

## **LEGISLATIVE and other measures taken by government to realise the right of children to shelter**

### **SUMMARY**

The Constitution of the Republic of South Africa , 1996 entrenches numerous socio-economic rights. One of these socio-economic rights is contained in section 26 that grants everyone the right to have access to adequate housing and section 28 that grants every child the additional right to basic shelter among others. This article aims to examine the legislative and other measures taken by the state to realise the right to shelter of children. Firstly, the legislative measures taken specifically for the realisation of children's right to basic shelter as envisaged by section 28(1)(c) will be discussed. Thereafter attention will be drawn to those measures taken to ensure the progressive realisation of section 26. Section 26 provides everyone, including children, the right of access to adequate housing. Therefore, every measure taken to realise section 26 is indirectly applicable to the realisation of section 28(1)(c) and children's right to basic shelter.

The conclusion may be drawn that most of the discussed legislative and other measures are aimed at realising everyone's right of access to adequate housing, this includes children. However, most of these measures make little mention of the specific right of children to basic shelter. It is regarded as inclusive in the overall application of the legislation. Once again, it must be stressed that these legislative and other measures, in order to comply with the standard of reasonableness, must regard the interest of children to be paramount. If such legislation does not provide for the interest of children as a vulnerable group, it can be argued that the relevant legislative measure is not constitutionally valid.

It is submitted that national government must recognise the importance of the role of local government, and local government should increasingly assume policy-making and implementation powers in their area. This will go a long way to building local capacity to function as effective development facilitators. As far as the resource problem is concerned, corruption in municipalities should be eradicated, while municipal capacity to manage and mobilise resources must be enhanced.

The importance of co-operative government cannot be over emphasised. Without an effective integrated plan of action, which includes cooperation between all three spheres of government, as well as the participation of civil society, especially people who are directly affected by the implementation of socio-economic rights, realising the right of children to shelter will only exist on paper.

### **Keywords**

Socio-economic rights, housing, shelter, children, children's rights, poverty, human dignity, child headed households, land, legislation, child care facilities, alternative care, local government, national government, development.