

https://dspace.org/

An ethico-legal case for baby hatches in South Africa

Govender, Kurium

2021
https://hdl.handle.net/10539/33627

Downloaded from a DSpace repository. https://dspace.org/

UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG

FACULTY OF HEALTH SCIENCES

PLAGIARISM DECLARATION TO BE SIGNED BY ALL HIGHER DEGREE STUDENTS

SENATE PLAGIARISM POLICY: APPENDIX ONE

I Kurium Govender (Student number: 0610885h) am a student registered for the degree of MSc (Med) Bioethics and Health Law in the academic year 2021.

I hereby declare the following:

- I am aware that plagiarism (the use of someone else's work without their permission and/or without acknowledging the original source) is wrong.
- I confirm that the work submitted for assessment for the above degree is my own unaided work except where I have explicitly indicated otherwise.
- I have followed the required conventions in referencing the thoughts and ideas of others.
- I understand that the University of the Witwatersrand may take disciplinary action against me if there is a belief that this is not my own unaided work or that I have failed to acknowledge the source of the ideas or words in my writing.
- I have included as an appendix a report from "Turnitin" (or other approved plagiarism detection) software indicating the level of plagiarism in my research document.

Signature: Govender Date: 14 October 2021

Abstract

In this study, I analyse the ethical and legal issues on the operation of baby hatches in South Africa. There are no official statistics on South Africa's annual number of infant abandonments or infanticides.Since 1999, baby hatches began emerging across the country for parents (usually mothers) to anonymously surrender infants and relinquish parental responsibility without endangering the child. These facilities have been established by charities and non-governmental organizations, and as thereis no provision for baby hatches in South African law, these are illegal. Similar facilities operate in other countries and the United Nations Committee on the Rights of the Child has responded with disapproval. In this report, I examine South Africa's legal child protection framework (including international and domestic law) and how it responds to infant abandonment and infanticide. I presentan ethical basis for the operation of baby hatches by applying the principles of the harm reduction paradigm, showing that such relinquishments are (1) morally permissible as they improve the health outcomes for the child, and (2) morally appropriate in the South African context. For comparison, andto enrich this research, I also examine the USA's safe haven laws and France's anonymous birth law asexamples of legislative responses to prevent infant endangerment. Baby hatches, safe haven laws, and anonymous birth are all interventions to intercept infanticide and unsafe infant abandonment; and they are each innovations outside the parameters of international child law.