As discouraging as the ongoing repression of poor communities can be, the very fact that communities, individuals and movements carry on pressing for justice is cause for hope. South Africa, despite being a middle income country, remains the most unequal economy in the world. In this context, dissent on the part of the poor and the excluded is perhaps the most vital source of social transformation, and the best hope of addressing the injustice that pervades our society.
## EXECUTIVE DIRECTOR’S MESSAGE

## CHAIR PERSON’S MESSAGE

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5. FINANCIAL STATEMENTS
In the last two years, SERI has continued to amplify the voices of communities and movements working for a more just distribution of power and resources, while at the same time achieving real and measurable change on the ground for many thousands of people. We have helped the South African Informal Traders Forum to reverse “Operation Clean Sweep”, the violent and lawless device used by the City of Johannesburg to evict 8000 informal traders making a living in the inner city. We have worked with thousands of people living in informal settlements to press for in situ upgrades and to resist evictions. We have uncovered and corrected fraud and corruption in the low-cost housing allocation process. We have ensured that hundreds of people have access to temporary shelter where they would otherwise face eviction onto the streets.

SERI has adapted its work to the needs of the people it serves. Some of the new work we have been called upon to do tells a story of increasing repression of poor communities and the organisations that represent them. We have developed new expertise in criminal defence work, as more communities face the bogus arrests and groundless charges to discourage them from exercising their constitutional right to protest. As we documented in our ground-breaking research report: “An Anatomy of Dissent and Repression”, the Thembelihle community in Johannesburg has faced particularly harsh treatment at the hands of the police and the local state.

Informal settlement activists in Marikana, Germiston and Muden, in KwaZulu-Natal, have faced charges under the Apartheid-era Intimidation Act - just for participating in peaceful protests or criticising police misconduct. SERI is working to have parts of that legislation declared unconstitutional. SERI’s work with the victims of the Marikana massacre has continued to uncover a dispiriting story of police violence and official cover-ups. SERI has also worked with the Commercial Stevedoring and Allied Workers Union -

"SERI has adapted its work to the needs of the people it serves. Some of the new work we have been called upon to do tells a story of increasing repression of poor communities and the organisations that represent them. We have developed new expertise in criminal defence work, as more communities face the bogus arrests and groundless charges to discourage them from exercising their constitutional right to protest."

Stuart Wilson, Executive Director of SERI
a Union that acts for some of the poorest and most vulnerable farm workers in the country - to challenge unjust costs orders that threaten to shut it down.

Yet, as discouraging as the ongoing repression of poor communities can be, the very fact that communities, individuals and movements carry on pressing for justice is cause for hope. South Africa, despite being a middle income country, remains the most unequal economy in the world. In this context, dissent on the part of the poor and the excluded is perhaps the most vital source of social transformation, and the best hope of addressing the injustice that pervades our society. SERI respects, protects and nourishes that dissent, by helping the people we serve to set and implement their own agendas for change. We inform and advise our clients and then respect and carry out their wishes, sure in the knowledge that it is the people who face repression, inequality and poverty who are the best judges of how to deal with it.

As ever, SERI benefits from a committed staff of truly remarkable people. They have celebrated with our clients when they have succeeded, and commiserated - even mourned - when they have lost. I count myself lucky to work here.

SERI’s financial and organisational position remains very strong. In the past two years, we have taken on new funding partners, and have expanded our work to include exciting new partnerships with social justice organisations in Mexico, Kenya, Brazil, India, the UK and the United States.

In this report, you’ll read about the highlights of our work over the last two years. There are few comparable records of cutting-edge human rights work, and I invite you to read and absorb the full range of the exciting and innovative activities we have undertaken. If you have any questions about the scope and nature of our work, or are interested in supporting it, visit www.seri-sa.org, or e-mail me on stuart@seri-sa.org.
SERI’s steady growth continues. In 2014 and 2015, we have been involved in increasingly important and effective work across the strategic themes of housing and evictions, informal settlement upgrading and access to basic services, informal trade, and political space. The organisation has achieved a valuable alignment between its litigation and research and advocacy activities, resulting in meaningful, responsive work that has foregrounded the voices and claims of communities excluded from the current dispensation of power and resources.

The litigation team has continued its groundbreaking pro-poor litigation in Johannesburg’s inner city and informal settlements around the country, helping people to resist illegal evictions and gain access to the basic services that are assured them by the Constitution. Notably, SERI acted for the South African Informal Traders Forum, representing thousands of traders making a living on the sidewalks of the inner city every day, in the wake of the City of Johannesburg’s flagrantly illegal Operation Cleansweep. A litigation highlight was a victory in the Constitutional Court, which saw Cleansweep overturned, and people’s livelihoods restored.

SERI’s research and advocacy capacities have continued to grow, and the team has made peerless contributions to the realisation of basic socio-economic rights through their grounded work. Research highlights included the publication of two groundbreaking research reports, ‘Minding the Gap: An Analysis of the Supply of and Demand for Low-Income Rental Accommodation in Inner City Johannesburg’, and ‘An Anatomy of Dissent and Repression: The Criminal Justice System and the 2011 Thembelihle Protest’. The former outlines the reality...
of the demand, and inadequate supply of affordable housing options in Johannesburg’s inner city. The latter shows the ways in which the criminal justice system has been used to repress legitimate forms of democratic engagement with the state.

SERI has been at the forefront of civil society’s response to the Marikana massacre on 16 August 2012, acting before the Marikana Commission of Inquiry for the families of the deceased mineworkers, as well as the Association of Construction and Mineworkers Union (AMCU). SERI played a part in deepening the discourse around the massacre by hosting, together with the History Workshop at the University of the Witwatersrand, a convening entitled ‘Commissioning the Present: Marikana and its aftermath’. The convening opened spaces for discussion between those involved in the commission, academics, and the families, as well as for the development of new ways of putting the massacre and the commission in context. The wait for the release of the Marikana report was far too long, and a painful experience for those directly affected by the massacre. SERI continues to support the families in their civil claims in the wake of its release.

From a human resources perspective, SERI has continued to attract high-calibre staff members. SERI appointed its first Director of Research and Advocacy, Lauren Royston, in February 2014, and Nomzamo Zondo was appointed as the new Director of Litigation after Teboho Mosikili stepped down in July 2014. SERI have also appointed three new attorneys, a senior legal researcher and general counsel, a researcher, a community research and advocacy officer, and four new candidate attorneys. With these appointments, I am confident that SERI will continue to strengthen as an organisation and deepen its important role in aiding struggles for justice and access around the country.

There have also been changes regarding SERI’s Board of Directors. SERI was delighted to welcome Noor Nieftagodien and Lilian Chenwi from the University of the Witwatersrand as new members of the Board of Directors with effect from June 2015. During June 2015, SERI bid farewell to Bishop Rubin Phillip, who stepped down as Chairperson of the Board of Directors (January to June 2015), and as a member of the Board. I would like to warmly thank Bishop Rubin for his warm, enthusiastic and dedicated service to SERI, and wish him well in his retirement from the church.

I would also like to take this opportunity to thank his predecessor, Sandy Liebenberg. Sandy served as the Chairperson of the Board from even before SERI had offices, in late-2009, until early this year - her commitment to SERI’s vision and establishment, along with her contribution to advancing socio-economic rights generally and at SERI specifically are extensive and invaluable and are deeply appreciated. Sandy and the Bishop’s leadership of the SERI Board of Directors has been nothing short of exceptional and I hope I am able to continue their impressive work.

Finally, I would like to thank Stuart Wilson, SERI’s executive director, for the extraordinary work he has done over the past two years in consolidating and advancing SERI’s reach and impact. I take over as Chairperson of the Board of Directors excited and optimistic about SERI’s potential.
1. ABOUT SERI

SERI is a non-profit organisation and public interest law clinic providing professional and dedicated socio-economic rights assistance to individuals, communities and social movements. SERI conducts applied research, litigates in the public interest, facilitates civil society mobilisation and coordination, engages with government, advocates for policy and legal reform, and conducts popular education and paralegal training.

OBJECTIVES

SERI has the following objectives:

• To advance the currency of human rights, and particularly socio-economic rights in South Africa through contributing to and influencing socio-economic rights-related debate and practice.

• To ensure pro-poor legal and policy frameworks and to develop socio-economic rights jurisprudence through strategic advocacy and litigation.

• To promote the fulfilment of socio-economic rights and an adequate standard of living for vulnerable groups in South Africa through providing dedicated, expert socio-economic rights assistance to poor communities, social movements and women’s and migrant groups.

• To advance public governance through empowering local communities to understand their rights, government processes and to engage effectively in such processes, thereby holding government accountable particularly at the local level, where delivery and local democracy are affected.

• To contribute to the networking and coordination of rights-based civil society initiatives and campaigns in relation to access to housing, water, electricity and sanitation, with a particular focus on advancing activism around housing and basic services in informal settlements.

In November 2013, SERI was honoured to be presented with The Institute for Justice and Reconciliation’s (IJR) 2012 Reconciliation Award, “for keeping the Marikana victims and their families on the national agenda.” The award was handed over to SERI by IJR’s patron, Archbishop Emeritus Desmond Tutu, at a ceremony held in Cape Town.
STRATEGIC THEMATIC AREAS

In order to achieve these objectives, SERI pursues an integrated approach to research, litigation and advocacy across four strategic thematic areas:

**Inner City Housing**

SERI aims at ensuring that people who are evicted are not made homeless and are provided with decent alternative accommodation that they can afford. We also advocate for the creation of low-income public rental housing targeted at those not currently served by the market.

**Informal Settlement Upgrading and Basic Services**

SERI aims at ensuring more *in situ* upgrading of informal settlements, addressing the failure to implement the upgrading programme, and advancing access to basic services and security of tenure to those living in informal settlements.

**Participation, Protest and Political Space**

SERI is concerned with the lack of public participation in local government decision-making and how voices outside the formal participatory channels are often ignored, leading to frustration and increased ‘service delivery’ protests. Further, individuals, social movements and CBOs are frustrated in protesting through the banning of marches, use of force by the police, arrests of activists on bogus charges and the abuse of the criminal justice system to silence dissent.

**Informal Trade**

SERI focuses on the manner in which municipal by-laws constrain or enable informal trade in a broad sense and the failure, at municipal sphere, to create progressive enabling environments. SERI also supports trader organisations with legal advice and assistance.
1.1 Board of Directors

SERI's Board of Directors comprises the following people:

- **Prof Jackie Dugard** Associate Professor of Law and Director of the Gender Equity Unit, University of the Witwatersrand (Chairperson of the Board)
- **Prof Lilian Chenwi** Associate Professor of Law, University of the Witwatersrand
- **Prof Jonathan Klaaren** Professor of Law, University of the Witwatersrand
- **Prof Sandra Liebenberg** H. F. Oppenheimer Chair in Human Rights Law, University of Stellenbosch
- **Prof Noor Nieftagodien** NRF Chair in Local Histories and Present Realities, University of the Witwatersrand
- **Adv Dumisa Ntsebeza SC** Member of the Johannesburg Bar
- **Adv Stuart Wilson** Executive Director, SERI

Sandy Liebenberg stepped down as Chairperson of the Board in January 2015 following her 5 years of much-valued service in the position. Reverend Rubin Phillip served in the role until June 2015, when we welcomed Jackie Dugard as the new Chairperson.

1.2 Staff

As at 1 July 2015, SERI has a permanent staff of 19 people, as well as a part-time financial consultant, Wendy Anne van Lingen.

In the past two years we welcomed Lauren Royston to SERI as Director of Research and Advocacy, and Nomzamo Zondo in her new position as Director of Litigation. We also welcomed Mbekezeli Benjamin, Irene de Vos, Grace Gomba, Kathleen Hardy, Edward Molopi, Lwazi Mtshiyo, Tshanga Zwonaka Netshifulani, Bhavna Ramji, Nkosinathi Sithole, Keamogetswe Thobakgale and Dennis Webster to the organisation.

We said farewell to Jonathan Cogger (who completed his articles and qualified as an attorney), Zwelakhe Makgalemele (who completed his pupillage and has joined the Johannesburg Bar), Thapelo Tselapedi (who took up a position as an assistant lecturer and PhD candidate at the University of Johannesburg), Michael Clark (who took up a position as legal researcher at the Centre for Law and Society), Lindokuhle Mdabe (who completed his articles and is studying towards an LLM), Teboho Mosikili (who is completing his pupillage), Kate Tissington (who has started her PhD at the University of the Witwatersrand), Princess Magopane (who has taken up a position as clerk to Chief Justice Mogoeng Mogoeng at the Constitutional Court) and Tashwill Esterhuizen, who took up a position at the Southern African Litigation Centre.
SERI’S STAFF MEMBERS (AS OF JULY 2015) ARE:

- **Stuart Wilson**
  Executive Director

- **Lauren Royston**
  Director of Research and Advocacy

- **Nomzamo Zondo**
  Director of Litigation

- **Sanele Garane**
  Operations Manager

- **Mbekezeli Martin Benjamin**
  Candidate Attorney

- **Irene de Vos**
  Senior Legal Researcher and General Counsel

- **Portia Khuseiwa Dyantyi**
  Receptionist

- **Kathleen Hardy**
  Senior Attorney

- **Mami Molefe**
  Operations Assistant

- **Edward Molopi**
  Community Research and Advocacy Officer

- **Pinkie Moremi**
  Cleaner

- **Lwazi Mtshiyo**
  Candidate Attorney

- **Naadira Munshi**
  Research Fellow

- **Tshanga Zwonaka**
  Netshifunli Candidate Attorney

- **Rhavna Ramji**
  Attorney

- **Nkosinathi Sithole**
  Candidate Attorney

- **Teboho Mosikili**
  Senior Attorney

- **Kate Tissington**
  Senior Research and Advocacy Officer

- **Thapelo Tselapedi**
  Research and Advocacy Officer

SERI’S FORMER STAFF MEMBERS ARE:

- **Michael Clark**
  Legal Researcher and Advocacy Officer

- **Jontathan Cogger**
  Candidate Attorney

- **Tashwill Esterhuizen**
  Attorney

- **Princess Magopane**
  Candidate Attorney

- **Zwelakhe Magalemele**
  Litigation Fellow

- **Lindokuhle Mdabe**
  Candidate Attorney

- **Teboho Mosikili**
  Senior Attorney

- **Kate Tissington**
  Senior Research and Advocacy Officer

- **Thapelo Tselapedi**
  Research and Advocacy Officer
1.3 Interns and Volunteers

SERI welcomes interns and volunteers to assist with research, advocacy and litigation throughout the year. Over the past 2 years we hosted the following interns and volunteers:

- **Josh Budlender** Research Intern (2014/2015)
- **Dasantha Pillay** Volunteer, University of the Witwatersrand (2014/2015)
- **Zoe Jarvis** Volunteer, University of the Witwatersrand (2014)
- **Helen Ye Zhang** Chayes International Public Service Fellow, Harvard University (2014)
- **Lyuba Docheva** Ford Foundation Law School Fellow, Harvard University (2013)

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 Law School’s Bram Fischer Human Rights Programme.

1.4 Donors

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

- **The Bertha Foundation**
- **Ford Foundation**
- **MISEREOR**
- **Open Society Foundation**
- **The RAITH Foundation**
- **Sigrid Rausing Trust**

SERI also established a Special Fund for the Marikana Commission of Inquiry, which was funded by Hivos, Legal Aid South Africa, the Multi-Agency Grants Initiative, The RAITH Foundation, The Bertha Foundation and Open Society Foundation.

SERI is also grateful to those individuals and firms who accepted instructions from us on a pro bono, contingency or reduced fee basis: Daniel Berger SC, Tim Bruinders SC, Geoff Budlender SC, Matthew Chaskalson SC, Anna Marie de Vos SC, Andrea Gabriel SC, Paul Kennedy SC, Dumisa Ntsebeza SC, Heidi Barnes, Steven Budlender, Irene de Vos, Adrian Friedman, Anthony Gotz, Kate Hofmeyr, James Howse, Nicole Lewis, Tebogo Manchu, Tholoana Motloenyi, Nyoko Muvangua, Tembeka Ngcukaitobi, Mkhululi Stubbs and Nichols Attorneys.
2. RESEARCH

In the period under review SERI undertook a range of research projects, which are detailed below. These projects include research on protest and the criminal justice system, evictions and low-income rental housing, and municipal indigent policies and free basic services; a series of rental housing and sectional title guides; a pamphlet on the rights of informal traders; and a series of Community Practice Notes documenting the struggles of informal settlement communities.

SERI was also involved in developing a module on tenure in informal settlements for a new course by the National Upgrading Support Programme (NUSP) called Introduction to Informal Settlement Upgrading, and was involved in a project for the Housing Development Agency (HDA) around framing and packaging a document on incremental tenure options with a particular emphasis on informal settlements situated on land under customary administration. In January 2015 SERI presented at a HDA land tenure workshop in support of the implementation of the Informal Settlements Upgrading Programme (UISP).

2.1 Research Reports

INFORMAL TRADE IN INNER CITY JOHANNESBURG
(June 2015)

This report provides a portrait of informal trade in the inner city of Johannesburg. In 2013, informal traders were evicted on a mass scale from the city’s streets as part of Operation Clean Sweep. The City of Johannesburg explained the operation as an effort to rid the inner city of crime and grime. During the eviction of traders, and the subsequent refusal to allow them to resume their trade, the City failed to follow the consultative processes required by the Businesses Act. The operation was later lambasted in a Constitutional Court judgment as an act of “humiliation and degradation”. This report investigates the regulation of informal trade in the inner city, as well as traders’ daily experiences of making a living there, in order to explore the impact of the prohibition and restriction of trade being pursued by the City. It argues that the regulation of informal trade is restrictive, non-consultative, orientated towards enforcement rather than development, and that it is instrumental in producing illegality. Further, by foregrounding the experiences of traders, it exposes major gaps in informal trading policy in the city and in the way in which informality has been imagined more broadly. The report argues that the challenges of informal trade can be addressed if the City improves the way in which it is regulated. There are, however, also deeper problems with the ways in which informality is imagined and approached by the City, and the state more generally. The report shows that an investigation into how prohibition or relocation may effect traders, as set out in the Businesses Act, is both possible and necessary. The report was written by Dennis Webster. It was going to print at the time of writing this review and will be available on SERI’s website in September 2015.
PUBLIC INTEREST LEGAL SERVICES IN SOUTH AFRICA
(March 2015)

In 2014 SERI was commissioned by the Ford Foundation and the RAITH Foundation to implement a study on the public interest legal services sector in South Africa. The study examines the nature of the sector, the context in which it operates and, importantly, how the sector’s value and impact can best be characterised and measured. The study also examines coordination and collaboration in the sector as well as the sector’s relationship to the legal profession. One of the recommendations of the study is for donors and public interest legal organisations to further develop a multi-dimensional approach to value and impact which has a focus on issues rather than specific cases; an emphasis on measuring impact over the longer term; and reference to different “sites of impact”. These sites of impact include: obtaining a positive outcome for particular individuals and groups; changes to law and policy; institutional changes; symbolic and discursive changes; expanding democratic space; and strengthening the public interest law sector. The report is available at http://seri-sa.org/images/Seri_Pils_report_Final.pdf. A pamphlet summarising the main findings and recommendations is also available at http://seri-sa.org/images/Seri_pils_pamphlet_FINAL.pdf.

AN ANATOMY OF DISSENT AND REPRESSION: THE CRIMINAL JUSTICE SYSTEM AND THE 2011 THEMBELEIHLE PROTEST
(June 2014)

This report examines the week-long protest in Thembelihle, near Lenasia, Johannesburg which occurred in September 2011, and rising dissent in South Africa more generally. Frustrated by an unaccountable and unresponsive local government that frequently disregarded the community’s on-going demands for access to adequate basic services, Thembelihle residents took to the streets. In the aftermath of the protest, arrest and criminal prosecution (often on frivolous charges) was used to harass and intimidate community members and to target community leaders, marking an alarming trend in which the criminal justice system is used by the government to suppress popular dissent and local communities advocating for socio-economic development. The report was written by Michael Clark.

The report was officially launched at an event held at SERI on 16 September 2014. Inputs were given by Michael Clark (the author of the report), Bhayiza Miya (the former spokesperson of the Thembelihle Crisis Committee) and Phillip de Wet (a journalist who covered the protest in 2011). The report is available at http://www.seri-sa.org/index.php/38-latest-news/285-research-report-seri-launches-an-anatomy-of-dissent-and-repression-the-criminal-justice-system-and-the-2011-thembelihle-protest-16-september-2014

Protest is the “only language government understands”
SERI press statement (16 September 2014).

Criminalising Protest and Dissent
Daneel Knoetze, Groundup News (18 September 2014).

Law used to ‘clamp down on dissent
Phillip de Wet, Mail & Guardian (19 September 2014).

Thembelihle and the Criminalisation of Dissent
Koketso Moeti, NGO Pulse (10 October 2014).
TARGETING THE POOR? AN ANALYSIS OF FREE BASIC SERVICES AND MUNICIPAL INDIGENT POLICIES IN SOUTH AFRICA
(November 2013)

This report provides an overview of the law and policies relevant to free basic services (FBS) and municipal indigent policies in South Africa. It details the regulations and strategies around FBS - free basic water (FBW), free basic electricity (FBE), free basic sanitation (FBSan) and free basic refuse removal (BRR) - and examines the policy framework and implementation guidelines for municipal indigent policies. The report also contains a survey of 137 municipal indigent policies in South Africa that highlights the numerous problems encountered with the implementation of indigent policies and the provision of FBS, including: targeting methods, municipal systems of indigent application, conditionalities attached to indigent status and FBS, and amount provided. The report finds that while the professed aim of the indigent framework is to “target” the poor for the provision of basic services, its overall effect is to target them for exclusion. The report was written by Kate Tissington.


In May 2014 SERI convened a civil society roundtable discussion to mark the official launch of a report.

MINDING THE GAP: AN ANALYSIS OF THE SUPPLY OF AND DEMAND FOR LOW-INCOME RENTAL ACCOMMODATION IN INNER CITY JOHANNESBURG
(November 2013)

This report highlights the gap in the demand for and supply of low-income rental accommodation in inner city Johannesburg. From research into the supply of formal rental accommodation in the inner city, it is clear that there are no permanent options available to those earning below R3 200 per month - almost 50% of all households in the inner city. While there are a few institutions providing state-subsidised social housing at lower rentals, these institutions are extremely oversubscribed and there is almost no social housing actually available or affordable to people. Even informal rental accommodation is unaffordable to many people, with rooms to rent from R800 to R1 400 per month. The report argues that the most significant intervention the City should be making in the inner city is an affordable, accessible rental housing programme that responds to the needs of the majority of residents. The report was written by Kate Tissington. A summary of the report is available at http://www.seri-sa.org/index.php/research-7/research-reports.
EVictions and alternative accommodation in south africa: an analysis of the jurisprudence and implications for local government

(November 2013)

The jurisprudence of the South African courts has significantly contributed to the right of access to adequate housing, enshrined in section 26 of the Constitution. The courts have supplemented the legal framework by developing a number of progressive legal principles that should be upheld in eviction cases. The jurisprudence has therefore led to the development of a new cluster of relationships between the parties involved in eviction proceedings, a cluster of relationships that is characterised by a series of rights and obligations pertaining to various parties. Yet despite years of litigation and a host of progressive judgments municipalities have been hesitant, unwilling or unable to act on the obligations laid down in case law. This report seeks to provide a comprehensive analysis of the jurisprudence on evictions and alternative accommodation, and the contingent obligations on municipalities in respect of the provision of alternative accommodation. The report was written by Michael Clark. A summary of the report is available at http://www.seri-sa.org/index.php/research-7/research-reports.

These two research reports were officially launched at an event held in Hillbrow in February 2014.

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SERI launches two research publications
SERI press statement (27 February 2014).

The social costs of inner city regeneration
Op-ed by Kate Tissington, Daily Maverick (28 February 2014).

Urbanisation: Low-cost housing not low-cost enough
Op-ed by Lauren Royston and Michael Clark, Mail and Guardian (11 April 2014).

In Johannesburg, Once Known For Apartheid, Gentrification Means Displacement For The Poor
Koketso Moeti, NGO Pulse (10 October 2014).

Why Is There Not Enough Affordable Rental or Social Housing for the Poor In South Africa’s Cities?, Louise Scholtz, SACSIS (7 May 2014).

Podcast of radio interview
With Michael Clark discussing the need to more affordable low-cost rental accommodation in the City of Johannesburg, PowerFM (14 April 2014).

Lack of affordable accommodation in cities and hijacked buildings
TV interview with Nomzamo Zondo, Yilungelo Lakho, SABC 1 (12 May 2014).
2.2 Resource Guides

RESISTING EVICTIONS IN SOUTH AFRICA: A LEGAL AND PRACTICAL GUIDE
(March 2015)

This guide explains rights and the law regarding evictions, and gives practical advice on how to resist them. It is a resource for individuals, households and communities who are facing eviction from their homes, as well as for community-based paralegals, CBOs and social movements. The guide covers a number of different issues: what is an eviction, what the law says about evictions, when an eviction is unlawful, the lawful process for an eviction, how to oppose a lawful eviction, and how to resist an unlawful eviction. It is one of the resources in the Dear Mandela Toolkit. The guide was written by Kate Tissington and Michael Clark.

COMMUNITY ORGANISERS GUIDE
(March 2015)

This guide was developed to assist CBOs to organise effectively in order to facilitate social change in their communities. It draws on the experiences and practices of Abahlali baseMjondolo (AbM) and examines a number of topics: what is a community organisation, principles of community organisation, establishing a CBO, community meetings, protests and gatherings, education programmes, sustaining a CBO, managing and sharing information, and networking and partnerships. This guide is one of the resources in the Dear Mandela Toolkit. The guide was written by Dennis Webster.

PROTECTING THE RIGHTS OF INFORMAL TRADERS
(June 2014)

This pamphlet explains the process that a municipality must follow to legally prohibit informal trade in an area, or to relocate informal traders. It outlines what a municipality can do in terms of the Businesses Act 71 of 1991, what the process is that a municipality must follow to restrict or prohibit informal trade in an area, and what can be done to stop the restriction or prohibition of trading in an area. It is important to know about this process to ensure that a municipality follows the law, and that those who might be negatively affected are given a chance to participate and respond. The pamphlet was written by Michael Clark.
A TENANTS GUIDE TO RENTAL HOUSING
(October 2013)

This guide was developed by SERI and the Centre for Urbanism and Built Environment Studies (CUBES) based at the University of the Witwatersrand. It is intended to assist tenants and is structured in three sections which cover the start, duration and end of the landlord-tenant relationship. In each of these sections there are a number of questions which tenants have often asked SERI or CUBES when they have come to us for support. The answers provided aim to assist tenants to protect themselves against unfair and illegal conduct by landlords and to understand when the law says that a tenant is acting unfairly and illegally.

RENTAL HOUSING IN SOUTH AFRICA: LEGISLATION, REGULATIONS AND CASE LAW
(October 2013)

This booklet was developed because of difficulties faced trying to access laws and regulations on landlord-tenant relations and rental housing in South Africa. It is a companion to A Tenant’s Guide to Rental Housing. It includes the Rental Housing Act 50 of 1999 and the Gauteng Unfair Practices Regulations, 2001, which are printed in full together with some guidelines to help readers navigate the content. The booklet also provides summaries of two important Constitutional Court judgments and a decision of the Rental Housing Tribunal.

A GUIDE TO SECTIONAL TITLE IN SOUTH AFRICA
(October 2013)

This guide was developed by SERI and CUBES. It provides a brief description and explanation of the main legal issues about which those involved in sectional title schemes should be aware. The first section deals with a number of key questions that are commonly raised by people involved in sectional title schemes. The answers provided aim to assist sectional title owners, trustees and body corporates to better understand the legal rules that apply to sectional title schemes. The second section sets out how certain disputes and challenges that come up in sectional title schemes should be dealt with.

In November 2013, SERI and CUBES officially launched the resource guides at an event held in Yeoville.

New property booklets help guide rental process

Weekend Argus (9 December 2013).
2.3 Community Practice Notes

In 2014 SERI developed a new research output called Community Practice Notes, in which we document the socio-economic struggles of community-based organisations (CBOs) in different settlement contexts in South Africa. The name is a play on legal “practice notes”, which offer a concise summary of a specific motion and the relevant issues to be determined by the court.

COMMUNITY PRACTICE NOTES: INFORMAL SETTLEMENT SERIES (August 2014)

SERI’s first community practice notes were published in August 2014. They are a series on informal settlement struggles for development, which examine how CBOs in four informal settlements have organised and mobilised for development, particularly around in situ upgrading. The series documents the relationship between evictions, development, community organisation and mobilisation, local politics, protest and the use of courts.

The four community practice notes in the series are:

- **Makause: Resisting Relocation on the East Rand**: documents the struggle to resist eviction and push for development at Makause informal settlement, located in the suburb of Primrose in Germiston (Ekurhuleni Metropolitan Municipality) and examines the strategies and tactics of the Makause Community Development Forum (Macodefo).
- **Rooigrond: Community Struggle in the North West**: documents the struggle to resist relocation and push for development at Rooigrond informal settlement, located in Mahikeng Local Municipality (North West province) and examines the strategies and tactics of the Rooigrond Committee.
- **Thembelihle: Engaging an Unresponsive State**: documents the struggle to resist relocation and promote in situ upgrading at Thembelihle informal settlement, located in the suburb of Lenasia (City of Johannesburg) and examines the strategies and tactics of the Thembelihle Crisis Committee (TCC).
- **Slovo Park: Twenty Years of Broken Promises**: documents the struggle to push for upgrading at Slovo Park informal settlement, located next to the Nancefield industrial area (City of Johannesburg) and examines the strategies and tactics of the Slovo Park Community Development Forum (SPCDF).

In September 2014 SERI hosted a workshop to present the findings of the series. Representatives from the community organisations profiled in the research participated in the workshop, which discussed the strategies and tactics employed by CBOs, as well as unpacked some of the challenges faced by communities.

*Breaking the Myth of ‘Demobilised’ Communities*

2.4 Other Publications

In 2014 the fifth edition of the Constitutional Court Review, an annual international journal that tracks the work of the Constitutional Court of South Africa, was published by Juta Law. SERI’s executive director Stuart Wilson and honorary senior researcher Jackie Dugard (Jackie has since taken up the position of Chairperson of SERI’s Board of Directors) contributed articles on the Blue Moonlight case:

- Jackie Dugard, Beyond Blue Moonlight: The implications of judicial avoidance in relation to the provision of alternative housing, pp. 265-279.
- Stuart Wilson Curing the poor: State housing policy in Johannesburg after Blue Moonlight, pp. 279-295.

In September 2014 Michael Clark wrote a chapter entitled “Housing and Evictions: Know the Law, Know Your Rights” which was published in the second edition of Ndifuna Ukwazi’s The People’s Law Journal focused on urban land. In 2013, Michael and Kate Tissington also contributed a chapter entitled “Courts as a Site of Struggle for Informal Settlement Upgrading in South Africa” to a forthcoming edited volume called Upgrading Informal Settlements in South Africa: Pursuing a Partnership-Based Approach.
3. LITIGATION

Some of the important cases that the SERI Law Clinic is involved in are summarised below under the following themes: housing; participation, protest and political space; and informal trade.

3.1 Housing

Informal Settlements

SERI Law Clinic’s informal settlements work has involved both defensive litigation against evictions and proactive litigation to compel upgrading. It falls broadly into three categories:

- The first is litigation to compel municipalities to apply for funding to upgrade informal settlements in terms of the Upgrading of Informal Settlements Programme (UISP), for example, the Melani case.
- The second relates to unlawful occupation of land and the circumstances in which an organ of state may take steps to remove people and material from unlawfully occupied land, and/or demolish structures erected on that land, without a court order authorising an eviction. SERI is involved in the Fischer and Zulu cases which both deal with this issue.
- The third category involves the relocation of informal settlement communities on a voluntary basis, where land is not habitable, or where a private owner institutes eviction proceedings against the occupiers. The cases of Mchunu, De Clerq, Rand Leases, Mikani, Mjadu and Pheko fall into this category.

**MELANI AND THE FURTHER RESIDENTS OF SLOVO PARK INFORMAL SETTLEMENT V CITY OF JOHANNESBURG AND OTHERS (MELANI)**

In January 2014 the Slovo Park Community Development Forum (SPCDF), represented by SERI, launched an application in the South Gauteng High Court on behalf of approximately 7 000 people (3 709 households) living at the Slovo Park informal settlement in Nancefield, Johannesburg. The Slovo Park residents want the court to review and set aside the City of Johannesburg’s failure to take a decision to make an application to the Gauteng Department of Local Government and Housing for funding to upgrade the informal settlement in terms of the Upgrading of Informal Settlements Programme (UISP).

In June 2014, the City responded by launching an interlocutory application disputing the lawfulness of the power of attorney authorising the SERI Law Clinic to institute proceedings against the City. The City provided affidavits from nine residents who had not signed SERI’s power of attorney as evidence. The nine...
residents were subsequently removed from the application in an answering affidavit filed in August 2014. In January 2015 the City filed its answering affidavit in the main application, contending that it has made a policy decision to provide housing on land at the Unaville housing project (in Lenasia South) to qualifying applicants, and that the court cannot interfere with this decision. The residents replied to this affidavit in March 2015, arguing that the City’s plan for their relocation to Unaville is in clear breach of the applicable legal framework and that, as a first priority, the UISP requires that informal settlements must be upgraded in situ and in partnership with the residents of the relevant informal settlement. The City’s new plan to accommodate the applicants at Unaville ignores both requirements and the City did not furnish any evidence that any consideration of the requirements of the UISP was undertaken.

FISCHER AND CITY OF CAPE TOWN v RAMAHLELE AND OTHERS (FISCHER)

Fischer and Another v Ramahlele and Others 2014 (4) SA 614 (SCA)

In May 2014 SERI represented Abahlali baseMjondolo (AbM) in an amicus submission to the SCA, in an appeal challenging a Western Cape High Court judgment on the City of Cape Town’s approach to land occupation and the demolition of structures at the Marikana informal settlement in Philippi East, Cape Town. The land, which was previously vacant, was occupied on 27 April 2013 as part of the commemoration of the first democratic elections. The City of Cape Town carried out evictions in April and August of 2013 and again in early 2014.

Judge Gamble in the High Court found the City’s approach to demolishing structures at the settlement to be “fundamentally flawed”, in that decisions of its Anti-Land Invasion Unit were not based on whether the structure was being used as a “home”, but rather on which structures were occupied at the time. Judge Gamble rejected the City’s argument that it was entitled to demolish structures without a court order if it deemed the structures were unoccupied, finding the demolitions to be unlawful and ordering the City to rebuild the shacks. AbM’s submission in the SCA was on the scope and meaning of the concept of “home” for the purposes of section 26(3) of the Constitution, and the appropriate interpretative approach to be adopted to section 26(3) on the facts of the case. According to the submission:

The primary determinant of whether a shack is a ‘home’ must surely be what else is available to the person who constructed it. If the person who constructed the shack was homeless before, and would be homeless if it was demolished, it requires little imagination to conclude that the shack itself – however modest or ill-furnished – is his or her home.
The submission also examined whether it is consistent with the principle of legality and the separation of powers for a functionary of the state (e.g. police officers or Anti-Land Invasion Unit officers) to be assigned discretion to decode whether and when an informal structure is occupied as a “home”, and, if it is, what principles ought to govern the conduct of that functionary in deciding whether to dismantle and remove and unlawfully erected structure.

In June 2014 the SCA set aside the High Court order, referring the matter back to the High Court for the hearing of oral evidence without deciding the issue of the constitutionality of the City’s conduct. The SCA argued that the lower court should have heard the evidence tendered by the parties and determined the facts. In September 2014 SERI launched an urgent intervention application in the Western Cape High Court on behalf of 223 people (67 households) who occupied the settlement before 30 June 2014. The residents argued that an interdict handed down by the court in January 2014 is strikingly similar in wording to the one obtained and used by SANRAL in the Lwandle eviction. Judge Saldanha in the High Court granted an interim order until 26 November 2014, after which an order was handed down protecting the residents from being removed, while interdicting newcomers from erecting further shacks. The City has since registered all occupants, whom SERI now represents.

**ZULU AND 389 OTHERS VS ETHEKWINI MUNICIPALITY AND OTHERS (ZULU)**

In September 2013 SERI assisted a number of residents of the Cato Crest informal settlement in Durban whose shacks were repeatedly demolished illegally by eThekwini Metropolitan Municipality and its Land Invasion Unit. The court order used to justify the Cato Crest evictions was obtained by the KwaZulu-Natal MEC for Human Settlements and Public Works in the KwaZulu-Natal High Court in March 2013. The order by Judge Koen permits the eThekwini Municipality to “prevent any persons from invading and/or occupying and/or undertaking construction of any structures” on specified land within the municipality’s area of jurisdiction, and to “remove any materials placed by any persons upon” that land.

In January 2014 the Constitutional Court admitted AbM as *amicus curiae* in a case concerning the interpretation of this court order. AbM has thousands of members with an interest in any case dealing with the validity of the MEC’s order. In June 2014 the Court handed down judgment, finding that the interim order amounted to an eviction order and that the municipality had used the order to evict people. The municipality had argued that the order could not and was not used to evict people, even though the municipality had relied on it to evict the appellants 25 times. The Court stated that this dishonest submission was “unacceptable”; however it did not set the interim order aside, instead referring the case back to the High Court. The minority judgment of Justice van der Westhuizen found that the order was invalid because it was granted in breach of the Constitution.

The case was heard on 21 and 22 May in the Durban High Court. The Municipality claimed that the evictions it carried out against the residents between 13 August and 15 September 2013 were lawful because they were carried out in compliance with the Interim Interdict granted by Judge Koen J. The occupiers argued that the Interim Interdict was a nullity and that the evictions carried out in terms of it were unlawful. The occupiers attacked the Interim Interdict as it purports to authorise the eviction of thousands of people living
on 1568 properties throughout the Municipality’s jurisdiction, without the occupiers of those properties having been joined to, or given notice of, the proceedings that led to it being granted. The occupiers also argued that the mandatory provisions of section 26 (3) of the Constitution and the provisions of the Prevention of Illegal Eviction from, and Unlawful Occupation of, Land Act 19 of 1998 had not been complied with. Judgment has been reserved.

ConCourt slams “unacceptable” eviction
SERI press statement (6 June 2014).

ConCourt hands victory to evicted 390
Noelene Barbeau, Daily News (9 June 2014).

Shack dwellers want removal order set aside

In Durban’s Cato Manor: Death by protest, death by dissent
Khadija Patel, Daily Maverick (1 October 2013).

MCHUNU AND OTHERS V EXECUTIVE MAYOR OF ETHEKWINI AND OTHERS (MCHUNU)
Mchunu v Executive Mayor, eThekwini Municipality 2013 (1) SA 555 (KZD)

In February 2015 the Mchunu case was heard in the Durban High Court, where an order was agreed by consent. The eThekwini Municipality offered houses to 37 occupiers of the Richmond Farm Transit Camp at an acceptable location within 16 months of the order. The occupiers were evicted from the Siyanda informal settlement in March 2009 in order to allow the construction of a road. One of the conditions of the eviction order was that the occupiers would be provided with permanent housing within a year. They were moved to the transit camp and in 2013, after SERI and AbM sought an order against the Executive Mayor and two other senior officials in their personal capacities, were offered houses on the South Coast of Durban. However these houses were located some 40km away from where the families were meant to be moved in the first instance.

The residents launched a counter-application asking the court to order the municipality to comply with their obligations under the March 2009 and September 2012 orders by providing houses on one of the vacant sites at the Khulula housing project, or on another site within a reasonable distance of the Khulula project.

City manager must explain ‘political evictions’, IOL News (10 September 2013).
DE CLERQ AND OTHERS VS OCCUPIERS OF PLOT 38 MERINGSPARK (DE CLERQ)

In October 2014 the North Gauteng High Court handed down a structural order in terms of which the De Clerq eviction application, made by the owner against 380 households (comprising approximately 1,000 people) living at the Ratanang informal settlement on the outskirts of Klerksdorp, was postponed. In terms of the order the City of Matlosana municipality has convened a local steering committee in accordance with Annexure D of the Emergency Housing Programme, which outlines the process to be followed in the relocation of large communities. SERI, who represents the occupiers, had argued in the High Court that a structural order to supervise the municipality’s implementation of its tender of alternative land ought to be granted.

The steering committee is tasked with implementing a plan of action to be followed by all the parties to the application. This plan must deal with the details of how and over what period the relocation will be facilitated. In terms of the structural order, the municipality must deliver bi-monthly reports to the court detailing the progress that has been made in terms of the plan.

MJADU AND OTHERS IN RE FEDERATION FOR A SUSTAINABLE ENVIRONMENT (FSE) V NATIONAL NUCLEAR REGULATOR AND OTHERS (MJADU)

SERI represents the residents of Tudor Shaft informal settlement located in Krugersdorp, Mogale City Local Municipality. The residents live within 400m of the central tailings dam and were not consulted about the operations taking place there. In 2012 the residents intervened in an urgent application in the South Gauteng High Court by the Federation for a Sustainable Environment (FSE), to declare the mine residue removal operations taking place at the central tailings dam in Tudor Shaft unlawful and hazardous to public health. In terms of the municipality’s IDP, the Tudor Shaft residents are due for relocation in July 2015. SERI continues to represent the residents.

Inaction on waste condemns South Africa’s poor to life in toxic dumps
Geoffrey York, Globe and Mail (10 March 2015).

‘Toxic’ Mogale City faces legal action
The Citizen (28 October 2013).
PHEKO AND OTHERS VS EKURHULENI METROPOLITAN MUNICIPALITY (PHEKO)

Pheko and Others vs Ekurhuleni Metropolitan Municipality (No 2) 2015 (6) BCLR 711 (CC)

In August 2014 the Pheko matter was re-enrolled by the Constitutional Court after a series of extraordinary events and non-compliance by Ekurhuleni Metropolitan Municipality since the order handed down in 2011. SERI was admitted as amicus curiae in the enforcement and contempt proceedings, arguing that any punitive or structural consequences of a declaratory order against the municipality cannot be addressed without a joinder of the Mayor or Municipal Manager, the functionaries who bear constitutional and statutory obligations to ensure compliance with court orders.

The Constitutional Court declared the municipality in breach of its constitutional obligations by failing to abide by the two court orders previously given, and ordered the Mayor and the Municipal Manager to show cause why they should not be joined to the proceedings, and for the municipality to identify to the Court any other office-bearers or officials who are responsible for compliance with orders of the court. In May 2015 the Court handed down judgment, joining the Executive Mayor, Municipal Manager, Ekurhuleni Head of Department for Human Settlements and the Gauteng MEC for Human Settlements to the proceedings for the purpose of implementing the supervisory order.

The Constitutional Court handed down judgment in the contempt proceedings in May 2015. The Executive Mayor and Municipal Manager stated that they were not involved in the day-to-day running of the Municipality. The Court censured this approach and held that these disclaimers were unseemly and highly inappropriate. The Court asked “Who in a local authority, if not the Mayor and Municipal Manager, is responsible for its failings of function?” The Court also stated that they cannot and should not plead ignorance.

Regarding the duties of the Mayor and Municipal Manager in relation to the provision of temporary alternative accommodation, the Court held that they are tasked with the oversight and management, respectively, of the provision of services by municipalities to the local community in a sustainable and, in the case of the Municipal Manager, equitable manner. The duties of the MEC are to take all reasonable and necessary measures to support and strengthen the capacity of the Municipality in its provision of adequate housing. The Court held that when the Municipality fails to do so, the MEC is obliged to intervene by taking appropriate steps. The Court concluded that the steps taken by the MEC were appropriate in the context of the case.

The Court ultimately found none of the functionaries in contempt of Court. The evidence led before the Court showed that the officials did not know of the orders of the Court as their attorney failed to inform them of the orders. For this the attorney was ordered to pay costs on a punitive scale. The Municipality also had to pay costs.

Mayor, city manager fall foul of top court

ConCourt to hear Bapsfontein case
IOL News (11 August 2014).
RAND LEASES PROPERTIES V OCCUPIERS OF VOGELSTRUISFONTEIN AND OTHERS (RAND LEASES)

In August 2014 the South Gauteng High Court ordered that the residents of Marie Louise informal settlement, situated between a Pikitup dumping site and a mine in Roodepoort, be moved to the nearby Rugby Club site and provided with access to basic services as well as materials to rebuild their shacks, and assistance in rebuilding, if required. The order was agreed to by the residents and the City of Johannesburg, after the owner of the site, Rand Leases, sought an order obliging the City to have moved the residents from the property “on a no-matter-what basis, to another location, by a date to be determined, regardless of whether or not [the City] is successful regarding the Rugby Club site”.

In 2015 the municipality started building temporary shelters for residents at the site. SERI is overseeing this process, pushing for engagement over the quality of the structures, access to basic services, and the need for space at the site to be earmarked for livelihoods like recycling.

MIKANI HOLDINGS V UNLAWFUL OCCUPIERS OF TAYLOR ROAD AND ANOTHER (MIKANI)

In early 2015 76 households living at the Taylor Road informal settlement in Honeydew Manor Ext 27 were relocated, after the City of Johannesburg was ordered by the South Gauteng High Court in 2014 to provide the residents (many of whom have lived there for 20 years) with alternative accommodation, following an eviction application by a private developer. Sixteen households were relocated to Fleurhof, a mixed housing development located on Main Reef Road, where they received full ownership of subsidised flats. The remaining occupiers relocated to the Ruimsig informal settlement where the City constructed shacks for them.

THUBAKGALE AND OTHERS V EKURHULENI METROPOLITAN MUNICIPALITY AND OTHERS (THUBAKGALE)

SERI represents 138 residents of the Winnie Mandela informal settlement, located in Ekurhuleni Metropolitan Municipality. All the residents are members of the Ekurhuleni Concerned Residents Association (ECRA) and have been approved for housing under the RDP scheme, some as early as 2000. However, all indications suggest that these benefits were misallocated to other individuals - those who have erected houses and are living on their stands. Despite the residents’ exhaustive efforts through ECRA to address this with the municipality and the Gauteng Department of Human Settlements (GDHS), these requests were ignored and the government has refused to provide a logical explanation for the misallocation of the serviced stands and housing subsidies.

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 GDHS to take the necessary steps to deliver to the residents the serviced stands for which they have been approved; or to provide housing opportunities to the applicants in developments that are close to Winnie Mandela settlement; and, in any event, or in the alternative, to grant the residents title to the land where they currently reside, and to take the necessary steps to upgrade the residents’ housing accommodation where they currently reside, in terms of the UISP.
Inner City Evictions and Access to Alternative Accommodation

The SERI Law Clinic has been involved in a number of important cases dealing with the interpretation of the right to adequate housing and the municipal provision of alternative accommodation. Much of this work is focussed on implementing the judgments in each of our client communities, ensuring that they are provided with decent and liveable accommodation. In Johannesburg’s inner city SERI represents communities in a number of buildings facing eviction– Chung Hua Mansions, Soper Road, La Colleen Court and Jeanwell Court - as well as in temporary accommodation facilities provided by the City of Johannesburg. These facilities include Ekuthuleni shelter, MOTH building, MBV Phase 1, Old Perm and Linatex shelter. In August 2014 the top floor of the MOTH building burnt down, leaving many residents homeless. SERI was instrumental in ensuring these residents were relocated by the City to the Linatex shelter.

DLADLA AND THE FURTHER RESIDENTS OFEKUTHULENI SHELTER V CITY OF JOHANNESBURG AND MES (DLADLA)

Diadla and Others v City of Johannesburg Metropolitan Municipality and Another 2014 (6) SA 516 (GJ)

On 22 August 2014 the South Gauteng High Court handed down judgment in the Diadla case. In 2013 the residents of the Ekuthuleni shelter, who were moved in 2012 following the Blue Moonlight order, challenged two house rules implemented as part of the shelter’s “managed care model” - day-time lock-out (which means residents are not allowed to stay in the shelter during the day) and gender segregated dorms (which have the effect of splitting up families).

Judge Lotter Wepener in the High Court found that the day-time lockout rule is an unjustifiable infringement of the residents’ constitutional rights to dignity, freedom and security of person, and privacy. Specifically, the Court criticised the managed care model for failing to provide for “persons in an emergency or temporary situation, as ordered in Blue Moonlight.” The Court also found that the City’s refusal to permit the residents to reside in communal rooms together with their spouses or permanent life partners is an infringement of their constitutional rights to dignity and privacy. According to the Court, this separation “compromises and disrupts the family as a unit” and “creates emotional distance in a relationship”.

In September 2014 the City filed an application in the South Gauteng High Court for leave to appeal to the SCA the whole judgment. On 29 October the application for leave to appeal was dismissed with costs. The City has since petitioned the SCA for leave to appeal, which was granted in May 2015.

High Court declares City of Johannesburg’s temporary accommodation model unconstitutional

SERI press statement (22 August 2014).

Jozishele rules ‘unconstitutional’

Anna Cox, IOL (25 August 2014).

Ekuthuleni shelter rules infringed on rights, disrupted families: judge

Roxanne Henderson, Times Live (23 August 2014).
CITY OF JOHANNESBURG IN RE: ALL PENDING EVICTION APPLICATIONS WHERE THE OCCUPIERS’ EVICTION MAY LEAD TO HOMELESSNESS (STAY APPLICATION)

In January 2014 the City of Johannesburg made an application to the South Gauteng High Court for an order directing that the final eviction applications in over 30 matters be stayed, pending the final determination of the Dladla case. SERI represents over 1100 people in a number of these cases.

In June 2014, the occupiers represented by SERI issued a counter-application requesting the court to declare that the City has failed to take reasonable measures, within its available resources, to discharge its obligations, under section 26(2) of the Constitution, to provide temporary accommodation to the occupiers, as required by the decision of the Constitutional Court in Blue Moonlight. The occupiers argue that the real basis for the City’s application is two-fold: it has adopted an unreasonable, inflexible attitude to the occupiers and their circumstances, and it has failed to adequately plan for and procure the land and/or buildings necessary to provide temporary shelter to them. The occupiers request that all applications to evict them are stayed pending a detailed process set out in the counter-application. As of early 2015 the occupiers of a number of buildings are engaging with the City about the provision of alternative accommodation.

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City of Joburg leaves poor out in the cold

SERI press statement (10 June 2014).

City of Jo’burg blamed for not providing homes for evictees

Kwanele Sosibo, Mail & Guardian (12 June 2014).

HLOPHE AND OTHERS V CITY OF JOHANNESBURG AND OTHERS (HLOPHE)

City of Johannesburg v Hlophe 2015 (2) All SA 251 (SCA)

In March 2015 the SCA handed down judgment in the Hlophe case, confirming that municipal officials can face contempt of court proceedings if they fail to ensure that municipalities obey court orders. The SCA was ruling on an appeal by the City of Johannesburg against an order of the South Gauteng High Court made in April 2013. That order directed the Mayor, City Manager and Director of Housing to take all the steps necessary to provide 180 residents with alternative accommodation, failing which they could be sued for contempt. This case was brought to court by the residents of Chung Hua Mansions in Johannesburg, after the City missed several court-ordered deadlines to provide the residents with decent shelter.

Acting Judge of Appeal CHG van der Merwe, writing for a unanimous court, held that the fundamental constitutional value of accountability requires municipal officials to see to it that the municipalities they control obey court orders. He held that public accountability “is a founding value of the Constitution and central to our Constitutional culture”. In promoting accountability, courts can make a variety of orders, including orders that individual officials discharge their obligations to provide housing for the poor. The City appealed the judgment to the Constitutional Court.
In May 2015 the Constitutional Court dismissed the City’s application for leave to appeal. The Court held that it would not hear their application as it bore no prospects of success. The decision of the Supreme Court of Appeal therefore received the approval of the Constitutional Court.

Supreme Court puts public officials on the hook

Cities are publicly accountable, appeal court rules
Sarah Evans, Mail & Guardian (20 March 2015).

Eviction of Unlawful Occupiers
SERI also represents clients in cases where an eviction order would not be just and equitable in terms of the PIE Act, for example the recent Matlaila case.

ALL BUILDING AND CLEANING SERVICES V MATLAILA AND OTHERS (MATLAILA)

In January 2015 the South Gauteng High Court dismissed an eviction application brought by All Building and Cleaning Services CC, a property development company, against two 71 year-old pensioners who have lived and worked on the property in Fairlands, Johannesburg for 44 years. The residents, represented by SERI, were at risk of becoming homeless if evicted. The owner, a property developer, wanted to build townhouses for higher-income residents.

Acting Judge Paul Carstensen found that the property owner of the land had not proven that an eviction order would be just and equitable, and dismissed the application with costs. He found that, taking into account the circumstances and factors set out in section 4(7) of the PIE Act - including the length of time which the residents have lived on the land, the circumstances under which they moved there, the fact that there are old age pensioners on the property and that there is a lack of alternative accommodation - all “clearly tilt the scales of justice in favour [of the residents]”.

The Judge found that the owner had “not made any serious attempt to satisfy the onus” to show that an eviction would be just and equitable. In terms of meaningful engagement, he found that, apart from “intimidatory tactics”, there had been “no engagement” at all with the residents, and that the owner made no attempt to satisfy the court on the issue of alternative accommodation. The Judge found that there would have been “very little prejudice” if, as part of the development, the owner had offered to build the residents a suitable home. The fact that the owner refused to do so, and its attitude towards the constitutional rights of the residents in general, factored into the decision not to grant the order.

The owner applied for leave to appeal the judgment, which was heard in February 2015. In April the application for leave to appeal was dismissed with costs. The owner indicated that it would petition the SCA, but the deadline for doing so has now passed, and the Judgment of the High Court has become final.
Court refuses to evict pensioners after owner’s “intimidatory tactics”

Evictions - acting illegally can backfire
Private Property (22 January 2015).

Saved from homelessness

Poor people do win too

Rights group fights ‘inhumane’ eviction
Sarah Evans, Mail & Guardian (16 October 2014).

Bank Repossessions and Sales-in-Execution

SERI Law Clinic’s litigation also focuses on preventing banks and other lending institutions from abusing court processes dealing with debt collection. SERI has appeared in the Magistrates Court, Supreme Court of Appeal (SCA) and Constitutional Court in cases relating to sales-in-execution. In 2013 and 2014 SERI was involved in two cases – Kubyana and Mkhize – which dealt with the interpretation of the Sebola judgment handed down by the Constitutional Court.

SERI also works to ensure that trespass charges are not used to bypass the lawful eviction process. In 2014 SERI represented Ms Sthukuza and her two sons who were charged with trespass, arrested and detained. After SERI opposed a postponement and argued in court, the Magistrate agreed to strike the matter off the roll.

THWALA AND ANOTHER V FNB AND OTHERS (THWALA)

In December 2013 the North Gauteng High Court set aside the sale-in-execution of a mortgaged home belonging to a Soweto family, the Thwalas. While the family had paid the entire amount due to First National Bank (FNB), it sold their home on public auction anyway. By SERI’s calculations (which the bank did not dispute) between the date on which summons was issued and the date on which the sale took place the Thwalas paid about R500 more than the total value of the default judgment, plus interest and other payments to the bank.

The Court agreed that this rendered the sale void, and set it aside declaring that the default judgment had been satisfied before the sale in execution took place, and that there was “no lawful basis for FNB to proceed, as it did, with the sale in execution”.

High Court sets aside FNB’s sale of mortgaged home

Family win fight with bank for home
ABSA BANK V LEKUKU (LEKUKU)

SERI was invited by the South Gauteng High Court to make a submission as *amicus curiae* in a case heard in August 2014 by a Full Bench. This case was initially a foreclosure application by ABSA against Mr and Mrs Lekuku’s home after they defaulted on their mortgage bond, but has since evolved into a challenge of the South Gauteng High Court’s practice directive regarding foreclosures in general. The main issue was whether a requirement in the Gauteng Local Division Practice Manual, that personal service of foreclosure applications against property that might be used as a home be attempted and required possible, is lawful.

SERI argued that the practice directive does not require that personal service must be effected in all cases, only where it is possible. Personal service is the preferred method of service because of the risk of the debtor losing their house, and the importance of them being at court in case they can persuade the judge not to declare it executable. SERI further submitted that courts must be satisfied as to what constitutes adequate service and they should not be limited by standard-form contracts containing domicilium clauses such as that ABSA requires every debtor to sign. SERI argued that the low arrears requirement is only a discretionary tool that a court may use to determine the proportionality of awarding judgment against the debtor and declaring their home executable.

In October 2014 judgment was handed down in the matter, with the effect that banks in the Gauteng Local Division must now make “every reasonable effort” to draw foreclosure proceedings to a debtor’s attention, including by personal service where possible.

ABSA V MKHIZE AND OTHERS (MKHIZE)
*Absa Bank Limited v Mkhize and Others 2014 (5) SA 16 (SCA)*

In September 2013 the SCA struck ABSA’s appeal in the *Mkhize* matter from the roll. SERI acted as *amicus curiae* in the case, which concerned the correct interpretation of the decision of the Constitutional Court in *Sebola*. The majority of the bench found that the KwaZulu-Natal High Court order was not appealable, while the minority found that the appeal should be dismissed on the merits, holding that the High Court has the right to insist that consumers actually receive important information concerning the exercise of their statutory rights.

ABSa had argued that *Sebola* cannot be read as giving a recalcitrant consumer a mechanism through which to evade due process of law. SERI agreed, but argued there is no justification for inferring, as ABSA does, that the respondents in this appeal “chose” not to collect their notices. SERI argued that the High Court judgment was correctly decided when it held that the *Sebola* decision precluded it from granting the applications for default judgment.

Three of the SCA judges held that the order of the High Court was not appealable, while the other two judges dismissed the appeal.

KUBYANA V STANDARD BANK (KUBYANA)
*Kubyana v Standard Bank of South Africa Ltd 2014 (3) SA 56 (CC)*

In February 2014 the Constitutional Court handed down judgment in the *Kubyana* case, in which SERI was admitted as *amicus curiae*. The case squarely raised issues relating to the proper interpretation of the *Sebola* decision and the notice requirements embodied in sections 129 and 130 of the National Credit Act. SERI became involved as the case affects
the rights and interests of consumers of credit, many of whom approach the organisation for assistance and representation. SERI’s submission argued that it is the duty of a court in credit enforcement proceedings is to establish whether, on the probabilities, a section 129 notice reached a consumer.

The Constitutional Court held that it need not be established that a distressed consumer knew of all the options available before a credit agreement is enforced against them, finding that it is up to the consumer to explain why their attention was not drawn to these options if a matter proceeds to court. SERI is concerned that this decision may not do enough to protect distressed consumers who have fallen into arrears on their credit agreements and who are genuinely in need of debt counselling and other alternative dispute resolution mechanisms. These options are a debtor’s last hope of consensually resolving disputes which may result in money judgments being taken against them, perhaps leading to the loss of a home, or other property vital to their well-being.

SERI considers that credit providers – who are as a rule extremely well-resourced – are best placed to ensure that every reasonable effort is made to inform a distressed consumer of his or her options, and the rights flowing from them. Distressed consumers should not be required to say why they did not know of rights that were never explained to them. More than anything else, those in distress - whether economic, social or personal - deserve to be treated with dignity, sympathy and respect in the credit agreement enforcement process.

Fortunately, since the Kubyana decision was handed down, the National Credit Act has been amended to provide for delivery of 129 notices either by registered post, or by hand to an adult person at an address designated by the consumer. The consumer gets to decide which of these two modes of delivery is to be used. This legislative amendment, which was no doubt provoked by the Kubyana and Sebola cases, provides a greater degree of protection for consumers in arrears with their debt repayments.

Credit consumers left in distress by Court judgment
SERI press statement (20 February 2014).

National Credit Act not meant to protect debt dodgers, top court hears
Franny Rabkin, Business Day (7 November 2013).

In Sebola the Constitutional Court found that section 129(1)(a) of the National Credit Act 34 of 2005 requires the contents of a notice issued in its terms to come to the attention of the consumer to whom it is addressed. A court dealing with enforcement proceedings in terms of section 130(4) of the Act must be satisfied, on a balance of probabilities, that the section 129 notice has indeed come to the attention of the consume.

The Court drew a distinction between the statutory test set out in section 129(1)(a) of the Act, on the one hand, and the evidentiary showing a credit provider had to make to demonstrate that this test was met, on the other. While section 129(1)(a) does require a notice issued in its terms to come to the attention of the consumer, sections 129 and 130, read together, only require a credit provider to show, on the facts of a particular case, that the notice probably reached the consumer.
Landlord-Tenant Disputes

YOUNG MIN SHAN V JELE AND OTHERS (YOUNG MIN SHAN)
Young Ming Shan CC v Chagan NO and Others 2015 (3) SA 227 (GJ)

In February 2015 judgment was handed down by the South Gauteng High Court in the Young Min Shan case, which was brought by the landlord of a residential building, Plettenberg Flats, located in Hillbrow. In 2014 the landlord launched review proceedings under Rule 53 of the Uniform Rules of Court, seeking an order reviewing and setting aside the ruling of the Gauteng Rental Housing Tribunal. The landlord suggested that it had three main grounds of review, relying on a multitude of complaints in relation to the judgment, the majority of which are aimed at the Tribunal’s ruling that Regulation 13 was applicable and the applicant’s conduct was a contravention of the regulation.

The residents argued that the reasoning and ruling of Tribunal is unassailable, particularly that the Gauteng Unfair Practice Regulations are applicable and that the landlord’s conduct constitutes a contravention of Regulation 13. The residents further argued that there was no procedural irregularity in the proceedings before the Tribunal that would constitute a basis for setting aside the ruling. Judge Philip Coppin in the High Court dismissed the landlord’s application with costs, finding that the Tribunal’s ruling was reasonable, just and fair. He further found that the Unfair Practices Regulations, which govern the relationship between residential landlords and tenants, prohibit a landlord from making a profit from allowing electricity to be supplied to its tenants.

MOKEBE V JANUARY (MOKEBE)

In December 2014 the Boksburg Magistrate Court dismissed the eviction application in the Mokebe case. In a written judgment the Magistrate found that her landlord had failed to prove that the lease agreement was terminated and therefore Ms Mokebe is not an unlawful occupier as defined by the PIE Act. SERI became involved in the case after Ms Mokebe, a single mother of two children, was evicted from her home by her landlord in 2010. Ms Mokebe’s landlord claimed that she left the property voluntarily because he offered her alternative accommodation. Ms Mokebe argued that she had been intimidated into leaving her home by her landlord, who used his position as a police officer and his service firearm to intimidate her. The Magistrate agreed with her submissions and granted an order restoring Ms Mokebe to her home, interdicting and restraining her landlord from evicting her again without a court order.
3.2 Participation, Protest and Political Space

Over the past two years SERI has represented a number of activists, social movement leaders, trade unions and families of deceased protestors or strikers. We represented the families of 36 of the deceased mineworkers, and the Association of Construction and Mineworkers Union (AMCU), before the Marikana Commission of Inquiry, as well as in the related Magidiwana case. We also represented the independent union CSAAWU in two cases in the Western Cape: CSAAWU, which deals with the unfair dismissal of workers as a result of a protest, and Steytler, which is an appeal to a punitive costs order handed down by the Cape Town Labour Court. We represented Bandile Mdlalose, former General Secretary of Abahlali baseMjondolo, in criminal proceedings instituted against her by the police for ‘public violence’ as well as General Moyo, who was charged with ‘intimidation’ in the Germiston Regional Magistrate’s Court in 2012. The latter case has led SERI and the Centre for Applied Legal Studies (CALS) to launch a constitutional challenge to the Intimidation Act.

Marikana

MARIKANA COMMISSION OF INQUIRY

During 2013 and 2014 SERI continued to act for the families of 36 of the deceased mineworkers killed at Marikana in August 2012, and for AMCU. In November 2013, SERI was honoured to be presented with The Institute for Justice and Reconciliation’s (IJR) 2012 Reconciliation Award, “for keeping the Marikana victims and their families on the national agenda.” The award was handed over to SERI by IJR’s patron, Archbishop Emeritus Desmond Tutu, at a ceremony held in Cape Town.

In November 2014 the families delivered closing arguments before the Marikana Commission of Inquiry. Adv Dumisa Ntsebeza SC, instructed by SERI, argued on behalf of the families. It has been a long and painful journey for them. They have attended the Commission for two years in order to discover the truth about what happened to their loved ones, and why. They have come to a number of conclusions about what happened and who bears responsibility for the massacre.

The Marikana Commission of Inquiry’s final Report was released by President Jacob Zuma on 25 June 2015. The families are disappointed by the findings and recommendations of the report.

Evidence placed before the commission by SERI regarding each of the deceased, as well as evidence from the mineworkers who testified at the commission have largely been ignored by the commission. The report relies heavily on the police’s description of the events and misrepresentation of the workers as a violent group of men. The families find no closure or justice in the Marikana report, and are not any closer to the truth concerning how their loved ones died.
MAGIDIWANA AND OTHER INJURED AND ARRESTED PERSONS V PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND OTHERS (MAGIDIWANA)

Legal Aid South Africa v Magidiwana and Others 2015 (2) SA 568 (SCA)

In 2013 and 2014 SERI represented the families and AMCU in the Magidiwana case to fund the legal representation of the arrested and injured miners before the Marikana Commission. In October 2013, the North Gauteng High Court found that Legal Aid SA’s decision to fund the legal representation of the families and not the miners “cannot be justified on any rational basis” and that refusal to provide funding to the miners was unlawful. Legal Aid SA appealed to the SCA, which dismissed the application in September 2014, after asking the parties to address it solely on whether the appeal would have any practical effect or result. This was partly because Legal Aid SA had promised to fund the miners’ representation at the Marikana Commission whether or not it won the appeal.

In October 2014, Legal Aid SA filed an affidavit in its application for leave to appeal the SCA decision to the Constitutional Court. In April the families and AMCU filed their heads of argument. They oppose the application for leave to appeal because the determination of the appeal would have no practical effect or result. This was partly because Legal Aid SA had promised to fund the miners’ representation at the Marikana Commission whether or not it won the appeal. The matter was heard on 14 May 2015.
PROTECTION OF POLITICAL SPACE

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

SERI represents the Commercial Stevedoring Agricultural & Allied Workers’ Union (CSAAWU), based in the Western Cape, in an application for an interdict restraining it from criticising the employment practices of Robertson Abattoir in November 2010. CSAAWU says that the abattoir has been forcing its employees to work up to 18 hours per day - in contravention of the Basic Conditions of Employment Act - for as little as R300-R400 per week. It alleges that the workers were locked out and eventually dismissed for protesting.

In June 2014 the employer launched an interlocutory application inter alia in respect of the locus standi of nine of the 39 applicant. Many of the preliminary disputes raised in this application were the result of Robertson Abattoir’s view that this matter is “a run-of-the-mill dismissal dispute”. However the dispute concerns the livelihood and dignity of indigent workers from an impoverished rural area who contend that they had been subjected to appalling working conditions, and have been unfairly dismissed.

In July 2014 judgment was handed down by the Cape Town Labour Court in the interlocutory application. The Court held that the applicants based their claim on an automatic unfair dismissal that took place on 30 November 2010, and that all 39 applicants have locus standi in the dispute. The hearing took place in March 2015. The union’s evidence was largely uncontested. Despite this, Judge Steenkamp granted the employer absolution from the incident, holding that the workers were not dismissed on the basis and date which they alleged.

Leave to appeal was refused by the Labour Court and CSAAWU is petitioning the Labour Appeal Court.
Sambo and 10 Others and CSAAWU v Steytler Boerdery (Steytler)

SERI represents CSAAWU in an appeal to a costs order handed down by the Cape Town Labour Court in June 2014. CSAAWU argues that the costs order should never have been made against the workers, because there was no dispute that they are unable to satisfy it and because the real intention behind it was to cause the union to pay the employer’s costs.

The costs order was made in a matter arising from an incorrect referral of an unfair dismissal complaint to the Court, which CSAAWU admits was the case. The union assisted the 11 workers represented in the case to get their jobs back at the Steytler Boerdery by approaching the Commission for Conciliation, Mediation and Arbitration (CCMA). The CCMA mediated the dispute and brokered a settlement in December 2014. However, while Judge Anton Steenkamp found the workers to be “indigent”, he reasoned that CSAAWU would be able to satisfy the costs order even though the workers clearly could not. He accordingly ordered all the applicants to pay Steytler’s costs, jointly and severally, the one paying the other to be absolved.

CSAAWU argues that the order will effectively preclude workers from approaching the Labour Court in future, for fear of the financial consequences and that it is, in fact, unable to satisfy the costs order against it. The union would effectively cease to function as an active force in organising and representing farm workers in the Western Cape, some of South Africa’s poorest and most vulnerable individuals. CSAAWU accepts that it is not generally permissible to entertain an appeal against cost orders alone; however as the Constitutional Court has made clear in the Biowatch case, where an appeal against a costs award raises other questions relating to the public interest, the interests of justice will demand that it be entertained.

After the Labour Court and Labour Appeal Court refused leave to appeal, CSAAWU petitioned the Constitutional Court in June 2015.

Working on the Farm, Living on the Margins


State v Mtetwa Trial Observation

Between March and November 2013 the Commonwealth Lawyers Association (CLA) undertook a trial observer mission to monitor the trial of Zimbabwean human rights lawyer Beatrice Mtetwa in the Harare Magistrates’ Court. The mission was conducted by a team comprising SERI staff. Ms Mtetwa was arrested in Harare last year for “obstructing the course of justice” while assisting her client, a senior legal adviser to former Prime Minister Morgan Tsvangirai.

Mtetwa arrest breached rule of the law, report

In November 2013 Ms Mtetwa was acquitted of criminal charges brought against her. The presiding Magistrate found that she had no case to answer. In February 2014 the CLA’s final mission report was released. While finding that the trial was substantially fair, the
CLA report expressed grave concern that Ms Mtetwa’s arrest, detention and trial were allowed to happen in the first place. The report stated that it was evident that nothing she was alleged to have done was capable of “obstructing justice”. Instead, her arrest and subsequent detention were clearly an attempt to harass and intimidate her; to punish her for asserting her client’s rights.

**Beatrice Mtetwa arrest a threat to the rule of law, Commonwealth mission finds**

SERI press statement (24 February 2014).

**Mtetwa arrest breached rule of the law, report**


**Commonwealth Lawyers Association Trial Observer Report**

(24 February 2014).

**Statement on Acquittal of Beatrice Mtetwa**


**RIGHT TO PROTEST AND FREEDOM OF EXPRESSION**

**State v Mdlalose (Mdlalose)**

During 2013 and 2014 SERI represented Bandile Mdlalose, then General Secretary of Abahlali baseMjondolo, in criminal proceedings instituted against her by the police for ‘public violence’ during protests at the Cato Crest settlement to show support to the family of Nqobile Nzuza, who was shot dead at the settlement. Mdlalose was held at the Westville Prison for a week, awaiting her bail hearing on 7 October 2013. She was eventually granted bail of R5 000 by the Magistrate, on condition that she not be allowed in the Cato Manor area until the finalisation of the trial, and that she report to a police station every Monday and Friday in order for police to monitor her movements. In an affidavit by the investigating officer, it was alleged that Mdlalose acted as the leader of a protest at the settlement and, if released on bail, could incite another violent protest. Mdlalose’s trial was held in the Durban Magistrates Court from 2 to 4 June 2014. In August 2014 she was acquitted of the public violence charge in terms of section 174 of the Criminal Procedure Act, which states that after the prosecution has closed its case a court may find the accused not guilty due to there not being sufficient evidence to prove the charge. In this case, the court found that there was not enough evidence to prove that Mdlalose had committed the crime of public violence.

As a result of the violence at Cato Crest by the police, SERI is also launching damages claims for Luleka Makwenkana and Nkosinathi Mgomezulu, who were shot during the protest, as well as civil claims on behalf of the family of Nqobile Nzuza.

**Former shack dwellers’ official acquitted**

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

In April 2014 SERI, in partnership with CALS, launched an application in the North Gauteng High Court to challenge the constitutionality and validity of section 1(1)(b) of the Intimidation Act 72 of 1982. SERI and CALS contend that the Act criminalises any speech or conduct which creates a subjective state of fear in any person - whether or not the fear itself is reasonable, and whether or not the conduct or speech in question was intended to create fear. They argue that the breadth of the interference with section 16 of the Constitution (which protects freedom of expression) that section 1(1)(b) creates cannot be justified in terms of the limitation clause in section 36 of the Constitution, and the section of the Intimidation Act should therefore be declared unconstitutional and invalid.

This constitutional challenge emanates from a criminal charge laid against General Alfred Moyo following attempts by him and other residents of the Makause informal settlement (involved in litigation to upgrade the settlement) to hold a march against police brutality in Primrose in 2012. Moyo has been charged with “intimidating” the Station Commander of the Primrose Police Station, in terms of section 1(1)(b). His trial in the Germiston Regional Magistrate’s Court has been postponed until this constitutional challenge is finally determined. The matter will be heard in the Pretoria High Court on 1 and 2 September 2015.

Legal challenge to Intimidation Act

State v Ntombela and 19 Others (Ntombela)

SERI currently represents 20 residents of the Thembelihle informal settlement who were detained for five nights after being arrested for public violence during a protest in February 2015. Initially, 33 residents – including 7 women, 19 men and 5 children – were arrested. They were forced to spend 4 nights in police custody because the police held them without charge for 24 hours. They were arrested on a Thursday but were only charged on Friday afternoon. This made it impossible for them to be brought before a court before Monday, and meant that they had to spend the weekend in prison. The State said that it required a further seven days to verify the addresses of the residents before bail could be granted, arguing that it was difficult to verify addresses of people living in “unnavigable informal settlements”. On 3 March, after hearing arguments from the State and SERI’s legal team, the Magistrate granted bail to all of the accused. However, because the cashier was closed by the time bail was granted, all of them had to spend a fifth night in prison.

Charges against the children were not pursued, and charges against 7 of the adults were withdrawn for lack of evidence. However charges against 20 residents are still being pursued, despite the fact that many of them deny that they were even part of the protest, and that they were arrested indiscriminately because their houses happened to be near the site of the protest.
3.3 Informal Trade

SOUTH AFRICAN INFORMAL TRADERS FORUM AND OTHERS V CITY OF JOHANNESBURG AND OTHERS (SAITF)

South African Informal Traders Forum and Others v City of Johannesburg and Others 2014 (4) SA 371 (CC)

SERI represents the South African Informal Traders Forum (SAITF) and over 1 200 informal traders who were forcibly removed from their trading sites as part of the City of Johannesburg’s Operation Clean Sweep campaign, undertaken in October 2013.

In November 2013, SAITF and other informal street traders launched an urgent application for an order stating that they are permitted to trade in a manner consistent with the City’s Informal Trading By-Laws, at the locations they occupied before their removal. The traders argued that they are in a desperate situation and needed to return to their livelihoods urgently. The second part of the application was a request for an order reviewing and setting aside the City’s decision to implement Operation Clean Sweep by removing the traders from their trading locations, not permitting them to return after they complied with a ‘verification and re-registration’ process, and relocating their trading rights to as yet unidentified ‘alternative designated trading areas’ (and to prohibit them from trading in the interim).

The urgent application was heard in November 2013 in the South Gauteng High Court. The City sought to have the SAITF application dismissed because of a lack of urgency, and Judge Ramarumo Monamo agreed, striking the urgent application from the roll for lack of urgency and ordering each party to pay costs. SAITF and the 1 200 traders then applied for leave to appeal the High Court decision to the Constitutional Court, which heard the matter in December 2014. The Court handed down an order interdicting the City from interfering with the traders at the locations they previously occupied, pending the determination of Part B of the application. In its April 2014 judgment, setting out the reasons for granting this order, Acting Chief Justice Dikgang Moseneke condemned Operation Clean Sweep as an act of “humiliation and degradation” which rendered thousands of people, and their children, destitute. The Court expressed concern that the City had described the eviction of several thousand informal traders as “convenient” and instead characterised Operation Clean Sweep as “indiscriminate” and “flawed”, finding that the City had “gone about achieving its objectives in flagrant disregard of the traders’ rights”.

Thembelihle arrested granted bail after 5 days in jail
SERI press statement (3 March 2015).

Rough and ready justice at the magistrate’s courts
Franny Rabkin, Business Day (5 March 2015).
Con Court condemns Operation Clean Sweep as an act of “humiliation and degradation”
SERI press statement (4 April 2014).

Good news for a change – especially for informal traders

Joburg’s Street Traders: Swept into a Corner

Evicted Johannesburg traders can return to inner city, court rules

JMPD officials disregard Con Court order, assault and arrest SERI lawyer
SERI press statement (5 December 2013).

Informal traders appeal to Con Court
SERI press statement (2 December 2013).

Informal Johannesburg traders’ bid not urgent, says judge

Under attack at home and at work: Operation Clean Sweep and the dark side of urban regeneration

Informal trader beaten by JMPD officers

SAITF in urgent court bid to assist informal traders
SERI press statement (20 November 2013).

Informal traders to take City of Joburg and JMPD to court over ‘Operation Clean Sweep’

SERI condemns the crack-down on informal traders in inner city Johannesburg
SERI press statement (23 October 2013).
4. ADVOCACY

SERI’s advocacy work plays a critical role in highlighting the findings from our research, the outcomes of court cases and the lived realities of our clients in order to inform policy, change government practice, influence public opinion and support community organising and mobilising. To this end SERI issues press statements and op-eds, conducts popular education and training, makes presentations, submits written comments on law and policy, and facilitates civil society coordination. SERI is a member of a number of campaigns and networks, including the Right to Know (R2K) campaign, the Good Governance Learning Network (GGLN), ESCR-Net, Marikana Support Campaign (MSC) and the Know Your Constitution (KyC) campaign.

4.1 Public Engagement and Opinion

Over the past 2 years SERI has issued 28 press statements and written 16 opinion pieces which have been picked up by the mainstream and online media, including Daily Maverick, Mail and Guardian, Business Day, The New Age, and openGlobalRights.

Over 100 articles and radio/TV interviews have been conducted on SERI’s research and litigation activities as a result, highlighting key issues in the public domain. Some of SERI’s press statements, op-eds and interviews over the period (not covered elsewhere in this report) are listed below.

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**OP-EDS**

- **Clean sweep of the poor is not constitutional**
  Dennis Webster, Mail and Guardian (17 April 2015).

- **Ke Molao Wa Rona: Joburg continues its anti-poor approach**
  Dennis Webster, Daily Maverick (27 February 2015).

- **Legalizing economic and social rights can help the poor: reflections from South Africa**
  Stuart Wilson, openGlobalRights (7 August 2014).

- **Without means, there are no real rights**
  Stuart Wilson, openGlobalRights (23 September 2014).

- **Dear Mr Grootes: A welfare state is a just state**
  Stuart Wilson, Daily Maverick (21 January 2014).

- **Information: the first step towards active citizenry**

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**PRESS RELEASE**

- **Nkandla report’s story: Taking from the poor to give to the rich**
  SERI press statement (20 March 2014).

- **Report argues housing ‘queue’ is a myth**
  SERI press statement (29 August 2013).
Podcast of radio interview with Stuart Wilson  

Podcast of radio interview with Stuart Wilson  
discussing the implications of the Public Protector’s Nkandla report and South Africa’s progress on human rights, Talk Radio 702 (21 March 2014).

Podcast of radio interview with Stuart Wilson and the MMC for Housing in the City of Johannesburg  
on Alexandra evictions, Talk Radio 702 (5 June 2014).

Podcast of radio interview with Kate Tissington and Xolani Xundu  
on housing waiting lists, Kaya FM (20 August 2014).

Podcast of radio interview with Stuart Wilson  

Socio-economic implications of the 2015 National Budget Speech  
TV panel discussion with Lauren Royston, ANN7 (25 February 2015).

SA housing: A better life for all?  
TV interview with Stuart Wilson, eNCA (12 March 2014).

Addressing South Africa’s housing backlog  
TV interview with Stuart Wilson, CNBC Africa (7 May 2014).

Forced removals and evictions could create a cycle of illegal squatting in SA  
Qama Qukula, Radio 702 (30 March 2015).

Young, black and angry – Little hope for millions  
Finweek (8 May 2015).

Gentrification in Johannesburg isn’t good news for everyone,  
Kenichi Serino, Al Jazeera America (4 March 2015).

Sona 2015: The walk falls short of the talk  
Laura Grant, Mail and Guardian (13 February 2015).

Sisulu drafting amendments to eviction laws  
Daneel Knoetze, GroundUp (4 February 2015).

Eviction by the back door  
Daneel Knoetze, GroundUp (1 December 2014).

Lwandle blame-game will not fix underlying housing issues  
Rebecca Davis, Daily Maverick (15 July 2014).

Illegal Durban evictions and the meaning of emancipatory democracy  

Avert forced removals by giving the rich’s land to the poor  
Jared Sacks, Mail and Guardian (6 June 2014).
4.2 Popular Education and Training

SERI’s popular education and training work is aimed at informing individuals, communities, and social movements of their rights and how to use them. In 2014 we partnered with SALGA to conduct workshops for government officials and politicians, which was a first for the organisation.

DULLAH OMAR SCHOOL FOR THE COMMUNITY ADVICE OFFICE SECTOR

Between 9 and 13 March 2015 SERI and the Local Government Action (LGA) alliance attended the inaugural Dullah Omar School for the Community Advice Office Sector, hosted by the Association for Community Advice Offices of South Africa (ACAOSA) and the Black Sash in Johannesburg. SERI and LGA presented a course module to community-based paralegals entitled “Understanding Local Government: An Activist’s Guide”. The aim of the module was to strengthen the community advice office (CAO) sector through facilitating an understanding of local government and its role and responsibilities.

INNER CITY BUILDING COMMITTEE WORKSHOPS

In August 2013, SERI hosted a workshop for over 100 residents living in inner city buildings provided by the City of Johannesburg, following the Olivia Road and Blue Moonlight Constitutional Court judgments. In April 2014 a follow-up workshop was held, attended by members of a number of inner city building committees involved in evictions litigation. Representatives from Abahlali baseMjondolo (AbM) and Informal Settlement Network (ISN) gave presentations on their organisations’ strategies and tactics, which fed into a broader discussion on mobilisation in the inner city context. In March 2015 a third workshop was held, attending by 40 people from 14 inner city buildings. The aim of the workshop was to share experiences across the different buildings and discuss a collective way forward on issues of evictions and affordable rental housing in the inner city.
DEAR MANDELA AUDIENCE ENGAGEMENT PROJECT

In 2014 SERI partnered up with the filmmakers of the documentary film *Dear Mandela*, and Local Government Action (LGA), to host two pilot audience engagement workshops. The workshops consisted of a screening of the film followed by a facilitated discussion to explore the main themes of the film and an interactive training session which used the film as a springboard to discuss illegal evictions, the right to protest and ways to engage local government officials. The first workshop was held in May 2014 in Lindelane informal settlement outside Daveyton, with approximately 40 participants. In September 2014 a second workshop took place in Diepkloof, Soweto, co-hosted by Soweto Concerned Residents (SCR) and attended by approximately 20 community activists.

In May 2015 the *Dear Mandela* audience engagement project was officially launched at the Women’s Gaol at Constitution Hill. The project includes a national screening tour, a series of community workshops throughout the country, and a toolkit aimed at informing communities of their rights and helping them to organise and mobilise around these rights.

**Dear Mandela Stories website**

(May 2015).

SALGA AND SERI EVICTION LAW WORKSHOPS

In 2014 and 2015 SERI partnered with the South African Local Government Association (SALGA) to host a series of provincial workshops to present the law related to evictions and alternative accommodation. These workshops aimed to enable officials and politicians to develop more appropriate and constitutionally compliant responses to housing and eviction-related issues in their jurisdictions. The workshops were attended by local and provincial government officials responsible for housing, planning, infrastructure and legal compliance, as well as councillors.

- **Eastern Cape:** On 18 September 2014, a workshop was held in East London, with over 40 local government officials and councillors from various municipalities and departments.

- **KwaZulu-Natal:** On 2 October 2014 a workshop was conducted in Durban, attended by approximately 60 government officials and councillors from various municipalities and departments.

- **Western Cape:** On 28 October 2014 a workshop was held in Caledon, attended by over 50 government officials and councillors from various municipalities and departments.

- **Gauteng:** On 10 June 2015 a workshop was held in Johannesburg attended by over 20 officials from municipalities in the province from various departments.
TENANT RIGHTS WORKSHOP

In October 2014 SERI and CUBES conducted a workshop on tenants’ rights and the law related to rental housing in South Africa for approximately 30 tenants from Yeoville and Rosettenville, two areas where tenants remain particularly vulnerable. The workshop was based on the rental housing guides developed and published by SERI and CUBES in October 2013.

4.3 Submissions

During the reporting period SERI made submissions on the following by-laws, amendments and court rules:

SOUTH AFRICA’S NATIONAL REPORT TO HABITAT III

At the request of the Department of Human Settlements, SERI provided written inputs and comments on South Africa’s National Report to the Third United Nations Conference on Housing and Sustainable Urban Development (Habitat III). The report was formally submitted to UN-HABITAT in September 2014, before the first meeting of the Preparatory Committee for Habitat III.

LWANDLE MINISTERIAL ENQUIRY

In September 2014, SERI made submissions before the Lwandle Ministerial Enquiry, established by the Minister of Human Settlements to investigate the circumstances under which the violent eviction of over 800 residents of the Lwandle community in Cape Town took place on 2 and 3 June 2014. SERI’s submission briefly summarised eviction law in South Africa, and examined three cases where the constitutional and legislative protections for unlawful occupiers were circumvented: Zulu, Fischer and Lwandle.

HUMAN SETTLEMENTS BUDGET VOTE SPEECH

In July 2014 SERI submitted written comments to the Budget Vote Speech of the Minister of Human Settlements in accordance with the Minister’s call for debate on housing in the country. SERI welcomed various aspects of the speech, including the acknowledgement that the rate of delivery of state-subsidised housing has been in decline and that there is no credible data against which municipalities can verify the allocation of state-subsidised housing. Issues of concern included the lack of any engagement with informal settlement upgrading and the problematic assumption that social housing could provide low-cost rental accommodation for the urban poor.
In February 2014 SERI made written comments to the Rules Board for Courts of Law on the proposed amendment of Rule 46 of the Uniform Court Rules and Rule 43 of the Magistrates’ Court Rules, the court rules regulating the sale in execution of a debtor’s home to satisfy a judgment debt. At present the Rules provide for sales in execution “without reserve”. The Rules Board proposes that courts should, in the exercise of their judicial oversight function, be able to set the reserve price at which a sale in execution of primary residential property should commence. SERI supported the proposed amendment provided that the setting of reserve prices is made mandatory and that reserve prices are linked to the value of the property in question. This would provide significant protection to poor debtors who are at risk of losing their accommodation and most valuable financial assets.

In December 2013 SERI submitted written comments to the City of Johannesburg on their Draft By-Laws on Problem Properties. The submission stated that there are a number of problematic aspects with the by-laws, including the following: they fail to take into consideration the Abahlali decision of the Constitutional Court; they will encourage evictions and homelessness; they fail to provide for meaningful engagement; and they contain vague provisions, over-broad powers and unfettered discretion.
**4.4 Convening**

**COMMISSIONING THE PRESENT: MARIKANA AND ITS AFTERMATH**

For over two years the Marikana Commission of Inquiry has been the site of struggles over the narratives, meanings, and implications of the events that took place at Marikana in August 2012. From 7 to 9 May 2015 SERI and the Wits History Workshop hosted a convening entitled “Commissioning the Present: Marikana and its Aftermath” to allow participants in the Commission and scholars to come together to consider the development of these narratives and stories, and to place both the massacre and the Commission in context. The three days of the convening provided spaces for discussion and disagreement, and for the development of new political and social narratives.

*Final programme booklet*  
(May 2015).

**4.5 Civil Society Coordination**

**SOUTH AFRICA RATIFIES ICESCR**

In January 2015 SERI was extremely pleased to receive the news that the South African government had ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR). This will enter into force on 12 April 2015. Since 2012, SERI has been part of a civil society *ICESCR Ratification Campaign* to push the South African government to ratify the treaty. We now look forward to the government’s speedy ratification of, or accession to, the Optional Protocol to the ICESCR (OP-ICESCR) – an action that will consolidate South Africa’s role in advancing the rights of poor people around the world to a decent standard of living.

*SERI welcomes SA government’s ratification of ICESCR*  

*Human rights ‘made whole’*  
PUBLIC INTEREST LAW GATHERING (PILG)

In July 2014 the fourth annual Public Interest Law Gathering (PILG) was held at the School of Law, University of the Witwatersrand. The event brought together public interest legal practitioners and organisations, law students, paralegals, social movement leaders and legal academics to share and develop knowledge. PILG is organised through a coordinating committee consisting of Wits School of Law, SALC, CALS, LHR, Section 27, LRC, SLSJ, ProBono.Org and SERI. SERI organised three panels on the following issues: Policing, Protest and the Criminal Justice System post-Marikana; Informal Trading, Access to Livelihoods and Municipal By-Laws; and Popular Representations of Human Rights and Public Interest Law.

SOUNDBOARD MEETING ON THE DEVELOPMENT OF RELOCATION GUIDELINES

In June 2014 SERI and ProBono.Org hosted a soundboard meeting on the development of guidelines to the implementation of large-scale relocations in eviction cases and instances of voluntary relocation. The soundboard meeting was attended by representatives from various civil society organisations and legal NGOs, and provided an opportunity for SERI to present its draft guidelines to the group. The guidelines draw on the legal principles that govern relocations, as developed through case law, as well as SERI’s practical experience in implementing relocations. The guidelines will be published in 2015.

HUMAN RIGHTS COUNCIL ENDorses GUIDING PRINCIPLES ON SECURITY OF TENURE FOR THE URBAN POOR

On 27 March 2014 SERI, together with the Community Law Centre (CLC) and CALS, issued a press statement expressing concern that the South African delegation at the 25th Session of the Human Rights Council (HRC) in Geneva was attempting to ‘water-down’ an important resolution on adequate housing as a component of the right to an adequate standard of living with a number of last minute amendments. After weeks of negotiation the resolution was due to be adopted at the HRC on 28 March. However proposed last minute amendments by the South African delegation threatened to halt the adoption of the resolution.

The resolution recognises that security of tenure enhances the enjoyment of the right to adequate housing and is significant to the enjoyment of many other socio-economic and civil and political rights. It was the culmination of a two year process in which the South African government actively engaged, including participating at the African regional consultation on security of tenure for the urban poor which was convened by the UN Special Rapporteur on Adequate Housing in Johannesburg. This process led to the development of guiding principles on security of tenure for the urban poor. Due to pressure by civil society the resolution was adopted without a vote or any changes to the text, which was welcome by SERI, CLC and CALS.
4.6 Presentations and Panels

During 2013 and 2014 SERI staff members made presentations or participated in panel discussions at the following conferences, workshops and events:

**SAHRC NATIONAL HEARING ON ACCESS TO HOUSING, LOCAL GOVERNANCE AND SERVICE DELIVERY**

In February 2015 Stuart Wilson was invited to sit as a member of a panel constituted for the South African Human Rights Commission’s first National Hearing on Access to Housing, Local Governance and Service Delivery. The panel also consisted of Commissioners Pregs Govender and Mohamed Shafie Ameermia. The hearing, which took place between 23 and 25 February 2015, was inquisitorial in nature with the primary objective being to enlighten the Commission as to the causes of the violations currently being experienced by affected communities, as well as the challenges experienced by local, provincial and national spheres of government in addressing them. A number of government departments, metropolitan municipalities, statutory bodies and civil society groups gave presentations.

**Commission shifts focus to service-delivery issues**


**TWENTY YEARS OF SOUTH AFRICAN CONSTITUTIONALISM**

In November 2014 SERI attended a symposium hosted by New York Law School on Twenty Years of South African Constitutionalism: Constitutional Rights, Judicial Independence and the Transition to Democracy. Participants at the event included constitutional law experts, law and society scholars, legal educators and public interest lawyers. SERI honorary senior researcher Jackie Dugard presented a paper on direct access to the Constitutional Court for a panel on The Constitution and Access to Justice while SERI staff members Stuart Wilson, Tashwill Esterhuizen and Mbekezeli Benjamin presented papers on a panel called New Frontiers in Social Rights: The Socio-Economic Rights Institute of South Africa.
BERTHA JUSTICE INITIATIVE WOMEN’S WORKING GROUP

In October 2014 the Bertha Justice Initiative brought together a group of women human rights lawyers for the first gathering of the Women’s Working Group (WWG) in Berlin. The gathering was hosted by the European Center for Constitutional and Human Rights (ECCHR) and was attended by women lawyers from human rights organisations across the world, including Nomzamo Zondo and Princess Magopane from SERI. Nomzamo took part in a public panel discussion on Being a Radical Female Lawyer: Challenges and Vision, where participants made compelling contributions on what it means to be a radical female lawyer in patriarchal societies and male-dominated legal environments.

SOUTH AFRICA: TWENTY YEARS AFTER APARTHEID

In September 2014 Nomzamo Zondo presented on informal trade struggles on a panel on Contemporary Social Movements at the South Africa: Twenty Years after Apartheid conference in New York City. The conference was hosted by the Roosevelt House Public Policy Institute at Hunter College and marked the 20th anniversary of the establishment of South Africa’s constitutional democracy. It considered issues facing South Africa today including human rights, governance, politics, economic development and inequality, social movements, identity, and international relations.
THE URBAN LAND QUESTION: ADDRESSING INEQUALITY THROUGH EXPROPRIATION

In August 2014 Lauren Royston and Michael Clark attended a roundtable discussion on urban land and land use tools available to address urban spatial segregation, hosted by Ndifuna Ukwazi in Cape Town. Lauren Royston presented on access to affordable accommodation in Johannesburg inner city.

BERTHA JUSTICE INSTITUTE’S SOCIAL JUSTICE CONFERENCE

In June 2014 Nomzamo Zondo and Kate Tissington attended the 2014 Social Justice Conference hosted in New York City by the Bertha Justice Institute and the Centre for Constitutional Rights (CCR). The conference celebrated the 50th anniversary of Freedom Summer by profiling global and domestic models of “movement lawyering” - lawyers and organizers working together within grassroots social justice movements to build power. Nomzamo presented on a panel entitled The Future of Work: Labor Rights, Retaliation, Corporate Accountability and Worker Organizing, discussing the implications of the Marikana massacre.


In February 2014 Nomzamo Zondo presented on SERI’s work at the Marikana Commission at a seminar co-hosted by Ndifuna Ukwazi and Equal Education in Cape Town entitled What happened at Marikana? The mines, the police, the state.

REGIONAL CONSULTATION ON PROTECTION OF ECONOMIC AND SOCIAL RIGHTS IN CONSTITUTIONS

In November 2013 Jackie Dugard presented on a panel at the Regional Consultation on Protection of Economic and Social Rights in Constitutions held in Cairo, Egypt. The consultation was organised by the UNDP-Regional Center in Cairo in collaboration with Ford Foundation, IDEA, Arab Institute for Human Rights, Arab Organization for Human Rights, Egyptian Centre for Economic and Social Rights, and Egyptian Initiative for Personal Rights.

STUDENTS FOR LAW AND SOCIAL JUSTICE (SLSJ) NATIONAL CONFERENCE

In August 2013 Kate Tissington and Stuart Wilson presented at the 2013 Students for Law and Social Justice (SLSJ) National Conference on the right to water and sanitation and service delivery protests respectively.
4.7 Teaching

SERI staff members were also involved in a number of teaching activities at the University of the Witwatersrand:

- Stuart Wilson was course coordinator and senior lecturer for the compulsory third year LLB course Property Law, taught at the Wits Law School (2013 to 2015).
- Jackie Dugard was a lecturer on the third year LLB course Property Law (2013 to 2015).
- Kate Tissington was course coordinator for the Housing Law module of the *Housing Finance and the Law* course, taught as part of the MBE programme at the School of Architecture and Planning (2013 and 2015).
5. FINANCIAL STATEMENTS

SERI is registered as a law clinic with the Law Society of the Northern Provinces, and accredited by the Johannesburg Bar Council as a public interest law centre. SERI was registered as a Section 21 Not-For-Profit Company in terms of the South African Companies Act in October 2009. It has Non-Profit-Organisation status (NPO No. 077-530-NPO) and is registered as a Public Benefit Organisation with the South African Revenue Services (SARS).

SERI’s accounts are audited every six months by Douglas & Velcich Chartered Accountants. Below are SERI’s audited financial statements for the year 28 February 2015.

5.1 Statement of Financial Position as at 28 Feb 2015

<table>
<thead>
<tr>
<th></th>
<th>2015 R</th>
<th>2014 R</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ASSETS</strong></td>
<td>11 631 296</td>
<td>8 132 478</td>
</tr>
<tr>
<td>Non current assets</td>
<td>539 016</td>
<td>358 178</td>
</tr>
<tr>
<td>Equipment</td>
<td>539 016</td>
<td>358 178</td>
</tr>
<tr>
<td>Current assets</td>
<td>11 092 280</td>
<td>7 774 300</td>
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<tr>
<td>Accounts receivable</td>
<td>401 126</td>
<td>308 317</td>
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<tr>
<td>Accrued income</td>
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</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>10 211 733</td>
<td>7 465 983</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td>11 631 296</td>
<td>8 132 478</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2015 R</th>
<th>2014 R</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RESERVES AND LIABILITIES</strong></td>
<td>11 631 296</td>
<td>8 132 478</td>
</tr>
<tr>
<td>Reserves</td>
<td>1 573 299</td>
<td>1 192 942</td>
</tr>
<tr>
<td>Accumulated surplus</td>
<td>556 958</td>
<td>530 183</td>
</tr>
<tr>
<td>Equipment fund</td>
<td>539 016</td>
<td>358 178</td>
</tr>
<tr>
<td>Retrenchment fund</td>
<td>477 325</td>
<td>304 581</td>
</tr>
<tr>
<td>Current liabilities</td>
<td>10 057 997</td>
<td>6 939 536</td>
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<tr>
<td>Accounts payable</td>
<td>298 175</td>
<td>392 051</td>
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<tr>
<td>Deferred income</td>
<td>9 759 822</td>
<td>6 547 485</td>
</tr>
<tr>
<td><strong>Total reserves and liabilities</strong></td>
<td>11 631 296</td>
<td>8 132 478</td>
</tr>
</tbody>
</table>
## 5.2 Statement of Comprehensive Income for the Year Ended 28 Feb 2015

<table>
<thead>
<tr>
<th></th>
<th>2015</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INCOME</strong></td>
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<td></td>
</tr>
<tr>
<td>Grants and donations</td>
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<td>11 827 848</td>
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<tr>
<td>Fees received</td>
<td>309 814</td>
<td>87 461</td>
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<tr>
<td>Interest earned</td>
<td>298 1 53</td>
<td>204 435</td>
</tr>
<tr>
<td>Sundry income</td>
<td>333 81 3</td>
<td>84 815</td>
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<tr>
<td><strong>EXPENDITURE</strong></td>
<td>12 589 130</td>
<td>11 501 765</td>
</tr>
<tr>
<td>Accounting fees</td>
<td>403 431</td>
<td>303 382</td>
</tr>
<tr>
<td>Audit fees</td>
<td>45 388</td>
<td>18 961</td>
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<tr>
<td>Bank charges</td>
<td>20 324</td>
<td>20 324</td>
</tr>
<tr>
<td>Computer and website costs</td>
<td>103 455</td>
<td>103 455</td>
</tr>
<tr>
<td>Consulting fees</td>
<td>27 51 5</td>
<td>20 857</td>
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<tr>
<td>Donations</td>
<td>410 300</td>
<td>76 761</td>
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<tr>
<td>Insurance</td>
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<td>9 589</td>
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<tr>
<td>Office supplies</td>
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<td>66 030</td>
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<td>Printing, postage and stationery</td>
<td>25 314</td>
<td>32 394</td>
</tr>
<tr>
<td>Programme costs</td>
<td>4 274 710</td>
<td>5 208 847</td>
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<tr>
<td>Rent, security, water and electricity</td>
<td>489 070</td>
<td>351 255</td>
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<tr>
<td>Repairs and maintenance</td>
<td>345 057</td>
<td>86 016</td>
</tr>
<tr>
<td>Salaries, wages and contributions</td>
<td>5 859 190</td>
<td>4 823 678</td>
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<tr>
<td>Staff training, welfare and recruitment</td>
<td>22 536</td>
<td>7 620</td>
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<tr>
<td>Strategic planning</td>
<td>84 739</td>
<td>53 242</td>
</tr>
<tr>
<td>Telecommunications</td>
<td>58 961</td>
<td>-</td>
</tr>
<tr>
<td>Travel and accommodation</td>
<td>161 795</td>
<td>282 032</td>
</tr>
<tr>
<td>Workshops, conferences and seminars</td>
<td>130 971</td>
<td>37 322</td>
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<tr>
<td><strong>SURPLUS FOR THE YEAR</strong></td>
<td>528 400</td>
<td>702 794</td>
</tr>
</tbody>
</table>
## 5.3 Statement of Changes in Reserves for the Year Ended 28 Feb 2015

<table>
<thead>
<tr>
<th></th>
<th>Accumulated surplus</th>
<th>Equipment fund</th>
<th>Retrenchment fund</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance at 28 February 2013</strong></td>
<td>219 852</td>
<td>237 666</td>
<td>124 482</td>
<td>582 000</td>
</tr>
<tr>
<td>Surplus for the year</td>
<td>702 794</td>
<td>-</td>
<td>-</td>
<td>702 794</td>
</tr>
<tr>
<td>Transfer (to) retrenchment fund</td>
<td>(180 099)</td>
<td>-</td>
<td>180 099</td>
<td>-</td>
</tr>
<tr>
<td>Transfer to equipment fund</td>
<td>(219 582)</td>
<td>219 582</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Transfer from equipment fund</td>
<td>7 218</td>
<td>(7 218)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Depreciation during the year</td>
<td>-</td>
<td>(91 852)</td>
<td>-</td>
<td>(91 852)</td>
</tr>
<tr>
<td><strong>Balance at 28 February 2014</strong></td>
<td>530 183</td>
<td>358 178</td>
<td>304 581</td>
<td>1 192 942</td>
</tr>
<tr>
<td>Surplus for the year</td>
<td>528 400</td>
<td>-</td>
<td>-</td>
<td>528 400</td>
</tr>
<tr>
<td>Transfer (to) retrenchment fund</td>
<td>(172 744)</td>
<td>-</td>
<td>172 744</td>
<td>-</td>
</tr>
<tr>
<td>Transfer to equipment fund</td>
<td>(328 881)</td>
<td>328 881</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Depreciation during the year</td>
<td>-</td>
<td>(148 043)</td>
<td>-</td>
<td>(148 043)</td>
</tr>
<tr>
<td><strong>Balance at 28 February 2015</strong></td>
<td>556 958</td>
<td>539 016</td>
<td>477 325</td>
<td>1 573 299</td>
</tr>
</tbody>
</table>
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