to be the guardian of the child.

Being co-holders of these rights and responsibilities means that your child's mother must consider your views and wishes about any major decisions about your child. And both of you must always consider the views and wishes of the child, bearing in mind the child's age, maturity and stage of development.

What are considered to be major decisions concerning my child?

Giving or refusing consent to:

- the child getting married;
- the child being adopted;
- the child leaving the country;
- the child applying for a passport;
- the alienation or encumbrance of any fixed property of the child.
- issues affecting contact between the child and a co-holder of parental responsibilities and rights;
- the assignment of guardianship or care in respect of the child to another person;
- all those decisions which are likely to significantly change, or negatively affect, the child's living conditions, education, health, personal relations with a parent or, generally, the child's wellbeing.

If I don't qualify for full rights and responsibilities, could I apply for limited rights to my child?

If you have an interest in the care, wellbeing or development of a child, you may apply to court for an order granting you contact with, or care of, the child. The court may impose any conditions it deems necessary.

In considering your application, the court must take into consideration:

- the best interests of the child;
- the relationship between you and the child, and between any other relevant person and the child;
- the degree of commitment you have shown towards the child;
- the extent to which you have contributed towards expenses in connection with the birth and maintenance of the child;
- any other fact that should, in the opinion of the court, be taken into account.

If I have limited rights to my child, can these be extended?

Yes, you can apply to court to extend your limited rights in respect of your child. If you have contact rights with your child and you prove faithful in exercising those rights, you can apply to extend your rights to include care and/or guardianship.

How do I gain rights to my child?

Firstly, address the issue through mediation. A MEDIATION NETWORK mediator can identify the issues and approach your child's mother for a joint session to settle them.

We can assist you to draw up a parental rights and responsibility agreement, which can be registered with the family advocate or made an order of court to secure your rights.

If mediation is unsuccessful, you can apply for rights to any High Court, divorce court or children's court within whose area of jurisdiction the child lives.
The court will consider what is in the best interests of the child. It may grant or refuse your application either unconditionally or with such conditions as the court deems fit.

How do I apply for rights to my child?

You can contact MEDIATION NETWORK directly. We will contact your child's mother to set up a mediation meeting to address the issues. This is the most cost-effective way to address the problem.

Alternatively, you can contact a lawyer to arrange for the mediation of the matter. If the matter cannot be settled through mediation, the attorney will start court proceedings.

Do I have to pay maintenance to support my child?

Yes, you have a duty to maintain your child and the child has a right to receive maintenance from you. Your attitude towards and willingness to pay maintenance towards your child's upbringing is an important factor which the court considers when deciding if you qualify for any rights and responsibilities in respect of your child.

May I see my child any time I wish?

This is an aspect that will be decided when you enter into a rights and responsibility agreement with your child's mother. In the absence of an agreement, the court should allow you reasonable contact, which will depend on your own, your child's and your child's mother's circumstances. This may be shared residency between you and the child's mother, visitations every alternate weekend and school holidays or supervised visits on specified days.

During mediation we can assist you to draft a parenting plan tailored to the family's unique circumstances.

What is mediation?

Mediation is a voluntary process of structured negotiation that can help two parties in conflict to resolve their differences. Mediation is not a form of counselling. It opens discussion and helps you work through the different legal issues that need to be settled when getting a divorce.
A skilled mediator assists families to work out creative arrangements for themselves and their children. The settlement agreement is then made an order of court. The agreement could include the division of your estate, maintenance, a parenting plan, and any other arrangements that are in the best interests of your minor children. Parents should carefully consider the views of their children when negotiating contact and care arrangements.
Mediation is cost effective, less stressful than traditional litigation and saves time. It also helps parties maintain a positive ongoing relationship after divorce, especially when children are involved.

Have you applied your mind to the following potential consequences if the disagreements are not resolved?

- How much litigation will cost?
- How long it may take for litigation to be completed?
- The likelihood that even if you win the case, you may not be able to recover your costs from the other party?
- The personal and productive time taken up by preparation, consultation and court attendances during litigation?
- The effect litigation may have on your relationship with the children?

What do we offer?

- **Divorce Mediation**
  Divorce is stressful for the entire family. Mediation provides a facilitated, legally formalized process of negotiations.
  We offer clients access to our panel of:
  - Mediators
  - Attorneys
  - Social workers
  - Financial advisors
  - Psychologists
  - Play therapists
- **Parenting Plans**
  A Parenting Plan is a roadmap for separated or divorced parents. It ensures co-operation from both parents for a better future for their child. It helps to reduce future conflict by reducing tension and stress of the entire family.
  MEDIATION NETWORK provides a comprehensive plan for a fraction of the cost in a more timeous manner compared to conventional channels.
- **Maintenance Assistance**
  Every child deserves to be maintained by BOTH parents. This can be achieved through a mediated process that is confidential and transparent. It can also be referred to our panel of experts to ensure that the child remains protected, and the individual parents are not taken advantage of.

*NABFAM accredited mediators**

Scan for more information on our website.