



#3
Volume 18
2017

ESR Review

Economic & Social Rights
Review in Africa

ENSURING RIGHTS MAKE REAL CHANGE



DULLAH OMAR INSTITUTE
FOR CONSTITUTIONAL LAW, GOVERNANCE AND HUMAN RIGHTS

A publication of the Dullah Omar Institute for
Constitutional Law, Governance and Human
Rights (formerly Community Law Centre) at
the University of the Western Cape

ISSN: 1684-260X

A publication of the Dullah Omar Institute for Constitutional Law, Governance and Human Rights (formerly Community Law Centre) University of the Western Cape

Editor

Dr Ebenezer Durojaye

Co-editor:

Gladys Mirugi-Mukundi

Contact:

Socio-Economic Rights Project Dullah Omar Institute for Constitutional Law, Governance and Human Rights



University of the Western Cape
New Social Sciences Building
Private Bag X17, Bellville, 7535



Tel:
(021) 959 2950



Fax:
(021) 959 2411



Email:
serp@uwc.ac.za



Website:
www.dulahomarinstitute.org.za

ESR Review online

<http://dulahomarinstitute.org.za/our-focus/socioeconomic-rights/esr-review>

ESR Review

The ESR Review is produced by the Socio-Economic Rights Project of the Dullah Omar Institute for Constitutional Law, Governance and Human Rights, with the financial assistance of the Ford Foundation.

The contents of the ESR Review are the sole responsibility of the Socio-Economic Rights Project and can under no circumstances be regarded as reflecting the position of the Ford Foundation.

Production:

Dullah Omar Institute
Copyright © Dullah Omar Institute for Constitutional Law, Governance and Human Rights



Unfortunately, in situations of conflict, existing health services are usually overstretched and at best operate at rudimentary levels. In addition, they are forced to cope with injuries because of widespread violence, shortage of food, water, shelter as well as other socio-economic deprivations. As such, in giving humanitarian assistance, there is a possibility that food and shelter and other emergency health issues could be prioritized over the sexual and reproductive health needs of women and girls. No doubt, efforts have been made by various international bodies and States in providing sexual and reproductive health care services to those affected by armed conflict but not to the extent of adequately meeting the needs of a substantial number of those in need.

Aisosa Jennifer Isokpan

Contents:

Features



Realising the sexual and reproductive health needs of women affected by the Boko Haram insurgency in Nigeria

Some Recent Developments on Justiciability of Economic, Social and Cultural Rights

Updates



Developments at the United Nations

Developments in the African Region

Events



Roundtable focuses on access to food for tertiary students – 5 October 2017

The role of national human rights institutions in advancing sexual and reproductive health - 19 – 20 October 2017

Call for Contributions



From the editor:

This is the third issue of the ESR Review in 2017. It includes two feature articles that discuss critically important aspects of socio-economic rights – sexual and reproductive health rights; and recent developments on justiciability of economic, social and cultural rights. Considering recent global and regional developments on the issue of migration, the Issue includes updates from the Special Rapporteur on Refugees, Asylum Seekers, Displaced Persons and Migrants in Africa. It also contains updates from the United Nations with a focus on the work of the Special Representative of the United Nations Secretary-General on Migration.

The first feature is by Aisosa Jennifer Isokpan, who assesses the unmet sexual and reproductive health needs of women affected by the Boko Haram insurgency, especially among the internally displaced populations.

The second feature by Eric Ayemere Okojie and Peace O. Folorunsho explores emerging and recent developments on justiciability of Economic, Social and Cultural Rights.

The timing of this Issue could not have been more timely and apt. It coincides with the landmark and game changing decision by the AU Assembly in January 2018 in Addis Ababa, Ethiopia to facilitate free movement of persons in Africa. The assembly adopted the Protocol to the Treaty Establishing the

African Economic Community Relating to Free Movement of Persons, Right of Residence and Establishment, and its Implementation Roadmap. The adoption of the protocol brings Africa closer to socio and economic integration; visa-free travel and streamlined residence permit processes like those enjoyed in the European Union and the Americas.

The Protocol will remove barriers of trade, investment and tourism as it promotes the right of African nationals to move freely, reside, work, study or do business in any of the 55-member states of the continental body.

This Protocol is timely as the issues of migration and the migrant situation have been a major concern in Africa. The plight of refugees, migrants and asylum seekers has received unprecedented global attention as stories of desperation, death and mistreatment multiply and are highlighted in the media almost daily. Spurred by sociocultural and political injustices, adverse economic conditions, conflict, and war, thousands of Africans make the perilous journey across the Mediterranean each year hoping for a better life in Europe.

The Protocol which is anchored in the Abuja treaty was preceded by many rounds of negotiations in Seychelles, Accra, Kigali, Addis Ababa, and Mauritius leading to a consensus around the phased implementation of people's right of entry by 2023. The free movement of people and goods proved a controversial and divisive issue with countries wanting the reassurance of the plausible negative impact on the Protocol on issues such as border security in wake of terrorism and social and economic concerns in the wake of the fear of being inundated with job seekers from less developed nations amidst competition over scarce resources that have at times given rise to xenophobia and violence.

The aim of the Protocol is to “progressively achieve the free movement of persons and to ensure the enjoyment of the right of residence, establishment, and access to gainful employment in the host countries.” The Protocol envisages that “the free movement of persons, capital, goods and services will promote integration, Pan-Africanism, enhance science, technology, education, research and foster tourism, facilitate intra-Africa trade and investment, increase remittances within Africa, promote mobility of labour, create employment, improve the standards of living of the people of Africa and facilitate the mobilization and utilization of the human and material resources of Africa in order to achieve self-reliance and development.”

The Protocol is a precursor to a major African Union (AU) project of establishing the Continental Free Trade Area (CFTA) which is envisioned to “create a single continental market for goods and services. The envisioned free movement of people, labour, and capital as essential factors of production has been hailed to “enhance competitiveness at the industry and enterprise level through exploiting opportunities for scale production, continental market access and better reallocation of resources.” The adoption of the Protocol on free movement of persons is a big step toward Africa's economic integration and is a welcome development in migration governance and policy in Africa. It is therefore essential that all AU Member States adopt and implement the Protocol. In addition, the AU, Regional Economic Communities (RECs) and various stakeholders including the private sector, universities, civil society, think tanks and African citizens should promote and support effective implementation of the Protocol.

We acknowledge and thank all the guest contributors to this issue. We trust that readers will find it stimulating and useful in the advancement of socio-economic rights, especially the rights of the poor and most vulnerable groups of society.