



Silenced by Design: the Children's Right to participate in Stellenbosch's Municipal Decision-Making

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Abstract

Children and young people bear the greatest long-term consequences of local governance decisions, yet their exclusion from local government processes in South Africa is not accidental. It is structurally embedded in participation mechanisms designed for an adult citizenry. This exclusion contravenes a multi-layered constitutional, statutory, and policy framework that imposes enforceable participation obligations on local government. For example, ss 152(1)(e) and 153 of the Constitution establish community participation as a foundational object of local government and a developmental duty. Furthermore, s 28(2) requires that a child's best interests be the primary consideration in all matters concerning the child, a standard applicable to municipal planning and budgeting. The Local Government: Municipal Systems Act 32 of 2000, the Municipal Structures Act 117 of 1998, the Children's Act 38 of 2005, the White Paper on Local Government, and the Batho Pele Principles collectively reinforce this obligation. A significant gap exists, however, as none of these instruments expressly obliges local government to design participation mechanisms accessible to children. A case study of Stellenbosch Municipality exposes three sites of this structural silencing. In the Integrated Development Planning process, the municipal budget cycle, and climate adaptation planning, children in Kayamandi, Enkanini, and peri-urban farm worker settlements are rendered constitutionally invisible. This paper proposes a Municipal Youth Participation Protocol, based on five legal enforcement pathways and obligations under the United Nations Convention on the Rights of the Child, to dismantle this structural silencing and establish participation as an enforceable constitutional right for children.

Keywords include children's rights, climate justice, local government law, municipal participation, and s 28