



# CLES *InPress*

## NEWSLETTER

THE STUDY TOUR ISSUE - AUGUST 2019



National  
Research  
Foundation



# INTERACTIVE NAVIGATION





Dear Reader,

It's almost surreal that we are already in the third quarter of the year. With less than five months left of 2019, we certainly hope that you have had just as exciting, productive, informative and adventure-filled few months as the CLES-team has had.

We are therefore glad to be able to let you in, in the second issue of CLES *InPress*, on the activities that went down here at CLES. As you will see, the CLES team has been travelling nationally and internationally, adding much value to our research.

There have been many developments in the realm of cities, law, and environmental sustainability in the last few months. South Africa recently submitted its first Voluntary National Review (VNR) on its progress in the implementation of Agenda 2030 on Sustainable Development. Significant progress has been made on the implementation of SDG 11 in making cities and human settlements inclusive, safe, resilient, and sustainable. However, the VNR points out that fragmentation remains an issue of concern. The City of Cape Town has been in the news for a variety of reasons, including fighting for a right to purchase power from independent power producers (IPPs) rather than solely from Eskom, and the drafting of a beach by-law for the protection of its coastline. In other news, the Department of Water & Sanitation is taking the Chris Hani District Municipality to court over its mismanagement of Cradock's sewage system, Nersa rejected Tshwane's fixed charges and proposed power tariffs, and the Afrobarometer reports that one in four people in Africa has to pay a bribe to access services. These news updates indicate that there is never a dull moment in our field.

***“We are excited for the first CLES and SALGA Annual National Postgraduate Student Conference ”***

The CLES team realised how “nose in the books” we are, through our engagement with the municipalities during the 2019 CLES Study Tour. We learned that municipalities are more than just organs of state and that they are made up of warm bodies who see to the effective functioning of duties extending beyond mere service delivery. It is often underestimated how much goes into the day-to-day functioning of municipalities in our country.

We are excited about what lies ahead, especially for the CLES and SALGA First Annual National Postgraduate Student Conference on Local Government & Urban Governance, which is to be held in Potchefstroom from 27-28 November 2019.



On behalf of the team, we wish you all the best for the months ahead, and as always, we hope that you will be enriched and inspired by the developments captured in this newsletter, and most of all that in future you will eagerly look forward to the next issue of CLES *InPress*!

*Ms Melandri Steenkamp*  
Guest Editor: CLES *InPress*





The period between the inaugural edition of CLES *InPress* and this second edition flew by extremely fast. This testifies to the many activities the CLES family has been busy with in the past few months. In addition to what you will read in this newsletter, the students made very good progress with their masters and PhD proposals. Their research projects certainly will make a meaningful contribution to the field of local government law and city governance in South Africa in the coming two to three years.

One of the highlights of the past months has been the 2019 CLES Study Tour. The tour was sponsored by the

**“We were inspired by the energy and dedication of so many municipal officials”**

Office of the DVC: Research and Innovation (NWU) and enabled the CLES team to pay on-site visits to four of South Africa’s municipalities. During July we visited the City of Johannesburg, the City of Tshwane, the City of Cape Town and Drakenstein Municipality. We were warmly welcomed at all these municipalities and the most enlightening discussions were held. We managed to get insights that no book or scholarly journal can offer. We were struck by the innovative thinking, progressive projects and strategic planning happening in our cities, as well as by the relationships our municipalities are forging with the private sector and communities. We were further inspired by the energy and dedication of so many municipal officials. They are in this job because of their commitment to a better South Africa and urban spaces to be proud of.



This newsletter also showcases the CLES Fellows, people that I am personally extremely fortunate to work with. These people help shape academia, governance efforts, law and policy reform in their daily doings.

**“We were struck by the innovative thinking and progressive projects and strategic planning happening in our cities”**

They are respected colleagues, and I am grateful to have them as part of the foundational years of the Chair. As their short profiles show, it was only through years of dedication that they have reached success and work satisfaction.

The bits and pieces of news and the insight pieces in this newsletter reminded me once again of the dynamics and relevance of the research area of CLES. With dedication, imagination and the commitment of “the governors” and “the governed”, we can turn every city in South Africa into safe, resilient, inclusive, and environmentally sustainable spaces. And because we can, we should.

**Prof Anél du Plessis**

SARChI Chair: Cities, Law and Environmental Sustainability





Towards the end of 2018 the Faculty was informed that it had been awarded its very first NRF South African Research Chair. The CLES Research Chair, with Prof Anél du Plessis at the helm, could not have come at a better time for the Faculty of Law. We were still in the early stages of our journey as a unitary Faculty with many new challenges and our main focus was on the proper implementation of the LLB Improvement Plan.

The award of the Chair was a reminder and acknowledgment not only of the hard work of Prof du Plessis and was also the culmination of the scholarly excellence of several researchers in the Faculty, particularly in the field of environmental law and governance. CLES was founded in the Faculty as a natural extension of its core business, and is evidence of the importance of research in the Faculty.

*“the work done by CLES is ultimately to serve the community”*

Keeping in mind that the Chair started its work in January 2019, one can only stand in awe of what has been achieved so far, as is apparent from this newsletter, in such a short time. It is also evident from its activities and the extent of the participation by other Faculty members that CLES is an integral part of the Faculty and will remain so.

As is the case with the Faculty, the purpose of the work done by CLES is ultimately to serve the community of South Africa and to make a positive contribution to its



future. The research at CLES is of importance to everyone in the country. It has the potential to make a difference in the lives of many. It is therefore heartening to see the networking done by the members of CLES, the partnerships formed and the cooperation with government, international organisations and practitioners. It is not only the performance of research that is important, however. The mentoring and capacity building that happens at CLES is of great importance. It changes the lives of its scholars. CLES is contributing immensely to the vision and mission of the Faculty and serves as an example of what can be done.

*“CLES is contributing immensely to the vision and mission of the Faculty of Law”*

The Faculty, including CLES, is privileged to be able to continue to build on what was previously achieved by many individuals on the different campuses. We are privileged to be able to work together and make a contribution, both individually and as a Faculty, to the future of local governance and environmental sustainability in South Africa.

*Prof Stephen de la Harpe  
Executive Dean*





## STIMULATION OF THE TOWNSHIP ECONOMY IN THE PROVINCE OF GAUTENG

CLES, the South African Cities Network, the Premier's Office in Gauteng and many other partners have a research project underway which focusses on revitalising the township economy in Gauteng. Studies done by the Premier's Office revealed that the informal economic sector, especially in townships, could be the key to solving Gauteng's high unemployment rate. The Premier's Office further identified that attention should be given to stimulating the township economy, because job creation in the informal sector is reliant on the success of small, informal business enterprises. A research project is underway to determine what role a draft standard bylaw may play in the leveraging the potential of township economies in Gauteng. The project aligns with Policy Lever 6 of South Africa's Integrated Urban Development Framework (IUDF):

*Support urban livelihoods as a core principle of inclusive urban management*

Progressive approaches to the informal economy should be adopted. Township panel beaters, hairdressers, cell phone repairers, artists, recyclers, waste pickers, mechanics, craftsmen, street traders and home-based industries all have a part to play in growing the economy. In the context of mass unemployment, government

needs to support all kinds of entrepreneurial activity, both directly and by not imposing undue restrictions on their operations. Government needs to develop an understanding of, and policies for, the informal economy, which will enable municipalities to manage it more coherently and also help to enhance the sector's economic potential. This will affect various (mostly municipal) functions in terms of planning (zoning and bylaws) and supporting the provision of infrastructure through to taxation, licensing and regulation. Informal trade and informality should also be considered in spatial planning policies. Furthermore, municipal land-use policies should consider informal economic activities and find ways to accommodate sustainable livelihoods to the greatest extent possible.



# UrbanLex

## The Urban Law Database

### URBAN LEX

Urban Lex is a programme run by UN-Habitat, the Human Settlements Programme of the United Nations. This programme serves as a depository for sources of the urban law of member states, including legislation and policy. This repository contains the original national legislation and by-law documents, as well as an English version thereof. The aim is thereby to improve accessibility to the urban law of all member states. CLES recently joined the programme and committed to translating and uploading South African urban law into the Urban Lex depository.

**Link:** <http://urbanlex.unhabitat.org>





CLES is fortunate to have a number of “Fellows”. These are colleagues in the fields of environmental, local government and urban law and governance with years of experience and who are widely recognised for their contribution to these fields. In this edition of *CLES InPress* we profile these inspiring people:



## Willemien du Plessis (Professor of Law, Faculty of Law, NWU)

Willemien was born in Welkom, grew up in Johannesburg, and has called Potchefstroom home since 1984. Her undergraduate studies (B Jur) were funded by the Department of Justice, after which she worked as clerk of the court and then as a prosecutor. After completion of her LLB, Willemien commenced with full time doctoral studies. During April 1984 she took up a position as a lecturer. During the first two years of her study she had the opportunity to visit Germany, the Netherlands and the USA, where she wrote the comparative chapters of her thesis. Through sheer dedication she was able to complete her LLD qualification in two years, while still being responsible for teaching etc.

She specialises in matters of South African environmental law, legal pluralism, legal history and land law. Willemien’s research is not restricted to a single field and may be described as interdisciplinary and multi-disciplinary. Her primary interest lies in the intersection of environmental governance and environmental management from various perspectives. Her interest in other research fields coincides with the themes she researches in environmental law, the focus of which is mainly on South African law (with some comparative work), especially EIAs, environmental governance, environmental management, energy law, and mining law. Willemien draws inspiration from life - life is too

short to sit and feel sorry for oneself. There are so many interesting things that one can see or read, places to visit or find out what is happening around you. Her only regret is that she will probably not be able to achieve all she would like to do in her life as an academic. Being a CLES Fellow is an honour for her because it provides a great opportunity for students to achieve their ideals in a short period, exposing them to experts from various backgrounds. She enjoys participating in CLES’ activities and engaging with the students and their research. In her view, it also presents an opportunity for her to learn from other experts in the field. Her one wish for local government and city governance is that local government should be allowed to function without political interference and that municipalities of all sizes be able to appoint people with the necessary expertise. Local government is the place where the Constitution should be seen to be in action and where it should achieve social justice. In her spare time, which is not in abundance, Willemien reads as much as she can and her husband takes her on holidays into the wild, where there is no internet and where she has no other choice but to relax. But even then, she manages to read a few pieces of her students’ work under the trees.

~B Jur, LLB, MA (Environmental Management), LLD





## Oliver Fuo (*Associate Professor, Faculty of Law, NWU*)

Oliver was born in CDC Lysoka, a small village at the outskirts of Buea Town in the South-West Region of Cameroon. His parents hail from Wum in the North-West Region of Cameroon. Currently he is based in Potchefstroom. His professional career started in 2015 at the Faculty of Law, University of the Free State, as a Senior Lecturer in the Department of Public Law. This followed the completion of his doctoral and postdoctoral studies at the North-West University, Potchefstroom Campus, from 2010 to 2014. Prior to moving to Potchefstroom in 2010 he completed his LL.M Degree at the Mahikeng Campus of the North-West University from 2007-2009. His fields of expertise are: South African Local Government Law; Social Justice; and Human Rights, with a strong focus on the socio-economic rights in the Constitution of the Republic of South Africa, 1996. Oliver's research investigates how local government (municipalities) can contribute towards realising the constitutional commitment to social justice in South Africa.

and philosophical perspectives on social justice. He finds his inspiration within himself, living out his father's advice to always aspire to be the best - an ideal he strives toward. To him being a CLES Fellow is a wonderful opportunity to join hands with his mentor and doctoral promoter, Prof Anél du Plessis, to contribute towards finding innovative legal and policy solutions to some of the many challenges faced by South African cities. It is also an excellent opportunity to contribute towards capacity building by providing mentorship to some of the brilliant postgraduate students that are under the CLES Chair. His one wish for local government and city governance is to see the day when all local governments and cities in South Africa will be fully functional. A lot is promised in law and policy, but the lived reality is quite bleak for millions of South Africans. In his spare time Oliver enjoys "braais" at home with his family and friends. He enjoys travelling with family and socialising with compatriots whenever he has the opportunity.

It brings together the fields of South African local government law, human rights law and theoretical

*~LLB (University of Buea); LL.M (NWU) and LL.D (NWU)*

## Andrew Gilder (*Director: Climate Legal*)



Durban is Andrew's home town, but currently he is situated in Johannesburg. His career is one of humble beginnings and started with him serving his articles at a small insolvency practice in Cape Town. After his admission as an attorney, he joined a small environmental legal consultancy firm in Johannesburg.

financial flows in a specified set of African countries for the Trade Desk of the Canadian High Commission. They further finalised a study on the legal aspects of marine plastic pollution, for the IUCN. Andrew's inspiration for his work flows from the importance of creating an effective legal response to climate change. For him, being a CLES Fellow means being part of an important platform which drives the debate about sustainability, the law and the role of cities. His one wish for municipalities and city governance in South Africa is to implement an effective climate change response in the local sphere of government. When he is not emerged in work, Andrew prefers to spend his time reading science fiction, history and biographies.

This gave Andrew the opportunity to specialise in legal matters concerning climate change. Today Andrew specialises in climate change (mitigation and adaptation), climate finance and development, carbon markets, carbon tax, environmental and energy law, policy and governance. He has also advised the South African government in relation to the water aspects of the proposed South African Climate Change Bill and is a member of the drafting team for the Bill. This year, Andrew and his team at Climate Legal completed a study on African carbon pricing for the UNFCCC's RCC-Kampala. They also completed an assessment of climate

*~BA LLB (University of Natal - now KwaZulu-Natal) and LL.M (Marine and Environmental Law, University of Cape Town)*





**Louis Kotzé** (Research Professor, Faculty of Law, NWU)

Louis currently has the privilege of being based in Heidelberg, Germany, and Lincoln, United Kingdom. Louis grew up in Potchefstroom and his career started when he enrolled at the Potchefstroom Campus of the North-West University for an undergraduate B.Com Law. Louis specialises in and researches matters in Environmental Law, Law and the Anthropocene and Earth System Law. His work focusses on how to make the law more responsive to the ever-changing, complex, and unpredictable Earth system and the socio-ecological crisis of the Anthropocene.

Louis is inspired by eager young people working in a dedicated way to take the lead in tackling sustainability challenges. He is immensely proud to be a CLES fellow and

to be associated with this critically important node of excellence that seeks answers to pressing sustainability challenges at the local level of governance where it matters most to the lived realities of people. Louis also enjoys cooking, eating, drinking wine and sharing these decadencies with good friends. His one wish for local government and city governance in South Africa is to see special jails being built for corrupt officials and politicians who steal from South Africa's poor.

*~BCom (PU for CHE), LLB (PU for CHE), LLM cum laude (PU for CHE), LLD (NWU), PhD*

**Marius Pieterse** (Professor in the School of Law, University of the Witwatersrand)



Marius grew up in Benoni and studied in Pretoria, but considers himself a Joburger. He has called Johannesburg his home for 22 years. While completing his LLB at the University of Pretoria in 1996-1997, he worked as a tutor/sessional lecturer/departmental assistant in Roman Law. After completing his LLB degree, he worked as a researcher for Judge Ackermann at the Constitutional Court, in 1998 by day, while doing his LLM (in fundamental rights and constitutional practice) part-time through the University of Pretoria. It was during that year that he got a part-time lecturing job at Wits University and by 1999 he was employed full-time at Wits University. His expertise lies in local government law, law and urban space, urban governance, socio-economic rights, and constitutional law.

He takes a keen interest in how law shapes urban space, and in the possibilities of achieving spatial justice through law. He has written a book on the impact of rights-based litigation in South African cities and has also published work on the right to the city, the regulation of sex in South African cities, the regulation of informal trade in Johannesburg, local government structures, housing rights, and urban autonomy. Marius is currently

busying himself with researching the extent of urban autonomy in cities of the developing world, and the fault-lines in local government structures in struggling South African cities and towns. He finds his inspiration in seeing new places, which always sets his mind racing. In response to the question of what it means to be a CLES Fellow, he says: "I was very excited to learn that CLES has been established and am delighted to be involved. I think CLES, being based in a leading secondary South African city, is ideally situated to produce the kind of research on urban sustainability that South Africa needs to produce. The whole team at CLES is fabulous, and I am hoping that, by hanging out with them, some of that fabulousness will rub off on me." His one wish for local government and cities in South Africa is that we should forget the big ideas of new smart cities and rather work on making the places that we have as great as they can be. Being passionate about his work, Marius rarely if ever finds himself not immersed in his work. To him, his work is how he relaxes.

*~BLC, LLB, LLM (UP); PhD (Wits)*





**Geci Karuri-Sebina** (*Associate: SA Cities Network & Visiting Research Fellow: Wits School of Governance*)

Originally from Kenya, Nairobi, Geci now finds herself in Johannesburg. Her career took flight in the USA, where she started off in tech (computer science major, working and competing in software programming), but then she went on to study urban issues (sociology, architecture, and eventually, planning).

She first worked in this field in Los Angeles for a few years before moving to South Africa. Geci specialises in matters of urban planning and governance, and her work focusses on socio-technical change, city futures, and urban innovation systems. She currently finds inspiration on <http://emergencenetwork.org/vunja>, a platform for sharing knowledge.

Geci says that it is an honour to be associated with CLES as a Fellow, with its national focus on city systems, where young African scholars can be funded and supported to grow and contribute their skills and genius into a transdisciplinary effort. Her one wish for local government and cities in South Africa is effective, focussed and dynamic capability for providing anticipatory governance. Or if that's too complex, then she would settle for simply doing no harm. When she is not immersed in her work, Geci relaxes by hanging out with her beautiful children, watching movies and sleeping.

*~Masters degrees in Architecture, and Urban Planning. PhD in Urban Planning/Innovation Studies*

**Matthew Glasser** (*Director: Municipal Law and Finance, Centre for Urban Law and Finance in Africa*)



Currently, Matt finds himself in New Delhi, India. His home town is Washington, DC but he was born in Chicago, Illinois. After graduating from law school, Matt moved back to Colorado, where he had gone to university. He found a job with a small firm that worked with municipalities and municipal finance and eventually became the City Attorney for the City of Broomfield, Colorado. His areas of expertise are municipal law and finance. His career has been grounded in practice.

He has worked with local governments around the world, and with national governments working on local government policy issues. Matt focusses on building a practical knowledge base around municipal law and finance so that cities can be sustainable and self-financing. His work is inspired by those dedicated individuals around the world who genuinely believe in and engage in public service. For Matt, being a CLES Fellow is an opportunity to leverage his experience

in municipal finance through teaching, research and dialogue to enable young professionals to engage confidently with the practical issues they encounter. As they help build the cities that they and their children will live in, they must deal with increasing complexity, and they must succeed across a range of social, economic, ecological and human factors. His one wish for local government and the cities of South Africa is that ordinary people could have confidence that their local leaders are working diligently to serve their interests. Matt enjoys travelling, history, good company, good food, and studying languages in his spare time.

*~Juris Doctor (Cornell University Law School); MBA (University of Colorado); BA Political Science (cum laude) (University of Colorado)*





## Helmut Aust (Professor of Law, Freie Universität of Berlin)

Helmut's home town is situated in Hannover, and he is currently based in Berlin, Germany. After his undergraduate law studies, Helmut commenced with his PhD at the University of Munich - this marked the start for his career. Before his current appointment, Helmut was a visiting professor at the University of Konstanz and a senior research fellow at the Humboldt University of Berlin and the University of Munich. He was also a visiting Fellow at the Lauterpacht Centre of International Law, University of Cambridge, as well as a visiting scholar at the Institute of International Law and the Humanities of Melbourne Law School.

Since 2018 he has been a "Senior Fellow" at Melbourne Law School. Helmut is also a member of the Advisory Board of the Max Planck Encyclopedia of Comparative Constitutional Law (<https://www.jura.fu-berlin.de/>). His fields of expertise are public international law

and comparative constitutional law. His recent work focusses on the global role of cities as well as on questions of foreign relations law. He also co-chairs a Study Group of the International Law Association (ILA) with Janne Nijman on "The Role of Cities in International Law". His work is inspired by his silent heroes. Being a CLES Fellow means to Helmut being a part of the development of the CLES team, which is a great honour and pleasure. The one wish he has for local government and cities in South Africa is to realise the potential that this great country has. When he is not immersed in his work, he likes to listen to music and feeds his nerdy interest in historic steam engines

*~First State Examination in Law (Göttingen);  
Second State Examination in Law (Munich); Dr.  
Iur. (Humboldt University of Berlin); Habilitation  
(Humboldt University of Berlin)*

## Stephen Berrisford (Associate Director: Pegasys)



Stephen currently finds himself in his home town, Cape Town. His career took off in the town planning branch of the Cape Town City Council in 1993, after which he moved to the Greater Johannesburg Transitional Metro Council in 1995, before heading up the Directorate responsible for implementing the Development Facilitation Act, 1995, at the then National Department of Land Affairs. Today Stephen specialises in matters of planning law, urban governance, infrastructure finance, and urban climate resilience.

His day job is to build the Cities practice at the Pegasys consulting group. This firm consists of a fast-growing and exciting team of urban professionals who are committed to finding regulatory and financial solutions to the challenges of urban life in Africa. Their expertise is interdisciplinary, with strong linkages to universities which focus on urban transport solutions, climate resilient infrastructure, project preparation and finance, and water resource management. Through these linkages with the North-West University, the University of Cape Town and the University of the Western Cape, they also try to sustain some writing and research

output as well as knowledge transfer and teaching. Stephen draws inspiration from Africa's academics. He regards their role as very important, despite the fact that the resources they have to fulfil that role are never adequate. Shining a bright light on the way in which cities are governed and managed is crucial, as is the training of a new generation of competent, ambitious and keen urban professionals. For Stephen, being a CLES Fellow is a huge honour. He values the personal linkages as well as the connection with the professional world of the Northern provinces of South Africa. His wish for local government and city governance in South Africa is to inspire officials to work confidently, assuredly, to be able to implement transformative programmes, and to realise the potential that we have to be able to demonstrate to the world new ways of running diverse, vibrant towns and cities. In his spare time Stephen enjoys hanging out with his family, running on the mountain, or sketching.

*~BA LLB, MCRP (Cape Town), MPhil (Cantab.)*





## SACN / CLES / GAUTENG GOVERNMENT TOWNSHIP ECONOMY WORKSHOPS

The South African Cities Network (SACN), Gauteng Provincial Government and CLES recently hosted two workshops in the heart of two of South Africa’s townships. The first workshop was hosted on the 15th of May in Thembisa’s vibrant Busy Corner Imbizo Shisanyama. The aim of the first workshop was to analyse what the urban policy, governance, regulatory and management hindrances to robust economic development in townships are.

The second workshop hosted on the 31 st of May took place appropriately in the Soweto Hotel and Conference Centre in Kliptown, Soweto. The aim was to explore modelling options by unpacking the Space Intervention and follow-up on what meaningful, progressive policy, management, and regulation could look like.

***“the aim of the workshops was to identify how policy, management and regulation could enhance robust economic development in townships”***





# Recent events and activities

## CLES / SALGA WORKSHOP

CLES and SALGA co-hosted a workshop on “Responsive Local Government for Sustainability: The Multiple Performance Management Instruments Available to South African Cities” on 23 May 2019. The research mandate of CLES includes distributing knowledge gained through research outside academia. As part of distributing knowledge, CLES and SALGA will co-host many workshops to share knowledge with municipal officials. This was the first workshop in this series. It took place at Lekwena Wildlife Estate, Potchefstroom.

The workshop was attended by various officials, including municipal councillors, municipal managers, and officials from provincial departments. Our presenters included academics (Prof Gerrit van der Walddt, NWU), officials from SALGA, the National Demarcation Board, National Treasury, the Auditor-General South Africa and the Department of Planning, Monitoring and Evaluation, who addressed themes from “Municipal performance management as an imperative of international, regional and South African law and policy” to “Performance management in metropolitan, district and local municipalities”. A total of eleven

presentations formed part of the programme. The workshop was a grilling session packed with information.

During the workshop, some valuable perspectives were offered by the municipal officials who see local government law in action every day. As such, the workshop was not only valuable to the municipal officials but also to those working on local government behind the scenes.

**“valuable perspectives were offered by those who see local government in action”**

[Conference programme \(click to view & download\)](#)





## CUPPA CONVO - CLES CRITICAL CONVERSATION SERIES

On 15 August 2019 CLES hosted its second Critical Conversation on urban land expropriation, “A look at the State’s expropriatory power to acquire land to fulfil its constitutional obligation of providing access to adequate housing”. Prof Elmien du Plessis was the guest speaker.

**“attendees included the Dean of the Faculty of Law as well as the acting mayor and municipal manager of the Kgetlengriver Local Municipality”**

Prof Anél du Plessis kicked off the afternoon’s proceedings by extending a warm welcome to all the attendees, which included the Dean of the Faculty of Law as well as the acting mayor and the municipal manager of the Kgetlengriver

Local Municipality. The CLES Critical Conversation series intends to get people in and around academia to start talking about relevant issues. This round’s critical conversation, also known as the CLES Cuppa Convo, was an interactive conversation which explored the often-contentious subject of urban land expropriation in an informal and safe environment. Prof Anél du Plessis mentioned that land is an important issue, and that the situation in South Africa is unstable at the moment. Stability is a crucial ingredient in the effort to achieve sustainability.



Our theme was introduced by Ms Nonhlanhla Ngcobo, who beautifully illustrated that issues of land expropriation are often accompanied by either emotions of promise or panic. Ms Maricéle Botes introduced the guest speaker, Prof Elmien du Plessis, who is an associate professor at the Faculty of Law, NWU. Her expertise lies in property law, focussing specifically on issues of land reform.

Prof Elmien du Plessis initiated the discussion by reminding the audience that land, especially in South Africa, is a very complex issue. One requires good research, good evidence and good reasoning to get to a plausible solution to the problems in this regard. It has become customary to use different terms and assign different meanings to expropriation, depending on the context. For example, some refer to expropriation as nationalisation. (Interestingly, the EFF currently appears to have nationalisation on their agenda, while the ANC is opposing the idea). For the purposes of the presentation, expropriation was taken to be as it was defined in the Expropriation Act.

When discussing land reform one should keep in mind why we want it. The World Bank recently identified that the three main problems which South Africa should address are to alleviate poverty, reduce inequality and create employment opportunities. Therefore, when land reform takes place it should be to achieve goals such as those put forward by the World Bank.

**CLES CUPPA Convo**

The South African Research Chair in Cities, Law and Environmental Sustainability invites you to its **CRITICAL CONVERSATION on: "Urban Land: Expropriation Without Compensation"**

Venue: Moot Court, NWU Faculty of Law, Building F5  
 Date: 15 August 2019 | Time: 14:00-16:30 | RSVP: 13 August 2019  
 Click on link provided to RSVP | Coffee and Tea will be served

**Speaker**  
 Prof Elmien Du Plessis

**NWU** | **CLES** | **NRF** National Research Foundation





# Recent events and activities

Prof du Plessis continued to explain the avenues for land reform available in South African Law: redistribution, tenure security, restitution and expropriation. She then ventured into the provisions of sections 25 and 26 of the Constitution, explaining what these provisions meant, and that they should be interpreted together. It was seen that section 25, amongst other things, made provision for expropriation in instances of public purpose or interest. These expropriations must be accompanied by just and equitable compensation. The determination of such compensation will depend on the facts of each case and in extreme circumstances (for example, hopelessly indebted properties or properties used for criminal activities) this compensation may be nil rand. "Just and equitable" is therefore a safety measure to prevent arbitrary expropriations. Prof du Plessis also referred to a number of other pieces of legislation which would enable the State to acquire land by way of expropriation (such as SPLUMA and the Housing Act).



For a better understanding of the structure of and rationale for the current section 25 of the Constitution, Prof du Plessis recommended reading *Negotiating Section 25 by Justice Albie Sachs and The Land is Ours by Advocate Tembeka Ngcukaitobi*. Prof Elmien also explained the process of the current Expropriation Bill. The process was initiated by way of a parliamentary motion to review the current section 25 of the Constitution. Public hearings were held and some stakeholders consulted on their views. A report was compiled advising that section 25 of the Constitution should be amended to include explicitly what was already implicit in it. Consequently an ad hoc Committee was established to redraft this section of the Constitution, but only to the extent that the amendment would make explicit what is already implicitly contained in the section. No invasive amendments could be made to the Constitution, as this would not fall within this committee's mandate.

***“one requires good research, good evidence and good reasoning to get to a plausible solution”***





# Recent events and activities

Why has urban land reform been neglected for so long? Prof du Plessis sought to answer this question in her presentation. For the most part, this was the consequence of badly planned departments. For instance the Department of Land Reform and the Department of Housing and Settlements should perhaps have been consolidated. Land reform also had a strong rural focus for a long period. Hence the original name of the Department was the Department of Rural Land Reform, which had now been changed to the Department of Land Reform and Agriculture. Another reason lay within the division of competences among the national, provincial and local governments: The responsibility for land reform lies with national government, the responsibility for housing lies with provincial government, while planning lies with local government. This creates possibilities for politics to get in the way.

In the end, expropriation remains a complex and emotionally loaded matter. It is difficult not to feel disheartened or defeated when half of the South African population lives beneath the poverty line, when land reform has been a failure and when other issues of state failure are being highlighted every day. But, said Prof du Plessis, luckily for us, South Africa is not the only country that has faced these problems, and many lessons could be learnt from other countries.

***“why has urban land reform been neglected for so long?”***



The audience made thought-provoking contributions to this conversation through their questions, which included: Would the right to housing and land form part of the right to dignity? Would amending section 25 of the Constitution corrode the spirit of the Constitution? Who should bear the costs of compensation in cases of expropriation? Could urban land expropriation be the solution to urban sprawl?

Home-made cupcakes and hot chocolate concluded another successful and action-packed Critical Conversation. And, as these cupcakes made every one linger for more, so did this conversation make the audience linger for more conversation regarding the law pertaining to urban land expropriation.





## CLES/KAS WORKING DINNER

The Konrad-Adenauer-Stiftung (KAS) hosted a roundtable discussion with the CLES students on 25 July 2019 in the heart of Cape Town. The students were accompanied by Prof Anél du Plessis (CLES Chair) and Mr Stephen Berrisford (Fellow of CLES). The discussion was initiated by Ms Christina Teichmann, Coordinator of the new KAS initiative “Strong Cities 2030”, who asked “What defines a strong city?” The CLES students shared their insights and discussed the current position of South African cities from a legal perspective, whilst enjoying dinner. The possibilities for improved collaboration between research institutions working in the city space in South Africa were also discussed. The dinner took place as part of the 2019 CLES Study Tour.

*“the current legal position of South African cities were discussed”*





## We build the city:

why transdisciplinary approaches are our only solution to a sustainable future

### What is our urban reality?

The urban landscape is changing at a vast pace, inflating the pressure on already strained resources. Contemporary spatial planning is confronted with managing change to resolve conflicting political and social demands on space while protecting the earth's generative capacity. It is no easy task, especially in urban areas where 4.2 billion of the world's 7.6 billion people (55%) currently resides. Projections show that urbanisation and the gradual shift from rural to urban areas, combined with the overall growth of the world's population, could add another 2.5 billion people to urban areas by 2050, intensifying the challenges of the contemporary urban landscape. The expected rate of African urbanisation could lead to unprecedented changes, especially where informality and sustainability collide. In the search for "inclusive, safe, resilient and sustainable cities and human settlements", an urban goal set by the United Nations, the interrelated role of the environment as a catalyst to realises the objectives of sustainability is becoming more prominent. There is now an expanded scientific understanding that the natural environment is substantially beneficial to urban communities and cities and that ecological principles are a sine qua non for sustainable cities.



### Why are we undervaluing our environment?

In Africa, the widely divergent and strained social contexts often overshadow environmental concerns resulting in a spatial reality where environmental considerations are not prioritised, but where economic decision-making with short-term gain often precedes. As a result, green spaces are mostly viewed as a "luxury good", despite the comprehensive literature on the extensive benefits of such spaces to their host cities and communities. However, despite theoretical and methodological frameworks in support of green spaces in the urban landscape, the reality suggests a depletion of urban green spaces across the globe. In South Africa, for example, green spaces occupy less than 10% of urban land. As a result, cities are being further removed from the safe, clean, and liveable environments envisioned in planning theory.





Data from the Global Carbon Project (2018) illustrate that land-use changes, especially the depletion of green spaces and deforestation, comprised 11% of total emissions produced in 2017. Cities have now become a central nexus in the relationship between people and nature. In the light of the intensified urban heat-island effect, increased energy consumption, impaired water quality and ultimately compromised human health and comfort, which has become a general phenomenon in cities, we need to rethink the role of our environment within the broader urban goal.

Much effort will be needed to change perceptions and sensitise decision-makers to understand the environment as a “public good” and an “economic asset”. Resilience thinking could pose solutions in this regard, steering Spatial Planning to respond to the increasing economic, social and spatial vulnerabilities in cities, and could halt the rapid depletion of natural resources and environmental degradation. It calls upon a systems approach to planning contemporary urban landscapes, inclusive of learning and innovation. Such structures and systems demand transdisciplinary planning.

**Who are the “we” that should build the city?**

Transdisciplinary planning goes beyond the “primacy of science”, as well as the “primacy of practice”, establishing a third epistemic way where experience-based guidelines find mutual grounds between all stakeholders. Transdisciplinary planning brings academic



knowledge and non-academic knowledge together to provide a platform on which to explore the socially and spatially integrated dynamics of the urban landscape in different ways. Transdisciplinary planning calls upon a “planning with” approach. A “planning with” approach draws on indigenous knowledge and the lived experiences of local communities as agents of urban change, together with inputs from professionals, scientists, authorities, and policy-makers, to redefine urban life and introduce new politics of the urban landscape.

Such a transdisciplinary “planning with” approach could place public green spaces as the common denominator for aligning informality and sustainability, when green spaces are perceived as a “public good” and an “economic asset” that can benefit both communities and their environment through the ecosystem services they provide. The valuation and prioritisation of green spaces in this sense would not only advance supporting ecosystem services such as enhanced biodiversity, regulating ecosystem services such as reduced atmospheric carbon dioxide, enhanced air quality, countering heat island effects, and limiting noise pollution, but would also result in multiple cultural ecosystem services such as physical and psychological restoration, as well as increased levels of physical activity, stress relief, happiness and better neighbour relationships.





## How do WE then build the cities of the future?

Interaction planning might soon replace contemporary Spatial Planning approaches, as the new axiom of the contemporary urban landscape. Such interaction planning will not only be concerned with land-use, but will invest in understanding the drivers behind diverse activities taking place within the urban space, across multiple land-uses. Interaction planning would need to quantify these activities in terms of environmental impacts (CO2 emissions, water consumption, pollution impacts), social impacts (cultural heritage, recreational values, health impacts), and economic



impacts (revenues, community upliftment), by drawing on smart spatial data. In this way the impacts of the proposed development(s) could be modelled to inform decision-making processes and call on appropriate mitigation measures. Such mitigation measures would not be contained within a singular discipline, but would probably draw from many interrelated disciplines in an attempt to find proactive responses to urban resilience. How these co-created innovative urban solutions would look, we don't know at this stage. But what we do know is that "we" should build the city of the future "together", to enhance collective intelligence and energy, in an attempt to generate these effective solutions.

by Prof Juaneé Cilliers

(Urban and Regional Planning, NWU)

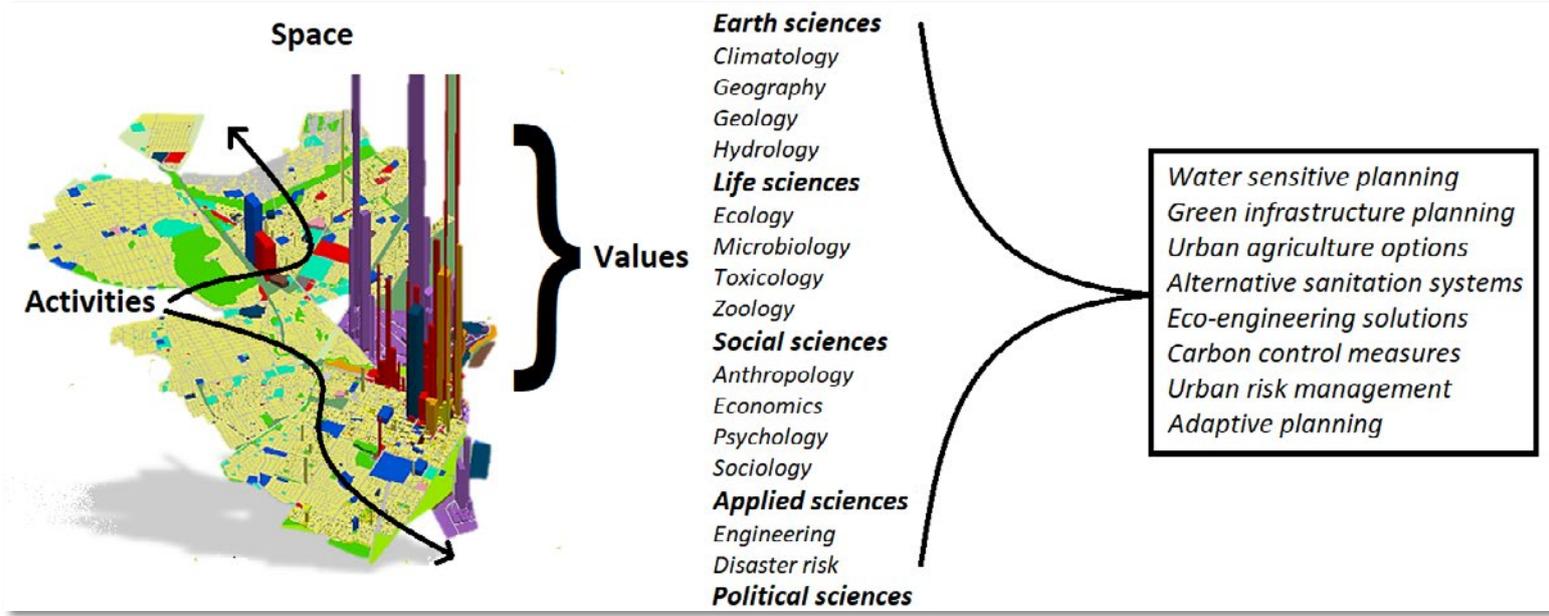


Figure 1: Interaction planning where transdisciplinary thinking results in co-created urban innovations





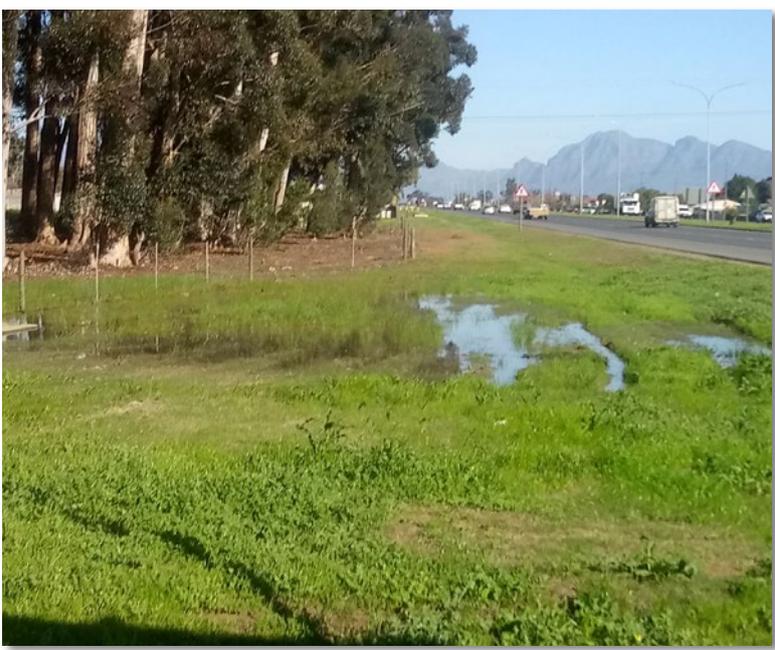
## Solutions available to municipalities in times of drought

In terms of Schedule 4B of the Constitution, municipalities are tasked with the provision of water and sanitation services, expressly “limited to potable water supply systems and domestic wastewater and sewage disposal systems.” This obligation is supplemented by other legislative provisions which indicate that the obligation of municipalities with regard to water is broader than a cursory reading of the quoted schedule item would seem to indicate. For example, municipalities have an obligation to uphold the right enshrined in Section 27 to sufficient water, and that in Section 24 to an environment that is not harmful to health and well-being. Thus, arguably, municipalities have not only to provide water systems but also have to manage the supply and demand of water to ensure the security of supply.

By far the most cost-effective method for municipalities to ensure that their citizens have sufficient water is water-demand management. Limiting demand will always of necessity be cheaper than sourcing alternative water. Demand management involves not only regulatory measures but also the encouragement and incentivisation of behavioural change. This may

be done by persuasive methods such as encouraging citizens on social and other media to save water. It may also be done by active incentivisation, such as awarding compliant consumers a mark of recognition for saving water. In cases of severe drought, municipalities will typically consider it necessary to impose water restrictions in addition to applying softer measures. They are entitled to do this in terms of section 11(6) of the Water Services Act, which allows the imposition of “reasonable limitations” on the use of water services, and accordingly affords a wide discretion in the framing of restrictions. A third way of managing demand for water is the use of technological interventions to limit consumption. It is questionable whether “water load shedding” would be lawful, given that water is essential for life and is the basis of a constitutional socio-economic right. However, introducing manipulatable pressure valves into the water reticulation system can be a viable technique to manage citizens’ consumption.

**“municipalities have an obligation to uphold the right enshrined in section 27 to sufficient water ”**



If water demand management techniques are ineffective or insufficient, municipalities have an obligation to seek new water sources to supplement supply. These may originate from underground water, sea water, surface-water or already used water. Borehole water is a variable but potentially valuable source of alternative water for municipalities. However, obtaining authorisation for its abstraction is something of a legal minefield. Typically a water use licence is required for large volumes (the requirements are variable by area), underpinned by a geohydrological study. In addition, land rights and land use rights must be in place, and some of the activities ancillary to borehole drilling may trigger the need for environmental authorisation and heritage authorisation.





The desalination of saline water from the sea or other watercourses can be undertaken by municipalities with access to these resources. No water use licence is required, but an environmental authorisation is required for facilities processing more than 100 cubic metres of product per day. Again, land and land use rights must be obtained, and possibly environmental or heritage authorisation for ancillary facilities. The harvesting of surface water may be undertaken in the form of rainwater and storm-water harvesting. Rainwater harvesting from roofs is a permissible water use under the National Water Act and requires no authorisation. Storm-water harvesting is an underutilised method of water augmentation in South Africa. The concept of “water-sensitive urban design” has yet to be deployed at scale in local cities. Aside from actively containing storm-water flowing on the surface of the land, it also involves the use of permeable land surfaces to allow the penetration of water into the earth for the purpose of recharging underground sources.



Another methodology available to municipalities is wastewater treatment and re-use. Current technologies are able to produce potable water in this way. Municipalities may also encourage and regulate the use of grey water systems for non-domestic uses such as gardening. They should take care, however, not to seek to regulate aspects of water use which they do not have the resources to police.



The sourcing of new water supplies by municipalities must be done in accordance with the provisions of section 217 of the Constitution, the Local Government: Municipal Finance Management Act, and the latter’s Supply Chain Management Regulations. It is arguable that in a drought emergency a supply chain deviation is justified, but this is untested in the courts. Municipalities may also declare local disasters under the Disaster Management Act, section 55(2) of which affords wide powers to take steps to manage disasters. All deviations from standard supply chain process carry some risk, however, especially if the municipality is not well versed in new water technologies and the private sector is opportunistic.

*by Susan Knox-Mosdell*

*(Legal Advisor to the City of Cape Town, Department of Water, Waste and Electricity)*





## The messages coming from municipal service delivery protests

The Constitution of the Republic of South Africa, 1996 provides that everyone has the right to take part in a protest, which includes a protest in the form of an assembly. This right must, however, be exercised with the necessary inherent conditions in mind. These conditions entail that this right must be exercised peacefully and unarmed. Thus, once a protest enters the violent territory or even when protesters are armed with prohibited weapons, the protest will lose its constitutional protection. It is important to note that elements of violence do not render the entire protest unconstitutional, in that the individuals responsible for the violence should be removed from the protest.

The Regulations of the Gatherings Act deal with the conditional as well as the procedural aspects of protests in South African law. This act provides for the notification process, a meeting or consultation, the conduct of the protesters, and the policing of the protest. Also, when protesters are armed or the protests involve violence, the right to protest may be limited in that the protest will be prohibited, dispersed or even, where required, individuals may be arrested. These violent protest also pose a threat to safe communities and social peace.

In a recent report on South Africa's progress on the Sustainable Development Goals released by the Presidency, it was indicated that the severe inequality experienced by the marginalised and perhaps most excluded members of communities poses a great threat to social peace in South Africa. This inequality speaks to the limited or lack of service delivery, even of goods which might be regarded as necessities such as (clean) water. The impact of this inequality is that communities often resort to service delivery protests as a method of public participation to make their needs and demands heard by the relevant authorities. Whether the engagement in service delivery protests is a matter of last resort remains to be determined in the specific circumstances.

Service delivery protest is generally defined as a protest pertaining to or dealing with the provision



of or absence of services to a specific community. In general, there seems to be an increase not only in the number of service delivery protests but also in the percentage of violent protests. During such protests the protesters often resort to burning or damaging property and infrastructure or barricading roads or entrances to buildings. According to Minister Dr Mkhize this is indicative of the gap between the municipal leaders and community members.

Earlier this year South Africa held its 6th national election, and a review of the trends before and after such elections was necessary. The review indicates an increase in protest in the lead-up to the election. These trends also indicate a slight decrease immediately after the election, which may perhaps be regarded as a grace period while the communities wait for the promises made by the politicians to be met, or as a last attempt by communities to get the required attention of authorities, or perhaps to propel their needs ahead of the needs of other communities in the battle for limited resources. It is noted by Kevin Allan of Municipal IQ that instead of the communities sanctioning and making an impact at the ballot box during the elections, service delivery protest seemed to be the preferred mechanism.

Service delivery protests may be more effective in focussing the necessary municipal attention on the needs and demands of communities. Maybe, once the period for municipalities to respond to the needs of the communities has lapsed, it will be business as usual for communities.

*by Myrone Stoffels*  
(Lecturer, Faculty of Law, North-West University)





## When NEMA and SPLUMA meet: what is national government's thinking?

Cities and the municipalities that run them are between a rock and a hard place due to the increase in the number of people flocking to them for better job opportunities or livelihoods. This influx places immense pressure on the ability of cities or municipalities to provide for all of the needs of their citizens. They have the daunting task of providing services in a sustainable manner, promoting social and economic development, and promoting a safe and healthy environment - all of this while remaining within their financial capacity and complying with their developmental duties. These tasks can be achieved only through proper municipal planning, especially with regard to spatial planning and land use management.

The influx of people into cities not only places pressure on municipalities but is also one of the major causes of environmental issues, of which global warming is but one. Environmental degradation and other environmental issues affect the rights of all people to an environment that is not harmful to their health and well-being and the right to have the environment protected as provided in the Constitution of the Republic of South Africa, 1996.

This constitutional imperative necessitated the enactment of the National Environmental Management Act 107 of 1998 (NEMA) in order to realise the constitutional right to the environment, to address the need to incorporate environmental factors into decision-making and planning, and to ensure that development occurs in a sustainable manner.

The Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) is the framework legislation promulgated to give effect to municipalities' developmental duties and their authority to exercise municipal planning. SPLUMA reinforces the notion of sustainable development and the duty to incorporate environmental considerations in planning decisions and in the spatial development frameworks (SDFs) that every municipality is obliged to compile.



In May 2019 the draft Minimum Standards for the Consideration of Environmental Aspects in the Preparation/ Review of Municipal Spatial Development Frameworks (Municipal SDFs) was published for public comment. These minimum standards were drafted in order to provide guidance to municipalities in fulfilling their mandate of incorporating environmental aspects into their SDFs as provided for by the SPLUMA. These standards were also designed to achieve the streamlining of environmental considerations into spatial or developmental planning at a municipal level, mutually reinforcing outcomes in terms of sustainability, regulating the effect of development activities upon the environment, and making authorisation processes easier for municipalities. If the minimum environmental standards in an SDF are met and considered sufficient, some activities by a municipality might be excluded from having to obtain an environmental assessment. This document provides a step-by-step guide for implementing these standards, as well as best practice guidelines.





Step one of the implementation process pertains to the status quo of the environment in the municipality and requires municipalities to compile a list of all mappable environmental criteria, which include key features and land uses that have an impact on the environment. This step also requires municipalities to describe each criterion, to determine if there are spatial data for each of the criteria identified, and to provide the specific links where the data can be accessed if they are available. In this step municipalities are also required to budget for and undertake the mapping of unmapped criteria through mapping methods such as the use of GIS, Cartography or Remote Sensing. Furthermore, municipalities must ensure that the criteria include buffer zones where applicable, through the use of environmental management tools, land use schemes or municipal by-laws.

The second step requires that municipalities overlay the spatial datasets provided by GIS mapping in a specific order. This step is very technical and might require municipalities to bring in experts, through outsourcing, to overlay the data for them. The identification of compatible or incompatible land uses or activities is provided for in the third step, in which it is required from municipalities that they ensure compatibility before land-use changes are made. This requirement has the purpose of ensuring or maintaining the sustainability of land use based on prevailing environmental conditions. It states that the municipality should identify current and future challenges to the environment as well as the spatial implications thereof.



Step four pertains to objectives, targets, indicators and strategies and requires of municipalities to develop strategies that will assist them in achieving the set objectives and targets. Municipal performance must be measured against the relevant indicators. They must also give cognisance to the instruments implemented by the national and provincial government to inform the creation of their own strategies, objectives, targets and indicators. The cascading or alignment of the instruments helps to ensure that the environmental objectives or targets are achieved at all levels of government. The last and fifth step speaks to conflict resolution regarding land use and explains how the municipality must deal with any conflicts that arise. All conflict resolution methods must adhere to the NEMA and SPLUMA principles such as the fundamental principles of ecological sustainability, desirability, justifiability, etc., the mitigation hierarchy, offsets, and full cost accounting. All of these steps seem to require some level of technical expertise and funding, a requirement which may be problematic for some municipalities, as they may not have the necessary budgetary capacity or expertise required to fulfil these requirements. It might be easier for metropolitan or some medium-sized municipalities than for small municipalities to adhere to these requirements for the creation of SDFs.





As previously mentioned, this document allows for best practice guidelines, of which the first regards the valuation of ecological assets. In this particular guideline, it is recommended that municipalities do not place a monetary value on environmental assets as they are priceless and the risk exists that they may be undervalued or that certain municipalities may not have the required capacity or expertise to undertake the task. Municipalities can therefore only determine the importance of an ecological asset.

The second guideline pertains to parameters for exclusions from EIA requirements on certain listed and specified activities. In certain circumstances, a Municipal SDF can lead to certain activities being excluded from having to obtain environmental authorisations in terms of NEMA if they are in compliance with the Minimum Environmental Standards and are deemed sufficient by the Minister or MEC. The standards make it clear that this is not an automatic exclusion but that such exclusions must be decided on a case-by-case basis. The purpose of these exclusions is to reduce the legislative burden where little threat to the environment exists. SDFs can be used in support of the exclusion of certain activities from having to obtain environmental authorisation but the SDF must make such purpose clear.

When creating such an SDF the municipality must do a strategic assessment of environmental pressures and sensitivities and must align them with the land-use measures by employing environmental management tools. The municipality must then prepare and present



the SDF in accordance with the requirements of environmental management instruments. Lastly, the SDF must be subjected to a consultation process on the proposed exclusions.

The third guideline speaks to the application of the minimum standards in the framework of a land use scheme. It states that the SPLUMA requirements for Land Use Schemes must be taken into account, as they give effect to the SDFs and are enablers for environmental management. SPLUMA provides that land-use schemes must consider environmental management instruments and that they must comply with environmental legislation.

The proposed Minimum Environmental Standards document has the potential to fulfil its purpose of integrating environmental management aspects into SDFs and developmental planning to achieve mutually reinforcing outcomes. When there is sufficient environmental input into SDFs, the possibility exists that municipalities would have to develop only one municipal SDF. These standards set out clearly what municipalities are required to do in the reviewing of their SDFs to be compliant with the standards. However, while they might be beneficial for municipalities, the requirements might be too stringent and complex for municipalities that struggle with capacity constraints, which may not be able to comply with all of the technical requirements.



by **Maricéle Botes**  
(LLM Researcher, CLES)





## BOOK CHAPTERS

Kotzé LJ and Du Plessis AA "The African Charter on Human and Peoples' Rights and Environmental Rights Standards" in Turner, S *et al* (eds) *Environmental Standards* (Cambridge University Press, 2019) 93-115

## ARTICLES

Kotzé LJ "A Global Environmental Constitution for the Anthropocene?" 2019 *Transnational Environmental Law* 11-33

Pieterse M "Where is the periphery even? Capturing urban marginality in South African human rights law" 2019 *Urban Studies* 1182-1197

Kotzé LJ "The Anthropocene, Earth System Vulnerability and Socio-ecological Injustice in an Age of Human Rights" 2019 *Journal of Human Rights and the Environment* 62-85

Pieterse M "A Year of Living Dangerously? Urban Assertiveness, Cooperative Governance and the First Year of Three Coalition-led Metropolitan Municipalities in South Africa" 2019 *Politikon* 51-70

Kotzé LJ and Kim R "Earth System Law: The Juridical Dimensions of Earth System Governance" 2019 *Earth System Governance* 1-12

Rongedzayi F "The constitutional protection of child witnesses in Zimbabwe's criminal justice system" 2019 *South African Journal of Criminal Justice* 32-52

## PRESENTATIONS

**June 2019:** Steenkamp M *Climate Change, the Environment and Migration* (Conference paper presented at the Local Democracy Academy hosted by Swedish International Centre for Local Democracy in Umeå, Sweden 10-14 June 2019)

**August 2019:** Owosuyi I and Du Plessis AA (*Legal Pathways for the Inclusion of Culture in Sustainable Urban Development in South Africa* (Conference paper presented at the 17th Annual Colloquium of the IUCN Academy of Environmental Law 2019, Malaysia 4-11 August 2019)

**July 2019:** Steenkamp M *Population Growth, Climate Change, Migration and the Issue of Resources Management* (Conference paper presented at the African Climate Perspectives on Democracy hosted by Konrad-Adenauer Stiftung and International Organisation on Migration in Rabat, Morocco 1-2 July 2019)

**August 2019:** Van der Berg A *The Readiness of South African Planning Law and Policy for Promoting Urban Sustainability in the Anthropocene* (Conference paper presented at the 17th Annual Colloquium of the IUCN Academy of Environmental Law 2019, Malaysia 4-11 August 2019)





## APARTHEID GEOGRAPHY

**12 April 2019** - Ralph Madlate provided an insightful presentation to the CLES team entitled “The Right to the City and Apartheid Geography in South Africa”. A discussion followed on the meaning of the right to the city and its critical intersection with urban geography and the overall social function of the city. The discussion highlighted important topics such as spatial justice and how spatial inequalities still persist in South Africa, which are expressly noticed in the rural-urban divide.

## GLOBAL ROLE OF CITIES

**13 June 2019** - Presented by Prof Helmut Aust. This student lecture was aimed at the future research agenda considering the changing role of cities (municipalities) in global governance. Topics covered during this course included the emerging role of cities as global governance actors, the future of cities in public international law, emerging trends from comparative studies on the global role of cities, as well as reflections on the historical development of the global role of cities.

## PREDATORY CITIES (PRESENTATION @ WITS)

**10 July 2019** - The CLES team kicked off its 2019 Study Tour by attending a lecture on the notion of “predatory cities” presented by Prof Bernadette Atuahene from Kent College of Law at the WITS School of Governance in Johannesburg. Prof Atuahene shed light on some aspects of governance, such as the institutional arrangements of cities and how this might affect people in cities, especially disadvantaged or most vulnerable groups. This discussion also highlighted the impact of segregation and some of the challenges that cities face, not only in South Africa but globally.

## THE SOUTH AFRICAN INFORMAL ECONOMY: DATA, DEBATES AND INTERVENTION PRIORITIES (PRESENTATION @ UCT)

**24 July 2019** - Presented by Caroline Skinner. This presentation formed part of the Nelson Mandela School of Public Governance (University of Cape Town) “Brown Bag Lunch” seminar series and addressed the South African Informal Economy: Data, Debates and Intervention Priorities. Ms Skinner provided some detailed statistical insights into aspects of the informal economy aimed at informing the audience of the true nature of the informal economy. For example, the informal economy is a fast-growing sector and a significant ratio of employment is located therein. Other themes such as inequality and societal responses to the informal economy were also addressed.





# The 2019 CLES Study Tour

Our first CLES study tour took place in July 2019 and was sponsored by the Office of the DVC: Research and Innovation (NWU). This study tour enabled the CLES team to pay on-site visits to four of South Africa's municipalities: the City of Johannesburg, the City of Tshwane, the City of Cape Town and the Drakenstein Local Municipality. We should like to take this opportunity to thank our DVC of Research and Innovation (NWU), Prof Refilwe Phaswana-Mafuya, for making this invaluable learning experience possible.

Our experiences during the visits to each municipality are briefly touched on below.

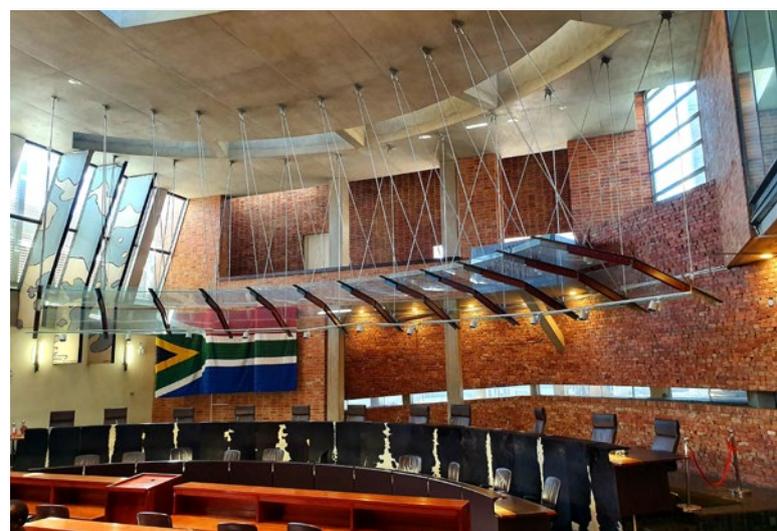
## City of Johannesburg

On 11 July 2019 the team had the pleasure of meeting some of the officials from the City of Johannesburg Metropolitan Municipality. These officials were from a range of different departments such as the Department of Water Management, the Finance Department, Joburg Water, City Parks, and Group Legal. The team split into different discussion groups based on the different topics they are working on. The officials that we had the honour of meeting included Ms Siphindile Skosana, the metering manager from Joburg Water, and Ms Liteboho Makhele, who is the programme manager for Sustainable Cities from Cities Network, who addressed us with regard to water management. We also had the honour of meeting Ms Naomi Naude, a prosecutor from Group



Legal, who discussed Municipal Courts, as well as Mr Ismael Mogototoane, who is the director of Financial Compliance from the Finance Department and who discussed financial management. Furthermore, we met the General Manager of Corporate Research and Knowledge Management, Ms Ayanda Rôji, whose discussion focussed on climate change and green open spaces.

The CLES team also got to explore the City of Johannesburg, the city life and all that it went with it. We ate in 7th Street, visited 27 Boxes and Braamfontein, and walked through the very popular Neighbourgoods Market. We got to drive through the CBD and had a picnic at the Botanical Gardens next to Emerentia Dam and experienced Joburg traffic at its best (or worst).





## City of Tshwane

On 15 and 16 July 2019, the City of Tshwane welcomed the CLES-team at Tshwane House. The visit commenced with a tour of their beautiful green building, which included a trip into the Council Chambers. Thereafter the team ventured to the City Improvement District offices in Hatfield, where the CEO, Mr Lucas Luckhoff, enthusiastically welcomed the team and told us more about the work they do and the projects they are involved in. We then set off to see another green building initiative which inspires transdisciplinary research and innovation in order to address the challenges that Africa and the world are facing, the Future Africa Campus on the grounds of the University of Pretoria. The CSIR solar farm was the last stop on the CLES site-visit schedule and informed our knowledge of renewable energy and what it entails.

During the team's stay in the City of Tshwane we met with several departments of the City of Tshwane Municipality. We had the opportunity to meet with officials from the Departments of Economic Development and Spatial Planning, Environmental Management, Housing and Human Settlements, Utility Services, and the City Sustainability Unit. These discussions were informed by themes such as city planning and development, the protection of



ecosystem services and urban ecology in the urban environment, "safe" housing in informal settlements, climate change resilience in cities, urban planning for reduced vulnerability, air quality offsets in informal settlements, and smart water management systems. We also met with Group Legal Services pertaining to the topic of Municipal Courts, and with the City Strategies and Organisational Performance Department with regard to performance monitoring and evaluation.

The team also had the opportunity to visit the South African Local Government Association (SALGA) offices in Pretoria on 17 July 2019, where we met the Executive Manager from the office of the CEO, Mr Lance Joel, as well as Ms Intelligent Chauke, who works on environmental management, climate change and sustainability. The SALGA officials were welcoming and highlighted the need for the practical relevance of research, which is something CLES aims to achieve in its research objectives.





## City of Cape Town

The CLES team arrived in the City of Cape Town on 22 July. We were housed at the Circa Luxury Apartment Hotel for the duration of our stay. On the 23rd of July we initiated our first round of meetings with the Municipal Courts Executives, Mr Marius Basson, Mr Yasin Williams, Mr Timothy Zeeman and Mr Malibongwe Nyumbeka. Mr Nyumbeka, provided us with an overview of the structure and functioning of the various municipal courts in the City of Cape Town. While the legal enforcement largely deals with matters concerning the infringement of traffic laws, Mr Nyumbeka pointed out that the officers are fully aware that they may enforce any part of legislation that involves municipalities. After the discussion, Mr Zeeman and Mr Basson took us on a short tour of one of the Municipal Courts.

We also had an opportunity to attend an open lecture on the Informal Economy presented by Ms Caroline Skinner at UCT. This discussion provided an open debate platform on the data, debates, and policy priorities concerning the South African Informal Economy. What stood out was the linkage between poverty alleviation, gender, and racial dynamics, and

how these interplay with the informal economy and sustainable livelihoods. On 23 July we started the day off with a discussion with the Environmental Management Department at the City's offices. The Executive Director of Environmental Management, Mr Osman Asmal, and his team, Ms Liezl- Kruger- Fountaine, Mr Keith Wiseman and Mr Stephen Granger were amongst the attendees. Mr Wiseman and Mr Granger provided a well-structured overview of the City's Environmental Management Department and the various sectors that they are working on. Their presentation outlined some of the City's initiatives concerning environmental sustainability, water security and climate change responses, including their actions when nearing "Day Zero" in 2018.

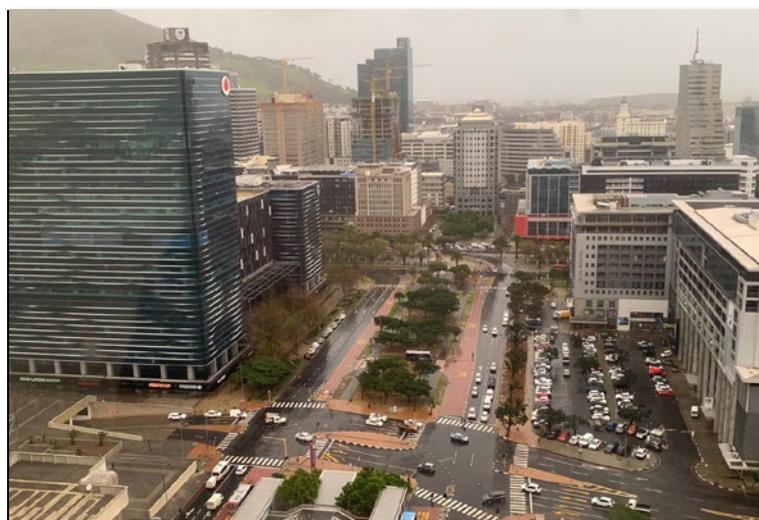
The team also had the opportunity to meet with Mr Stephen Berrisford, Dr Friedrich Soltau and Adv Peter Kantor. These were informal and open-ended discussions. We spoke about the role and development of urban planning, the localisation of SDGs in South African municipalities, the gaps between development planning and international policy aspirations, and the evolution of environmental law since the advent of the Constitution and how this has influenced case law, amongst other things.





# The 2019 CLES Study Tour

On 25 July we met with Ms Susan Knox-Mosdell, Principal Legal Advisor: Utilities, Environment, Planning, Energy, Waste, Ms Amy Davison, Head of the Climate Change Unit, and Ms Cayley Green, Senior Resilience Analyst, who respectively provided insight into water security and climate change, and presentations on the City's Resilience Strategy and the Climate Change Policy. Ms Green provided a broad summary of the various sectoral approaches to resilience in the City's Resilience Report, including waste, water, transport, energy, and climate change mitigation and adaptation. Ms Davison described a number of the City's initiatives in terms of mainstreaming climate change, which include integrating it into the water resilience framework by diversifying their water sources, for example.



We concluded the day with a wonderful dinner with Ms Christina Teichman, from the Konrad-Adenauer Foundation, on 25 July 2019 at 95 Keerom. Ms Teichman introduced us to the origin of the Konrad-Adenauer Stiftung (KAS) and their role and function in African countries since their establishment. She also provided a brief overview of the Strong Cities project, which she is currently heading, and how this relates to the work of the Chair. The CLES team also got to explore the City of Cape Town when we were free. We walked through the market, ate at lovely Capetonian eateries, had a working lunch with Dr Friedrich Soltau from the United Nations at the stunning Baxter Theatre, and took a beautiful drive up to Camps Bay. Some headed off on a Red Bus Tour adventure while others enjoyed what the V&A had to offer; and all of us enjoyed the beauty that Cape Town had to offer.





## Drakenstein Local Municipality

On 26 July the CLES team took a beautiful and scenic drive to Paarl, where we concluded our study tour at the Drakenstein Local Municipality. We received a warm welcome from the staff of the Municipality. We were fortunate enough to sit in on a meeting between the City Manager and his Senior Management. Dr J Leibbrandt, City Manager, and his team provided us with a true reflection of what goes on behind the scenes in terms of city planning and administration. After the meeting the CLES team was divided into separate groups with different departments within the Municipality facilitating our discussions. We had the opportunity to meet with officials from the Departments of Planning and Development, Corporate Services, Engineering Services, Financial Services and Community Services. The themes addressed during the discussions included environmental sustainability and spatial planning, housing development, smart water management systems and integrated water resource management, principles of financial sustainability, integrating the informal economy into local economic development, and climate change and city resilience.



We spent the rest of the afternoon on site visits with Mr E McKay and Mr C Lotz. Our first visit was to the Boy Louw borehole, where we were introduced to the initiatives taken by the Municipality in avoiding a “Day Zero” situation. We also visited the Welvanpas treatment plant. What was interesting from these excursions was how a local municipality has developed and used resilient technology platforms to enhance its water resilience and future planning to avoid possible disasters. The Municipality is also efficiently using partnerships for improved water governance, something that could be enhanced in all municipalities in South Africa.





## *Global Challenges and Local Governments: Toward Transformative Policy and Practice, 10-14 June- Umeå, Sweden*

Ms Melandri Steenkamp (LLD candidate) attended the first Local Democracy Academy on the theme Global Challenges and Local Governments: Toward Transformative Policy and Practice from 10-14 June in Umeå, Sweden. The event was organised by ICLD (Swedish International Centre for Local Democracy) and sponsored by Sida (Swedish International Development Cooperation Agency).

The Academy highlighted the importance of enhancing mutual learning, critical thinking, and jointly exploring new ideas. The group discussions explored themes such as transformative policy and practice in local governments, inclusive city-making, the politics of immigration, and youth participation, amongst others. The Academy provided an opportunity for laureate paper discussions, where participants were divided into thematic sessions for junior scholars to discuss ongoing research and research projects in their respective groups. The participants were also able to attend training sessions which included the following: a participatory video for research and engagement, transdisciplinary research and co-production, writing policy research proposals, and a session on localising the SDGs.



Participants also joined policy labs where they had interactive sessions that sought to simulate dialogue between researchers, practitioners and policymakers to discuss concrete problems of local governments and identify policy recommendations and potential research topics.

## *Innovation for Inclusive Development Seminar Series “Stakeholders Awareness Workshop on the 2019 White Paper on Science, Technology and Innovation” 2 July 2019 - Pretoria*

Ms Nicolene Steyn (PhD candidate) attended a seminar of the Innovation for Inclusive Development Seminar Series “Stakeholders Awareness Workshop on the 2019 White Paper on Science, Technology and Innovation” on 2 July 2019. This seminar was held at the Future Africa Centre of the University of Pretoria. The Academy of Science of South Africa (ASSAF) together with the Department of Science and Technology (DST) arranged this seminar. Taking the format of a workshop, this seminar created a platform for stakeholder participation concerning the White Paper.

The seminar had a strong emphasis on informality, focussing predominantly on science and technology for sustainable human settlements as well as innovation for local economic development in the informal economy. Other themes which featured in the discussion included corruption, the fourth industrial revolution and public/private partnerships. The speakers who led the discussions and presentations included the Deputy Director General for Social Economic Innovation Partnerships (DST), the Senior Policy Specialist of DST, the Deputy

Director for Sustainable Human Settlements (DST), and the Director for Technology for Sustainable Livelihoods (DST).





## *LANDac Annual International Conference “Land governance in transition”, 4-5 July 2019 - Utrecht, The Netherlands*

Ms Angela van der Berg (PhD candidate) attended the LANDac Annual International Conference “Land governance in transition” on 4 - 5 July 2019 in Utrecht. The conference looked at land governance through the lens of transformation. Central questions revolved around the long-term dynamics of land, water and food production. How is land governance itself being transformed, as it seeks to respond to changing circumstances?

How is learning and knowledge building about these dynamics developing, and what are the most promising concepts and tools? Particular questions related to the different aspects of land governance, such as gender, food security, land tenure security, investments, conflict prevention and peace-building. In a fast-paced world of short-term projects and funding, how can we learn from past and current transitions, build sustainable partnerships and

networks, and allow for seeds of innovation to bear fruit?

The conference built on nine years of LANDac Annual International Conferences, where rural land debates were connected to the urban agenda, where land governance from an SDG starting point was explored, and where its role in issues of mobility, migration and displacement was examined.

## *African Climate Perspectives on Migration Conference, 1-2 July 2019 - Rabat, Morocco*

Ms Melandri Steenkamp (LLD candidate) attended a conference on African Climate Perspectives on Migration in Rabat, Morocco from 1- 2 July 2019. The two-day conference was organised by the Konrad-Adenauer Stiftung’s Regional Programs Energy Security and Climate Change Middle East and North Africa (KAS- REMENA) and Sub-Saharan Africa together with International Organization for Migration (IOM). The conference provided a platform to exchange knowledge and combine synergies for possible solutions to the climate change and migration nexus.

The conference commenced with a keynote speech by Daria Mokhnacheva from the IOM on the highly contested

nexus between Migration, Environment and Climate Change. This was followed by a panel discussion on the current state and challenges of climate change and migration in Africa. Dr Edem Selormey presented some of the research findings of Afrobarometer on the perspectives of ordinary citizens on climate change and migration. Ms Anta Sanon presented the work of the United Nations Convention to Combat Desertification (UNCCD). Ms Hind Aïssaoui Bennani presented the diverse perspectives and debates on integrating migration and climate change concerns into policy and practice.

The conference comprised of the participants being divided into working groups, each focussing on three main issues respectively: population growth, climate change and migration, and more specifically resource management, climate disaster management and security risk management. The aim of these working

group sessions was to address the various concerns and perspectives on climate change and migration in a holistic and integrated manner, with the aim of guiding policy making in Africa.





## *NDP Review Colloquium “Reviewing the NDP to make South Africa a Developmental State” 26-27 July 2019 - Johannesburg*

Ms Nicolene Steyn (PhD Candidate) attended a high-level NDP Review Colloquium “Reviewing the NDP to make South Africa a Developmental State” on 25-26 July 2019. This two-day review was organised by the National Planning Commission and formed part of its stake-holder participation process. This review provided a platform to exchange experiences in terms of successes and challenges associated with the National Development Plan. It was also aimed at exploring sectors which were ‘left behind’ and which do not receive adequate attention in the current NDP.

Some structural and practical issues were identified in the current NDP, such as 14 outcomes, 2093 targets and 1151 indicators, as opposed to Rwanda, Botswana, Malaysia and China, which had 3 to 10 outcomes. These countries were very successful in implementing their NDPs. The overwhelming number of South African objectives, targets and indicators were reported to create paralysis in implementation, and these numbers will have to be reduced for the sake of effectiveness. Other issues identified included a lack of integration and cascading: often policies sought out their own objectives and were not aligned with the overall objective of the NDP. Fragmentation was also highlighted as exacerbating

implementation difficulties.

This review’s attendees included doctoral students, professors, specialists, and civil servants. Some of the speakers leading discussions were the Minister of Planning, Monitoring and Evaluation, the Chairperson of the Commission on Gender Equality, the Department of Cooperative Governance and Traditional Affairs, the South African Local Government Association and the Chairperson of the Public Service Commission. Various themes enjoyed particular attention, such as the professionalisation of the State, the dream of becoming a developmental state, the challenges of social transformation, and making the economy fair and inclusive.

## *Achieving the Sustainable Development Goals (SDGs): Law as Part of the Solution 4-11 August 2019 Kuala Lumpur, Malaysia*

Dr Ifeoma Owosuyi (Postdoctoral research fellow at CLES) and Ms Angela van der Berg (PhD candidate) attended the 17th Annual Colloquium of the International Union for Conservation of Nature (IUCN) Academy of Environmental Law on the theme Achieving the Sustainable Development Goals (SDGs): Law as part of the solution from 4-10 August 2019 in Kuala Lumpur, Malaysia. The Faculty of Law, Universiti Teknologi MARA hosted the event.

Ms van der Berg presented a paper titled “The Readiness of South African Planning Law and Policy for Promoting Urban Sustainability in the Anthropocene”. The paper has also been accepted for publication as a peer reviewed book chapter in Lim M (ed) Charting Environmental Law Futures in the Anthropocene (SPRINGER Nature Singapore 2019). Ms van der Berg also spoke as a panellist during the official book launch at this conference. Dr Ifeoma’s presentation was titled “Pathways for the Inclusion of Culture in Sustainable Urban Development in South Africa” and based on a paper written by both herself and Prof Anél du Plessis. Environmental law scholars from all over the world, representing at least 5 countries from each continent, attended the conference, which highlighted that there

are diverse ways to take legal action in furtherance of the noble and ambitious 2030 sustainable development agenda with its 17 goals and 162 targets. The plenary sessions reiterated the view that legal and policy instruments are capable of effecting the change that the planet seeks in combatting issues like climate change, environmental justice, environmental change in the Anthropocene epoch, crisis response in the face of global environmental changes, deforestation, food production and security, sustainable waste management and clean water infrastructure. Subsequently, parallel sessions saw participants exploring the strength and limits of the law in addressing all the issues militating against the world’s quest for sustainability.





# CALL FOR ABSTRACTS

1st Annual National Postgraduate Student Conference  
on Local Government & Urban Governance

## THEME

*Recent Developments in Local Government Law, Policy and Practice towards Implementation of the UN Sustainable Development Goals*

A key innovation in the global Sustainable Development Goals (SDGs) is the introduction of a sub-national goal focusing on urban areas. An increasingly urbanised world presents governance challenges to national, provincial and local governments over the practical implementation of a range of SDGs. The implication for South Africa, is to revisit existing approaches to governance. This will include, identifying and distilling new approaches to local governance and new forms of local governance in response to the ideals and targets of SDG 11 (the urban goal), specifically.

The South African Research Chair in Cities, Law and Environmental Sustainability (CLES) at the Faculty of Law, North-West University and the South African Local Government Association (SALGA) invites submission of abstracts for the first National Local Government & Urban Governance Postgraduate Student Conference. The conference will explore perspectives in law, urban planning, urban governance, local governance, environmental management and related areas pertaining to the meaning and implications of SDG 11 for South African cities, secondary cities and other urban areas.

Postgraduate students, recently graduated masters and doctoral degree holders (2018 / 2019) are hereby invited to submit an abstract not exceeding 150 - 200 words for the conference. Submissions pertaining to any aspect of law and urban governance, urban planning and local governance will be considered, provided that the paper addresses a research theme that feeds into the main conference theme.



**CONFERENCE DATE:**  
Wednesday, 27 &  
Thursday, 28 November 2019



### SUBMISSION OF ABSTRACTS:

Click on this link :  
[www.cles\\_salga2019/annualstudentconference](http://www.cles_salga2019/annualstudentconference)  
to submit your abstract.  
**\*DO NOT COPY AND PASTE THE LINK ON YOUR BROWSER\***



**CONFERENCE VENUE:**  
Old Senate Hall, F4, North-West University (Potchefstroom Campus) in Potchefstroom, North West Province.



### ABSTRACT SUBMISSION DEADLINE:

Friday, 15 September 2019



**COSTS:**  
Registration is free. Transport and accommodation costs are for the account of the participants.



### ABSTRACT ACCEPTANCE NOTIFICATION:

Friday, 27 September 2019



**QUERIES:**  
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CLES has concluded official partnerships with several organisations in the past few months.

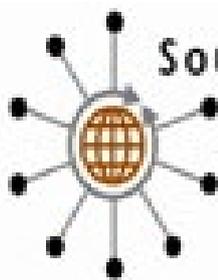
We are happy to announce that we will formally work together with the following institutions in the next five years:



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# UN HABITAT

FOR A BETTER URBAN FUTURE





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