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# ESR Review

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Review in Africa

ENSURING **RIGHTS** MAKE REAL **CHANGE**



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**ESR Review**

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I also believe that citizens should understand the contents of these rights and should hold their governments accountable for their implementation. It is only quite recently that a lot of human rights non-governmental organisations are undertaking advocacy and monitoring on these rights.

**Honourable Commissioner Jamesina Essie L. King**

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## From the editor:

Welcome to the first issue of the ESR Review for 2018, which features three articles engaging with economic, social and cultural rights.

In the first, Sinethemba Memela and Tatenda Muranda argue that although the South African state has taken steps to provide housing to vulnerable groups, particularly the aged and people with physical disabilities, a range of other persons who require special-needs housing struggle to access state assistance. Among them are those with intellectual and psychiatric disabilities, victims of domestic abuse, orphans, the homeless, persons undergoing substance rehabilitation, and parolees, ex-offenders and juvenile offenders. The challenges these groups face are well illustrated by the Life Esidimeni tragedy, in which 94 mental health-care patients died at 16 non-governmental organisations and three hospitals from non-psychiatric conditions such as dehydration.

The second article, by Amar Roopanand Mahadew, reflects on how the model of the welfare state has been successfully applied in Mauritius, bringing 'a plethora of social and economic benefits' to citizens. Mahadew makes the case, however, that socio-economic rights should now be included in the country's bill of rights, which celebrates its fiftieth anniversary this year. At the moment, the constitution provides only for civil and political rights, so it is high time – as the Committee on Economic, Social and Cultural Rights has urged repeatedly – for it to include second-generation rights.

With the anniversary having prompted a great deal of constitutional debate, the article looks at how socio-economic rights could be introduced either as directive principles of state policies or as fully-fledged rights enforceable and justiciable in the South African style.

The third article, by Bright Nkrumah, reviews a constitutional court case in South Africa brought by the Black Sash Trust in the public interest and the interest of social grant beneficiaries. The crux of

the case is that it questions whether the South African Social Security Agency (SASSA) is able to pay some 17 million grant recipients in a lawful manner in line with constitutional rights and values. SASSA had previously outsourced grant disbursements to Cash Paymaster Services, but intended to take over payment again of social grants on 1 April 2017, at which point the Constitutional Court's supervisory obligations would lapse. However, the Black Sash wanted the Court's oversight role reinstated to ensure that SASSA complies with its constitutional obligations.

In this issue, the ESR Review interviews the Honourable Commissioner Jamesina Essie L. King, Chairperson of the Working Group on Economic, Social and Cultural Rights, at the African Commission on Human and People Rights (ACHPR). The Working Group is tasked, among other things, with the mandate to undertake research on economic, social and cultural rights. The ESR Review also highlights some of the developments at the United Nations Committee on Economic, Social and Cultural Rights and the ACHPR.

We hope you enjoy this issue.

**Gladys Mirugi-Mukundi**  
Co-Editor