

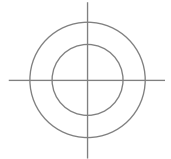


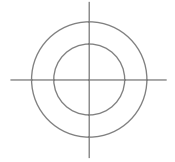
2nd Annual National Postgraduate Student Conference on Local Government & Urban Governance

**Law and Governance in a Pandemic:
Towards Safe, Resilient,
Inclusive and Sustainable
Towns and Cities**

VIRTUAL

30 November - 2 December 2021
ABSTRACTS





DAY 1: TUESDAY, 30 NOVEMBER 2021

Curtly Keagan Stevens,

University of the Western Cape

10:00 – 10:15

Better Regulation in Multilevel Government Systems: A South African Case Study

Up until now, scholars and governments in South Africa have frequently discussed the challenges of municipalities in terms of corruption, poor financial management and lack of revenue sources, amongst others. Less frequently discussed, but possibly of greater concern, is the most recent finding made by the South African Law Reform Commission that the legal framework regulating municipalities acts as a barrier to service delivery. The issue of whether the Municipal Systems Act 32 of 2000 and other legislation are barriers to service delivery is a question that is yet to be fully explored. This presentation examines whether, and how, the legal framework regulating local government in South Africa produces regulatory pathologies. The aim is not to assess and review the entire legislative framework applicable to municipalities. Rather, the aim is to identify regulatory pathologies in key regulated areas such as the outsourcing of municipal services and the appointment rules of municipal managers. To this end, I rely on desktop data such as government reports, academic articles and conference/workshop notes. I also conducted open-ended interviews with key stakeholders across the government. Drawing on both the literature and best practices on regulation, I argue that the local government regulatory framework undoubtedly inhibits the ability of municipalities to render services due owing to duplicating and excessive legal provisions.





Lungelwa Kaywood,

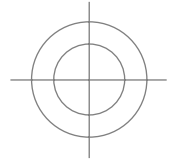
North-West University

10:15 – 10:30

History and Development of the Local Government System in South Africa: Towards Public Value

The South African local government system carries mounting and colossal historical burdens. Its history tells distorted local government system that failed to address the needs of the black majority. Before 1994, the country had no uniform system of local government. The system was characterised by racial segregation wherein black local authorities exhibited poor administration and service delivery standards. Fast forward, the country held its first democratic elections in 1994, and a new democratic system of local government emerged. A commitment to healing past divisions, establishing societies based on democratic values, social justice and fundamental human rights is evident from the Constitution. The Constitution brought about an institutional transformation in local government. This transformation translated to a new mandate, various objects, constitutional responsibilities and values for the local government sphere. Hence, the descriptions and meanings of public value do not ring strange to the South African local government context. Given the historical background of the local government system, the need for public value is arguably put forward in the form of the constitutional fundamental values and principles that guide the public administration. This presentation reviews and contextualises the history and development of the local government system in South Africa as a basis for the need for value creation.





Nonhlanhla Ngcobo,

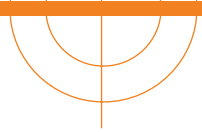
North-West University

10:30 – 10:45

COVID-19 Impediments on a Thriving Informal Economy: Means of Achieving LED as a Legal Imperative in South Africa

The informal economy in South Africa refers to economic activities that take place in an unregulated environment. It is a thriving sector. However, recent events that include the eviction of street traders from the corners of cities and the confiscation of property belonging to street traders have shown that the informal economy is under threat due to municipal regulations and clamp-downs. COVID-19 further threatens the livelihood of participants of the informal economy whose economic activities thrive on human movement and traffic. The vulnerability of the informal economy may potentially impact the pursuit of local economic development (LED) as a constitutional imperative in the South African context. LED in the broadest sense refers to the creation of strategies by stakeholders, namely, local government, local communities, non-government organisations and the private sector. Together, stakeholders aim to create employment, reduce inequality and enhance the growth of local economies. The paper departs from the understanding that the informal economy is one of the mainstays of LED in South Africa. The proposed paper critically explores how the law can strengthen the protection of those involved in the informal economy (street trading, specifically) in light of the critical linkages with LED in the era of COVID-19. This paper specifically focuses on the local government law and policy framework and bylaws as the instruments of choice for regulating the informal economy in South Africa. The scope of this presentation is limited to the South African case and even more specifically to the cities of Johannesburg and the eThekweni Metropolitan Municipality.





Gisela Diedericks,

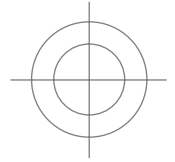
North-West University

12:00 – 12:15

An Arendtian perspective on safer and more inclusive public participation during a pandemic

Municipalities are facing several challenges due to the COVID-19 pandemic. In particular, local governments are confronted with a balancing act in terms of engaging the public in governmental decision-making and in ensuring that these participatory processes are safe. The political theorist, Hannah Arendt, sees civic engagement and collective deliberation as crucial for political governance. I argue that Arendt's perspective on meaningful action allows for the development of a novel, innovative, safe and inclusive approach to public participation in two ways: Firstly, her conception of political action underscores a culture of community participation and the making of inclusive collective decisions through the recognition of a plurality among human beings. Secondly, her metaphorical account of political spaces allows safer and physically isolated technological, digital and virtual alternatives to form a part of public participation, thereby moving beyond traditional views on public meetings and consultative sessions (participatory processes) that have been rendered unsafe during the pandemic. Beyond academic considerations, this presentation will provide insight for municipalities in fulfilling their responsibility of community involvement in matters of local government (and simultaneously ensuring a safe environment for this process).





Patrick Lukusa Kadima,

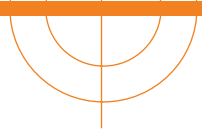
University of the Witwatersrand

12:15 – 12:30

One Step Forward, Two Steps Back? An Analysis of the City of Johannesburg's Consultive and Participatory Processes with Regards to the Current Review of Its Informal Trading Policy and Bylaw

In 1994, South Africa officially left its status as a country under apartheid rule and ushered in democracy. The promises of a better life for all, which included job creation, access to education and an inclusive economy, were hoped for by millions of citizens, but this turned out not to be the case. Poverty, inequality, and unemployment remain rooted in society. The country's sluggish economy has affected both the private and public sectors negatively in that they are not able to provide enough jobs for an ever-increasing labour force. The informal sector is increasingly becoming an alternative option to alleviate the skyrocketing numbers of unemployment and poverty the country faces. As a result, all three spheres of government have begun to place importance on the informal sector. However, street traders continue to face several challenges in their day-to-day operations. The City of Johannesburg commenced the revision of its informal trading policy and by-laws in July 2019 to create an inclusive, informal trading policy. This paper seeks to examine the City of Johannesburg's current review of its informal trading policy and bylaw and how this highlights local government consultative and participatory processes in policymaking. This presentation not only provides a critical analysis of the relationship between street traders and the City but also brings into the local government debate issues of how participation and consultations take place with regards to the review of the informal trading policy and by-laws in the City of Johannesburg.





Johandri Wright,

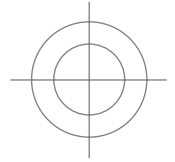
North-West University

12:30 – 12:45

Putting Power Back in the Hands of the Community: Public Participation to Promote Accountability in Local Government

Many human rights may be limited in national disasters, such as COVID-19. Organisations such as the United Nations and the Organisation for Economic Co-operation and Development emphasise that the principles of good governance are crucial in law and governance during a pandemic. It is also accepted that principles of good governance must be adhered to in order to promote safe, resilient, inclusive, and sustainable cities. These principles of good governance, inter alia, include accountability through public participation. Accountability refers to a government's duties to explain how its powers and duties were exercised, acknowledge when a mistake was made, and inform the community of what is being done to rectify it. In other words, accountability means accounting for, and accepting responsibility for, decisions and actions taken or not taken. Local governments are accountable to their communities and other spheres and institutions of government. Putting power back in the hands of the community through public participation is an important method to increase accountability within local governance and may take different forms. This presentation explores the different forms of public participation in local governance with a specific focus on how communities may be involved in improving local governance by holding their municipalities accountable.





DAY 2: WEDNESDAY, 1 DECEMBER 2021

Boledi Karabo Maleka,

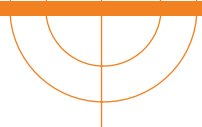
University of Pretoria

14:00 – 14:15

Developmental Screening in the Primary Health Care Setting: The Importance of Accessibility of Healthcare Services in Local Government

Developmental delays are more prevalent in low-income countries. Access to developmental screening, which is a way to detect developmental delays, is severely limited. Children with unidentified developmental delays are unable to become economically active members of society. This presentation evaluates an m-Health version of a standard developmental screening tool - the Parents Evaluation Developmental Status (PEDS) - for use by community health workers (CHWs) in primary healthcare (PHC) settings. One speech therapist and two CHWs recruited 207 caregivers who were attending a baby wellness clinic. Caregivers were tested by one CHW using the smartphone application of the PEDS while a qualified speech therapist simultaneously recorded and scored the PEDS test on the same participants. Almost perfect (Cohen's Kappa) inter-rater agreement between conditions was demonstrated ($\kappa=0.873$ to $\kappa=0.961$). Outcomes of the smartphone application, operated by a CHW, corresponded closely to the gold standard PEDS operated by a health professional. Trained CHWs can conduct accurate developmental screening using the smartphone version of the PEDS application. This is in support of SDG 11, as children with developmental delays will have access to developmental screening services at the local government level, which will lead to early intervention and reach of full potential.





Josiel Mosala,

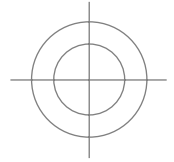
North-West University

14:15 – 14:30

The COVID-19 Response: The Failure of Municipalities' Developmental Role

The current COVID-19 pandemic has resulted in mass unemployment and closure of businesses, especially small, medium and micro-enterprises. During the pandemic, the South African economy shed over two million jobs. This created various problems for local governments across South Africa. Municipalities found themselves without viable responses. This demonstrates the failure of the municipalities to promote social and economic development role. The local government is tasked with not only providing services to the people but also promoting social and economic development. This presentation analyses the response of municipalities to the COVID-19 pandemic using JB Marks Local Municipality as an exemplar. Moreover, it demonstrates what ought to be the role of the municipalities in contributing to the South African Economic Reconstruction and Recovery Plan. In the analysis, the role of the current political leadership in responding to the COVID-19 pandemic in JB Marks Local Municipality is explored.





Meeshka Diedericks,

North-West University

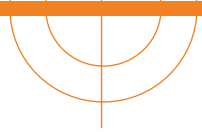
14:30 – 14:45

The Risks of Communicable and Vector-borne Diseases in Cities: How Does South African Law Respond?

The Sustainable Development Goals (SDGs) require states to reduce the adverse effects of natural disasters. Communicable and vector-borne diseases have epidemic and pandemic potential, which could result in health threats (disasters) of international concern. The recent coronavirus outbreak indicated how an infectious disease could spread from one city to the rest of the world in a short amount of time. South African cities and their subsequent developments are not exempted from the adverse effects of communicable and vector-borne diseases. Additionally, communicable diseases such as HIV and AIDS, TB, lower respiratory tract infections and diarrhoeal diseases are the leading cause of diseases and morbidity in South African cities. Municipalities face various challenges in mitigating the risks of communicable and vector-borne diseases in South African cities.

This presentation investigates some of the health risks in cities relating to communicable and vector-borne diseases. Given the variety of risks, the presentation explores the legal framework for disaster risk management and health law as a possible measure to reduce the chances of communicable and vector-borne diseases. An analysis is therefore made of the Disaster Management Act, the National Health Act and the Regulations Regarding Communicable Diseases.





Melandri Steenkamp,

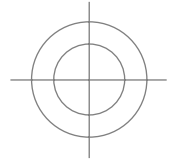
North-West University

15:30 – 15:45

Municipalities and Climate governance in South Africa: An Assessment of Recent Legal Developments

The adoption of the Paris Climate Agreement, Agenda 2030, the New Urban Agenda and the Sendai Framework for Disaster Risk Reduction 2015-2030 affirms international acknowledgement of the crucial role of cities and local governments towards making cities safe, sustainable, resilient and inclusive. One of the sub-targets of the SDG 11 is to substantially increase the number of cities adopting and implementing integrated policies and plans towards inclusion, resource efficiency, mitigation and adaptation to climate change and resilience to disasters. SDG 13 also aims for urgent (global) action to combat climate change and its impacts. As part of the global vision, cities need to adopt and implement disaster risk reduction and management, reduce vulnerability, build resilience and responsiveness to natural and human-made hazards and foster mitigation of and adaptation to climate change. The transition to 'climate-resilient cities' calls for new urban governance arrangements. Against this background, this presentation assesses the legal responses of South African municipalities in addressing climate change in line with the implementation of SDGs 11 and 13.





Maricéle Botes,

North-West University

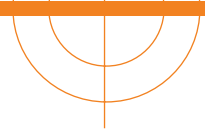
15:45 – 16:00

A Legal Perspective on Environmentally Safe, Sustainable and Inclusive Cities – What Can Municipalities Do?

Urbanisation and unabated urban development are threatening the functionality of ecosystems and their ability to provide essential services to society. These services, referred to as the “ecosystem services”, contribute to the resilience of cities and their inhabitants, as well as the safety and security of their communities. These services are often overlooked when it comes to mitigating climate change and protecting cities from disasters. Considering the aforementioned, it is more important than ever to protect urban ecosystems and their services. This can be done through legal instruments and use by local governments.

Based on the above context, and in consideration of the framing of SDG 11, this presentation will focus on the legal perspectives for ensuring safe, inclusive and accessible, green and public spaces (target 11.7) in South African cities. The paper additionally explores the legal measures to be taken by local governments amidst the COVID-19 pandemic and in the realisation of SDG 11. It will also look at SDG 11 in conjunction with the environmental right and other applicable constitutional rights along with the overarching environmental legal framework in South Africa. To give life to this analysis, the discussion will look at practical examples in South African cities.





Mphathesithe Mkhize,

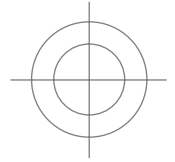
University of Kwazulu-Natal

16:00 – 16:15

Localising the Sustainable Development Goals in Rural Municipalities through Multi-party Partnerships: A Case Study of the Nkandla Local Municipality

The implementation of Agenda 2030 requires all stakeholders to get involved in achieving the Sustainable Development Goals. As a result, the global partnership process places responsibility on all relevant stakeholders, including spheres of government to take action if the SDGs are to be achieved. The purpose of this presentation is to investigate the role of local government in localising the SDGs through multi-stakeholder partnerships towards achieving Agenda 2030. It responds to the question of the extent to which rural municipalities localise the SDGs through multi-stakeholder partnerships. The significance of this presentation is twofold: 1. it contributes to research on SDGs; 2. it will contribute to the growing area of research on localising SDGs and the role of partnerships. The presentation flows from the application of an interpretivism paradigm and use of semi-structured interviews for data collection. The research found that multi-stakeholder partnerships have an important role to play in localising the SDGs in small municipalities. However, it is recommended that small municipalities must take a strong position to improve these partnerships if they are dedicated to achieving the goals towards Agenda 2030.





DAY 3: THURSDAY, 2 DECEMBER 2021

Chantelle Moyo,

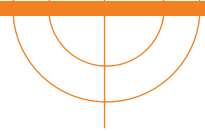
North-West University

09:00 – 09:15

Strained Relations in the Provision of Electricity Services: An Analysis of the City of Cape Town v National Energy Regulator of South Africa and Minister of Energy

This presentation is set against the background of the role expected to be fulfilled by sub-national authorities in terms of the Paris Climate Agreement in the reduction of greenhouse gas emissions and the Sustainable Development Goals (SDGs), specifically on Goal 7, which seeks to ensure access to affordable, reliable, sustainable, and modern energy for all. As municipalities attempt to take proactive steps in the provision of electricity, legislative and policy frameworks within the energy sector remain restrictive. The question of the role of municipalities in energy provision was recently brought before the courts in the City of Cape Town v National Energy Regulator of South Africa (NERSA) and Minister of Energy [2020] ZAGPPHC 800. I discuss the following in this presentation: first, municipalities' role in reducing greenhouse emissions in the energy sector under the Paris Agreement. Second, the status quo in South African legislation and practice (and the mandate of municipalities) in the provision of electricity. Finally, I analyse the judgement in the City of Cape Town case to show that although municipalities have a critical role in the energy sector, strained relations between relevant State organs tend to impede this.





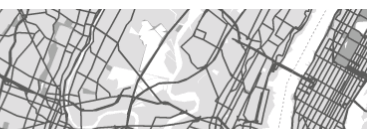
Marcelle Samons,

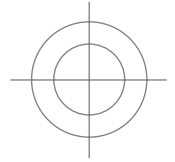
North-West University

09:15 – 09:30

The Control and Eradication of Invasive Species in Urban Areas in Terms of South African Law

South Africa witnesses an acceleration in the emergence of invasive species in urban areas. This phenomenon is not surprising in light of trends such as urbanisation and globalisation. Cities, as hubs of urbanisation and globalisation, are particularly susceptible to biological invasions. Invasive species may bring adverse or even detrimental consequences to native environments, economies or even human health. Invasive species pose a direct threat to biodiversity. Hence, the control and eradication of invasive species are crucial, specifically in the context of biodiversity management. The flip side is that invasive species may sometimes carry economic value. The control and eradication of invasive species in urban areas can serve to combat the adversities posed by invasive species whilst preserving the benefits that some invasive species hold. Legislative measures can facilitate control and eradication efforts and should be responsive to invasive species to circumvent their negative impact. This presentation aims to highlight what South African law provides concerning the control and eradication of invasive species in urban areas. The presentation focuses on the urban context as urban areas have been identified as introduction sites for non-native species.





Heloïze Hattingh,

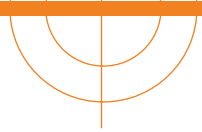
North-West University

09:30 – 09:45

The Legal Relevance of Nature-based Solutions for Sustainable Urban Development in South African Secondary Cities

South Africa, like many other countries worldwide, strives for sustainable development. Increasing urbanisation and climate change are two of the main drivers of the global strive towards sustainable development. Nature-based solutions have been receiving increasing attention as a possible way to not only move cities towards environmental resilience but also aid cities in their strive for sustainability. Nature-based solutions use natural structures and ecosystems to address certain challenges experienced in and around cities and share a clear link with sustainable urban development. Nature-based solutions aim to address social issues such as human well-being, environmental issues such as loss of biodiversity and economic issues such as food security, while sustainable urban development requires integration of social, ecological, and economic factors. Furthermore, secondary cities in South Africa are located advantageously to aid development in both metropolitan and rural areas. Sustainable urban development in secondary cities, and possibly nationally, could be promoted by the use of nature-based solutions in these cities, but South African law needs to be susceptible. This presentation aims to highlight how South African local government law is possibly attuned to nature-based solutions for sustainable urban development in secondary cities.





Andrew Molaiwa,

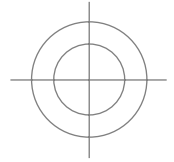
North-West University

10:30– 10:45

Military Involvement to Ensure Urban Safety in South Africa: A Legal Perspective

In South Africa, the enjoyment of safety and security rights does not translate into reality in many cities. South African patterns show that crime, violence, and other threats to peace and security rise every year in major cities. Cities have increasingly become the place for terrorists, murderers, rapists and gangsters. With the surge in gang violence and criminal gang-related activities, the pursuit of urban safety would require sustainable and concerted efforts from different security services such as the South African National Defence Force (SANDF). This is because over-reliance on the South African Police Services saw exacerbating and displacing the crime and violence rather than mitigating the drivers and catalysts that undermine urban safety, particularly gang violence and gang-related criminal activities in major cities in South Africa. Therefore, the presentation critically explores the exclusive powers and functions of the South African Defence Force (SANDF) in preserving peace and offering safety in urban areas. The underlying question is how and to what extent should the law facilitate SANDF deployment in crime and violence prevention in South African cities to optimise an integrated and developmental approach to crime prevention through the lens of the White Paper on Safety and Security (2016).





Muhammed Lokhat,

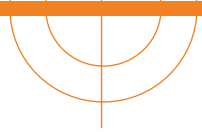
University of Stellenbosch

10:45 – 11:00

The Hidden Costs of Free Parking: SPLUMA's Development Principle Analysed Against eThekweni Municipality's Minimum Parking Requirements

Local government has the power, via the constitutional competency of "municipal planning" as well as the legislative authority under SPLUMA, to prescribe a minimum number of parking bays for every new development, depending on the type, in their Land Use Schemes. These requirements have immense consequences for sustainability, spatial justice and inclusivity, and climate resilience. This presentation critically analyses the eThekweni Metropolitan Municipality's minimum parking requirements in light of SPLUMA principles.





Onkarabile Osiele,

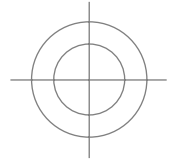
North-West University

11:00 – 11:15

Municipal planning law for climate change mitigation in South African Cities

Climate change threatens human life due to ecosystems and environmental degradation, floods, droughts, food security, and water scarcity. As a result, the Intergovernmental Panel on Climate Change (IPCC) made a global call for action against climate change, including climate change mitigation, which is aimed towards international, regional, national, and sub-national levels of government. Mitigation of climate change generally involves taking steps to reduce greenhouse gases (GHGs) that are emitted into the atmosphere. The United Nations Human Settlements Programme (UN-Habitat) provides that cities are responsible for approximately 75% of the GHGs emissions released into the atmosphere, causing climate change. However, cities are regarded by the United Nations (UN) as part of the solution to climate change. Cities could mitigate climate change by limiting the use of fossil fuels from different regions. Furthermore, cities have numerous avenues to effect climate change mitigation through planning and land use control.





South African cities are bound by various legislation to mitigate climate change, such as the Constitution of the Republic of South Africa, 1996, the National Environmental Management Act 107 of 1998 (NEMA) and National Environmental Management: Air Quality Act 39 of 2004 (NEMAQA), which provide that municipalities have a significant role in addressing GHG emissions that cause climate change. This legislation is arguably a means to protect the environment and vulnerable urban dwellers. Both the Constitution and NEMA oblige municipalities to provide a safe and healthy environment for all. On the other side, the National Climate Change Response Plan White Paper (NCCRP) of 2011 is an essential, authoritative policy that embodies climate mitigation as one of its central objectives. The presentation explores the following:

- a. a brief background of climate change as a threat to the environment in urban areas,
- b. municipal planning law as a tool for climate change mitigation and the perusal of municipal obligations to provide climate change mitigation under South African law and policy,
- c. local planning about climate mitigation by way of a study of the City of Cape Town and the City of Tshwane.

