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Introduction

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INTRODUCTION

Gordon Pirie¹

The papers in this first edition of the *Journal of Comparative Urban Law & Policy* reflect and respond to presentations, conversations and observations at the ninth iteration of ‘Study Space’. It was held in South Africa.

For a decade, the itinerant workshop has been an annual feature of Georgia State University’s Center for the Comparative Study of Metropolitan Growth housed in the College of Law. From 27 June to 1 July 2016 the workshop was hosted in Cape Town by the University of Cape Town’s African Centre for Cities. The selection of an African city as venue nodded to the presence there of an applied knowledge base, but also to global professional networking needs and ambitions in the urban legal field. It also acknowledged the extraordinary pace and novel nature of urbanization in Africa where urban rulemaking and observance occurs in multiple guises among diverse agencies and competencies.

The 2016 Study Space enrolled twenty-five legal practitioners and academics (from the USA, UK, Hong Kong, Portugal, Spain, Poland and Kathmandu) to think about ‘Revaluing the City’. In particular, they were asked to muse on land, infrastructure and the environment as catalysts for urban change. The workshop sought to expose outsiders to the many ways in which Cape Town has been valued in the past, and was being revalued democratically in an age of rapid ecological, economic and social change. Emphasis was placed on how a fractured citizenry and elected and self-appointed urban authorities value the city in various ways (metaphorical and monetised). The spotlight fell on how the purposes and logics of evaluation are shifting and need to be altered. Four themed sessions structured the weeklong event: Cityness, Information & Governance; Urban Institutions and Movements; Urban Pressures & Opportunities; Urban Environment, Planning & Land Reform. Behind these lurked the hope that participants would, albeit briefly, encounter a fascinating (but not always immediately visible) articulation of layered and contested urbanism, and would thereby enrich their own professional understanding.

The week featured fifteen talks by senior local urbanists. As much as availability permitted, they were chosen for their expertise in and perspectives from local government, commerce, academia, the legal profession, and non-governmental organisations. Their forty-five-minute presentations tackled topics of pressing concern in Cape Town. These include urban informality, infrastructure finance, multilevel government, urban environmental law compliance and enforcement, urban property law, data for engaged city management and centralized fiscal distribution, land dispossession and

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reclamation, urban land struggles, urban informality, city justice and the right to the city, responsive governance, municipal borrowing, land value capture, and planning mandates. Animated questioning followed the presentations. An eco-site visit, a walking tour, a minibus tour and a book display-and-buy complemented the talks. A Round Table discussion honed in on prospects for establishing a Centre for Urban Law & Finance in Africa.

In Study Space tradition, the papers here are not finalized versions of speakers' notes. Rather, they are original pieces composed by enrolled participants who heard all the presentations. Some papers are comparative: their authors pivot on Cape Town to reflect on and query metropolitan legal regimes and (il)legalities in cities and in bodies of urban law with which they are most familiar. Other papers address elements of urban law in South Africa head on.

Like its predecessors, Study Space IX was intense. Information overload is one of the defining conditions of the twenty-first century. It is also a marker of privilege and responsibility. But we are only starting to learn how to sift and use all the information at our disposal. Our inability to assimilate and use the wealth of data at our disposal makes professional specialisation more necessary than ever. Paradoxically, however, at least in Africa, there is not yet nearly enough information and knowledge about cities that can sustain comprehensive and progressive legislation, or accountability to the public. Urban categories and discourse are still fluid; urban policy is not well entrenched. Rethinking African cities will surely create new conceptions and calibrations of domain, risk, arbitration, entitlement and accountability. The register, content and application of urban law will need continual revisiting. In the hiatus, careful consideration of facts and their provenance, and judicious weighing of information and the consequences of acting on it, constitute an enormous challenge for urban legal minds.

Invoking legal precedent in politically confused, conceptually turbulent and data-thin times may be more than just unwise. The challenge to rise up above past injustices and apply corrective justice is potent. Staying mindful of voiceless and voteless elements in our world is daunting. Yet the exhortation to listen and to serve is muddied by tenacious thought habits, and by sectional and vested interests. The task of giving dignity and citizenship to the majority, marginalised, poor people clinging to precariously demarcated and badly serviced land in African cities is onerous; tick-box templates for balancing environmental and human priorities are outmoded.

In a world order hurtling toward an unimaginably different degree and kind of urbanism, legal practitioners face the gargantuan task of working with the best established urban ideas, principles and conventions, and with legacy built environments, but tuning in to new conditions, voices and vices. As slogans about ideal cities multiply (de-carbonized, sustainable, resilient, equitable, inclusive, affordable), it is tempting to freeze and to do law as usual. The African urbanism 'polycrisis' makes plain that this will not do. A

comparatively recently urbanizing continent (where urbanization rates shade those of industrializing Europe and the US) raises provocative questions about the purpose, practise and pitch of law in twenty-first century urban formations. As organisms, African cities are outstripping the ability to understand and manage them. Yet they are booming and working precisely because of directed human agency. Legal accommodation of the humanity and ingenuity in the high-rises, gated compounds, markets, transport stops, and streets is urgent.

Doing justice to the millions of people living in evolving cities in Africa is going to require wisdom beyond utilitarianism. Africa's legal infrastructure is ill-capacitated for the unfolding revolution. Study Space IX did not deconstruct the complexities once-and-for-all, or resolve them. It was, however, a stepping stone toward broader engagement among a community of scholars and practitioners. Some of the bold legal visions and steps tried in Cape Town are reflected in various degrees of directness in the papers collated in this first issue of the *Journal of Comparative Urban Law & Policy*. The comparisons with which they work point to nagging problems.

The appearance and function of African cities is moving from perceived aberration to curious hybrid to perhaps template for conflicted and resource-strapped urbanism elsewhere in future. Inverting past directions of travel from North to South, imaginative and sensitive urban laws in Africa could have broader application. And, anyway, the notion of urban exceptions is fading. Watching the law in letter and practise in Cape Town should be rewarding. Fortunately, for all its faults, the city is cradled in a country widely thought to be governed by one of the world's most enlightened Constitutions. And for its size and remoteness, the city attracts unusual expert scrutiny, such as that evinced at Study Space IX.