

## SOUTH AFRICA

GERALDINE MÜLLER

CHRISTINA TEICHMANN

July 2019

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## The Role of the Law in promoting Sustainable Urban Development

**What defines a strong city? This question was the starting point of a roundtable-discussion on the role of the Law in promoting sustainable urban development that was hosted by the Konrad-Adenauer-Stiftung (KAS) for Law students from the North-West University (NWU) on 25th July 2019 in Cape Town.**

Christina Teichmann, Coordinator of the new KAS initiative "Strong Cities 2030" invited PhD Law students from the North-West University (NWU) under the academic mentorship of Prof. Anel du Plessis, Head of the NWU Law Faculty's first ever South African Research Chair in Cities, Law and Environmental Sustainability (CLES) to share their research insights and discuss the current legislative situation of South African cities. The seven PhD students were visiting Cape Town as part of a study trip across the country that aimed to facilitate meetings with municipalities and provide insights into the legal challenges and opportunities in terms of sustainable urban development. Prof. Stephen Berrisford from the Centre for African Cities (ACC) at the University of Cape Town (UCT) also took part in the discussion and provided his views on the topic.

### What are the characteristics of a strong city?

Before introducing the new KAS initiative "Strong Cities 2030", Teichmann elaborated on the characteristics that contribute to a strong and sustainable city, such as good governance, democracy, a clean and healthy environment, a growing economy that provides enough jobs, adequate housing, functioning schools and health services, resilience, social cohesion as well as safety and security.

According to Teichmann, the term "Sustainability" is often used in the context of urban development -in a very narrow sense and is associated exclusively with the transformation of cities into "green" cities. However, to focus solely on environmental and climate change issues is a luxury that especially developing countries with high levels of poverty, unemployment, lack of housing as well as inadequate health-, education- and other services can ill afford.

The KAS-project "Strong Cities 2030" looks at "Sustainability" in a broader sense, more holistically and inclusively by taking all the before mentioned characteristics into consideration.



"Strong Cities 2030", which was launched at a KAS conference on "Sustainable Mobility and Financing Models" in Essen, Germany in September 2018, is a global initiative, which aims to promote collaboration and knowledge transfer between young politicians (city councillors) and urban development planners, either working at cities or with cities, from around the globe. In order to make a city strong or in other words more sustainable, it needs two kinds of people, according to Teichmann. On the one

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hand you need the “technical” people with the required expertise and practical know-how. On the other hand you need the “political” people, the city councillors who drive the agenda of a sustainable city politically.

A fruitful collaboration between the “technical” and “political” people is essential, but in practice not always the norm, so Teichmann. Prof. Berrisford added that the success of projects depends on how well the collaboration works and how open both parties are to learn from each other.

That is why “Strong Cities 2030” aims to develop a global network made up of young urban development planners and city councillors. So far the SC2030 network includes members from Africa, Australia, Asia, Europe, the US and Latin-America.

The next time the network meets and exchanges best practices will be at the next SC2030 Conference that takes place from 13-15 October 2019 in Johannesburg, South Africa. This time the focus is on the question how to overcome urban inequality and make a city more inclusive.



**What legislative powers do cities have?**

Making an effort to enhance cities’ sustainability leads to the question what role the Law can play in order to achieve this goal. What legislative powers do cities have to promote a sustainable urban development agenda and how do they use them?

The discussion with the students reveals that municipalities do have a set of legislative powers but that not all of the South African municipalities have the human re-

sources available and/or the political will to make use of these powers.

On the other hand the South African Constitution gives certain powers, for example powers relating to energy generation or policing exclusively to national government which sometimes leads to poor service delivery and protest action by residents on local level.

For example, the power of generating, transmitting and distributing energy in South Africa lies in ESKOM, a state-owned enterprise. ESKOM relies on coal fired power stations to produce ca. 90% of its electricity. However, corruption and poor management at the parastatal have led to a situation where the demand for electricity outstrips the supply by far, leading to regular power outages across the country, which do not only affect private households but cripple South African industries and impact negatively on much needed economic growth.

Cape Town, as one of the first major South African cities, run by the opposition party, the Democratic Alliance (DA), will soon take African National Congress (ANC) national government to court in a bid to get permission to purchase electricity from Independent Power Producers (IPPs). The court case will be heard in August and might become a game changer for all municipalities in SA since it will break ESKOM’s monopoly and provide municipalities with much needed flexibility in terms of energy choices.

Prof. Berrisford added that such given laws sometimes limit the opportunities for municipalities to foster sustainability. Instead, these laws should be flexible enough for the municipalities to formulate their own laws within a given framework. Officials who aspire to improve the situation in municipalities are often paralyzed by the fear of entering illegal territory. Most of them do not have a lawyer at their disposal, who could provide them with a legal opinion.

After presentations by Ms Teichmann and Prof. Anel du Plessis, who informed about CLES, the new Chair at NWU and the newly

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established,- KAS funded "Strong Cities" scholarship programme at CLES, the students had the opportunity to present their respective research topics and discuss them with the experts.



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