## CONTENTS

Executive Director’s Message  2  
Chairperson’s Message  4

### ABOUT SERI

- Aims and Methodology  7  
- Strategic Themes  8  
  - Securing a Home  8  
  - Making a Living  9  
- Expanding Political Space  9  
- SERI Board of Directors  10  
- Staff  11  
- Interns and Volunteers  11  
- Funding and Pro Bono Assistance  12

### SECURING A HOME

- Informal Settlements  13  
- Inner-City Evictions and Access to Alternative Accommodation  19  
- Spatial Justice  26  
- Evictions from Farms  28

### MAKING A LIVING

### EXPANDING POLITICAL SPACE

### PRINTED AND ONLINE MEDIA

### FINANCIAL STATEMENTS
South Africa faces an extensive range of complex social and economic challenges. The bulk of these challenges can be traced back to the fact that South Africa has the worst inequality in the world. The top 10% of the country has 60% to 65% of its income. In Brazil, the comparable figure is 50% to 55%. In the United States it is 45% to 50%. In Europe 30% to 35%. This level of inequality creates a range of other social problems, including poverty, joblessness, discrimination against, or the exclusion of, a range of vulnerable social groups, state incapacity, recalcitrance and corruption, and abuse of private power.

This year has seen a justified outcry against corruption, nepotism, and the systematic looting of public resources for private gain at the very highest levels of the state. No one can deny the pain of seeing a society founded on South Africa’s commitment to constitutionalism having to face up to this startling level of greed and self-enrichment amongst the elected representatives to whom we entrust our hard-won freedoms.

But we also have to face up to the fact that corruption is not just the result of a few bad individuals in an otherwise healthy society. Corruption is only possible – at least at the scale that we have seen it this year – because our society is structurally abnormal. South Africa’s levels of poverty and inequality are inconsistent with the constitutional values to which we all aspire. The link between inequality, poor social mobility and abuse of state and private power is well-documented and undeniable. Simply put, the more unequal a society is, the greater the potential for poverty traps and the abuse of state and private power. We will never banish corruption until we have dealt with inequality.

The persistence of inequality and its manifold consequences is largely a legacy of colonialism and apartheid. South Africa has chosen to address that legacy through the political and social forms of constitutionalism. The South African Constitution is certainly not limited to addressing the distribution of power between different government institutions, or to protecting the individual liberties against state interference. The constitutional project embraces the wider goal of achieving substantive equality in the public and private spheres and ensuring that everyone has access to the basic elements of a decent existence.

This choice to pursue these goals through the forms of constitutionalism brought with it a number of consequences. The most important of these is the centrality of rights-claiming to the implementation of the constitutional vision. The Constitution does not rely solely on the state to redistribute wealth and power; it assumes an active citizenry equipped with the tools necessary to articulate and press their rights claims.
In a society based on constitutionalism, which has chosen to pursue a project of social transformation through law, it is essential that poor and vulnerable people have ongoing access to specialist advice and representation which will assist them to amplify their voices and pursue their objectives using the tools of legal activism.

SERI exists to place the power of rights-claiming in the hands of those who need it most. Our track record this year provides further evidence that our approach is effective. In terms of direct concrete benefits, several thousand people have been assisted by SERI’s interventions, in the provision of more secure tenure and better housing and expanded opportunities for informal trade. We have also assisted hundreds of people who face arbitrary arrest, detention and police violence. SERI has also been behind many policy shifts that have benefitted poor and vulnerable people: the development and implementation of a temporary shelter policy in Johannesburg, the better implementation of the informal settlement upgrading policy, changes in police practice in response to law suits and the findings of the Marikana Commission of Inquiry, and the expansion of informal trading opportunities in Johannesburg. SERI has also shifted public discourse on a number of key issues. SERI has highlighted the effects of inner-city regeneration on the poor, focussed public attention on the needs of the victims of the Marikana massacre, and attracted public attention to corruption in the housing allocation process.

Each of these outcomes of our work is not only the result of a rights-claiming process, but has set the necessary conditions for future rights-claiming and the progressive implementation of a constitutional vision.

The rest of this report sets out the latest developments in the rights-claiming journey SERI walks with its clients every day. Please join us on that journey by reading the pages that follow.
CHAIRPERSON’S MESSAGE

As this Annual Review shows, SERI has continued to build on its past successes and has considerably advanced its vision of a more equal and just society. Believing that people who experience poverty, inequality and social exclusion are best-placed to formulate and advance their own strategies to challenge these structural issues, SERI’s approach has been to provide targeted research, litigation and advocacy support to socio-economic rights movements and struggles. This has proved to be an empowering and powerful methodology for social change.

In 2016 and 2017, SERI has addressed a wide range of issues falling within its strategic themes of securing a home, making a living and expanding political space. SERI has also remained responsive to South Africa’s immediate socio-political environment through its support of the ongoing struggles of university students in the wake of #FeesMustFall; its criminal defence of community-based activists who are increasingly being targeted by the state apparatus in an attempt to silence their dissent; and its assistance of people dependent on precarious employment and informal livelihoods as they face increasingly intolerant local governments.

SERI’s litigation team has continued to do its sterling work through precedent-setting strategic litigation on behalf of poor people living in inner-city Johannesburg and informal settlements across the country, helping people to resist unlawful evictions and gain access to tenure security, adequate housing and basic services. In doing so, SERI has aimed to develop pro-poor legal and policy frameworks and progressive socio-economic right jurisprudence. Notably, the landmark Constitutional Court judgment in the Kiribily case in June 2017, substantially developed South Africa’s housing jurisprudence when the Court confirmed that evictions that lead to homelessness are unlawful, even if they are agreed to by some of the residents who stand to be evicted. The Court instilled a duty on judges hearing eviction applications to proactively investigate the circumstances surrounding an eviction and ensure that people under the threat of eviction are properly informed of their rights to contest eviction proceedings and claim alternative accommodation. Other litigation highlights include the Labour Appeal Court’s finding that farm owners are legally required to act consistently when disciplining workers in the Rossouw case; and university students and staff members successfully challenging a wide-ranging interim interdict that effectively banned campus-based protest at Rhodes University.

SERI’s grounded research and advocacy work continues to nuance the relationship between the state and society in South Africa, while simultaneously pushing for the realisation of socio-economic rights by empowering grassroots communities, social movements, unions and civil society organisations. SERI’s research and advocacy team has produced a range of notable publications over
the past year, and continues to engage the state and civil society through a wide array of local and international platforms. In doing so, SERI’s research and advocacy team has sought to document the lived realities, and amplify the voices, of community-based activists. Research highlights for the year include the publication of Edged Out: Spatial Mismatch and Spatial Justice in South Africa’s Main Urban Centres (a research report that uses spatial data on unemployment rates in South Africa’s main urban centres to conclusively prove that housing located on the urban periphery acts as a poverty trap) and Informal Trade in Johannesburg: Your Rights (a plain language, user-friendly resource guide on the rights of informal traders to make a living in Johannesburg and the mechanisms available to them to ensuring those rights are protected).

SERI’s advocacy work, too, has expanded over the past year. SERI’s ongoing work in inner-city Johannesburg and various informal settlements across the country has led to exciting community-based advocacy initiatives aimed at empowering communities with knowledge about their constitutional rights and the mechanisms through which they can hold government accountable. These initiatives include SERI’s involvement in and support of the Inner City Federation (a coalition made up of tenants from buildings in inner-city Johannesburg that organise around shared struggles) and the Slovo Park Task Team (a group of informal settlement residents and professionals from various disciplines pioneering the in situ upgrading of Slovo Park informal settlement). Through this work, SERI seeks to assist community-based organisations to consolidate democratic participation and advance social justice.

In 2016 and 2017, SERI has made some new and exciting additions to its staffing. SERI appointed Alana Potter as the new Director of Research and Advocacy after Lauren Royston stepped down in February 2017. Over the past year, SERI has also welcomed a senior researcher, two attorneys, two candidate attorneys and a litigation fellow. I am confident these appointments will further enhance SERI’s social justice agenda.

There have also been changes in relation to SERI’s Board of Directors. In June 2016, SERI was delighted to welcome Adv Dumisa Ntsebeza back onto the Board of Directors. In December 2016, SERI reluctantly (but proudly) accepted the resignation of Sandy Liebenberg, who stepped down as a member the Board in order to take up a prestigious position as an appointed member of the United Nations’ Committee on Economic, Social and Cultural Rights, where she will join other Committee members in monitoring States-party’s implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Sandy served as Chairperson of the Board from the outset of SERI’s existence at the end of 2009 (before SERI even had offices!), until January 2015, and as a member of the Board from January 2015 until December 2016. I would like to warmly thank Sandy for her commitment to SERI’s vision and establishment, and for her extraordinary championing and support of SERI’s work over the years, as well as her substantial contribution to advancing socio-rights in South Africa and internationally.

I continue to feel extremely proud to serve as the Chairperson of SERI’s Board, and extend my gratitude to SERI’s Executive Director, Stuart Wilson, and SERI staff members for their dedicated work in advancing socio-economic rights in South Africa.
The Socio-Economic Rights Institute of South Africa (SERI) is a non-profit organisation and public interest law clinic that provides professional and dedicated socio-economic rights assistance to individuals, communities and social movements. We focus our research, advocacy and litigation into three main areas:

**SECURING A HOME**
Protecting and fulfilling the right of access to adequate housing; challenging unlawful evictions; and defending and promoting access to basic services such as water, sanitation and electricity, particularly in informal settlements.

**MAKING A LIVING**
Protecting the right to work for those in precarious employment; protecting the right to do business for those reliant on informal livelihoods; and challenging unfair labour practices.

**EXPANDING POLITICAL SPACE**
Protecting political space for peaceful organisation, expression, participation and protest.
### SERI’s Aims and Methodology

#### OUR VISION

SERI’s vision is a fairer and more equal society in which the material, political and social benefits of constitutional democracy are available to everyone. SERI is dedicated to the realisation of socio-economic rights as a means of tackling inequality. We work with individuals, communities, social movements and other non-profit organisations to develop and implement strategies to address inequality and realise socio-economic rights.

SERI believes that the people who experience poverty and inequality on a daily basis are best placed to devise and implement strategies to challenge these structural issues. For this reason, we work with activists, social movements, community-based organisations (CBOs) and trade unions to ensure that they are able to coordinate, mobilise, freely express their struggles and protest without unjustified state interference.

In order to achieve these aims, SERI seeks to provide professional research, litigation and advocacy support to poor communities and individuals, as well as the movements that represent them. We seek to protect and expand the political spaces in which individuals and communities organise and advocate for social change.

#### OUR METHODOLOGY

Driven by community issues, SERI aims to address local problems in structural ways through a close interweaving of applied research, policy and legal advocacy, and public interest litigation. SERI matches structural problems on the ground with the most appropriate resolutions, whether in the form of engagement with government, formation of civil society advocacy networks, or litigating in the public interest.

In this way, SERI seeks to develop and implement strategies that advance the realisation of socio-economic rights, challenge inequality, and contribute to public accountability and participatory democracy.
SERI’s Thematic Areas

SERI’s has aligned our work in terms of three key strategic themes, in order to ensure a coordinated integration of SERI’s research, litigation and advocacy activities. These strategic themes are:

1. Securing a Home;
2. Making a Living; and
3. Expanding Political Space.

These thematic areas have developed out of an analysis of the first several years of SERI’s practice, and provide a methodological focus. These themes are based on what our clients tell us are the most significant challenges they face in giving effect to their social and economic rights in South Africa today. In each area, we engage with client communities to provide legal advice and representation, conduct ground-breaking research, and advocate for changes to policy, law and practice.

Our strategic themes are briefly discussed here.

SECURING A HOME

SERI works to ensure that poor and vulnerable people have access to secure tenure and adequate housing, water, electricity and sanitation. SERI has been at the forefront of efforts to prevent evictions which lead to homelessness, to press for the in situ upgrading of informal settlements, and to prevent unfair water and electricity disconnections.

SERI also works to protect the rights of residential tenants, and to prevent unfair banking practices which may result in the loss of a home. Most recently SERI’s work has expanded to address the security of tenure of farm dwellers.
South Africa’s high unemployment rates mean that many poor and vulnerable people work in part-time, low-paid and insecure employment. Many others engage in self-made informal livelihood strategies, and small businesses. SERI’s work therefore focuses on the struggles many vulnerable people face in earning a livelihood, including poor working conditions, the loss of employment benefits, long hours, low pay, and the insecurity associated with part time, temporary or informal employment.

SERI protects the rights of workers at the lowest rung of the formal labour market to organise free from the threat of unfair dismissal or eviction and works with informal traders to improve their access to economic infrastructure and markets, and to protect them from unfair removal and seizure of their stock.

Finally, SERI supports the Commercial Stevedoring Agricultural & Allied Workers’ Union (CSAAWU), a Western Cape based union who fight for living wages and the protection of labour rights of its members.

Poor people often peacefully assemble and demonstrate in service delivery protests. They also criticise employers, landlords and the state for unfair and often unlawful practices in the workplace, in delivering appropriate services and/or in response to abuses in the landlord-tenant relationship.

SERI seeks to protect and expand the political spaces within which communities can peacefully assemble, demonstrate, articulate and campaign for the advancement of their socio-economic rights. Most recently, SERI has defended the protest rights of student protestors at Tshwane University of Technology, the University of the Witwatersrand and Rhodes University during the #FeesMustFall protests.
SERI has a Board of Directors which holds meetings at least three times a year.

In December 2016, Prof Sandra Liebenberg stepped down as a member of SERI’s Board of Directors after she was appointed as an expert on the United Nations’ Committee on Economic, Social and Cultural Rights. The Committee monitors the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by its member states. We would like to congratulate Prof Liebenberg on her appointment to this prestigious position and wish her well for the future!
SERI prides itself on developing our staff members’ professional abilities by providing experience in conducting research, litigating and advocating for legal and policy changes (with government officials and through civil society involvement). In this way, SERI seeks to build the capacity of our staff to pursue careers in research, advocacy and litigation and strive to achieve a more socially just South Africa.

In the last year, SERI bid farewell to a number of staff members:

- **Mbekezeli Martin Benjamin** | Candidate Attorney
- **Josh Budlender** | Research Fellow
- **Ofentse Motlhasedi** | Litigation Fellow
- **Naadira Munshi** | Researcher
- **Zwonaka Netshifulani** | Candidate Attorney
- **Bhavna Ramji** | Attorney
- **Dennis Webster** | Researcher

SERI also provides opportunities for LLB students from the University of the Witwatersrand’s School of Law to work on a part-time basis conducting field research. This generally includes liaising with clients, compiling case information about clients’ household numbers, income, work, as well as access to housing and other basic services. The initiative is supported and funded by the School of Law’s Bram Fischer Human Rights Programme. It is encouraging that an increasing number of SERI’s candidate attorneys gained their first experience working with SERI as field researchers while completing their LLB degrees.

SERI prides itself on developing our staff members’ abilities...
SERI’s law clinic takes on more work than can reasonably be performed by its own attorneys and counsel. This is made possible because attorneys and counsel outside SERI regularly accept instructions from its Law Clinic pro bono, for a contingency fee or for a reduced fee. We are grateful to the following individuals and firms who have accepted instructions from us on this basis: Daniel Berger SC; Tim Bruinders SC; Geoff Budlender SC; Matthew Chaskalson SC; Wim Cilliers SC; Anna Marie de Vos SC; Andrea Gabriel SC; Paul Kennedy SC; Dumisa Ntsebeza SC; Gift Shakoane SC; Heidi Barnes; Janice Bleazard; Apla Bodlani; Steven Budlender; Berning Buthelezi; Adrian Friedman; Nkosikhona Gama; Anthony Gotz; Francis Hobden; Kate Hofmeyr; James Howse; Garth Hulley; Elsa van Huyssteen; Sekgothadi Kabelo; Sha’ista Kazee; Michelle le Roux; Buhle D Lekokotla; Nicole Lewis; Zweli Makgalemele; Tshepiso Malope; Tebogo Manchu; Joey Moses; Teboho Mosikili; Tholoana Motloeny; Nyoko Muvangua; Tembeka Ngcukaitobi; Rob Pillemer; Deon Pool; MkhululiStubbs; Muhammad Zakeria Suleman; Howard Varney; Bowman Gilfillan Attorneys; Ryan Ismail Attorneys; Mosweu Manyai Attorneys; Mate Attorneys; Madala Komape Attorneys; S.N. Mnguni Attorneys; Haffegge Roskam Savage Attorneys; Manson Tobin Attorneys; Matsepes Inc; Mathewson Gess Inc; and Webber Attorneys.

OUR CURRENT FUNDERS

The Alliance for Open Society International
Bertha Foundation
The David and Elaine Potter Foundation
Ford Foundation
German Catholic Bishops’ Organisation for Development Cooperation (MISEREOR)
Open Society Foundation
The RAITH Foundation
The Sigrid Rausing Trust
SERI’s strategic theme on Securing a Home involves the protection of existing homes and tenure, as well as securing decent accommodation and tenure for clients. Securing a Home is comprised of the following sub-themes: informal settlements; inner-city evictions and access to alternative accommodation; and spatial justice. SERI’s work has also expanded to research, advocacy and litigation measures to protect farm dwellers against eviction in terms of the Extension of Security of Tenure Act (ESTA).

Informal Settlements

South Africa has a progressive national housing policy which prioritises the in situ upgrading of informal settlements, namely the Upgrading of Informal Settlements Programme (UISP). However, in spite of this policy, millions of people continue to live without access to adequate shelter, services or secure tenure.

The state’s approach to informal settlements has been one of relocation, eviction and demolition. The state has mainly focused on providing fully formalised state-subsidised housing to the poor and has coercively implementing this model at the expense of informal settlement residents. State provided formal housing is often located in remote areas on the urban periphery, far from employment opportunities and social amenities. The state’s over-emphasis on formal housing has undermined the legal and moral imperative of spatial justice and entrenched the legacies of apartheid’s racial spatial planning. This has meant that the legal framework has become increasingly important as informal settlement communities seek to resist these relocations and compel in situ upgrading. It is in this light that SERI’s work in informal settlements address the critical failure on the part of the state to effectively initiate and implement participatory and inclusive informal upgrading projects, and advance access to basic services and tenure security to those living in informal settlements.

Some examples of SERI’s work on informal settlements includes the Fischer case, where 60 000 residents living in the Marikana informal settlement on private land in Philippi outside Cape Town faced eviction. SERI intervened before the Western Cape High Court arguing that the court should order the City of Cape Town to expropriate the land and upgrade the informal settlement that has developed on the land. In doing so, SERI hopes to assist the community in obtaining access to basic services and tenure security.

SERI’s research team has also done extensive work on informal settlement upgrading. SERI’s informal settlement upgrading research is aimed at informing the successful
implementation of *in situ* informal settlement upgrading projects, ensuring greater implementation of the UISP and advancing access to basic services and tenure security to those living in informal settlements. In 2017, SERI’s research team conducted a cross-cutting thematic study in three informal settlements across South Africa, namely Ratanang in the North West, Marikana in the Western Cape and Siyanda in KwaZulu-Natal. The research project investigates the lived realities and existing practices of informal settlement communities in respect of participatory democratic practices; their engagement with local government; access to basic services; land use management; tenure security; and economic life. The research will be published later this year.

In April 2017, SERI also hosted an informal settlement exchange in partnership with the Slovo Park Community Development Forum (SPCDF), a CBO advocating for the upgrading of the Slovo Park informal settlement located next to the Nancefield industrial area outside the City of Johannesburg. The exchange brought together residents from different informal settlements to consider, discuss and develop strategies related to the application and implementation of the UISP.

In addition to SERI’s core research programme we undertake special projects. In 2016 and 2017 SERI was involved in two special projects:

- SERI was involved in researching and developing a set of research and policy recommendations on securing tenure in informal settlements on land under customary administration for the Housing Development Agency (HDA).
- SERI researchers wrote a commissioned research report for the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change, an initiative of the South African Parliament. The report deals with tenure security in urban areas, with a particular focus on spatial inequality and the pervasive inequalities faced by those living in informal settlements.

SERI continues to work in informal settlements across the country, and continues its successful and long-standing relationship with the shack-dwellers social movement Abahlali baseMjondolo.

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In 2016, a chapter written by SERI research associate Michael Clark and Kate Tissington was published in a leading book on informal settlement upgrading, entitled *Upgrading Informal Settlements in South Africa: A Partnership-Based Approach*. The book consists of contributions from professionals and practitioners from academia, government, civil society and CBOs. The chapter briefly sets out some of the most important features of the legal and policy framework governing informal settlement upgrading and considers some of the issues that hinder the implementation of the UISP. The chapter explores the various court cases that deal with informal settlement upgrading and argues that these court cases lay the foundation for an inclusive, participatory and rights-based approach to informal settlement upgrading.
Thubakgale and Others v Ekurhuleni Metropolitan Municipality and Others (Winnie Mandela)

SERI represents 133 residents of the Winnie Mandela informal settlement located in Tembisa in Ekurhuleni Metropolitan Municipality. The residents are very poor people who live in corrugated iron shacks without sufficient access to basic services. Each of the residents has applied for, and been allocated, a state-subsidised house in the adjacent formal housing development Winnie Mandela Park township. This was done in terms of the National Housing Code.

The residents first applied for housing subsidies almost 20 years ago, in 1998. By 13 years ago – in 2004 – all of the applicants’ subsidy applications had been approved. Each of the residents’ subsidies was then used to develop a specific stand on a specific site in Winnie Mandela Park. The National Housing Code requires that these stands should have been transferred to the residents once they were complete. But these stands were not given to the residents. They were occupied by other people. The municipality cannot say who these people are or how they got there, but it has admitted in court papers that stands can sometimes be misallocated because of fraud or corruption.

On 24 May 2017, the residents, represented by SERI, challenged the municipality’s failure to give them possession of the state subsidised house which is equivalent to the one of which they were deprived by the municipality’s incompetence or corruption in the North Gauteng High Court. The case was heard in May 2017, judgment is pending.

Media

- East Rand RDP houses sold illegally, Sihle Manda, Mail & Guardian (26 May 2017).
- Interview with Nomzamo Zondo, SABC: Newsroom (8 June 2017).

Fischer v Unlawful Occupiers, Erf 150, Philippi (Fischer)

SERI represents 60 000 residents living in the Marikana informal settlement on private land in Philippi outside Cape Town. The land owner has applied for the residents’ eviction. The residents’ case was heard in the Western Cape High Court in February 2017. They argued that the City of Cape Town, or the provincial or national housing departments should expropriate the land and upgrade the existing settlement as an alternative to their eviction.

The Cape High Court delivered its judgment on 30 August 2017. It directed the City of Cape Town to enter into negotiations with the Marikana land owners, failing which it should consider expropriating the properties in terms of section 9(3) of the Housing Act 107 of 1997, and report back to the Court on whether it would do so.

SERI op-eds

- Letter to Editor: Zille wrong to blame the poor for the Cape’s housing crisis, Dennis Webster and Daneel Knoetze, Daily Maverick (10 March 2017).
- Here’s why the people of Marikana informal settlement are suing Cape Town for land, Tim Fish Hodgson, Huffington Post (8 February 2017).
- Giving land to Philippi residents a first step to redress, Dennis Webster and Edward Molopi, Business Day (6 February 2017).

Media

- City cleans up rubbish dumps at Marikana, Thembela Ntongana, Ground Up (25 May 2017).
- Life in Cape Town’s most controversial informal settlement, Masixole Feni, Ground Up (17 February 2017).
- Marikana: Judge must rule whether to compel state to buy, compensate or evict, Ashleigh Furlong, GroundUp (15 February 2017).
• City asks court to order national government to compensate land owners, Ashleigh Furlong, Ground Up (14 February 2017).

• Marikana lawyer calls for state to expropriate land, Thembela Ntongana, Ground Up (12 February 2017).

• Marikana case: Home owner in informal settlement asks City to buy her property, Ashleigh Furlong, Ground Up (9 February 2017).

• A potential land mark heard in the Cape Town High Court, SABC News (8 February 2017).

• Landmark Marikana case begins: 60,000 people’s homes at stake, Ashleigh Furlong, Ground Up (8 February 2017).

• Buy occupied private land to avoid second Marikana, court hears, Jenni Evans, News24 (8 February 2017).

• Govt cannot be trusted to safeguard private land, court told, Xolani Koyana, EWN (8 February 2017).

• CT property owners seek compensation after land illegally occupied, Xolani Koyana, EWN (8 February 2017).

SERI then commissioned a report recommending that the residents be relocated to a safer site. On the basis of the report, SERI reached an agreement with the Gauteng Department of Human Settlements (the Department). In terms of the agreement the Department constructed 500 formalised housing units in Kagiso Ext 13, which were to be allocated to the Tudor Shaft residents who qualified for state-subsidised housing. The agreement also provided that a special registration process would be implemented for the Tudor Shaft residents who had never applied for, or did not qualify for, state-subsidised housing.

The special registration process indicated that 234 additional houses were required to accommodate the Tudor Shaft residents. The Department has agreed to develop these additional houses. The Department also agreed that approximately 100 people who did not qualify for state-subsidised housing in terms of the National Housing Code would be given safe, serviced land outside Tudor Shaft to occupy.

By the end of 2016, 300 households had been relocated from the Tudor Shaft informal settlement to safe permanent housing in Kagiso Ext 13 and 34 of the additional 234 houses secured in SERI’s negotiations with the Department had been constructed.

Media
• Families living next to “toxic” mine dump relocated, Barbara Maregele and Mary-Anne Gontsana, Ground Up (6 February 2017).
Work on implementing informal settlement upgrading

SERI’s informal settlement advocacy is firmly situated in action research evidence and focuses primarily on engaging government officials at local, provincial and national levels to implement the UISP. We are working closely with the shackdwellers social movement Abahlali baseMjondolo (Abahlali), CBOs such as Slovo Park Community Development Forum (SPCDF) and Makause Community Development Forum (Macodefo), Thusong informal settlement residents in Germiston, and Marikana informal settlements in Philippi, Cape Town. During the reporting period SERI has participated in the Slovo Park Task Team, hosted an informal settlement exchange programme and prepared a research and advocacy collaboration project with Abahlali baseMjondolo in Durban.

As a result of the Melani judgment, the Slovo Park Task Team, mandated to implement the UISP in Slovo Park, has enabled SERI and SPCDF to work closely with provincial and national government officials on informal settlement upgrading. Private consultants have been contracted, and have completed geo-technical studies, a socio-economic survey and a layout plan of the settlement. The City of Johannesburg’s reformulated UISP application is expected to be submitted to Province by August 2017. Going forward, SERI will produce a policy brief based on local government and community-based experiences of preparing Slovo Park’s upgrade through the task team as a community participation mechanism.
The informal settlement exchange programme arose from Abahlali and Marikana informal settlement residents approaching SERI and SPCDF to strategise on cross-province UISP advocacy. In March 2017, the three-day exchange programme gathered a total of 17 informal settlement representatives from Slovo Park in Johannesburg, Marikana in Cape Town, Abahlali in eThekwini and Ekurhuleni, as well as Makause and Thusong in Ekurhuleni. The three-day programme operated through seminars, guided tours and workshops. The main outcomes achieved from the exchange include an improved understanding of the UISP and housing jurisprudence; strengthening of networks between informal settlements and the National Upgrading Support Programme (NUSP) officials; and a commitment from SERI to produce a UISP Guide that outlines the policy’s principles and implementation phases for residents to initiate the application of in situ upgrades in collaboration with municipalities.

Popular Education

• In May 2016, SERI participated in the University of the Witwatersrand’s School of Governance certificate programme hosted in Johannesburg for Human Settlements officials. The programme is designed to build capacity in South Africa’s Human Settlements sector to effectively understand and implement the country’s policy of developing ‘sustainable human settlements’. The two-day workshop involved a screening of Dear Mandela; giving presentations on informal settlement upgrading, legal eviction processes and securing tenure in informal settlements on customary land; and facilitating discussion.

• In June 2017 SERI contributed towards teaching a course on Social and Technical Sustainability in Housing run by the School of Architecture and Planning of the University of Witswatersrand. SERI presented three full lectures to Masters students about the right to access to adequate housing and relevant jurisprudence in Johannesburg inner-city; meaningful engagement and public participation in upgrading Slovo Park informal settlement through the UISP; and gendered dimensions of access to housing and basic services.
Inner-City Evictions and Access to Alternative Accommodation

SERI’s work on evictions and access to alternative accommodation has contributed meaningfully to housing rights jurisprudence in South Africa. In shaping the definition of the right of access to adequate housing, SERI has provided concrete benefits to poor and marginalised people facing eviction. Throughout South Africa, state and private actors are engaging in new strategies aimed at eroding or circumventing section 26 of the Constitution, and its subordinate legislation. This is particularly prevalent in the urban centres where poor people are being displaced as a result of state-run urban regeneration initiatives and gentrification.

At the core of SERI’s evictions and access to alternative accommodation work is the need to combat evictions and the displacement of Johannesburg’s urban poor by compelling the state to provide access to decent alternative accommodation to people who are evicted and would otherwise be rendered homeless. Despite years of litigation and a number of ground-breaking Constitutional Court decisions, the City of Johannesburg has failed to develop a proactive, coherent or programmatic response to the provision of temporary alternative accommodation in cases of eviction. The City has also been unable to develop sufficient low-income rental accommodation for the urban poor. This has meant that many poor people have had to resort to living in so-called ‘bad buildings’, often without tenure security and access to basic services.

When the City does provide temporary alternative accommodation in the wake of an eviction, the conditions are often inadequate. In the Dladla case, which was heard by the Constitutional Court in early 2017, SERI challenged the paternalistic and undignified rules imposed on clients who were provided alternative accommodation in a shelter. Dladla is just one of many cases in which SERI has been involved dealing with the interpretation of the right to adequate housing and the municipal provision of alternative accommodation.

In a landmark Constitutional Court judgment in June 2017 in Kiribilly, for instance, SERI further developed South Africa’s housing jurisprudence when the Court confirmed that evictions that lead to homelessness are unlawful, even if they are agreed to by some of the residents who stand to be evicted. The Court also held that judges must proactively ensure that people under threat of eviction are properly informed of their rights to contest eviction proceedings and claim alternative accommodation. Finally, the Court emphasised that judges must investigate the circumstances of all residents in order to assess the impact that an eviction will have on them.

SERI has continued to bring its client communities in inner-city Johannesburg together under the auspices of the Inner City Federation. The Federation has been instrumental in building networks of solidarity and support amongst inner-city residents, and creating a space for engagement with the City.

SERI op-eds

- Herman Mashaba’s pro-poor plans for Joburg seem a bit rich, Alana Potter and Dennis Webster, Business Day (12 May 2017).
- A place for the poor? Realising the right to adequate housing in Johannesburg, Lauren Royston, Edward Molopi and Josh Budlender, Daily Maverick (29 July 2016).
- Slumlords? Lawyers? No, Mayor Mashaba, your complaint is against the rule of law itself, Stuart Wilson, Daily Maverick (1 December 2016).
- The poor pay the cost for Joburg’s inner-city overhaul, Keaton Allen-Gessesse and Lwazi Mtshiyo, Business Day (1 June 2017).
- The state must invest in rental stock for people earning less than R3 200 a month, Lauren Royston, Mail and Guardian (2 August 2016).
Relocating to Alternative Accommodation: Legal and Practical Guidelines (June 2017)

In June 2017, SERI published a set to legal and practical guidelines on relocating to alternative accommodation in the wake of an eviction or voluntary relocation, entitled Relocating to Alternative Accommodation: Legal and Practical Guidelines.

Various South African laws and policies create a strong preference for allowing occupiers to remain on the land or in the building that they occupy. However, when this is not possible, or when a court orders the relocation of people to alternative accommodation, relocations should be undertaken in a way that protects the rights of the households or community being relocated. Relocations have the potential to severely disrupt peoples’ lives and negatively impact their livelihoods, community relations and sense of security. To make

Media

- Housing Crisis, television interview with SERI’s director of litigation Nomzamo Zondo about the provision of alternative accommodation, eNCA Checkpoint (21 June 2017).
- City of Jo’burg in housing quandary, Govan Whittles and Ra’eesa Pather, Mail & Guardian (15 June 2017).
- Houses and the danger of political gift-giving, Rebecca Davis, Daily Maverick (29 May 2017).
- Revamp of SA’s largest city leaves poor battling for housing, Gillian Parker, Moneyweb (3 January 2017).
sure this doesn’t happen, the relocation process should be carefully planned, well-run and participatory.

SERI developed this set of legal and practical guidelines to assist those involved in the relocation process to navigate the complexities involved in planning for and carrying out relocations.

The guidelines present an approach to relocations based on SERI’s experience in planning for and managing relocations to alternative housing and draw on the international and local experiences of intergovernmental bodies and development agencies. The guidelines offer practical guidance on how to ensure that relocations are carried out in a way that respects the constitutional rights of the people being relocated. The guidelines were written by Michael Clark and Lauren Royston.

SERI op-eds

• Guidelines offer clarity on evictions and relocations, Michael Clark, Lauren Royston and Lwazi Mtshiyo, Business Day (20 July 2017).

Litigation

Occupiers of Erven 87 & 88 Berea v De Wet and Another (Kiribilly)

On 8 June 2017, the Constitutional Court set aside an eviction order which authorised the eviction of 184 desperately poor residents of the Kiribily apartment building in Berea in inner-city Johannesburg. In a far-reaching judgment, the Court held that evictions that lead to homelessness are unlawful, even if they are agreed to by all of the residents who stand to be evicted. In addition, the right not to be arbitrarily evicted from one’s home places a duty on judges to ensure that people at risk of eviction are properly informed of their rights to contest eviction proceedings and claim alternative accommodation. The judgement means that judges must proactively investigate the circumstances of all residents in order to properly assess the impact that an eviction will have on their lives and living circumstances.

The High Court had ordered the residents’ eviction without undertaking any of the legally required inquiries in terms of the Prevention of Illegal Evictions and Unlawful Occupation of Land Act (the PIE Act) and, purportedly, with the consent of some of the residents. However, the judge had not made sure that the residents had actually consented to the eviction or that their consent had been real and informed.

The Constitutional Court’s momentous decision is a victory for millions of poor people across South Africa who live with insecure tenure and inadequate housing. The decision means that a judge may not order an eviction of unlawful occupiers – even if they appear to have agreed to the eviction – unless the judge is satisfied that those at risk of being evicted are aware of, and able to exercise, their rights, and until a judge can be sure that no-one will be left out on the streets.
SERI op-eds

• What does the Kiribilly judgment tell us about unlawful evictions and the rights of occupiers?, Nkosinathi Sithole, The Daily Vox (21 June 2017).

Media

• No evictions without rights explained, Constitutional Court rules, Ernest Mabuza, Business Day (8 June 2017).

• Judges can no longer lawfully order evictions that leave people homeless, Ra’eesa Pather, Mail & Guardian (9 June 2017).

• Landlords have to pay for housing for evicted people and other myths, Ra’eesa Pather, Mail & Guardian (12 June 2017).

Dladla and the Further Residents of Ekuthuleni Shelter v City of Johannesburg and MES (Dladla)

SERI represents 33 former residents of Saratoga Avenue, who were moved to the Ekuthuleni Shelter in May 2012 by the City of Johannesburg as part of the Blue Moonlight judgment. There were numerous problems with the rules and conditions at the shelter, including a day-time lock out rule in terms of which the occupiers were not permitted to remain in the shelter during the day and would be locked out of the shelter for the evening if they did not return by 8pm, that families were separated as occupiers were forced to live in gender-differentiated dormitory conditions, and that occupiers had no privacy or personal space. SERI challenged the rules and conditions in the shelter on behalf of the residents. The South Gauteng High Court declared the shelter rules unlawful and unconstitutional on the basis that they unjustifiably infringed the occupiers’ rights to dignity, freedom and security of person, and privacy. However, the City took the case on appeal to the Supreme Court of Appeal, where the judgment was overturned. In response, SERI appealed to the Constitutional Court. On 16 February 2017, the case was heard in the Constitutional Court. The application raises fundamental issues concerning the connection between socio-economic rights and the rights to dignity, privacy and freedom and security of the person. If the Constitutional Court accepts the arguments put forward by SERI it will create an important precedent about the state’s constitutional duties in relation to the provision of alternative accommodation. The Court’s decision is expected in the coming months.

Media

• Shelter residents fight City of Johannesburg over “lock-out” rules, Safura Abdool Karim, Ground Up (16 January 2017).

Hawerd Nleya and Others v Ingelosi House (Pty) Ltd (Ingelosi House)

SERI represents 90 residents of a building located on O’Reilly Street in Hillbrow in Johannesburg, many of whom have been living in the property for over eight years. The residents have appealed an eviction order that was granted against them in the South Gauteng High Court on 28 May 2014. The eviction order was granted against all 90 of the long-standing residents in spite of the fact that only eight of the residents were present in court. The residents told the judge that they did not have legal representation and requested time to raise money for a lawyer. However, the judge ordered the eviction after briefly questioning the residents. The judge did not consider the personal circumstances of the residents or whether an eviction render the residents homeless. On 19 May 2017, SERI appeared before a full bench in the South Gauteng High Court to appeal the eviction order. The court set aside the eviction order issued by Judge Victor, stating that the judge should have joined the City of Johannesburg to the eviction proceedings. This was necessary to ensure that the City could submit a report setting out what steps it would take to ensure
that the residents would not be rendered homeless as a result of the eviction. The High Court joined the City to the proceedings and ordered it to file a report on the occupiers and their circumstances within 30 days.

**City of Johannesburg in re: All pending eviction applications where the occupiers’ eviction may lead to homelessness (City of Johannesburg ex parte stay application)**

In January 2014, the City of Johannesburg made an application to the South Gauteng High Court for an order that the final eviction applications in over 30 matters be postponed pending the final determination of *Dladla and Others v City of Johannesburg and Others* (*Dladla*). SERI represents over 1,100 people in a number of these cases, including Soper Road, Changing Tides and Jeanwell Court. The occupiers represented by SERI issued a counter-application arguing that the City has failed to adequately plan for and procure the land or buildings necessary to provide temporary alternative accommodation to the occupiers at risk of becoming homeless. The occupiers have asked the court to declare that the City has failed to take reasonable measures, within its available resources, to discharge its constitutional obligations to provide temporary alternative accommodation to the occupiers as required by the *Blue Moonlight* judgment.

The occupiers also requested the court to declare the City’s criteria for determining who will qualify for the provision of temporary accommodation unconstitutional. The occupiers argue that the City should devise, publish and implement revised criteria for determining the occupiers’ eligibility for the provision of temporary accommodation. The case is ongoing.

**City of Johannesburg Metropolitan Municipality v Primrose Qelesile and Others (MOTH)**

This case concerns the residents of the MOTH Building in Johannesburg’s inner-city. Since the residents first arrived at the building in 2009 and 2010, they consistently communicated the undignified and unsafe conditions at the building to the City, including the lack of partitioning for families and individuals inside the building; electricity outages and inadequate lighting in the building; flooding in the basement; safety in the building; as well as the gas leakage from the stoves in the kitchen. Although the City would sometimes respond, no tangible change was effected and the conditions at the building further deteriorated. In 2014, there was a fire on the third floor of the building which resulted in a tremendous loss for the families and individuals who lived on that floor.

In May 2017, several people residing on other floors of the building constructed structures on the third floor. As a result, the City launched an urgent application against them, seeking an order directing the respondents to vacate the third floor and interdicting them from occupying the third floor without its permission. The application also cited, as respondents, people who were not resident on the third floor. Those residents opposed that application on the basis that they had been incorrectly included in the proceedings and that any court order granted in the matter could not be executed against them.

The urgent application was dismissed in May 2017. The residents of the MOTH property continue to press the City for better accommodation.
Popular Education

• In August 2016, SERI’s Lwazi Mtshiyo and Edward Molopi conducted a workshop for the Edward Nathan Sonnenberg’s (ENS) Pro Bono office in Alexandra informal settlement in Johannesburg. The workshop included a feature of the Dear Mandela documentary and SERI staff provided in-depth information about evictions law, with a focus on the right of access to adequate housing in section 26 of the Constitution and the PIE Act.

• In October 2016, SERI’s Lwazi Mtshiyo, Martin Mosweu and Edward Molopi gave a public lecture on informal settlement upgrading in communal areas and the law relating to evictions as part of a housing course offered by the School of Governance at the University of Witwatersrand. The lecture included a screening of the SERI short film, The Road Home.

• In October 2016, SERI partnered with Local Government Action (LGA) and the Community Action Team (CAT network) to host a two-day workshop for a community in Yeoville, Johannesburg. The community faces a severe lack of basic services, with many facing the threat of eviction. The workshop focused on the structure of local government, how community members can engage local government and housing rights. SERI’s Martin Mosweu and Edward Molopi and LGA’s Koketso Moeti facilitated the workshop.

• In March 2017, SERI’s Lwazi Mtshiyo and Khululwe Bhengu facilitated a workshop for the Gauteng Housing Crisis Committee, a CBO made up of activists and community-based paralegals working on evictions and housing issues throughout the province.

• In June 2017, SERI partnered with the National Union of Metalworkers of South Africa (NUMSA) to host a workshop for two vulnerable communities living in Port Elizabeth, in the Eastern Cape. The workshop dealt with evictions and the right of access to adequate housing. SERI’s Lwazi Mtshiyo facilitated the workshop.

Government and Civil Society Engagement

• In October 2016, SERI submitted written comments on the City of Johannesburg’s draft Special Process for the Relocation of Evictees (SPRE) policy. The draft policy has been formulated as the City’s response to its constitutional obligation to provide temporary alternative accommodation to occupants who might be rendered homeless as a result of an eviction.

• In October 2016, SERI’s Lwazi Mtshiyo and Ndifuna Ukwazi’s Hopolang Selebalo and Gavin Silber, spoke at Habitat III in Quito, Ecuador. They presented to hundreds of urban policy makers, non-profit organisations and academics. Their presentation centred around SERI’s litigation experiences in inner-city Johannesburg and how post-apartheid urban housing policies have failed to reverse apartheid race and class divisions.

• In November 2016, SERI’s Lauren Royston participated in a round-table on tenure security under the auspices of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change held at the South African Parliament in Cape Town. The round-table brought together law and policy makers, academics and civil society representatives from across the country to assess whether post-apartheid laws and policies have satisfactorily addressed the structural issues
of poverty, inequality and unemployment. SERI presented the findings of its commissioned report on urban land tenure.

- In February 2017, days after Finance Minister Pravin Gordhan’s national budget speech, SERI’s Tim Fish Hodgson contributed to the Studies in Poverty and Inequality Institute (SPII)’s human rights budget speech. This initiative seeks to foreground the budgetary components of the South African government’s socio-economic rights obligations.

- On 27 June 2017 SERI’s executive director, Stuart Wilson, presented a public lecture on the development of property law in South Africa at the Bingham Centre for the Rule of Law at the University of London. The lecture, entitled Nine Tenths of the Law: Property, dispossession and human rights in South Africa, highlighted how property law reforms in South Africa have led to a fundamental re-imagining of property relations.

**Partnership with the Inner-City Federation**

In 2015 SERI facilitated the creation of the Inner-City Federation, a coalition made up of tenants from buildings in inner-city Johannesburg that organise around shared struggles. The Federation is composed of two members from each building or building committee who attend the monthly meetings. The Federation allows inner-city residents to share their experiences, build unity and solidarity, and functions as a platform for knowledge sharing. Ultimately, the Federation serves as a support structure assisting residents in developing collaborative strategies for dealing with internal building problems that residents encounter and facilitating the creation and strengthening of building committees.

In 2016 and 2017, the Federation has continued to provide essential support to inner-city residents. The Federation mobilised residents to attend important housing rights court hearings to show their solidarity with other inner-city residents. This included the Kiribili and Dladi hearings in the Constitutional Court, as well as various eviction hearings in the South Gauteng High Court. The Federation has also been active in advocating for legal and policy changes by engaging government and raising awareness of Johannesburg’s housing crisis. The secretary of the Federation, Syabonga Mahlangu, and SERI’s Edward Molopi penned an opinion piece highlighting the importance of the Dladi case for other residents of the inner-city currently facing the threat of eviction. In July 2016, the Federation hosted housing officials from the City of Johannesburg, who presented on the City’s proposed Inner City Housing Strategy and Implementation Plan (ICCHIP). The Federation has also carried out visits to all SERI clients who reside in the inner-city, especially those who have not actively participated in the Federation’s work in order to build awareness and to raise support.

Going forward, the Federation plans to continue providing assistance to inner-city residents, increase its reputation through on-going engagement with other stakeholders, and comment on housing issues whenever possible through the media and other platforms.

**SERI op-ed**

- **Residents challenge Joburg’s shelter rules.**
Spatial Justice

Spatial justice is an emerging sub-theme in SERI’s Securing a Home work. Spatial justice considers how geographical space is linked to equality and social justice. A spatial justice agenda involves analysing and influencing the intersection between geography and unjust social phenomena. Spatial justice asks which social and economic groups get to live, work and play in geographical spaces that offer valued resources and opportunities. Spatial justice is therefore concerned with where local development, economic opportunities and social amenities are located and how to ensure that poor and marginalised groups progressively gain access to these spaces.

In 2016 and 2017, SERI’s work on spatial justice has included applied research and engagement with civil society and government.

Edged Out: Spatial Mismatch and Spatial Justice in South Africa’s Main Urban Centres (December 2016)

In December 2016 SERI published a research report, entitled Edged Out: Spatial Mismatch and Spatial Justice in South Africa’s Main Urban Centres. The report shows that housing located on the urban periphery in South Africa’s major urban centres is far away from job opportunities and acts as a poverty trap.

In South Africa, jobs and economic activity are generally concentrated in the urban centres. Wealthy (disproportionately white) South Africans live relatively close to these urban centres, while poorer (overwhelmingly black) South Africans live on the urban periphery, far from employment and economic opportunities. This means that in South Africa, where jobs are concentrated around urban centres, people who live on the urban periphery face higher unemployment because of their location. These challenges are exacerbated by unregulated property markets that are driving the poor from urban centres and the failure of the South African state to address apartheid race-based spatial planning.
The report analyses national spatial data on local unemployment rates and the distribution of jobs in South Africa’s major urban centres and finds that there is a significant correlation between physical proximity to jobs and local unemployment rates. The report recommends that the state and city governments proactively intervene in housing markets to ensure that affordable well-located housing is accessible to the poor. This will be central to dismantling the “apartheid city” and moving towards urban spatial justice. The report was written by Josh Budlender and Lauren Royston.

**Media**


**Government and Civil Society Engagement**

- On 7 February 2017, SERI’s Lauren Royston presented the research findings from SERI’s report *Edged Out: Spatial Mismatch and Spatial Justice in South Africa’s Main Urban Centres* at the National Executive Committee (NEC) Lekgotla hosted by the South African Local Government Association (SALGA) in Cape Town. The Lekgotla brought together newly elected local government officials from across the country. SERI’s presentation focused on the “spatial mismatch” in South African cities, and showed that where people live has a direct impact on their chances of finding a job. These types of engagement with government officials are crucial given that SERI’s research has developed a metric by which government can measure efforts to achieve spatial justice in cities.

**Urban Land Justice Colloquium**

In November 2016, SERI and Ndifuna Ukwazi hosted the third annual Urban Land Justice Colloquium. The three-day event focused on activism, through the use of law, organising and research. It hosted conversations between diverse groups of activists, urban planners, academics and private sector actors. The colloquium examined successful tactics used by social movements and CBOs to resist evictions and forced removals, with a focus on both past and present strategies. The participants contributed to fascinating debates on their struggles for access to land and housing and their tactics for holding government to account.

**Media**

Evictions from farms

Twenty years after the state passed the Extension of Security of Tenure Act (ESTA) - a piece of legislation that strictly regulates evictions and strengthens the rights of farm dwellers in relation to the land that they occupy - farm dwellers remain extremely vulnerable, with many still fearing that they could lose the homes that they have occupied for generations. This is largely due to fact that the state has been unable to ensure that farm owners and government officials comply with the law. In fact, evictions from farmland have escalated despite the laws governing evictions.

A survey by Nkuzi Development in 2005 found that only 1% of evictions from farms followed legal processes. Between 1984 and 2004, approximately two million people were evicted from farms, with more being evicted in the decade after 1994 than in the preceding decade. Evictions continued unabated throughout, unhindered by the promulgation of ESTA. Evictions from farms have therefore remained a serious and pressing issue.

SERI’s work on evictions from farms has developed from our long-standing relationship with the Commercial Stevedoring Agricultural & Allied Workers’ Union (CSAAWU) protecting workers’ labour rights. During our work with CSAAWU, SERI received an influx of requests from CSAAWU members and other farm dwellers throughout the country for either legal information or advice on how to resist evictions from farms. In early 2016, SERI successfully defended a group of about 80 people living on farmland situated at 13 Johan Road in Honeydew in the Land Claims Court in the Rula Tecno case.

In 2016, at the request of CSAAWU, SERI staff presented a workshop on the protection afforded to farm dwellers in terms of ESTA. After this workshop CSAAWU requested that, based on the content of the workshop, SERI produce a guide that could be used by paralegals and CSAAWU staff to assist farm dwellers - who often have no legal representation at all - in ESTA eviction proceedings.

Protection against Eviction under the Extension of Security of Tenure Act: Legal Rules, Principles and Process (July 2017)

In response to CSAAWU’s request, SERI developed a user-friendly plain language guide that explains the rights of farm dwellers and the law in relation to evictions from farmland entitled Protection against Eviction under the Extension of Security of Tenure Act: Legal Rules, Principles and Process. The guide, published in July 2017, provides advice on how farm dwellers can navigate the legal processes involved in eviction proceedings and practically resist evictions. It is a resource for farm dwellers facing eviction from their homes, as well as for farm worker unions, community-based paralegals and lawyers. The guide was developed by SERI and the Commercial Stevedoring Agricultural and Allied Workers Union (CSAAWU), and written by Tim Fish Hodgson and Dasantha Pillay.
SERI, in partnership with CSAAWU, will embark on an advocacy campaign to popularise and disseminate the guide to farm dwellers through a series of workshops in the Western Cape, Gauteng, Free State and KwaZulu-Natal provinces.

SERI has also done extensive advocacy work on farm evictions in recent months, including various opinion pieces.

**SERI op-eds**

- **ConCourt falls short of farm dweller Act’s aims**, Stuart Wilson, Mail & Guardian (19 July 2017).
- **The moral imperative on South African farms**, Tim Fish Hodgson, Africa is a Country (22 May 2017).
S
ERI’s work in our Making a Living theme developed from our focus on precarious work and livelihoods. South Africa’s high unemployment rates and changes in the labour market mean that many poor people remain trapped in exploitative labour systems. SERI’s work in our Making a Living theme is concerned with the struggles many vulnerable people face in earning a livelihood, including poor working conditions, the loss of employment benefits, long hours, low pay, and the insecurity associated with part-time, temporary or informal employment.

In addition, SERI’s work in this strategic theme deals with self-made informal livelihood strategies and small businesses. Informal trade plays a vital role in ensuring survival, livelihood and entrepreneurial opportunities for many of the urban poor. However, in recent years there has been a growing intolerance of informal trade in urban areas in South Africa as cities aggressively pursue gentrification processes. SERI has continued to represent the South African Informal Traders Forum (SAITF), and continues its work to ensure that the rights of informal traders are protected in Johannesburg.
Informal Trade in Johannesburg: Your Rights (March 2017)

In March 2013 SERI launched a user-friendly guide to the rights of informal traders entitled Informal Trade in Johannesburg: your Rights. This guide sets out the rights of informal traders making a living in Johannesburg and the avenues available to ensure those rights are protected. Informal traders make a living in hostile environments, and local governments do not protect the rights of people making a living informally in the same way that they do those working in the formal sector. Despite this, informal traders have found novel ways to hold local authorities to account. If traders are aware of their rights and how to protect them, they are better placed to resist illegal harassment and clamp downs on their businesses. The guide was developed in collaboration with informal traders and written by Dennis Webster.

SERI op-eds

- New guide will assist street traders to protect their rights, Dennis Webster, Daily Maverick (4 April 2017).

Abattoir Workers: Unfair Labour Practices and Anti-Union Strategies in Robertson (July 2017)

In July 2017 SERI published Abattoir Workers: Unfair Labour Practices and Anti-Union Strategies in Robertson, our first community practice note in the Making a Living Series of community practice notes. The community practice note details the struggles of a group of abattoir workers against unfair labour practices in Robertson. The workers were forced to work significant amounts of overtime (much more than the legal limit) and were dismissed when they resisted these unlawful practices. The community practice note documents their struggles to unionise and vindicate their rights in court. It provides a brief background to the working conditions at an abattoir in Robertson; summarises the key events in the abattoir workers’ struggle; and examines the strategies workers used to defend their rights. It is available in English and Afrikaans.

The community practice note developed out of SERI’s litigation support for CSAAWU. In 2016, SERI was involved the representation of abattoir workers at Robertson Abattoir. The long and challenging litigation process, which ended in an out of court settlement earlier in 2017, revealed both the difficulties that smaller social movements have in accessing justice and acquiring legal representation. The community practice note is an attempt to capture the abattoir workers’ struggles and consolidate learning from the litigation process.
South African Informal Traders Forum and Others v City of Johannesburg and Others (SAITF)

In October 2016, SERI launched a damages claim worth R120 million on behalf of 1,652 informal traders who were forcibly removed from their places of business as part of the Mayor of Johannesburg’s “Operation Clean Sweep” campaign between 30 September and 2 December 2013. The campaign consisted of the City of Johannesburg and the Johannesburg Metropolitan Police Department (JMPD) evicting every informal trader working in and around the inner-city without warning or explanation. The traders were evicted even though each had a right to trade in the area, granted through permits issued by the City itself. Many traders were viciously assaulted and had their goods damaged. All lost large quantities of valuable stock.

After an extraordinary urgent hearing, held on 5 December 2013, the Constitutional Court put an end to “Operation Clean Sweep”, calling it an illegal act of “humiliation and degradation”, directing the City to permit the traders to immediately return to their places of business and affirming that “the ability of people to earn money and support themselves and their families is an important component of the right to human dignity”. Since then, despite repeated demands, the City has neither apologised to the traders for the harm it caused to their dignity and livelihoods, nor offered to compensate the traders for their losses. The traders have therefore requested SERI to turn once again to the courts for relief.

Each of the traders represented by SERI claims for the loss of their goods destroyed or illegally confiscated during “Operation Clean Sweep” and for the injury to their dignity caused by their sudden and public eviction from their places of business. Many traders claim for the interest on expensive short-term loans they were required to take out during the weeks they could not earn a living through trade. The traders also ask that the City be directed to make a public written apology, to be published in a major newspaper circulating in Johannesburg.

SERI press statements

- Informal traders claim R120 million for damages caused by Operation Clean Sweep, SERI press statement (3 October 2016).

Media

- Joburg informal traders launch R120m civil claim, Staff Reporter, The Citizen (4 October 2016).

Robertson Abattoir v Commercial Stevedoring Agricultural & Allied Workers’ Union (CSAAWU) (Robertson Abattoir)

In 2016 and 2017, SERI represents an unaffiliated union based in the Western Cape - CSAAWU - in unfair dismissal proceedings in the Cape Town Labour Court. CSAAWU claimed that Robertson Abattoir had been forcing its employees to work up to 18 hours per day in direct contravention of the Basic Conditions of Employment Act (BCEA). This for as little as R300 to R400 a week in compensation. CSAAWU alleged that workers were locked out and eventually dismissed for protesting against these exploitative working conditions. Their employer claimed that they were dismissed for “absenteeism” and “insubordination” following disciplinary proceedings held after their lock out. Their dismissal was referred to the Cape Town Labour Court where CSAAWU argued that the dismissal of the protesting workers was unfair.

After a complicated sequence of legal proceedings in the Labour Court and Labour Appeal Court on procedural issues, which the workers’ ultimately won, the case finally
went to trial on its substance late in 2016. During the process of this trial, the workers reached an out of court settlement agreement with the owner in terms of which the owner agreed to pay each of them several months’ worth of wages.

Media
- Abattoir workers win unfair dismissal case on appeal, Ashley Furlong, Ground Up (22 August 2016).
- Robertson abattoir workers have their day in court, Daneel Knoetze, Ground Up (18 March 2015).

J.F. Rossouw Trading v CSAAWU & Others (Rossouw)

In this case, SERI represents Andries Swartz, who was employed as a farm worker in on the farm Versameling in Montagu since January 2005. On 15 March 2013, Swartz was dismissed for misconduct following a disciplinary hearing.

Swartz’s dismissal followed an assault incident on one of his female co-workers in terms of which Swartz grabbed his co-worker and pushed her against the rails of a bakkie after she insulted his wife. After the incident, Swartz’s employer charged him with misconduct, conducted a disciplinary hearing (which found Swartz guilty of misconduct) and dismissed him. Swartz approached the Commission for Conciliation, Mediation and Arbitration (CCMA) which, on 27 July 2013, issued an arbitration award in his favour stating that the sanction of dismissal was too harsh and substantively unfair taking into account his clean disciplinary record. The CCMA further found that Swartz’s employer did not apply the same standard of rule to other employees involved in fights as they were only given final written warnings. Swartz was ordered to report for work on 5 August 2013. However, when Swartz reported for work he was denied access to the workplace, and was told to go back home. His union, CSAAWU, tried to negotiate on his behalf without success.

On 9 September, Swartz’s employer took the CCMA award on review to the Labour Court. The review application was dismissed and the award confirmed. Swartz’ employer then applied for leave to appeal against the judgment in the Labour Court, and was granted leave to appeal to the Labour Appeal Court, where his application was eventually dismissed on 2 March 2017.

Effectively, this means that the CCMA’s arbitration award reinstating Swartz to his employ stands and he must be reinstated immediately. In finding for Swartz, the Labour Appeal Court reasoned that the CCMA’s arbitration award was not unreasonable. It found that at the time of the dismissal the parties had forgiven each other and the employer did not always dismiss employees who had fought. The judgment has affirmed the application of the Labour Relations Act to farm owners and farm workers, and has clarified the legal obligation for farmer owners to act consistently when disciplining their employees. Ultimately, the judgment emphasises the importance of corrective discipline in cases where this would be appropriate and suggests that corrective disciplinary measures should be preferred to dismissals.
Popular Education, Conferences and Civil Society Engagement

• On 5 June 2016, SERI hosted a workshop with informal traders in inner-city Johannesburg to discuss a new resource guide being developed on the rights, regulation and legislation applicable to informal trade. SERI’s Dennis Webster, Edward Molopi and Lwazi Mtshiyo facilitated the workshop.

• On 27 June 2016 SERI hosted a second workshop with informal traders in inner-city Johannesburg to discuss a new resource guide being developed on the rights, regulation and legislation applicable to informal trade. SERI’s Dennis Webster and Lwazi Mtshiyo facilitated the workshop. These workshops ultimately resulted in the production of the Informal Trade in Johannesburg: Your Rights guide launched by SERI in March 2017. On 22 March 2017, at an extremely well attended launch at the Gauteng Provincial Legislature in the Johannesburg city centre, SERI and SAITF launched the guide and engaged in discussions with members of SAITF from Johannesburg, Ekurhuleni and Tshwane about common issues faced by informal traders in protecting their rights and plying their traders. The plan is now to further disseminate the guide by giving “block leaders” who are members of SAITF workshops on its content with the intention that these block leaders will be able to pass the knowledge on to informal traders most effectively.

• During May 2017, SERI researcher Dennis Webster took part in two symposiums where he spoke on the realities of the management of informal trade in Johannesburg’s inner-city. The first symposium, hosted by the Gauteng City Region Observatory (GCRO), focused on the topic of Taking the Streets Seriously. At the symposium Webster discussed SERI’s work with informal street traders, the mechanisms that are available to local governments to secure basic rights at work and better access to the economy for street traders. At the second, hosted at the Centre for Built Environment Studies (CUBES) and titled Experimenting/Experiencing the City, he participated in a round-table on street trading, and considered what the “just” governance of street trading might look like in Johannesburg.
SERI op-eds

- Wine workers win resounding battle, but cannot win the war alone, Dennis Webster Huffington Post (1 December 2016).

The Streets at Stake

In August 2016 SERI released a short film in collaboration with Sleeping Giant Films, entitled The Streets at Stake. The film documents the experiences of informal traders in inner-city Johannesburg during the Mayor of Johannesburg’s “Operation Clean Sweep” campaign and its aftermath. The film was premiered on 29 August at the Public Interest Law Gathering (PILG) at the University of Witwatersrand, an annual conference that brings together academics, activists and civil society representative from across the country. The film compliments SERI’s detailed research report The End of the Street? Informal Traders’ Experiences of Rights and Regulations in Inner City Johannesburg released a year prior.

SERI op-eds

- Fighting for a Living: Short films show communities taking on the odds, Stuart Wilson, Daily Maverick (6 December 2016).
SERI’s third strategic theme – Expanding Political Space – encompasses a growing variety of issues dealing with participation, political space and protest. This work flows from the disjuncture between the legal and policy framework governing local government, which requires public participation in local government decision-making, and the significant lack of actual engagement at grass-roots level. The formal channels of engagement with the state are often inaccessible or effectively closed down to marginalised communities, which has led to CBOs, community forums and social movements increasingly turning to informal participatory mechanisms, such as ‘service delivery’ protests.

While freedom of assembly and demonstration is a legitimate form of democratic participation, local authorities and police officials often frustrate this form of expression. Further, the use of force by the police has become a defining feature of the policing of public protests and the arrests of activists on frivolous charges and abuse of the criminal justice system to silence dissent is commonplace. This closing down of the political space necessary for individuals and communities to advocate for the realisation of socio-economic rights was identified by SERI’s clients and partners as a key obstacle in their quests for social justice.

SERI seeks to respects and promote the agency of people to express themselves in the manner in which they deem appropriate, whilst enjoying the protections guaranteed by the Constitution to do so. SERI has responded to the growing criminalisation of protest by building our litigation skills in bail applications and criminal law. This assisted our representation of students during the #FeesMustFall protests in 2015 and 2016.

SERI has also continued to be involved in advocacy activities in relation to the Marikana massacre. In March 2017, SERI undertook a week-long campaign, coinciding with Human Rights Day and the International Day for the Right to Truth, drawing attention to the continued lack of justice for the Marikana massacre.
In July 2017, the Good Governance Learning Network (GGLN), a network of non-profit organisations that aims to share knowledge and collectively promote accountable and democratic local governance, published its annual publication on the state of local government in South Africa. The current issue, entitled Navigating Accountability and Collaboration in Local Governance, allows member organisations to reflect on the importance of accountability and collaboration as key values that drive the reclaiming of local democratic spaces. SERI has been a long-standing member organisation of the network and contributed to the publication.

SERI’s contribution, written by SERI researchers Edward Molopi and Tiffany Ebrahim, is entitled “Spatial Justice: Accountability through Collaboration and Confrontation”. The chapter reflects on SERI’s work to improve social and spatial justice through a combination of confrontational, cooperative and complementary strategies. It discusses different methods of engaging the state in order to advance accountability through the lens of a “4C” (Confrontational, Complementary, Cooperative and Co-opted) model and uses practical examples of SERI’s use of these different methods. The chapter concludes with some thoughts on lessons learnt, and the implications and risks of these approaches.

**Rhodes University v Student Representative Council of Rhodes University and Others (Rhodes)**

In 2016 and 2017, SERI represented students and intervening university staff members in an application to discharge a wide-ranging interim interdict, which effectively banned campus-based protest at Rhodes University in the Eastern Cape. In April 2016, the High Court granted the interim interdict after students embarked on a peaceful protest to raise awareness of the prevalence of rape and sexual assault at Rhodes University. The interdict was granted without students or staff receiving any notice of the application. The interdict restrained a wide variety of persons, including SERI’s student clients and concerned staff, from “encouraging, facilitating and/or promoting any unlawful activities” at the university.

The students and staff believed that the interim interdict was inappropriate and unconstitutional as it restrained lawful picketing and assembly. In particular, the students and staff were concerned about the vagueness and reach of the interdict given that it was virtually impossible to tell to whom the interdict applied and what activities it prohibited.

As a result, the students and staff, represented by SERI, intervened in the application and opposed the finalisation of the interdict in the Grahamstown High Court. On 1 December 2016, the Court held that the interdict, in its original form, could not be lawfully granted citing a range of rights-based concerns. However, a narrower interdict was granted against three of SERI’s student clients. The interdict was granted on the basis of disputed facts and the judge’s belief that SERI’s clients had “associated” themselves with unlawful conduct committed by some of the other protestors. The Court made this finding on the basis that SERI’s clients played a “leadership role” during the protest, this despite the fact that the university never showed that SERI’s clients acted in any way to associate themselves with the unlawful acts. The Court also granted an interdict against SERI’s clients for “disrupting” classes and tutorials at the university.
Although the narrowing of the interdict constitutes a major victory for the students, SERI has applied to the Constitutional Court for leave to appeal the narrowed interdict as the students believe that the interdict is unconstitutional in that it infringes on the right to protest and the right to freedom of expression. In particular, the students argue that holding an individual protestor who has done nothing unlawful liable “by association” for the unlawful acts of others at the same protest would unjustifiably limit the right to protest. If the Constitutional Court grants leave to appeal, the case is likely to clarify students’ protest rights.

Mlungwana and Others v The State and Others (Mlungwana)

On 11 September 2013, a small group of community-based activists and members of the Social Justice Coalition (SJC) participated in a peaceful protest outside the Mayor of the City of Cape Town’s offices in Cape Town. During the protest, the protestors chained themselves to the railings of the City’s civic centre. Twenty one protesters were arrested and charged under section 12(1)(a) of the Regulation of Gatherings Act (the Gatherings Act) for unlawfully and intentionally convening a gathering without notifying the municipality that the gathering would take place. During the criminal proceedings that followed in the Magistrates’ Court, the accused protestors were held to have convened the protest and found guilty of the charges laid against them. The protestors have appealed to the Cape Town High Court, where they asked the Court to declare section 12(1)(a) of the Gatherings Act unconstitutional. The protestors argue that criminalising the conveners of a protest simply because they did not notify the relevant municipality that the gathering would take place. During the criminal proceedings that followed in the Magistrates’ Court, the accused protestors were held to have convened the protest and found guilty of the charges laid against them.

The students alleged that various searches had been put in place on campus – including the points of entry to the university and other buildings within the university. The university then introduced and implemented a campus curfew which, amongst other things, led to significantly reduced library hours and freedom of movement across the university and its residences. Harassment by police and private security of students attempting to study in residences was also reported. In addition to these security measures, sporadic protests continued at the university. The police and private security responded to these protests with violence, frequently resorting to the use of rubber bullets, tear gas and stun grenades.
In spite of the atmosphere on campus, students continued writing semester tests and submitting essays and assignments. In the face of final exams scheduled to begin in November 2016, the students argued that the situation on campus has been too volatile for any meaningful teaching and learning to take place, let alone exam preparation. They met with university management in an attempt to postpone the end of year exams, so as to allow for better preparation. They’re requests were refused.

SERI approached the Johannesburg High Court, on behalf of the students, seeking an interdict restraining the university from going ahead with its planned exam schedule and postponing exams by at least 2 weeks to allow the students the opportunity to prepare for exams under more conducive conditions. The students’ application was supported by a petition signed by approximately 3 000 other students. Before the case was argued, the university relaxed the curfew and agreed to a more flexible policy on deferred exams for any student that felt unable to participate in the first session. On 3 November 2016, despite acknowledging the students’ central complaint that the curfew “made for an atmosphere that was generally not conducive to learning”, the High Court dismissed the students’ application.

SERI op-eds


- What students will learn from exercise of power, Nomzamo Zondo and Stuart Wilson, Business Day (21 October 2016).

Media

- Wits students apply for interdict to delay exams by two weeks, Jan Bornman, Business Day (31 October 2016).

Moyo and Another v Minister of Justice and Constitutional Development and Others (Moyo)

This case emanates from a criminal charge laid against community-based activist General Alfred Moyo following attempts by him and other residents of the Makause informal settlement to hold a march against police brutality in Primrose in Germiston in 2012. Moyo was charged with “intimidating” the station commander of the Primrose Police Station in Germiston, in terms of section 1(1)(b) of the Intimidation Act 72 of 1982.

Represented by SERI, Moyo approached the North Gauteng High Court in an attempt to have section 1(1)(b) of the Intimidation Act declared unconstitutional. Moyo’s trial in the Germiston Regional Magistrates’ Court has been postponed pending the constitutional challenge to the Intimidation Act. The arguments before the court were based on the fact that the breadth of the interference with section 16 of the Constitution that section 1(1)(b) creates cannot be justified in terms of the limitation clause (in section 36 of the Constitution).

The application was dismissed by the High Court on 30 November 2016. The court refused to declare section 1(1)(b) unconstitutional on the basis that the restriction of the right to freedom of expression is reasonable and necessary, and the fact that section 1(1)(b) covers expressions that also fall outside the restriction in section 16(2) of the Constitution does not mean that it violates, or is contrary to, any fundamental rights, if they instill the fear of being harmed or for personal safety of others being compromised.

On 22 March 2017, SERI applied for leave to appeal to the Supreme Court of Appeal, which was granted on the same day. The Supreme Court of Appeal is expected to hear the appeal in February, March or May 2018.
State v Webster (Webster)

On 27 July 2017, the North West High Court ordered the release of Marikana housing and land rights activist Napoleon Webster on bail, pending his trial on charges relating to his alleged participation in the murder of a local ward councillor. Webster believes the charges are politically motivated because of his community campaigns in Marikana. Webster has been an active supporter of the victims of the Marikana massacre and was a consistent presence at the proceedings of the Marikana Commission of Inquiry. At the time of his release on Friday 28 July, Webster had spent over 202 days in Rustenburg prison.

There is strong evidence that Webster was arrested because of his activism and not on the basis of any reasonable suspicion that he has committed any offence. Two witnesses have testified that Webster was over two kilometres away from the location of murder at the time it took place.

Webster’s release comes after the Rustenburg Magistrates’ Court initially refused his bail application on 4 April 2017, on the basis that Webster would not be safe if he was set free. Webster then asked SERI to appeal the decision. SERI filed a notice of appeal on Webster’s behalf contending that the refusal of the magistrate to release him was wrong because there was no basis to detain Webster for the sake of his own safety and the prosecution’s case against him was very weak. After this notice was filed, the Deputy National Director of Public Prosecutions informed SERI that they would not oppose Webster’s appeal, and agreed to his release on bail.

Media

- Napoleon Webster to be released after 202 days in jail, Ra’eesa Pather, Mail & Guardian (27 July 2017).
- Marikana activist: My prison ordeal, Niren Tolsi, Mail & Guardian (2 June 2017).
- ‘Impossible’ for Napoleon Webster to have been at murder scene, Greg Nicholson, Daily Maverick (7 March 2017).
Popular Education and Civil Society Engagement

- In December 2016, SERI together with Local Government Action (LGA) hosted a three-day workshop for the Slovo Park Youth Forum. The workshop focused on community mobilisation, participation in local governmental decision-making processes and municipal Integrated Development Planning (IDP) processes.

- In March 2017, SERI’s Edward Molopi and Lwazi Mtshiyo conducted a workshop in Durban for new members of the shack dwellers social movement, Abahlali BaseMjondolo. The workshop focused on making local government work and the right to protest.

- On 2 May 2017, SERI’s executive director, Stuart Wilson, and University of Witwatersrand lecturer, Dr Julian Brown, presented a seminar entitled Socio-Economic Struggles In and Out of the Courtroom at the Socio-Economic Rights and Administrative Justice Research Project (SERAJ) at the University of Stellenbosch. The seminar was attended by approximately 30 undergraduate students, graduate students and staff from university’s Law Faculty.

- On 7 November 2016, SERI’s executive director, Stuart Wilson, participated in a panel discussion hosted by the Urban Justice Centre (UJC) in New York. The panel discussion examined different litigation strategies and the role of legal non-profit organisations in the realisation of socio-economic rights. The panel included the director of the full-length documentary film Dear Mandela, Dara Kell, as well as activists and civil society representatives from Law at the Margins and the National Economic and Social Rights Initiative (NESRI).

Legal opinion on the restraint of protests on or near university campuses

In late 2016, the Council for the Advancement of the South African Constitution (CASAC) commissioned a legal opinion from SERI on the restraint of protest on or near university campuses. The opinion aims to address the constitutional rights to the freedom of expression, bodily integrity and the rights of detained and arrested persons. The legal opinion considers the South African court decisions dealing with the right to protest, and examines a number of critical issues including the lawfulness of interdicts restraining students from protesting on university campuses.

The comprehensive legal opinion, entitled Restraint of Protest on or Near University Campuses, has been made publicly available and was welcomed by students involved in protest action and members of the public. It is hoped that the opinion will act as a resource to university authorities, police, private security companies and student protestors to ensure that all future protest activities take place in a way that respects the constitutional rights of students protestors.
Media

Here's what students need to know about the law when protesting, Mohammed Jameel Abdulla, The Daily Vox (6 February 2017).

Public Interest Legal Services in South Africa website

The Public Interest Legal Services (PILS) website, which seeks to house and build upon the extensive report launched by SERI in 2015, is now live and accessible to the public. The PILS study, which was commissioned by the RAITH Foundation and the Ford Foundation, examines the role of public interest legal services, the context in which it operates, and how its value and impact can be best characterised and measured. The study has been published as a research report, an executive summary and an informational pamphlet.

The website, which was launched in June 2017 at an event hosted by the RAITH Foundation, shares the key findings and recommendations of the study, and considers how these recommendations can be best implemented by the PILS sector and their donors. The website also includes an interactive map which identifies and locates the full range of PILS organisations in South Africa. At the click of a button, users can now find more information about social justice organisations and community advice offices, what type of work they do and where in South Africa they are active.

Justice for Victims of the Marikana Massacre

SERI began a campaign on 20 March 2017 to raise awareness about the slow progress of the state and Lonmin in ensuring that there is justice for the victims of Marikana. The campaign emphasised the need for civil compensation; criminal prosecution; a public apology from the state and Lonmin as demanded by the victims’ families; and, overall, a more open and transparent approach to the process by the relevant authorities including the police and the government.

The campaign included a gathering on Human Rights Day, 21 March 2017, to commemorate the Sharpeville and Marikana massacres. Families of the mineworkers killed at Marikana, mineworkers and members of the Slovo Park Community Development Forum (SPCDF), with the support of the Marikana Support Campaign, gathered in Slovo Park. A new SERI short film, Bringing the Truth Home, which aims to raise awareness about the slow progress of the state and Lonmin in ensuring that there is justice for the victims of Marikana, was launched at the gathering.

The campaign concluded on 24 March 2017, which also marked the International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims, with the launch of a web-archive. The archive brings together a comprehensive set of exhibits and transcripts from the Farlam Commission in a single, easily navigable and freely accessible location for the first time.

It is crucial that the historical record of the commission’s proceedings is kept, made publicly available and scrutinised. The volume of evidence is staggering. It is replete with eyewitness and technical expert testimonies, medical and media reports, policy documents and police protocols.

Making the evidence available for public access allows community activists, the public, the media and academics an opportunity to revisit the Marikana massacre and judge for themselves what may have happened. It provides assurance that although the truth has often been obscured during the Commission’s process, the history of the process and the massacre will not be lost.
**SERI op-eds**

- *Web archives open up the truth about Marikana*, Safia Khan and Tim Fish Hodgson, Mail & Guardian (24 March 2017).

- *The guns in Marikana were aimed at the families of slain workers too*, Lwazi Mtshiyo and Tim Fish Hodgson, Business Day (21 March 2017).

- *Justice is a scarce resource*, Khuselwa Dyantyi, The Star (23 March 2017).

Justice is a scarce resource

ConCourt falls short of Act’s aims
What students will learn from exercise of power

Two massacres, two regimes ... one missing word
## STATEMENT OF FINANCIAL POSITION AS AT 28 FEBRUARY 2017

<table>
<thead>
<tr>
<th></th>
<th>2017 R</th>
<th>2016 R</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ASSETS</strong></td>
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<td>8 568 191</td>
</tr>
<tr>
<td>Non current assets</td>
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<td></td>
</tr>
<tr>
<td>Equipment</td>
<td>609 938</td>
<td>658 418</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Current assets</td>
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<td>Accounts receivable</td>
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<td>Accrued income</td>
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<td>Cash and cash equivalents</td>
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<td>7 457 146</td>
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<tr>
<td><strong>Total assets</strong></td>
<td>11 465 870</td>
<td>8 568 191</td>
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<tr>
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<th>2017 R</th>
<th>2016 R</th>
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<tbody>
<tr>
<td><strong>RESERVES AND LIABILITIES</strong></td>
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<tr>
<td>Reserves</td>
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<td>Accumulated surplus</td>
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<tr>
<td>Equipment fund</td>
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<td>Retrenchment fund</td>
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<td>Sustainability fund</td>
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<td>Current liabilities</td>
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<td>Accounts payable</td>
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<td>Deferred income</td>
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<td><strong>Total reserves and liabilities</strong></td>
<td>11 465 870</td>
<td>8 568 191</td>
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### STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 28 FEBRUARY 2017

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<tr>
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<tr>
<td><strong>INCOME</strong></td>
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<td>Grants and donations</td>
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<td>Fees received</td>
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<td>Interest earned</td>
<td>423 246</td>
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<td>Sundry income</td>
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<td><strong>TOTAL INCOME</strong></td>
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<td>Audit fees</td>
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<td>Bank charges</td>
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<td>Computer and website costs</td>
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<td>Printing, postage and stationery</td>
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<td>Programme costs</td>
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<td>Rent, security, water and electricity</td>
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<td>Repairs and maintenance</td>
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<td>Strategic planning</td>
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<td>114 323</td>
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<td>Telecommunications</td>
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<td>Travel and accommodation</td>
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<td><strong>14 796 541</strong></td>
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### SURPLUS FOR THE YEAR

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<td><strong>801 515</strong></td>
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### STATEMENT OF CHANGES IN RESERVES FOR THE YEAR ENDED 28 FEBRUARY 2017

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<tr>
<th></th>
<th>ACCUMULATED SURPLUS R</th>
<th>EQUIPMENT FUND R</th>
<th>RETRENCHMENT FUND R</th>
<th>SUSTAINABILITY FUND R</th>
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<td>539 016</td>
<td>477 325</td>
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<td>Transfer (to) retrenchment fund</td>
<td>(216 544)</td>
<td>-</td>
<td>216 544</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Transfer (to) equipment fund</td>
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<td>321 798</td>
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<td>Acquisitions during the year</td>
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<td>346 131</td>
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<td>(24 333)</td>
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<td>-</td>
<td>-</td>
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<td>Depreciation during the year</td>
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<td>-</td>
<td>-</td>
<td>(202 396)</td>
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<tr>
<td><strong>Balance at 29 February 2016</strong></td>
<td>820 131</td>
<td>658 418</td>
<td>693 869</td>
<td>-</td>
<td>2 172 418</td>
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<tr>
<td>Surplus for the year</td>
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<td>-</td>
<td>801 515</td>
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<td>Grant received - Ford Foundation</td>
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<td>-</td>
<td>-</td>
<td>5 000 000</td>
<td>5 000 000</td>
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<td>Interest earned directly in fund</td>
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<td>-</td>
<td>211 152</td>
<td>211 152</td>
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<tr>
<td>Transfer (to) retrenchment fund</td>
<td>(247 202)</td>
<td>-</td>
<td>247 202</td>
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<td>-</td>
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<tr>
<td>Transfer (to) equipment fund</td>
<td>(203 807)</td>
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<td>Acquisitions during the year</td>
<td>(203 807)</td>
<td>203 807</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Depreciation during the year</td>
<td>-</td>
<td>(252 287)</td>
<td>-</td>
<td>-</td>
<td>(252 287)</td>
</tr>
<tr>
<td><strong>Balance at 28 February 2017</strong></td>
<td>1 344 198</td>
<td>609 938</td>
<td>941 071</td>
<td>5 211 152</td>
<td>8 106 359</td>
</tr>
</tbody>
</table>