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## Section 21 of the Children’s Act “Fathers’ rights and maintenance”

We often read or hear stories about fathers of children born out of wedlock finding it difficult to assert and exercise their parental rights and responsibilities. The most common challenge that unmarried fathers face is being denied contact to their children due to customary traditions and/or being subjected to obstacles by the mother and her family.

The [Children’s Act](#) (“the Act”) may go a long way in resolving archaic and gendered power relations within marital and parental relationships. However, the vesting of parental rights and responsibilities differs between married fathers and unmarried fathers. Section 18 of the Act provides that a person may have either full or specific parental responsibilities and rights in respect of a child. There are three main types of parental rights and responsibilities namely: (1) care; (2) contact and (3) guardianship.

Prior to the commencement of the Act and in accordance with customary traditions observed by the majority of South Africans, the biological father of a child born out of wedlock did not acquire automatic rights and responsibilities to his child, which unfortunately led to many children never knowing their fathers.

The Act is, as such, watershed legislation, especially in respect of unmarried fathers. Section 21 of the Act provides certain conditions that must be fulfilled by a biological father who wishes to obtain parental rights and responsibilities to his minor child born out of wedlock, namely .....

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