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# ESR REVIEW

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Review in Africa

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



A publication of the Dullah Omar Institute for  
Constitutional Law, Governance and Human  
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the University of the Western Cape

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# Editorial

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Welcome to the third issue of the ESR Review in 2018, where the spotlight falls on issues linked to the right to health: restricted access to abortion services in Uganda, poor prison conditions in Mozambique, and a constitutional court case limiting that right's scope of application.

The first feature, by Lucía Berro Pizzarossa, deals with the Universal Periodic Review (UPR). This is a process which by nature aims to be 'non-confrontational' and 'non-politicised', and is thus an ideal opportunity to assess states' compliance with their international obligations on the right to sexual and reproductive health – specifically, the right to access abortion services.

Pizzarossa examines the UPR recommendations concerning abortion. These have increased significantly in number, which points to the growing visibility and importance of abortion issues. In particular, the call for decriminalisation requires that states review the criminal consequences women face when seeking abortions. Pizzarossa argues that a state's acceptance of the UPR recommendations is a clear expression of its commitment to supporting and engaging with UN monitoring mechanisms in advancing these rights.

In our second feature, Bright Sefah assesses the right to health of prisoners in Mozambique and delves into factors contributing to their deplorable living conditions. He maintains that although an incarcerated person's liberty has been taken away by virtue of serving a sentence, this person does not lose the entirety of his or her human rights and must continue to enjoy certain basic entitlements.

In a case-review article, Robert Doya Nanimba critiques the way in which courts in Uganda use the so-called 'political question doctrine' when making rulings on what the highest attainable standard of health is in the country. The centrepiece of his analysis is *Centre for Health Human Rights & Development & 3 Others v Attorney General*. In this case, the Constitutional Court uses the political question doctrine to strike down an application testing the constitutionality of various aspects of the right to health.

In the events section, we report on a roundtable discussion on Human rights and Governance Implications of the Water Crisis in the City of Cape Town, held 6 March 2018, and a side event hosted as a Panel Session at the African Commission on Human and Peoples' Rights on the Social Security as a Human Right Imperative (30 April 2018).

We thank our guest contributors, and hope you enjoy this issue.

**Gladys Mirugi-Mukundi**  
**Co-editor**

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**The UPR is an ideal opportunity to assess states' compliance with their international SHR obligations**