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EXECUTIVE DIRECTOR’S MESSAGE

Next year, SERI celebrates its tenth anniversary. This gives us an opportunity to begin taking stock of our work and its impact. In preparation for this, SERI has been involved in two evaluations of our effectiveness as an organisation.

The first evaluation, commissioned by the Ford Foundation, looked at SERI’s internal effectiveness as an organisation. How well-managed are we? Do we have coherent policies and procedures in place to cater for the full range of needs and issues that arise in any organisation of our size? Do we have the necessary sustainable and agile enough to keep delivering on our goals?

The answer given by the Ford Foundation’s Organisational Mapping Tool (OMT) exercise facilitated by the Ford Foundation in late 2017 was a resounding “yes”. SERI scored very highly for its clear mission and strategy, its coherent programming, its highly-qualified and effective leadership, its well-developed advocacy and communications strategy and its human resources plans and policies.

Another evaluation, conducted by external experts commissioned by Misereor, a donor based in Germany, quantified the impact of our work on housing rights over the last decade. The evaluation found that SERI’s interventions opposing evictions have directly reached more than 70,000 dwellers of informal settlements, 10,000 inner city residents and close to 1,000 people receiving emergency alternative accommodation. In addition, SERI’s strategic litigation has set precedents on the interpretation and implementation on the role of basic rights and appropriate standards to basic services, protest rights and alternative accommodation, which has had a significant impact on changing the jurisprudence around state requirements to evict poor people.

These are impressive achievements by any standards. They handsomely demonstrate that SERI remains one of the most effective domestic human rights organisations currently operating in South Africa. I have always been, and remain, proud of SERI’s hardworking and committed staff and the impact they have had on thousands of lives this year, and for all of the years that SERI has been operating.
This year, SERI has remained responsive to our clients’ needs and has delivered significant benefits to a wide range of communities and individuals in need of the protection afforded to them by the Constitution. We have worked with our clients to discontinue bogus prosecutions, reverse unlawful evictions, correct corruption and mismanagement in housing allocation, upgrade informal settlements, strike down statutes that infringe the right to be presumed innocent and the right to freedom of expression, prevent unlawful incursions on poor people’s livelihoods, and protect the rights of homeless families to stay together in shelter accommodation. Careful not to be distracted by the ups and downs of elite institutional politics, we have kept our focus where the action is: the daily realities of hundreds of thousands of people engaged in a daily struggle to secure a home, make a living and expand political space.

Please take some time to read our clients’ stories in the pages that follow.
It is not my purpose to delve deeply or in detail. This has been ably done in the report itself. I commend this report to all. The remarks by the executive director of SERI, Stuart Wilson, are also instructive. I confine myself to a few observations.

The constitutional order ushered into our country by the 1993 Interim Constitution and the Constitution of 1996 did not, by its mere proclamation, produce the society contemplated in it. The 1996 Constitution, in particular, gives us all a vision of the society we should strive for. We know that despite the constitutional promise of social justice, human dignity, equality and freedom, injustice and inequality abound. And this is not all. The dignity of vulnerable people in our society is sadly repeatedly violated and their freedom often curtailed without cause. This is not to say that our Constitution is worthless. The Constitution has imposed on all empowered South African people, institutions and structures the duty to participate in and contribute to the process by which the new constitutional order is to be realised.

I am proud and privileged to have been associated with SERI as a patron, a member of its board and, more recently, its chairperson. So feel all the other members of the board. This is because of SERI’s consistent and growing contribution to this vital constitutional project.

The twelve months under review have been no different, with SERI continuing this trend with greater vigour and fervour. The organisation has sought to build a strong civil society, to empower poor and vulnerable people, and to encourage the constitutional right to protest in the effort to hold government and associated institutions accountable. This has been done through an integrated programme including numerous court actions, considerable research, workshops involving organisations, publications aimed at providing information to increase people’s empowerment, films, newspaper articles, as well as radio and television interviews. The issues around which this programme was conducted include housing and evictions, rural land tenure, university student grievances, rural and inner-city development, land reform, the right of poor and vulnerable people to trade and, more generally to earn a living, trade union strike action and its consequences, as well as the rights of domestic workers. There was a particular focus on challenging the constitutional validity of legislation, policies and action and the effort
to ensure that the actions of all involved should accord with the spirit, purport and objects of the Constitution. It is particularly important to stress here that the aim has mostly been to nurture the development of organisation so that vulnerable people could be more empowered to organise and mobilise to improve the conditions of their own lives. Moreover, as the report shows, these efforts were not confined to Gauteng, but included the North-West, the Western and Eastern Cape and Kwazulu-Natal.

I must express some regret that the powers that be have not always been co-operative and have often resisted our efforts to persuade them to act in a constitutionally acceptable way. It is also true that SERI has often had to appeal right up to the Constitutional Court to secure relief. We will do all we can to ensure the greater help of government at all levels on issues that are clearly the common concerns of SERI and the relevant authorities, in the interests of the people we all serve. It is also hoped that SERI’s work will help in the development of a jurisprudence that will make appeals to the highest Court less necessary. SERI has of course not succeeded in all its cases. But it remains necessary for us to push the boundaries to try to achieve the best for vulnerable people in our country. SERI has always gone into litigation in the genuine belief that the cause was worthy and the prospects of success reasonable.

SERI has performed with a small band of dedicated workers who have left no stone unturned. All have indeed gone beyond the call of duty. Thank you from the whole Board to everyone including the executive director and the heads of department.

Our heartfelt appreciation is expressed to our donors without whom little would have been achieved. You have contributed to our democracy. I also greatly appreciate contributions by fellow board members. Finally, I emphasise that the work is far from done. I hope that it will be possible to say in about ten years, although this seems highly unlikely, that SERI need not exist.
ABOUT SERI

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 in three thematic areas:

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, media and legal advocacy, and public interest litigation. SERI matches structural problems on the ground with a range of interventions, whether in the form of engagement with government, contributing to 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

In order to ensure a coordinated integration of SERI’s research, litigation and advocacy activities, SERI aligned its work into three key strategic themes. These themes are based on what our clients tell us are the most significant challenges they face in giving effect to their socio-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.

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 protect and fulfill the right to adequate housing; challenge unlawful evictions; and defend and promote access to basic services such as water, sanitation and electricity (particularly by pressing for *in situ* informal settlement upgrading).

MAKING A LIVING

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 livelihoods strategies and small businesses. SERI’s work therefore focuses on the struggles many vulnerable people face in earning a livelihood by 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. In this capacity, SERI work closely with informal traders, informal recyclers (also referred to as waste pickers or waste reclaimers), farmworkers and domestic workers to improve their access to justice.

EXPANDING POLITICAL SPACE

Poor people often peacefully assemble and demonstrate. 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.
SERI BOARD OF DIRECTORS

SERI has a Board of Directors which holds meeting at least three times a year and comprises the following people:

**Justice Zak Yacoob** (Chairperson of the Board)
Former Justice of the Constitutional Court

**Prof. Lilian Chenwi**
Professor of Law, University of the Witwatersrand

**Prof. Jackie Dugard**
Associate Professor of Law, University of the Witwatersrand

**Prof. Jonathan Klaaren**
Professor of Law, University of the Witwatersrand

**Prof. Noor Nieftagodien**
NRF Chair in Local Histories and Present Realities, University of the Witwatersrand

**Adv. Dumisa Ntsebeza SC**
Advocate at the Johannesburg Bar

**Adv. Stuart Wilson**
Executive Director, SERI
On 31 January 2018 Justice Zak Yacoob took over from Prof. Jackie Dugard as the chairperson of SERI’s Board of Directors. We would like to thank Prof. Dugard for her dedicated contribution to SERI in her capacity as chairperson since June 2015, and we look forward to her continued presence as a member of SERI’s Board going forward. We welcome Justice Yacoob and congratulate him on his appointment.

SERI STAFF

SERI has 19 permanent staff members, four part-time consultants and a part-time cleaner, Pinkie Momemi. SERI’s full-time staff include:

- **Stuart Wilson** Executive Director
- **Alana Potter** Director of Research and Advocacy
- **Nomzamo Zondo** Director of Litigation
- **Sanele Garane** Operations Manager
- **Khululiwe Bhengu** Candidate Attorney
- **Amanda Duma** Candidate Attorney
- **Portia Khuselewa Dyantyi** Candidate Attorney
- **Tiffany Ebrahim** Researcher
- **Zamatungwa Khumalo** Attorney
- **Kelebogile Khunou** Researcher
- **Maanda Makwarela** Senior Researcher
- **Matome Mametja** Candidate Attorney
- **Mami Molefe** Operations Assistant
- **Edward Molopi** Community Research and Advocacy Officer
- **Thulani Nkosi** Senior Attorney
- **Princess Nkuna** Receptionist
- **Nkosinathi Sithole** Attorney
- **Tshepo Skosana** Candidate Attorney

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.

SERI also works closely with four part-time consultants:

- **Anna-Marie de Vos** Senior Counsel
- **Michael Clark** Senior Research Associate
- **Mduduzi Radebe** Financial Consultant
- **Lauren Royston** Senior Research Associate

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

- **Irene de Vos** General Counsel and Senior Researcher
- **Tim Fish Hodgson** Senior Researcher
- **Lindolukhle Mdabe** Attorney
- **Mmoloki Martin Mosweu** Candidate Attorney
- **Lwazi Mtshiyoe** Candidate Attorney
- **Dasantha Pillay** Candidate Attorney
- **Keamogetswe Thebakgale** Attorney
SERI welcomes interns and volunteers to assist with research, advocacy and litigation throughout the year. These include full-time litigation internships, and shorter research internships and volunteer positions. During 2017 and 2018, SERI hosted a number of interns:

- **Kelebogile Aplane** Litigation Intern (May 2018 to October 2018)
- **Daiyaan Halim** Research Intern (March to August 2018)
- **Lerato Mokolobane Mashianoke** Research Intern (August to November 2017)
- **Luckymore Matenga** Research Intern (May to October 2018)
- **Nthabiseng Nkhatau** Research Fellow (July to November 2017)

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.

**FUNDING AND PRO BONO ASSISTANCE**

SERI is wholly dependent on donor funding and is grateful to all our funders for their support. Our current funders are:

- Alliance for Open Society International
- Ford Foundation
- German Catholic Bishops’ Organisation for Development Cooperation (MISEREOR)
- Open Society Foundation
- The Bertha Foundation
- The David and Elaine Potter Foundation
- The Elma South Africa Foundation
- The RAITH Foundation

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:


Jordan Beagle of Beagle Costs has donated his time and services as a costs consultant to SERI.
DURING THE REPORTING PERIOD, SERI HAD 92 ACTIVE CASES. IN 53 OF THESE, WE WERE ASSISTING 77,800 PEOPLE TO RESIST EVICTIONS FROM THEIR HOMES IN INFORMAL SETTLEMENTS, PRIVATE HOMES OR INNER-CITY BUILDINGS.

HOWEVER, DESPITE YEARS OF LITIGATION AND A NUMBER OF GROUND-BREAKING CONSTITUTIONAL COURT DECISIONS (MANY OF WHICH SERI ARGUED BEFORE THE COURT), MUNICIPALITIES ARE STILL RELUCTANT TO PROVIDE TEMPORARY ALTERNATIVE ACCOMMODATION IN CASES OF EVICTION. FURTHER, LIFE THREATENING CONDITIONS IN UNMANAGED, UNREGULATED AND UN-SERVICED INNER-CITY BUILDINGS MUST BE ADDRESSED IF TRAGEDIES LIKE THE FIRE IN THE CAPE YORK BUILDING, AND THE COLLAPSE OF THE WALL AT 39 TO 41 DAVIES STREET IN WHICH THREE CHILDREN WERE KILLED, ARE TO BE AVOIDED. IN JOHANNESBURG, MANY LOW-INCOME TENANTS AND UNLAWFUL OCCUPIERS FACE NEW CHALLENGES AS JOHANNESBURG MAYOR HERMAN MASHABA ROLLS OUT HIS “SHOCK AND AWE” REGENERATION TACTICS, WHICH AIM TO USE “OVERWHELMING POWER AND [A] SPECTACULAR DISPLAY OF FORCE TO PARALYSE THE ENEMY’S PERCEPTION OF THE BATTLEFIELD AND DESTROY ITS WILL TO FIGHT” (TAKEN FROM THE CITY’S POLICY DOCUMENTS). MAYOR MASHABA HAS IMPLEMENTED THESE TACTICS THROUGH A SERIES OF POLICE RAIDS ON INNER-CITY BUILDINGS THROUGH WHICH HIS ADMINISTRATION SEeks TO THREATEN AND INTIMIDATE LOW-INCOME RESIDENTS INTO ABANDONING THE HOMES THAT THEY HAVE REALISED FOR THEMSELVES.

SECURING A HOME

SERI’S WORK IN SECURING A HOME INVOLVES PROTECTING AND FULFILLING THE RIGHT TO ADEQUATE HOUSING BY CHALLENGING UNLAWFUL EVICTIONS, AND DEFENDING AND PROMOTING ACCESS TO BASIC SERVICES SUCH AS WATER, SANITATION AND ELECTRICITY (PARTICULARLY BY PRESSING FOR IN SITU INFORMAL SETTLEMENT UPGRAding). THIS THEMATIC AREA HAS ALWAYS BEEN CENTRAL TO SERI’S RESEARCH, LITIGATION AND ADVOCACY WORK - AND WE ARE MAKING SIGNIFICANT STRIDES IN REALISING THIS RIGHT.
In this context, SERI ongoing work is essential to help low-income households to resist evictions and displacements as a result of urban regeneration processes and gentrification; ensure that bank foreclosures do not unfairly and arbitrarily rob people of their homes; and promote informal settlement upgrading across the country.

SERI OP-EDS

- Redistribution: ‘Willing buyer, willing seller’ was never going to cut it, Stuart Wilson, Daily Maverick (23 March 2018).
- Constitutional Court encourages change in attitude towards Joburg’s urban poor, Tim Fish Hodgson, Daily Vox (7 December 2017).
- ‘Bad buildings’ - the law is not the problem, Lauren Royston, Lwazi Mtshiya and Nomzamo Zondo, Daily Maverick (6 July 2017).

MEDIA

- The need for safe temporary alternative accommodation, television interview with SERI director of litigation Nomzamo Zondo, SABC Morning Live (11 April 2018).
- Title deeds: how do we fix the system?, Ashleigh Furlong, Ground Up (8 September 2017).
- Expropriation of unused privately owned land without compensation in Gauteng, television interview of SERI research and advocacy officer Edward Molopi, SABC Morning Live (20 June 2018).
- Access to sanitation in informal settlements, television interview with SERI’s director of research and advocacy, Alana Potter, Checkpoint, eNCA (5 September 2017).
- Residents of collapsed Johannesburg building had been waiting 8 months for emergency housing, Staff Reporter, Huffington Post (10 April 2018).
- Doornfontein wall collapse: City blasted over ‘unsafe’ accommodation, Staff Reporter, IOL News (9 April 2018).
- Rights group: Raids on hijacked buildings not solving core issues, Mia Lindeque, Eyewitness News (25 August 2017).
- Joburg mayor insists on ‘shock and awe’ plan for City, Sam Mkokeli, Bloomberg (15 August 2017).
- The City of Johannesburg’s regeneration plans, television interview of SERI’s director of litigation, Nomzamo Zondo, discussing the City’s regeneration plans on Morning Live, SABC News (15 August 2017).
RESEARCH

Turning off the Tap: Discontinuing Universal Access to Free Basic Water in the City of Johannesburg

In March 2018 SERI launched a working paper entitled, *Turning off the Tap: Discontinuing Universal Access to Free Basic Water in the City of Johannesburg* written by Kelebogile Khunou and Alana Potter. The paper looks at the City of Johannesburg’s decision to withdraw the universal provision of free basic water and its implications for the poor and their right of access to sufficient water. Since July 2017 only households registered as indigent can access 6 kilolitres of free basic water per month, the basic minimum as stipulated in national policy and legislation. Poor households who are not registered, now have to pay from the first litre.

The paper reviews policy and legislation regarding the provision of free basic water services in South Africa and summarises international lessons about narrow versus universal provision of social benefits. The paper concludes that the City should reconsider its decision to withdraw the universal provision of free basic water as it constitutes an unreasonable, regressive step in the realisation of the right to sufficient water.

SERI OP-EDS


MEDIA


*Podcast of a radio interview with SERI’s director of research and advocacy Alana Potter on Radio Islam* (30 March 2018).
Foundation for Human Rights (FHR) position papers on the rights to housing, water and sanitation

In 2017 three working papers on the rights to housing, water and sanitation, commissioned by the Foundation for Human Rights (FHR), were published. The papers are part of a series that aims to examine how far the realisation of socio-economic rights (and related enabling rights) have advanced in South Africa since the advent of democracy.

The papers on the rights to housing, water and sanitation each provide a human rights analysis of the right in the South African context by reviewing the legal, policy and functional frameworks governing the right and undertaking a rights-based fault-line analysis of systemic problems in the realisation of the right. The papers have been published individually and collectively in a publication entitled Socio-Economic Rights: Progressive Realisation?

The papers were researched and written by various SERI staff members, including Jackie Dugard (member of SERI Board of Directors and former SERI researcher), Michael Clark (SERI research associate), Kate Tissington (former SERI researcher) and Stuart Wilson (SERI executive director).

Towards a Measure of Spatial Justice in South African Cities: Spatial Mismatch and SPLUMA

In November 2017 the South African Cities Network (SACN), an established network that encourages the exchange of information, experience and best practice in urban development and city management, published a series of papers on urban land, entitled The Urban Land Papers Vol. 2: A Transit-Orientated Development Lens. The publication explores various land questions through the lens of transit-oriented development. SERI’s Lauren Royston (senior research associate), Alana Potter (director of research and advocacy) and Nthabiseng Nkhatau (research fellow) wrote a chapter based on “Edged Out: Spatial Mismatch and Spatial Justice in South Africa’s Main Urban Areas”, to show that South Africans who live on urban peripheries face higher unemployment because of their location. The publication served as a basis for the Urban Land Dialogues, co-hosted by SACN, SERI and other partners.
Litigation

Residents of Industry House and Others v Minister of Police and Others (Raids case)

SERI represents 2,851 residents of 11 buildings in inner-city Johannesburg who are challenging the lawfulness and constitutionality of over 20 police raids conducted at the behest of the Minister of Police and the Mayor of the City of Johannesburg, Herman Mashaba, between 30 June 2017 and 3 May 2018. The majority of the 20 raids were authorised in terms of section 13(7) of the South African Police Services Act 68 of 1995, which empowers the police to “cordon-off” an area to “restore public order or ensure the safety of the public”, while two were conducted without any legal authorisation at all. The residents challenge the constitutionality of section 13(7) insofar as it allows for a person’s home to be searched without a warrant issued by a court. The residents also claim compensation for the breach of their rights to privacy and human dignity.

During the raids, which were jointly conducted by the South African Police Services (SAPS), the Johannesburg Metropolitan Police Department (JMPD), the Department of Home Affairs and the City of Johannesburg, officials forced residents out of the buildings and onto the streets (often in the middle of the night while residents were only partially clothed), where they were searched, fingerprinted and commanded to produce copies of their identity documents, passports or asylum seekers’ permits. Anyone who was unable to produce their identity documents was detained, including some South African citizens who the police considered “too dark” to be South African.

The residents of each of the 11 buildings on behalf of whom SERI acts are involved in court proceedings against the City in terms of which the residents seek temporary emergency housing from the City (so that they will not be rendered homeless as a result of evictions). During the raids, residents have been told that they should “get out” of the building or face eviction. In some cases, those playing a leading role in obtaining legal representation to challenge evictions were targeted and arrested as “building hijackers”.

On 22 May 2018, SERI filed an application to have section 13(7) of the SAPS Act declared unconstitutional. The case is ongoing.
Dladla and the Further Residents of Ekutheni 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. SERI argued that the shelter constitutes a home for the purposes of the right of access to adequate housing enshrined in section 26 of the Constitution. There were numerous problems with the rules and conditions at the shelter, including a day-time lock-out rule whereby 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 arguing that the day-time lockout rule and the gender segregation rule (which separates families) infringe a number of constitutional rights, including the right to dignity, privacy, freedom and security of the person, and access to adequate housing.

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. In December 2017, the Constitutional Court declared shelter rules “cruel, condescending and degrading” and found that the rules infringed the residents’ rights to dignity, freedom and security of the person and privacy.

The Court’s judgment will set the standard for the provision of accommodation to about 60,000 people living in the Johannesburg inner city who need better, safer and more humane accommodation.
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, who have been living in the settlement since 1994 without basic services, had applied for and been allocated state-subsidised house in the adjacent formal housing development Winnie Mandela Park Township in terms of the Housing Code. However, when the houses were completed, each of the stands were occupied by other people and none of the applicants were able to move into their state-subsidized housing. Nevertheless, the municipality began sending them water and electricity bills, and charging them for municipal rates. The municipality cannot say who the people occupying the homes are or how they got there, but it has admitted in court papers that stands can sometimes be misallocated because of fraud or corruption.

In May 2015 the residents, represented by SERI, launched an application in the North Gauteng High Court pursuant to section 8(1)(a)(ii) of the Promotion of Administrative Justice Act 3 of 2000 (PAJA), to compel the municipality and the Gauteng Department of Human Settlements to take the necessary steps to grant the residents title to the land where they currently reside, and take necessary steps to upgrade the residents’ housing accommodation where they currently reside in terms of the Upgrading of Informal Settlements Programme (UISP), or provide them with housing opportunities in developments that are close to Winnie Mandela.

In December 2017, the North Gauteng High Court ordered the municipality to provide each of the residents with a house at Tembisa Extension 25, or at another agreed to location by 31 December 2018 and register the residents as the titleholders of their respective erven by 31 December 2019. The municipality took the matter up on appeal on a very narrow basis with the Supreme Court of appeal only having to decide whether the deadline set for the provision of the houses constituted appropriate relief. The matter was heard on 2 May 2018 in the Supreme Court of Appeal. The Supreme Court of Appeal did not enter into the merits of whether the date ordered by the High court was appropriate but extended the deadline to 30 June 2019 with the city paying the residents’ legal costs.

SERI PRESS STATEMENT

- Court orders Ekurhuleni Municipality to correct housing corruption, SERI Press Statement (15 December 2017).

MEDIA

- Scathing judgment against Ekurhuleni municipality for 17-year housing delay, Ohene Yaw Ampofo-Anti, Ground Up (18 January 2018).
SERI represents 60,000 residents living in the Marikana informal settlement on private land in Philippi outside of Cape Town. The land owner, Iris Fischer, had applied for the residents’ eviction from her land in terms of section 4 of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (the PIE Act). Fischer’s application was heard in February 2017, together with two other identical applications brought by owners of neighbouring properties, which also form part of the Marikana settlement. SERI argued that the only reasonable option that could be pursued in order to avoid making the Marikana residents homeless was for the state to purchase or expropriate the land. SERI further submitted that section 9(3) of the Housing Act 107 of 1997 provides the appropriate legal framework within which to manage the purchase or expropriation of the Marikana land, and that the City’s failure to initiate the process required by section 9(3) is unreasonable and unconstitutional.

In its 30 August 2017 decision, the Western Cape High Court dismissed the application to evict the 60,000 people living in the settlement. The Court found that the City had infringed the constitutional property rights of the owners of the Marikana land, and had also breached the housing rights of the Marikana residents by its unreasonable failure to do anything to secure the tenure of the Marikana residents. In a landmark decision it directed the City of Cape Town to enter into good faith negotiations with the Marikana land owners and to expropriate the land in the event that purchase negotiations fail, a process provided for in terms of section 9(3) of the Housing Act. The property owners, together with the City of Cape Town and The Western Cape Provincial Minister of Human Settlement, are now appealing the judgment.

SERI PRESS STATEMENTS
• High Court orders City of Cape Town to purchase or expropriate land in ground-breaking judgment, SERI Press Statement (31 August 2017).

MEDIA
• Informal residents win landmark case, Marvin Charles, Cape Argus (1 September 2017).
• Court ruling protects 60 000 Philippi disadvantaged, Francesca Villette, IOL News (31 August 2017).
• City of Cape Town ordered to buy land for Marikana residents, Ashleigh Furlong, Ground Up (30 August 2017).
SERI represents Rachael Zwane, a 59 year old woman, who purchased a house with the assistance of a mortgage bond in 2001. In 2008, Zwane lost her job of 20 years, and fell into arrears on her mortgage bond payments. Without receiving proper notice, her bank sold her home in execution. The new owner of the property sought and obtained a default eviction order against her. Zwane, her two children and four grandchildren were forcibly evicted from their home. In their desperation, one of Zwane’s grandchildren climbed back into the house through a broken window and opened the front door of the house from the inside. Zwane and her family then re-occupied the property until they were, once again, evicted in 2012.

In January 2016, Zwane was brought to trial on criminal charges of house breaking and trespassing for being in her own house. The magistrate convicted her on the charge of trespass and acquitted her on the charge of house-breaking, SERI, on behalf of Zwane, has appealed her conviction to the Pretoria High Court on three grounds. First, Zwane argues that she cannot be convicted of the crime of trespassing because the Trespass Act 6 of 1959 does not apply to those in unlawful occupation of their own homes. To the extent that it ever did, it has been impliedly repealed by the Prevention of Illegal Eviction from, and Unlawful Occupation of, Land Act 19 of 1998 (“the PIE Act”). Second, Zwane says that, if the Trespass Act does apply, it must be unconstitutional, insofar as it criminalises the occupation of a home. Finally, if the Trespass Act is applicable and constitutional, then the sentence handed down by the magistrate amounted to an unjustified eviction and should be set aside on that basis.

The case was argued in May 2018 and is awaiting judgement.

SERI Annual Review <July 2017 – June 2018>
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. 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, that they informed the judge that they were without legal representation, and that an eviction could potentially render the residents homeless.

On 19 May 2017 the South Gauteng High 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.

On 9 February 2018, SERI filed heads of argument asking the court for a structured order directing the City to make alternative accommodation available to the occupiers within six months (and at least one month before any eviction order takes effect).

On 16 April 2018, the High Court granted the eviction of the residents by 30 November 2018 on condition that the residents are provided with alternative accommodation by the City at least one month before the eviction. The court thus ordered the municipality to provide alternative accommodation to the residents by 31 October 2018. Furthermore, the court ordered the City to provide the residents, in writing, with information on the nature and location of the alternative accommodation which will be provided by 31 August 2018.
SERI represents the former residents of Fattis Mansions, a residential building in inner-city Johannesburg. In 2014, the City had promised to intervene when it informed Fairvest Property Two (a management company that owns ten apartments in the building) that it would expropriate the building and renovate it. However, the City never delivered on its promise. Years later, on 19 July 2017, 275 low-income residents were forcefully evicted from Fattis Mansions. The vast majority of residents owned their apartments in the building, which was governed as a sectional title scheme. Most of these apartments were bought with state housing subsidies granted during the mid- to late-1990s.

On 25 April 2017, the Johannesburg High Court granted an eviction application brought forward by the administrators of the sectional title scheme claiming that residents lived in a “destroyed building”, in spite of a report from the City of Johannesburg that stated that it could not provide temporary alternative accommodation to avoid rendering the residents homeless. Residents were ordered to vacate the building within 45 days. Hours after the eviction, SERI approached the court on an urgent basis asking for the reinstatement of the residents in the building pending a rescission application (which would invalidate the eviction order). The judge ordered the City to provide accommodation to the residents that evening pending his judgment which would be delivered the following morning. Despite this order, the City failed to provide any assistance to the residents. As a result, they had to spend the night on the street.

On 20 July 2017 the judge dismissed the application for reinstatement on the basis that he believed that the building was a “death trap” and ordered the City to provide alternative accommodation to the residents by no later than 27 July 2017 (even if that meant tented accommodation). On 21 July 2017, the residents were forcefully moved to Wemmer shelter at gun point. The City set up two tents and provided no cooking facilities.

On 6 and 7 July 2018, after a year their temporary tent shelters, the former residents of Fattis Mansions were finally provided temporary emergency accommodation in converted shipping containers.
Advocacy

Government and Civil Society Engagement

ON 2 JULY 2018:
SERI staff participated as panellists in a day long colloquium entitled Land and Property in a Contested Terrain hosted by Centre for Applied Legal Studies (CALS) and the South African Journal on Human Rights (SAJHR) at the University of the Witwatersrand in Johannesburg. SERI’s Tiffany Ebrahim and Lindokuhle Mdabe gave a presentation on their paper “Informal Settlements, Housing and UISP” and Lauren Royston and Edward Molopi gave a presentation on their paper, “Contested land and property in the context of urban informal settlements”. Both papers have been submitted to the SAJHR and are set to be published in 2019.

BETWEEN OCTOBER 2017 AND JUNE 2018:
SERI’s senior staff participated in consultations in a task team formed by the National Department of Human Settlements to review the legal and policy framework governing housing. The task team brings together officials from the Department and civil society members in a series of consultations about the possible review of the Prevention of Illegal Eviction from and Unlawful occupation of Land Act (the PIE Act). In its advisory capacity, SERI challenged the call to make changes to the PIE Act, arguing that changes may have negative constitutional consequences and implications for poor communities’ rights to housing.

ON 6 APRIL 2018:
SERI researcher, Tiffany Ebrahim, gave a presentation on the use of provincial and local conditional grants for the upgrading of the informal settlements using the example of Slovo Park informal settlement (Slovo Park), at a workshop on budget allocations hosted by the Legal Resources Centre (LRC) in Johannesburg. Ebrahim presented on the in situ upgrading of the settlement as prescribed under the UISP and the funding that has been allocated to implement the policy, specifically the Urban Settlements Development Grant (USDG) and the Human Settlements Development Grant (HSDG).

26 MARCH 2018:
The South African Cities Network (SACN) collaborated with SERI and other partners to host a series of Urban Land Dialogues in Gauteng, Eastern Cape and Western Cape. The dialogues were held under the overarching theme of inclusive urban land transformation and considered the question of land expropriation. SACN’s Urban Land Dialogue series, to which SERI contributed a paper. Stuart Wilson was a panellist speaking on the role of government in urban land reform and expropriation.
12 MARCH 2018:

SERI attorney, Zamantungwa Khumalo, presented at a Sonke Gender Justice staff seminar. Her presentation considered land restitution and Parliament’s decision to set up a committee to consider amending the constitution to allow for land expropriation without compensation. The presentation also considered whether land restitution has been practised in the past and considered the prospects of women benefitting from the processes going forward.

13 AND 14 FEB 2018:

Research and advocacy director, Alana Potter, participated in Mandela Initiative’s National Workshop on Poverty and Inequality. The workshop brought together government officials, academics, researchers, business leaders and civil society representatives to analyse the current South African political and economic context and develop collaborative strategies on how to advance the goal of eliminating poverty and reducing inequality in South Africa.

13 FEBRUARY 2018:

SERI researcher, Edward Molopi, presented at the COGTA - IGR Technical Task Team: Illegal Land and House Invasions Workshop. His presentation focussed on SERI’s experiences with unlawful occupations and challenging unlawful evictions. The presentation highlighted the rights of unlawful occupiers and the duties of the state to ensure that these rights are realised and protected.

7 TO 13 FEB 2018:

SERI researcher, Tiffany Ebrahim, attended the World Urban Forum (WUF9) international conference in Kuala Lumpur, Malaysia. WUF9 is a non-legislative technical forum convened by the United Nations Human Settlements Programme (UN-Habitat) held since 2002 and gathers a wide range of experts from every walk of life. Participants of the Forum included national, regional and local governments, NGOs, CBOs, professionals, research institutions and academies, professionals, private sector, development finance institutions, foundations, media and United Nations organisations and other international agencies.
**ON 7 AND 8 DECEMBER 2017:**

SERI researchers participated in the Society, Work and Development Institute’s (SWOP’s) workshop on “Making of Informal Settlements in South Africa” at the University of the Witwatersrand in Johannesburg. The workshop brought together academics and civil society practitioners to discuss different aspects of life in informal settlements. SERI staff presented two draft papers on local tenure and livelihood practices in the Ratanang and Marikana informal settlements. The papers reported evidence gathered as a part of SERI’ Informal Settlement Action Research Project (which will be published next year).

**ON 8 NOVEMBER 2017:**

SERI’s senior research associate, Lauren Royston, presented on how to secure tenure right in the context of informal settlement upgrading at the Gauteng Land Development Summit in Johannesburg. Royston’s presentation highlighted a number of provisions in the legal and policy framework governing land use management and housing, namely the Upgrading of Informal Settlement Programme (UISP) and provisions relating to “special zones” in the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA), that could be used to enhance the tenure security and improve access to basic services for people living in informal settlement through the process of informal settlement upgrading. The summit, which was aimed at finding sustainable tenure and human settlements solutions to address the growing demand for housing in Gauteng, was attended by property developers, civil society representatives and government officials involved in the provision of housing and human settlements.

**ON 7 AND 8 SEPTEMBER 2017:**

SERI researcher Tiffany Ebrahim attended the Second International Conference on African Urban Planning in Lisbon, Portugal. The conference was organised by the Institute of Geography and Spatial Planning at the University of Lisbon, in collaboration with the International Planning History Society (IPHS). The aim of the conference was to bring together researchers and planners from academia, public and private sectors, and non-governmental organizations to present and debate their research on African Urban Planning and to share knowledge, viewpoints, methods, research outcomes and policy ideas. Tiffany presented on lessons drawn from the Slovo Park upgrading project.

**Popular Education**

**24 JUNE 2018**

Edward Molopi and Luckymore Matenga from SERI’s research team presented at a workshop hosted by SANCO focused on housing and evictions law. Their presentation focused on resisting evictions and protective provisions in the constitution.

**ON 9 MAY 2018:**

SERI research associate Michael Clark delivered a lecture on spatiality, power and powerlessness in the city to a group of post-graduate students at the Faculty of Theology at the University of Pretoria. The lecture aimed to assist the group of students in understanding the issues related to spatial (in)justice, the powers that create or reproduce spatial inequalities, and the range of civic responses to spatial inequality (including organising, participating in local government decision-making processes, occupation and litigation).

**ON 21 APRIL 2018:**

SERI attorney Lindokuhle Mdabe and SERI candidate attorney Amanda Duma facilitated a day-long workshop for community-based activists from Zola and Soweto on how to resist unlawful evictions at SERI’s offices in Braamfontein. During the workshop participants referred to SERI’s user-friendly resource guide on resisting evictions, entitled “Resisting Evictions in South Africa: A Legal and Practical Guide”.

**10 APRIL 2018**

Together with Two Spinning Wheels and Pegasys Institute, Alana Potter and Tiffany Ebrahim hosted a storytelling session at Slovo Park informal settlement focused on gender, sanitation and disability. The purpose of the storytelling session was to create a safe space for women and children living in Slovo Park affected by physical disabilities to reflect and share their common challenges in terms of accessing adequate sanitation services in an informal settlement context. Some of the participants from the storytelling workshop will feature in the upcoming short documentary that will be produced by Two Spinning Wheels with support from Pegasys Institute and SERI.
**IN APRIL 2018:**

SERI in partnership with the Institute for Poverty, Land and Agrarian Studies (PLAAS) and the Nelson Mandela Foundation hosted two half-day workshops on various aspects of land reform for journalists. The half-day workshops aimed to equip journalists with the tools to interrogate both land reform policies and the various statements politicians, activists, farmers and others make about land reform. The workshop sought to clarify issues around the ‘willing buyer, willing seller’ principle, land expropriation, urban land reform, budgets for land acquisition and farmer support, farm evictions, women’s land rights, traditional leaders and traditional councils, foreign land ownership and more. The workshop also provided journalists with useful reference material to use when covering land reform issues and ideas about key land reform questions that are not being answered by current land reform policy and practice. The course was presented by Ruth Hall and Ben Cousins from PLAAS and Lauren Royston from SERI.

**16 MARCH 2018**

SERI’s research team, Edward Molopi and Daiyaan Halim, participated in the University of Cape Town’s Knowledge Hub, which forms part of the Understanding Poverty and Inequality in South Africa course offered by UCT’s Graduate School of Development Policy and Practice (GSDPP).

**ON 24 OCTOBER 2017**

SERI’s director of research and advocacy, Alana Potter, challenged a number of myths about foreign migrants’ access to housing in South Africa as part of the South African Human Rights Commission (SAHRC)’s indaba on access to housing for foreign migrants living in Gauteng. The indaba comes in the wake of comments made by the Mayor of the City of Johannesburg, Herman Mashaba, about his plans to evict and deport undocumented foreign migrants as part of his urban regeneration strategy. Panellists at the indaba included government officials, academics, and civil society representatives from a wide array of organisations, including SERI, the Human Sciences Research Council (HSRC) and African Diaspora Forum. Potter’s presentation focused on addressing some of the prevailing myths about foreign migrants and their access to housing.

**MEDIA**

ON 26 OCTOBER 2017:

SERI hosted a workshop with paralegals and community advice officers from the 2017 Dullah Omar School for Paralegalism. Under the theme “empowering communities for sustainable democracy”, the programme sought to develop a medium to long term education and training strategy for Community Based Paralegals. SERI facilitated a session on “transformative constitutionalism and socio-economic rights” and covered topics such as legal and practical issues relating to evictions and relocation to alternative accommodation; informal traders’ rights jurisprudence and lived realities and experiences of traders and; spatial mismatch and the impact of living on cities’ peripheries on people’s employment prospects.

ON 10 OCTOBER 2017:

SERI staff delivered a series of lectures to government officials as part of the certificate programme on Human Settlement Policy and Management offered by the School of Governance at Witwatersrand University in Johannesburg. They delivered presentations dealing with the issues of in situ upgrading of informal settlements, tenure security of informal settlement residents living on communal land and the law governing evictions. Dan Moalahi, a member of the community-based organisation the Slovo Park Community Development Forum (SPCDF), joined SERI researchers and gave officials a brief background on the experiences of the Slovo Park community and detailed the challenges faced in accessing services and mobilising for informal settlement upgrading.

IN SEPTEMBER 2017:

SERI partnered with the Commercial, Stevedoring, Agricultural and Allied Workers Union (CSAAWU) to host a workshop on the law governing evictions from farmland and the Extension of Security of Tenure Act 62 of 1997 (ESTA) at SERI’s office in Johannesburg. The workshop was based on SERI’s recent user-friendly resource guide that explains the rights of farm dwellers and the law in relation to evictions from farmland in terms of ESTA. The aim of the workshop was to enable the participants to gain a fuller awareness of the legal framework governing evictions from farms and encourage participants to pass this knowledge on to the farm dwellers that they work with who are at risk of being evicted. The workshop also offered farm dweller communities throughout the country an opportunity to interact with one another, exchange information and develop collaborative strategies in relation to farm evictions.

FROM 28 AUGUST TO 1 SEPTEMBER 2017:

SERI participated in a Political Training for Urban Activists workshop conducted by the Tshisimani Centre for Activist Education - in partnership with Ndifuna Ukwazi (NU) and the Social Justice Coalition (SJC). The participants were a varying group of urban activists from Johannesburg, Cape Town and Durban. The five-day programme was largely divided into two parts, with four days dedicated to discussion and engagement. The first part was meant to give participants a sense of the contributing factors to the urban property challenges. The second part of the programme sought to find possible solutions to these challenges.
IN JULY 2017:

SERI hosted an international workshop on the subject of forced evictions and urban displacement. The workshop, which was funded by the Ford Foundation, brought together 33 participants from 17 cities across 5 countries, and facilitated a series of dialogues on forced evictions and urban displacement across a range of contexts. SERI’s client groups – the Slovo Park Community Development Forum, the South African Informal Traders’ Forum, the Inner City Federation and Abahlali baseMjondolo - made a significant contribution to grounding the learning exchange in grassroots experiences and organising strategies. The combination of practitioners and community-based groups encouraged multi-background and multi-disciplinary peer-to-peer learning engagements geared towards strengthening international networks of solidarity around local struggles related to forced evictions and urban displacement within and beyond South Africa. The main outcome of the workshop is a commitment to building a global network around forced evictions and urban displacement.

Policy advocacy submissions

ON 22 MAY 2018:

SERI, in collaboration with the Steering Group of the Campaign for the Ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its Optional Protocol (the Campaign) and SERI board member and professor at the University of the Witwatersrand, Lillian Chenwi, made a submission on informal settlements and human rights in South Africa to the United Nations (UN) Special Rapporteur on the right to adequate housing. The submission was in response to the Special Rapporteur’s request for organisations to provide her with relevant information on informal settlements and human rights from their respective countries to inform her forthcoming report to the UN General Assembly. The submission includes statistical data on the number of people living in informal settlements in South Africa, information on the profound inequalities in access to basic services in informal settlements, information on the environmental, health and safety concerns facing informal settlement residents, and information on the legal and policy framework governing informal settlements in South Africa.

IN APRIL 2018:

SERI submitted written comments on the City of Johannesburg’s draft inclusionary housing policy entitled, “Draft Inclusionary Housing Incentives, Regulations and Mechanisms, 2018”. The draft policy makes provision to ensure private developers dedicate a certain percentage of new housing developments to low income middle income households. In particular, the policy makes it mandatory for any property development in the City that consists of 10 or more dwelling units to include at least 20% inclusionary housing. SERI’s submission welcomed the spirit of the draft policy, which clearly attempted to address the lack of rental housing that caters for poor and low-income households in the City in a manner that promotes spatial justice. However, the submission also raised a number of concerns with the policy. In particular, the policy failed to ensure that inclusionary housing units would be made available to low-income households (households earning less than R3 200 a month); did not link the rental in inclusionary housing to household income; and lacked accountability or enforcement measures to ensure that property developers, social housing institutions and body corporates complied with the policy.

IN APRIL 2018:

SERI made a submission to the Constitutional Review Committee, which has been tasked by Parliament to review section 25 of the Constitution, as part of the public consultation process. This is in accordance with a vote taken by Parliament in February to consider amending the Constitution to allow for the expropriation of land without compensation. SERI’s submission considers expropriation as a policy tool for the implementation of land reform and highlights the potential that it has to assist the state in unlocking speculatively held or abandoned land. It argues that expropriation can enable the state to acquire vacant land and buildings which could then be used for the provision of permanent housing. The submission further considers expropriation in relation to the Constitution and existing law and concludes that the state may, within existing laws, take a much more proactive approach to expropriation, by employing the existing instruments at its disposal to bring about meaningful land reform. Only once those efforts have been tested and found wanting will it be possible to consider whether constitutional and statutory amendments are necessary or desirable.
On 26 August 2017:

SERI submitted written comments on the Gauteng Department of Human Settlement’s draft Gauteng Land Invasion Management and Prevention Policy, which seeks to regulate unlawful occupation of land in the province. SERI’s submission clarifies the law; argues that the policy is an inappropriate response to urbanisation and is likely to encourage evictions; questions the lack of clarity about “registration permits” and “site allocations” and the Department’s silence on the appropriateness of Anti-Land Invasion Units; and raises concerns about the policy’s failure to prioritise proactive ways to address unlawful land occupation.

Implementing informal settlement upgrading at Slovo Park informal settlement

SERI secured a High Court order directing the City of Johannesburg to upgrade the Slovo Park Informal Settlement in situ. The upgrading project is a multi-year initiative that will affect the lives of at least 10 000 people. The Slovo Park Community Development Forum (SPCDF), to which SERI is providing advice and support, has played a leading role in decision-making processes related to the implementation of the on-site upgrade of their informal settlement. At the end of 2016, the Slovo Park Task Team was formed. Together with the SPCDF, Human Settlements and Housing officials from national, provincial and local government form part of the multi-stakeholder forum.

After twenty four years of not having access to formal electricity, the City of Johannesburg provided electricity to the 10 000 residents of Slovo Park as part of the upgrading process. Work is ongoing on a layout plan for the new township.

SERI Press Statements

- Slovo Park community has access to electricity after more than 20 years of broken promises, SERI and SPCDF Press Statement (31 July 2018).

Media

- City begrudgingly lights up Slovo Park, Musawenkosi Cabe, New Frame (28 August 2018).
- Slovo Park finally getting electricity, Sanele Gumada, The Citizen (20 February 2018).
Partnership with Inner City Federation

Since its creation in 2015, SERI has worked closely with the Inner City Federation (the Federation), a self-organising coalition of tenants and unlawful occupiers from over 40 buildings in inner-city Johannesburg that advocates for housing and basic services and challenges the stigma associated with low-income inner-city residents. The Federation is the first self-organised group of low-income residents grounded in Johannesburg’s so-called ‘bad buildings’ that is challenging the lack of decent, affordable housing in the inner city in over a decade. Ultimately, the Federation serves as a support structure assisting tenants and unlawful occupiers in developing collaborative strategies for dealing with internal building problems and facilitating the creation and strengthening of building committees. The Federation allows inner-city residents to share their experiences, build unity and solidarity, and functions as a platform for knowledge sharing.

Over the last year, the Federation has assisted poor inner-city residents to resist eviction, harassment and displacement; established and maintained effective self-management structures in dilapidated inner-city buildings; collectively mobilised residents; and advocated for decent housing. In March 2018, the Inner City Federation led a march of inner-city residents from 27 buildings against the City of Johannesburg. Residents handed over a memorandum that demanded provision of basic services and housing opportunities to residents of the inner city. The residents also demanded that the City commit to proper consultations with the residents in dealing with matters affecting their stay in the inner city.

MEDIA

• Hijacked buildings and ‘shock and awe’ tactics in Johannesburg’s low-income black neighborhoods, Daylin Paul, CityLimits.Org (1 May 2018).
• “We should be able to stay in cities where we work”, Thembela Ntongana, Ground Up (29 August 2017).
SERI’s work in the 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 this 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 and waste reclaiming 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 traders and waste pickers 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 has worked closely with groups of informal traders, waste pickers and domestic workers to ensure that their employment rights and ability to earn a living are protected.
Research

Research reports analysing the legal framework governing informal trade


In 2017 over 1.1 million South Africans worked at informal traders. Informal trade makes up a significant component of the economy and has an important role to play in addressing some of South Africa’s most pervasive development challenges, including high levels of unemployment and poverty. With knowledge of the law, local government can support and nurture this essential sector while also boosting economic growth.

The reports were launched at SERI’s offices in Johannesburg and the launch was attended by academics, government officials, civil society representatives and informal traders. The first publication, Informal Trade in South Africa: Legislation, Case Law and Recommendations for Local Government, responds to the fact that municipalities have struggled to fully come to terms with the law relating to informal trade. The report unpacks court judgments which have substantially contributed to the rights of informal traders and identifies a range of legal principles governing the rights, duties and obligations of informal traders, law enforcement officers and local government.

The second publication, Towards Recommendations on the Regulation of Informal Trade at Local Government Level, provides a set of recommendations to local government on how informal trade can be regulated in a manner that respects the rights of informal traders, and is just, humane and inclusive.

SERI PRESS STATEMENTS

• New reports dispel myths about informal trade, SERI and SALGA Press Statement (6 July 2018).

MEDIA

• It’s time to give informal traders a fair shake, Nkateko Mabasa, Daily Maverick (12 July 2018).
• Durban street vendors ‘overlooked and undermined’ by government, Nomfundo Xolo, Ground Up (25 July 2018).
• New reports dispel myths about informal trade, radio interview with SERI research associate Michael Clark, Power FM (6 July 2018).
• Informal trade in South Africa, radio interview with SERI research associate Michael Clark, Valley FM (17 July 2018).
• SERI and SALGA informal trade publications launch, videos of the launch of the reports, YouTube (9 July 2018).
Domestic Workers’ Rights: A Legal and Practical Guide

On 4 May 2018, SERI published a new resource guide entitled, Domestic Workers’ Rights: A Legal and Practical Guide. Domestic work is one of the largest sources of employment for black women in South Africa, however domestic workers remain one of the most vulnerable occupational groups with many being subjected to exploitative working conditions and disrespectful treatment. Despite the implementation of labour laws and the collective efforts of domestic workers to assert their rights, domestic workers’ employment rights are not always realised.

This user-friendly resource guide aims to create awareness of the rights of domestic workers and the obligations of employers in terms of the domestic employment relationship. It explains what the law says about domestic workers and gives practical advice on how domestic workers can engage with their employers. SERI also launched a series of short, mobile-friendly information sheets on the rights of domestic workers in IsiZulu. The information sheets contain essential information on wages (English/IsiZulu), leave (English/IsiZulu), UIF (English/IsiZulu), the CCMA (English/IsiZulu), employment contracts (English/IsiZulu) and ending the employment relationship (English/IsiZulu).

SERI OP-EDS

- What employers need to know about domestic workers’ employment rights, Kelebogile Khunou, Alberton Record (2 May 2018).

MEDIA

- Domestic workers don’t seem to receive the same respect, radio interview with SERI researcher Kelebogile Khunou on the challenges faced by domestic workers, Cape Talk (1 May 2018).
- What employers need to know about domestic workers’ rights, radio interview with SERI researcher Kelebogile Khunou on employers’ duties toward domestic workers, Power FM (9 May 2018).
- Helping hand for domestic workers, Karabo Ledwaba, Sowetan Live (7 May 2018).
Litigation

Averda South Africa (Pty) Limited v the Unlawful and Unauthorised Individuals & Pickers (Averda)

SERI represents 31 informal recyclers (also referred to as waste pickers or waste reclaimers) who were improperly removed from the Genesis landfill site in Johannesburg on 20 June 2018. The recyclers have worked at the Genesis landfill, owned by Averda South Africa Ltd, for a number of years. Averda allowed the recyclers to collect waste at the site and issued them with access cards. However, in September 2016, the recyclers were refused access to the site and they attended a meeting with Averda at which they explained that the company could not simply lock them out of the site without notice and without giving the recyclers and opportunity to find other ways to support themselves. In December 2016, the recyclers returned to the site and continued to engage with Averda and collect waste at the site until they were violently removed on 20 June 2018.

On 20 June 2018, the sheriff executed an order for an interim interdict which was granted in the South Gauteng High Court against the recyclers at the site. During the execution of the order, several recyclers were assaulted and injured; some were shot with rubber bullets. At least three were seriously injured and hospitalized as a result of their injuries. Police also ransacked the homes of several recyclers who live adjacent to the landfill site; they stole cash, clothing, and cellular phones.

On 21 June 2018, the recyclers, assisted by SERI, laid charges at the Johannesburg Central Police station in response to these illegal acts. SERI also represents the 31 recyclers in the ongoing interdict case.

MEDIA

Transnet v Mushandana Humbulani Victoria & 34 Others (Transnet)

SERI represents 30 market traders trading near the Mogwase Shopping Complex in Mogwase in the North West. Transnet approached the High Court in Mafikeng seeking an order to evict the market traders alleging that they were trading on land currently owned by the Republic of South Africa which will soon be transferred and registered in the name of Transnet. Transnet alleged that the traders are trading on their property, close to a railway line, which poses a safety risk for the traders. Transnet further stated that they had engaged with the municipality in order to resolve the situation but the municipality had not been responsive.

In response, SERI filed the answering affidavit on behalf of the 30 market traders arguing that the property where the market traders trade does not belong to Republic of South Africa or Transnet. In fact, the piece of land where the market traders are trading does not seem to have an owner, and has been zoned off by the municipality for “shops”. Thus, SERI argued that Transnet does not have standing to seek the eviction of the traders.

SERI also argued that even if the court finds that Transnet can seek the eviction that as an organ of state, it is bound to respect, protect, promote and fulfil the right to dignity and the right to trade of the market traders. As such, Transnet would not be entitled to evict the market traders from the land unless and until it can demonstrate that the trader’s constitutional rights to dignity will not be unjustifiably infringed.

The case is ongoing.

De Beers Consolidated Mines v Lucky Seekoei and Others (Artisanal Miners case)

In this case, SERI acts on behalf of approximately 1,400 artisanal miners in Kimberley, Northern Cape. De Beers filed an interdict against the miners barring them from conducting sifting activities on land owned by the mining company. SERI argued against the interdict arguing that the mine had consented to the miners being present on the land and that this consent had not been lawfully withdrawn. An order barring the miners from accessing the land was a violation of their right to work and their right to make a living, and could not be granted without at least notice of the withdrawal of consent after a fair procedure.

The argument was not successful, but the case did attract the attention of the Minister of Minerals and Energy, and facilitated an engagement process between the Minister and the miners. Eventually, the miners were granted licences to mine on land in the Kimberley area, and their rights to make a living were protected.

MEDIA

- Traders vs Transnet: Court case has consequences for informal businesses, Ohene Yaw Ampofo-Anti, Ground Up (19 March 2018).
Advocacy

Popular Education

ON 27 JANUARY 2018:

SERI researcher, Kelebogile Khunou, hosted a workshop that brought together a number of civil society groups, union representatives and government officials, the Casual Workers Advice Office (CWAO), members of the South African Domestic Service and Allied Workers Union (SADSAWU) and two employers. The workshop provided domestic workers with the opportunity to discuss their working conditions and the challenges they face as one of the most vulnerable groups in South African society, and reflect on the rights and protections domestic workers have under South African law.

Civil Society Engagement

13 AND 14 FEBRUARY 2018

Stuart Wilson and Kelebogile Khunou presented at a workshop hosted by the Women in Informal Employment Globalising and Organising (WIEGO) on the use of the law to protect and strengthen the rights of informal workers in South Africa. The workshop focused on how informal traders and waste pickers can use administrative law to protect themselves and their livelihoods. The workshop brought together the leadership and members of informal worker organisations from across South Africa to reflect on the challenges facing informal workers and come to grips with laws and policies governing informal work in South Africa.
EXPANDING POLITICAL SPACE

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 grassroots 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 local community 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 community activists who were being targeted as a result of their activism in 2017 and 2018, including Napoleon Webster.

SERI has also continued to be involved in advocacy activities in relation to the Marikana massacre. Six years after the massacre, the police have not made meaningful strides to amend their practices to ensure that a similar massacre does not take place in the future. For this reason, SERI undertook a month-long campaign, coinciding with anniversary of the massacre, drawing attention to the continued lack of police reform.
Research

Student Protests: A Legal and Practical Guide

During 2015 and 2016, students on university campuses across South Africa embarked on large-scale, disruptive protests calling for systemic changes to how universities operate and approach education. Government, university administrators, police and private security often responded to these protests with force in an attempt to shut them down, with universities approaching the courts to obtain interdicts and the police using tear gas, stun grenades and rubber bullets against protesting students.

In October 2017, SERI published Student Protests: A Legal and Practical Guide, a user-friendly resource guide that explains students’ rights to protest, as well as students’ rights when they are arrested, detained or charged with a crime during a protest. It also provides information on the powers that police and private security have in the context of student protests. The guide aims to create awareness of the rights and obligations of those involved in student protests to encourage students, university administrators, police and private security officials to respect human rights and mitigate the disproportionate and unlawful use of force.

MEDIA

• Legal toolkit for student protestors in South Africa, Mohammed Jameel, Daily Vox (2 November 2017).
• Podcast of a radio interview with SERI research associate, Michael Clark, discussing the laws governing public protests in South Africa, Voice of the Cape (8 May 2018).
In October 2017, SERI launched a research report entitled *A Double Harm: Police Misuse of Force and Barriers to Necessary Health Care Services*. The report documents the injuries caused by the often disproportionate and unlawful use of force by police officers called in to disperse campus-based protest at the University of the Witwatersrand in September to November 2016. It emphasises the traumatic and long-term health consequences of some of the injuries incurred as a result of the misuse of police force and attempts to provide crucial medical assistance to injured protestors, and documents cases in which these efforts were obstructed by, or as a result of, the police.

The findings of the report raise serious questions about the appropriateness of the deployment of police to regulate campus-based protest and highlight the need to proactively plan for how to deal with casualties and ensure speedy access to independent and competent medical care once police have been called onto university campuses — otherwise, obstruction and delays would inevitably compound harm.

**MEDIA**

- #FeesMustFall: Wits failed to provide healthcare and police targeted first responders, Pontsho Pilane, *Mail & Guardian* (1 November 2017).
- We need to talk about the long-term effects of FMF on students’ mental health, Rumana Alcoob, *Daily Vox* (1 November 2017).
- Police versus protesting students; television interview with Mary Rayner about SERI’s research report on the police misuse of force during the student protests at the University of the Witwatersrand in 2016 on Morning Live, SABC (31 October 2017).
In July 2018, the Good Governance Learning Network, 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 Developmental Local Government: Dream Deferred?, allows member organisations to reflect on the complexities of development at local government level. SERI has been a long-standing member organisation of the network and contributed to the publication.

SERI’s contribution, written by SERI researchers Tiffany Ebrahim and Maanda Makwarela, is entitled “Local Democratic Space in Informal Settlements”. The chapter reflects on how local communities in two informal settlements, namely Marikana informal settlement (in Phillipi in Cape Town) and Siyanda informal settlement (in KwaMashu in eThekwini), engage with government officials through formal and informal participatory channels to access basic services, avoid eviction and strengthen their tenure security. A key finding of the chapter is that ward councillors play a significant role in assisting or curtail informal settlement communities’ access to basic services. In essence, ward councillors act as gatekeepers to upgrading and are therefore a critical institution through which communities should advocate for the upgrading of their settlements.

MEDIA

- The way forward for councillors and inept municipalities, Jaap de Visser, Daily Maverick (30 August 2018).
Litigation

State v Webster (Webster)

ON 22 MAY, 2018:

The North West High Court discharged Marikana housing and land rights activist Napoleon Webster and found him not guilty of charges relating to his alleged participation in the murder of a local ward councillor. The court’s order came after the prosecution failed to produce any evidence that linked Webster to the death of Mr. Sabata. Prosecutors ultimately conceded that Webster was entitled to an acquittal and accepted that the State had failed to establish his involvement in the murder. The State also accepted that the witnesses who implicated Webster had testified out of “malice” and lacked any “credibility”.

Throughout Webster’s prolonged bail proceedings and trial, there was strong evidence that Webster was arrested because of his community-based activism in Marikana and not on the basis of any reasonable suspicion that he committed an offence. 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. In total, he spent over 202 days in jail when his bail application was initially denied, spent 509 days on trial and made 50 court appearances.

SERI PRESS STATEMENTS

• Court finds Marikana housing activist Napoleon Webster not guilty, SERI Press Statement (22 May 2018).

MEDIA

• Found not guilty by Court, Marikana activist warns of cops pursuing ‘political agendas’, Greg Nicolson, Daily Maverick (22 May 2018).
• Lack of evidence sees Marikana activist Napoleon Webster cleared of murder, Staff Reporter, IOL News (22 May 2018).
• Court clears Napoleon Webster of murder due to lack of evidence, Masechaba Sefularo, EWN (22 May 2018).
• Murder charges withdrawn against Marikana activist and five others, Ernest Mabuza, Times Live (22 May 2018).
• Napoleon Webster to be released after 202 days in jail, Ra’eesa Pather, Mail & Guardian (27 July 2017).

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

SERI represents three students and a collection of concerned staff members of the Rhodes University in their interventions against an interim interdict granted in the Grahamstown High Court.

Between 17 and 20 April 2016 a large number of Rhodes students participated in a campus-based protest against what they saw as an entrenched culture of rape and sexual violence against women. The protestors believed that the University’s management and administration had enabled a culture in which rape and sexual violence against women were both permitted and condoned. The protestors also believed that the University enabled this culture by permitting a number of practices which promoted gender-based violence.

The students were interdicted from continuing their protest without any notice that proceedings were being brought against them. The matter was heard in the Eastern Cape High Court in Grahamstown on 3 November 2016. The High Court dismissed Rhodes’ application for the interdict on 1 December 2016. A narrower interdict was, however, granted against three of SERI’s clients. SERI applied to the Supreme Court of Appeal (SCA) and the Constitutional Court for special leave to appeal this interdict but the applications were dismissed. The work that SERI has done both in this application and in representing one of the students in a disciplinary hearing has supported the struggle of women at Rhodes and in other campuses to end rape culture.
SERI PRESS STATEMENTS

• Rhodes University expels two student activists for life over April 2016 protests, SERI Press Statement (12 December 2017).

MEDIA

• Why Rhodes’ heavy handed action against student activists is misplaced, Michelle Solomon, City Press (16 December 2017).
• Student activists to appeal expulsion from Rhodes, Rabbie Serumula, IOL News (16 December 2017).
• Rhodes criticised for expelling “rape culture” protestors, Lucas Nowicki, Ground Up (14 December 2017).
• Minister concerned about Rhodes University ban on anti-rape marchers, Masegi Rahlaga, Eyewitness News (14 December 2017).
• Rhodes university student heads to court to fight against life expulsion, Shamiela Fischer, Eyewitness News (12 December 2017).
• #RhodesWar: Students head to High Court over ‘lifetime expulsions’, James de Villiers, News24 (12 December 2017).
• Podcast of a radio interview about Rhodes University’s expulsion of two female student activists for participation in anti-rape protests on campus, SABC News (11 December 2017).
Makhokha v the City of Johannesburg and the Minister of Police (Makhokha)

SERI represents four people in a civil claim against the City of Johannesburg and the Minister of Police for wrongful arrest and detention. Thembelihle is located near a major roadway in Lenasia which protestors blocked on 26 February 2015 during a service delivery protest. The protestors blocked the road and, later, the protest turned violent with some protestors throwing stones at passing cars. The Johannesburg Metropolitan Police Department (JMPD) and South African Police Service (SAPS) officers present began firing rubber bullets and teargas at protesters to disperse them and several arrests were made. Many of the protesters ran into the settlement to escape.

Mr. Makhokha, the first plaintiff in the case, was doing yard work when a group of people ran from the direction of the protest past his home. He ran into his home out of fear and police claimed he must have been a part of the protest because they saw him run into his home. He did not participate in the protest, but was arrested in front of his home without a warrant and without cause. Mr. Makhokha was detained at Lenasia police station in Johannesburg for four nights and at the Johannesburg prison for one night before being released on bail. The charges against him were eventually withdrawn on 17 April 2015.

In December 2016, Mr. Makhokha, with the assistance of SERI, filed an application for damages for the unlawful arrest and detention. In May 2018, the City accepted that the arrests of Mr. Makhokha and the others were wrongful and offered a settlement of R35 000 each. The case is ongoing with the Minister of Police as the remaining defendant for the detention cause of action. The police continue to dispute that they illegally detained Mr. Makhokha. They argue that the act of detaining a party extends from the original arrest and, since the arrest was done by the JMPD (which falls under the jurisdiction of the City of Johannesburg), the SAPS do not take responsibility for the detention.

Mlungwana and Others v The State and Others (Mlungwana)

On 24 January 2018, the Western Cape High Court declared section 12(1)(a) of the Regulation of Gatherings Act 205 of 1993 (the Gatherings Act), the primary piece of legislation that governs protests in South Africa, unconstitutional. Section 12(1)(a) made it a criminal offence to intentionally convene a gathering without giving the relevant municipality prior notice that that the gathering would take place. SERI represented the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association who was admitted as amicus curiae in the matter.

The case was brought to court by a small group of community-based activists and members of the Social Justice Coalition (SJC) who participated in a peaceful protest outside the Mayor of the City of Cape Town’s offices in Cape Town on 11 September 2013. 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) for unlawfully and intentionally convening a gathering without notifying the municipality that the gathering would take place.

The case was referred to the Constitutional Court for confirmation in August 2018, where SERI made oral submissions on behalf of the Special Rapporteur. SERI’s submission was based on an international law perspective and urged the court to consider international law standards and principles when ruling on the constitutionality of section 12(1)(a) of the Gatherings Act. SERI argued that holding organisers criminally liable for failing to notify authorities about a protest was a restriction of the right to freedom of peaceful assembly.

Mngomezulu v eThekwini Municipality and Another (Mngomezulu)

SERI represents Nkosinathi Mngomezulu, a resident of Cato Crest informal settlement in Durban who was shot four times by a security officer in the municipality’s land invasion unit during the unit’s illegal demolition of his and various other Cato Crest residents’ shacks in September 2013. At the time, a series of court orders restrained the municipality from evicting any person

MEDIAl

• Apartheid-era Gatherings Act declared unconstitutional, Barbara Maregele, Ground Up (24 January 2018).
• Penalties for protest conveners too severe, Constitutional Court hears, Nkateko Mabasa, Daily Maverick (22 August 2018).
• Top Court reflects on the criminalisation of peaceful demonstrations in South Africa, Ernest Mabuza, Times Live (21 August 2018).
• Constitutional Court to rule on right to protest, Zoë Postman, Ground Up (21 August 2018).
or demolishing any shack at Cato Crest informal settlement. After recovering for more than three months in hospital, Mngomezulu was arrested and detained, initially on charges of assault, and later on charges of attempted murder.

It is on the basis of this unlawful attack, destruction of his shack, and the subsequent unlawful arrest and detention that Mngomezulu, assisted by Abahlali baseMjondolo, claims damages. The case was heard between 31 July and 4 August 2017 in the Durban High Court. On 20 August 2017, the Durban High Court handed down judgment upholding Mngomezulu’s claim for unlawful arrest and detention and ordering the Minister of Safety and Security to compensate him for the infringement of his rights. However, the court dismissed his claim for the personal injuries he sustained on the basis that Mngomezulu had “violated the rule of law” when he tried to prevent the municipality’s land invasion unit from illegally evicting himself and the other residents of Cato Crest, and that the security officer was acting in self-defence when he shot Mngomezulu in the stomach four times.

The court dismissed Mngomezulu’s claim for the destruction of his shack because he could not provide a precise address for it. For the court, this meant Mngomezulu must have been lying about having a shack in the informal settlement.

On 20 September 2017, SERI, on behalf of Mngomezulu, filed an application for leave to appeal Judge Pillay’s decision. In this application, SERI argues that the court’s finding that an informal settlement resident does not have a home in an informal settlement because he or she cannot give a precise address is naive to the realities faced by poor and vulnerable people in South Africa, and that the court’s finding that Mngomezulu “violated the rule of law” by defending himself against an illegal eviction cannot be legally supported. The application for leave to appeal was argued in the Durban High Court on 29 November 2017. On that day, Judge Pillay granted leave to appeal to the Supreme Court of Appeal (SCA).

Abahlali baseMjondolo v Minister of Police and Others (Kennedy Road)

SERI acts for 52 plaintiffs, all former residents of the Kennedy Road informal settlement in Durban who were, during the nights of 26 and 27 September 2009 and the morning of 28 September 2009, attacked by an armed gang because of their association with the Kennedy Road Development Committee (KRDC) and Abahlali baseMjondolo.

Before and during these attacks, the residents sought the assistance of officers of the South African Police Services (SAPS) based at Sydenham Police Station and the eThekwini Metropolitan Police Department (EMPD). However, no effort was made by the SAPS and EMPD to intervene or to protect the residents, their homes, or their possessions. However, a dozen of the victims of the attacks were arrested and charged with the murder of two of the residents of the settlements. SERI represented the accused and all of them were acquitted.

In 2012, 52 of the residents of Kennedy Road filed a claim for damages claim in terms of section 3 of the Institution of Legal Proceedings against Certain Organs of State Act in the Durban High Court. The claim was based on the failure of the police to act in accordance with their legal duty to protect the community from the attacking gang.

In February 2017, eThekwini municipality brought a special plea application stating that municipal police do not have a duty to protect and that this duty lies with the SAPS. On 20 November 2017, the Durban High Court dismissed the special plea. The court matter will be heard at trial in March 2019.

MEDIA

- They destroyed his home. Then his case was thrown out of court for not having an address, Lizeka Maduna, Daily Vox (7 December 2017).
Advocacy

Government and Civil Society Engagement

IN MAY 2018:

SERI participated in a Dialogue on Human Rights and Policing hosted by the South African Human Rights Commission (SAHRC), the African Policing Civilian Oversight Forum (APCOF) and the South African Police Service (SAPS). The two-day dialogue brought together approximately 45 policing experts, government officials, oversight bodies and civil society representative from across South Africa. The dialogue sought to create a space for constructive discussion between various stakeholders to engage on human rights-related policing, to support and encourage South African contributions and inputs into police policy developments, and to encourage stakeholders to share experiences and comparative analysis of human rights in the policing context. SERI’s Michael Clark and Mary Rayner presented on the policing of petty crimes and the need for stronger police oversight mechanisms in protests, respectively.

IN SEPTEMBER 2017:

SERI’s executive director, Stuart Wilson, spoke at the Social Justice Coalition’s Policing and Social Justice Dialogue Series in Khayelitsha. The event aimed to bring together a wide array of non-governmental organisations, community-based organisations, communities and individuals to discuss some of the most prominent issues facing poor and working class people. Some of the topics discussed included policing, the state-capture of the security cluster, gang violence, land justice, housing rights and evictions. Wilson delivered a presentation on the court victory of the residents of the Marikana informal settlement in the Fischer case.

Justice for the Victims of the Marikana Massacre

SERI successfully negotiated the partial settlement of damages claims on behalf of the families of victims of the Marikana massacre. The Minister of Police agreed to pay R70 million in compensation for the families’ loss of support from the deceased miners. Claims for general damages, grief and emotional shock have still to be determined.

SERI PRESS STATEMENTS

- Families of Marikana miners urge Ramaphosa to turn his promises on Marikana into action, SERI Press Statement (22 February 2018).
- Will there be accountability for the Marikana Massacre?, Maanda Makwarela and Alana Potter, Daily Maverick (15 June 2018).
- Families of slain Marikana miners call on Rampahosa to turn his promises into action, Alex Mitchley and Jan Gerber, News 24 (22 February 2018).

SERI OP-EDS

- Rights group calls on Cyril Ramaphosa to keep his promise to atone for Marikana, Ernest Mabuzo, Business Day (22 February 2018).
- Marikana victims’ families urge Ramaphosa to turn his promises into action, Gia Nicolaides, Eye Witness News (22 February 2018).
- Families of slain Marikana miners call on Rampahosa to turn his promises into action, Alex Mitchley and Jan Gerber, News 24 (22 February 2018).

MEDIA

- Rights group calls on Cyril Ramaphosa to keep his promise to atone for Marikana, Ernest Mabuzo, Business Day (22 February 2018).
- Marikana victims’ families urge Ramaphosa to turn his promises into action, Gia Nicolaides, Eye Witness News (22 February 2018).
- Families of slain Marikana miners call on Rampahosa to turn his promises into action, Alex Mitchley and Jan Gerber, News 24 (22 February 2018).
EXTERNAL EVALUATIONS

In 2017 and 2018, SERI’s underwent two external valuations. These evaluations enable SERI to critically reflect on our work, our impact and internal management practices. We are excited to use the findings of these evaluations to become more effective and efficient organisation.

Ford Foundation Evaluation

SERI undertook an Organisational Mapping Tool (OMT) exercise facilitated by the Ford Foundation in 2017. The evaluation was comprehensive. SERI scored very highly for its clear mission and strategy, its coherent programming, its highly-qualified and effective leadership, its well-developed advocacy and communications strategy and its human resources plans and policies.
MISEREOR Evaluation

In August 2017, an evaluation of SERI’s urban housing and informal settlement work from 2010 to 2017 was conducted on behalf of MISEREOR and SERI. The final evaluation was submitted in December 2017 and reviewed SERI’s implementation of three MISEREOR-funded projects in informal settlements and inner city buildings. The evaluators interviewed a range of housing and informal settlement stakeholders, including SERI’s client groups in Gauteng and Kwa-Zulu-Natal. SERI’s litigation, research and advocacy teams take pride in basing the evaluation and reflection of our work on how effectively the organisation responds to client needs and requests.

The MISEREOR evaluation confirmed that SERI’s work is relevant and well-aligned with national and international drivers, trends and challenges related to the realisation of socio-economic rights and that SERI’s programme of work “operates on eye-level with the poor and vulnerable in informal settlements and in occupied inner city buildings”.

In terms of impact, the MISEREOR evaluation found that SERI’s interventions opposing evictions have directly reached more than 70,000 dwellers of informal settlements, 10,000 inner city residents and close to 1,000 people receiving emergency alternative accommodation. In addition, SERI’s strategic litigation has set precedents on the interpretation and implementation on the role of basic rights and appropriate standards to basic services, protest rights and alternative accommodation, which has had a significant impact on changing the jurisprudence around state requirements to evict poor people.

In addition to empowering and securing social movements and communities that are our clients and partners, SERI’s work has had significant impacts in changing the jurisprudence around the state requirements that have to be in place in order to evict poor people. Some examples include the Olivia Road and Blue Moonlight cases, two legal cases in the inner-city of Johannesburg obliging the government to provide alternative accommodation before relocating unlawful occupiers. The outcomes of these repeated victories have led to an apparent reduction of eviction cases and provided a voice and an action space to residents and communities.

Moreover, the Slovo Park informal settlement victory has put new pressure on local governments for the implementation of the Upgrading of Informal Settlements Programme (UISP) as the court ruling established that the programme is binding on all municipalities ascertaining that upgrading is preferred to relocation. The victory on the Marikana informal settlement in the Cape Town in August 2017 has granted security of tenure to 60,000 people, whom over years had been living on small-holdings on private property. This constitutional court victory has moved the goal post for informal settlements beyond the ‘alternative accommodation’ pathway to a change in property relations”.

In sum, the evaluation affirmed that SERI’s research, advocacy and litigation outputs related to the three Misereor projects has been effective and feasible in terms of meeting objectives “to a high quality of standard”.

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PRINTED AND ONLINE MEDIA
# Financial Statements

Socio - Economic Rights Institute of South Africa NPC - (SERI)

Registration No.2009/020180/08

Statement of Financial Position as at 28 February 2018

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<tr>
<th></th>
<th>2018</th>
<th>2017</th>
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</thead>
<tbody>
<tr>
<td><strong>ASSETS</strong></td>
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<tr>
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<tr>
<td>Equipment</td>
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<td>Current assets</td>
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### STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 28 FEBRUARY 2018

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<td><strong>INCOME</strong></td>
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<td>Interest earned</td>
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STATEMENT OF CHANGES IN RESERVES FOR THE YEAR ENDED 28 FEBRUARY 2018

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<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>247 202</td>
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<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>Balance at 29 February 2017</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>
<tr>
<td>Surplus for the year</td>
<td>696 102</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>696 102</td>
</tr>
<tr>
<td>Grant received - Ford Foundation</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1 278 000</td>
<td>1 278 000</td>
</tr>
<tr>
<td>Interest earned directly in fund</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>478 909</td>
<td>478 909</td>
</tr>
<tr>
<td>Transfer from sustainability fund</td>
<td>460 109</td>
<td>-</td>
<td>-</td>
<td>(460 109)</td>
<td>-</td>
</tr>
<tr>
<td>Transfer (to) retrenchment fund</td>
<td>(282 592)</td>
<td>-</td>
<td>282 592</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Transfer (to) equipment fund</td>
<td>(72 320)</td>
<td>72 320</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Acquisitions during the year</td>
<td>(84 886)</td>
<td>84 886</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Proceeds on insurance claim</td>
<td>12 567</td>
<td>(12 567)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Profit on insurance claim</td>
<td>-</td>
<td>5 905</td>
<td>-</td>
<td>-</td>
<td>5 905</td>
</tr>
<tr>
<td>Depreciation during the year</td>
<td>-</td>
<td>(243 337)</td>
<td>-</td>
<td>-</td>
<td>(243 337)</td>
</tr>
<tr>
<td>Balance at 28 February 2018</td>
<td>2 145 496</td>
<td>444 826</td>
<td>1 223 663</td>
<td>6 507 953</td>
<td>10 321 938</td>
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