

Marius Pieterse*

Local Government Law, Development and Cross-border Trade in the Global Cities of SADC

<https://doi.org/10.1515/ldr-2019-0055>

Abstract: The ways in which cities function and are governed matter economically. While the growing literature on ‘global cities’ shows that city governments often pursue economic competitiveness, not much work has been done on whether the formal powers and competencies of cities and towns, as well as the ways in which these are wielded, are conducive to the achievement of developmental and socio-economic objectives. This article considers the interactions and interdependencies between local government law, urban governance, developmental objectives and formal as well as informal cross-border trade between cities in the Southern African Development Community (SADC) region. While supporting increased devolution of local government powers, it cautions that cities of SADC must take care to wield their powers in ways that ensure the economic flourishing of the majority of their inhabitants. In particular, this requires a change of mindset in relation to the municipal regulation of informal economic activity.

Keywords: local government law, urban governance, international trade, informal trade, SADC

1 Introduction

Cities have always been epicentres of development, production, manufacturing and trade, much as international trade-, development- and investment law and discourse have conventionally focused on nation-states. Given the urban character of most commercial economic activity and the urban base of almost all multi-national corporate entities, economic globalisation has significantly

*Corresponding author: Marius Pieterse, School of Law, University of the Witwatersrand, Yale road, Braamfontein, Johannesburg 2050, South Africa, E-mail: Marius.Pieterse@wits.ac.za
<https://orcid.org/0000-0001-5163-8846>

increased the social, economic, cultural and political relevance and clout of cities.¹

Accordingly, cities have also been prime sites for economic globalisation's reconfiguration and rescaling of state power and of attendant notions of law, regulation and governance.² Indeed, one of the most notable legal and constitutional by-products of globalisation has been a worldwide trend towards the decentralization of state power, which has typically implied significant increases in the legal autonomy, power and functional responsibility of (especially urban) local governments.³

At the same time, traditionally parochial local government law has itself attained global dimensions and significance. For instance, global financial institutions have increasingly concerned themselves with the relationship between local government, poverty-alleviation and economic growth, and are increasingly asserting 'universal' standards of good urban governance,⁴ while the 'best-practice' norms emanating from increasingly persuasive global local government associations (such as United Cities and Local Government, the C40 Cities Climate Leadership Group and the Global Parliament of Mayors) have

¹ This is comprehensively discussed, for instance, by B.R. Barber, *If Mayors Ruled the World: Dysfunctional Nations, Rising Cities* (New Haven: Yale UP, 2013); T. Herrschel, and P. Newman, *Cities as International Actors: Urban and Regional Governance Beyond the Nation State* (London: Palgrave Macmillan, 2017); S. Sassen, *Cities in a World Economy* (4th ed., New York: Sage, 2012).

² See J. Shen, *Urban Competitiveness and Urban Governance in the Globalizing World*, 23 *Asian Geographer*, no. 1–2 (2004), 19–20. On these shifts more generally, see S. Picciotto, *Networks in International Economic Integration: Fragmented States and the Dilemmas of Neoliberalism*, 17 *Northwestern Journal of International Law & Business* (1996–1997); S. Picciotto, *International Transformations of the Capitalist State*, 43 *Antipode*, no. 1. (2011).

³ See G.E. Frug, and D.J. Barron, *International Local Government Law*, 38 *The Urban Lawyer*, no. 1 (2006), 31–32, 35, 54; S. Picciotto, *Constitutionalizing Multilevel Governance?*, 6 *International Journal of Constitutional Law*, no. 4 (2008); W. Smit, and E. Pieterse, "Decentralisation and Institutional Reconfiguration in Urban Africa," in S. Parnell, and E. Pieterse (eds.), *Africa's Urban Revolution* (Cape Town: Zed Books, 2014); W. van Vliet, *Cities in a Globalizing World: From Engines of Growth to Agents of Change*, 14 *Environment & Urbanization*, no. 1 (2002), 37–38.

⁴ See J.D. Davila, "Urban Fragmentation, 'Good Governance' and the Emergence of the Competitive City," in S. Parnell, and S. Oldfield (eds.), *The Routledge Handbook on Cities of the Global South* (London and New York: Routledge, 2014), pp 474–476; Frug and Barron (2006), *supra* note 3, pp. 13, 21, 30–35, 58; M. Riegner, "International Institutions and the City: Towards a Comparative Law of Global Governance," in H.P. Aust, and A. Du Plessis (eds.), *The Globalisation of Urban Governance: Legal Perspectives on Sustainable Development Goal 11* (New York and London: Routledge, 2019), pp. 38–39, 46–49; E. Sheppard, "Globalizing Capitalism and Southern Urbanization," in Parnell and Oldfield (2014), *supra*, pp. 147, 150.

similarly enhanced urban autonomy worldwide whilst steering its exercise towards the achievement of common goals.⁵

Shifts towards a ‘global local government law’ are also increasingly finding expression in the normative instruments of the United Nations. Specifically, UN Sustainable Development Goal 11’s commitment to ‘make cities and human settlements inclusive, safe, resilient and sustainable’ and its subsequent detailed elaboration through the UN New Urban Agenda, which emphasises the need for ‘strengthening the capacity of subnational and local governments to implement effective and metropolitan multilevel governance, ... [and] working to provide them with the necessary authority and resources to manage critical urban, metropolitan and territorial concerns’,⁶ indicate that urban local government law and practice have become important sites not only for economic globalisation, but also for the management of its environmental and human rights impacts.⁷

With globalisation thus typically having resulted in both more powers and more responsibilities for municipal governments in cities around the world, and with urban governance concomitantly emerging as a significant determinant of economic competitiveness, it is unsurprising that urban local governments have increasingly been charged with, and been taking charge of, matters of economic development.⁸ Both through autonomous actions in local and global markets and through wielding their everyday, ‘conventional’ local government powers around urban form and functioning (such as powers over zoning, building permissions, municipal rates, service schedules and local development tax

5 See Frug and Barron (2006), *supra* note 3, pp. 25–29; Riegner (2019), *supra* note 4, pp. 45–46.

6 UN *New Urban Agenda* A/RES/71/256* (2016) para 90.

7 See H.P. Aust, and A. Du Plessis, “The Globalisation of Urban Governance – Legal Perspectives on Sustainable Development Goal 11,” in Aust and Du Plessis (2019), *supra* note 4.

8 See also Barber (2013), *supra* note 1, pp. 55, 65; F. Gipouloux, “From Entrepôts to Service Integrators: Asian Metropolises in a Changing Flows and Nodes Configuration”, in F. Gipouloux (ed.), *Gateways to Globalisation: Asia’s International Trading and Finance Centres* (Northampton: Edward Elgar, 2011), pp. 1–3; E.J. Malecki, *Cities and Regions Competing in the Global Economy: Knowledge and Local Development Processes*, 25 *Environment & Planning C: Government & Policy* (2007), 638–654; E. Nel, *Critical Reflections on Urban and Local Development in Africa*, 25 *Development and Planning C: Government and Policy* (2007); V.U. Onyebueke, *Place and Function of African Cities in the Global Urban Network: Exploring the Matters Arising*, 22 *Urban Forum*, no. 1 (2011), 2, 4–7; Sassen (2012), *supra* note 1, pp. 12–13; R.C. Schragger, *Cities, Economic Development, and the Free Trade Constitution*, 94 *Virginia Law Review*, no. 5 (2011), 1094–1096; A.T. Tavares-Lehmann, and R. Tavares, *Economic Nationalism is on the Rise, but the Future of Trade Lies with Cities*, *World Economic Forum* (February 3, 2017), available at: <www.weforum.org>, accessed May 1, 2019; I. Turok, *Cities, Regions and Competitiveness*, 38 *Regional Studies*, no. 9 (2004), 1070–1076; Van Vliet (2002), *supra* note 3, pp. 33, 36–38.

incentives), urban municipal governments attempt to grow city economies and bolster their economic competitiveness.⁹

Indeed, there is a burgeoning, multi-disciplinary literature on the characteristics and actions of so-called ‘global cities’, the large metropolises that drive the global economy and whose municipal leadership play an increasingly important role in economic policy setting and international relations. Cities around the world are understood to be competing for such ‘global city’ status, commonly associated with being the location of headquarters of specialized service firms, sites for direct capital investment, nodes of global financial flows, ports of global trade, centres of knowledge-production and preferred residential location of highly skilled individuals.¹⁰ At an everyday urban governance level, this competition often involves prioritising the enhancement of cities’ physical urban environment, their physical, financial and virtual infrastructure networks, their governance structures, their property rights- and taxation regimes, and so forth, all geared towards making cities more business-conducive, economically dense, connected, and ‘liveable’.¹¹

The notion of ‘global cities’ and its attendant literature have been subject to significant criticism, for emphasising economic competitiveness and the interests of ‘big’ business over cities’ concomitant service delivery and welfare responsibilities towards residents; for obscuring the prevalence and importance of informal, low-end and survivalist economic activities in cities; for underplaying the many non-economic aspects of city life; for side-lining crucial urban governance objectives relating to urban inclusiveness and resilience; and for reflecting a Western bias which overlooks the cities of the developing world, while forcing them to enter a competition which they cannot win.¹²

⁹ Schragger (2011), *supra* note 8, pp. 1096, 1107–1120. See also A. Collins, *Making Truly Competitive Cities – on the Appropriate Role for Local Government*, Economic Affairs (September 1, 2007), 75–80; Herschel and Newman (2017), *supra* note 1, p. 39; Turok (2004), *supra* note 8, p. 1071.

¹⁰ See I. Begg, *Cities and Competitiveness*, 36 *Urban Studies*, no. 5–6 (1999); Frug and Barron (2006), *supra* note 3, pp. 8–9; Sassen (2012), *supra* note 1, p. 7; Onyebueke (2011), *supra* note 8, pp. 3–6; U. Pillay, *Are Globally Competitive “City Regions” Developing in South Africa? Formulaic Aspirations or New Imaginations?*, 15 *Urban Forum*, no. 4 (2004), 342; I.J. van der Merwe, *The Global Cities of Sub-Saharan Africa: Fact or Fiction?*, 15 *Urban Forum*, no. 1 (2004), 37–39, 43.

¹¹ See Davila (2014), *supra* note 4, pp. 474–476; C. Lemanski, *Global Cities in the South: Deepening Social and Spatial Polarisation in Cape Town*, 24 *Cities*, no. 6 (2007), 448–449; Pillay (2004), *supra* note 10, pp. 345–346; Turok (2004), *supra* note 8, pp. 1071–1075.

¹² See Gipoloux (2011), *supra* note 8, p. 3; Lemanski (2007), *supra* note 11, pp. 449–451; S. Parnell, and J. Robinson, *Development and Urban Policy: Johannesburg’s City Development Strategy*, 43 *Urban Studies*, no. 2 (2006), 339; Pillay (2004), *supra* note 10, p. 343; Turok (2004), *supra* note 8, p. 1072.

Indeed, the cities of the developing world are hamstrung in competing for the spoils of the global economy by poverty, inequality, underdevelopment and attendant socio-economic challenges.¹³ It is often pointed out that meeting these challenges, rather than seemingly doomed attempts at competing for 'global city' status, should be the priority for urban governments in the global South.¹⁴ Yet, far from their typical depiction as the uni-dimensional mines, gravel pits and sweat shops for the developed world, cities of the South do engage the global economy, and some are emerging as powerful, even indispensable, players in 'global city' networks.¹⁵ It is further misleading to pretend that the problems plaguing them are not also present in first world cities, as this obscures both economic globalisation's propensity to deepen inequality and attendant social polarisation everywhere,¹⁶ and its simultaneous tendency to generate not only high-end economic activities but also numerous low-end flows of labour, goods and capital.¹⁷

Indeed, a focus on the 'global' cities of the global South reveals a far more intricate picture of the interactions between economic and social urban governance objectives everywhere,¹⁸ as well as of complex interdependencies between survivalist and profit-driven, formal and informal urban economic activity at different scales. This article considers these interactions and interdependencies, and their relationships with the domestic legal and constitutional powers of urban local government, in relation to cities in the Southern African Development Community (SADC) region. The focus is on international (cross-border) trade, as it manifests at the local, urban scale. While only a limited fraction of urban economic activity, a focus on such trade illustrates the interrelations between formal and informal economies in the developing world, as well as the centrality of urban law and governance to their respective optimization. Ultimately, the article argues that the economic objectives of urban

13 See A.J. Njoh, *African Cities and Regional Trade in Historical Perspective: Implications for Contemporary Globalization Trends*, 23 *Cities*, no. 1 (2006), 25–26; Onyebueke (2011), *supra* note 8, p. 6; Pillay (2004), *supra* note 10, pp. 345–347; Van der Merwe (2004), *supra* note 10, pp. 38–40.

14 See, for instance, Lemanski (2007), *supra* note 11, p. 449; Sheppard (2014), *supra* note 4, pp. 145–146.

15 See Sassen (2012), *supra* note 1, pp. 17, 66; Van der Merwe (2004), *supra* note 10, p. 43.

16 Lemanski (2007), *supra* note 11, pp. 450, 455–456, 459.

17 S. Sassen, *Locating Cities on Global Circuits*, 14 *Environment & Urbanization*, no. 1 (2002), 14–15; Sassen (2012), *supra* note 1, pp. 11–12, 89, 273–296, 326–327.

18 See J. Houghton, *Negotiating the Global and the Local: Evaluating Development Through Public-private Partnerships in Durban, South Africa*, 22 *Urban Forum* no. 1 (2011), 75–76; Lemanski (2007), *supra* note 11, p. 459; Parnell and Robinson (2006), *supra* note 12, pp. 338, 341, 348; Van Vliet (2002), *supra* note 3, p. 38.

governance in the developing world must extend beyond enabling formal economic spaces and flows that serve the interests of elites, to also enable development in the informal and bridging economic sectors, which serve the interests of far more people.¹⁹

Section 2 below introduces state-level economic objectives in the SADC region and positions its cities in relation to these, first by discussing the interrelations between high-level economic activity, formal cross-border trade and urban governance in the region, and thereafter by a similar discussion of informal economic flows, which focuses on the example of cross-border retail trade as it plays out in the South African city of Johannesburg. Section 3 then outlines the legal powers and functions of urban municipal governments in SADC, in relation to both its formal and informal cross-border economies, and reflects upon the ways in which these powers are wielded. In conclusion, Section 4 reflects upon the roles of the SADC and the municipal governments of its cities in ensuring that urban governance in the region enhances economic competitiveness without sacrificing the socio-economic and developmental interests of local populations.

2 Urban Economic Activity and Flows in the SADC

The acronym SADC refers both to the Gaborone-headquartered intergovernmental organisation established to promote economic integration and cooperation among its sixteen member states in southern sub-Saharan Africa and the adjacent Indian Ocean, and to the territorial region covered by these states.²⁰ While SADC's member states have different colonial histories, legal systems and developmental trajectories, they face common socio-economic and developmental challenges, including widespread poverty, deepening inequality, underdevelopment, low levels of economic productivity and poor integration into global trade networks. The SADC (as an organisation) was established partly to increase its member states' ability to compete in the global economy and purports to overcome these obstacles through greater cross-border cooperation and economic integration, improved governance and regional development; and ultimately

¹⁹ Also argued, for instance, by Lemanski (2007), *supra* note 11; Sheppard (2014), *supra* note 4.

²⁰ The SADC member states are: South Africa, Lesotho, Swaziland, Namibia, Botswana, Zimbabwe, Mozambique, Angola, Zambia, Malawi, Tanzania, the Democratic Republic of the Congo (DRC), Madagascar, Mauritius, Seychelles and Comoros.

envisioning a common SADC market and free movement of people across the region.²¹

In pursuit of these and related goals, the SADC has adopted several binding protocols and strategic instruments, notably the *Protocol on Trade* (1996), the *Protocol on Finance and Investment* (2006) and the *Regional Infrastructure Development Master Plan* (2012).²² Major cross-border infrastructure projects in pursuit of the latter (such as the Maputo Development Corridor between Johannesburg and Maputo, and the Walvis Bay SADC Port Development) have boosted economic activity in the region.²³ A regional free trade zone was established in 2008, though progress towards other strategic goals, including the establishment of a regional customs union, a common market and a common currency has lagged significantly behind the targets laid down in the SADC 2001 *Regional Indicative Strategic Development Plan*.²⁴

GDP growth and export trade from the region has markedly increased over the last two decades, though remains insufficient to improve living standards in the region, while intra-region trade remains weak and productivity levels remain low.²⁵ Economic development and export trade in the region remains shaped by the remnants of colonialism, with national and urban economies and their supporting physical infrastructure having been ‘designed’ to extract and supply natural (especially mineral) resources to Europe.²⁶ Agricultural products, natural- and mineral resources continue to dominate export trade, and economic

21 See SADC, *Regional Indicative Strategic Development Plan* (2001), pp. 4–5; B. Tsie, *States and Markets in the Southern African Development Community: Beyond the Neo-liberal Paradigm*, 22 *Journal of Southern African Studies*, no. 1 (1996), 83–84; N. Yabu, *Assessing the Intra-SADC Trade in Goods and Services*, Bank of Tanzania Working Paper no. 6 (2015), 2.

22 Others include the *Protocol on Facilitation of Movement of Persons* (1997, revised 2005), the *Protocol on Employment and Labour* (2014), the *Regional Migration Labour Policy* (2014) and the *Labour Migration Action Plan* (2016).

23 See S. Peberdy, and J. Crush, *Invisible Trade, Invisible Travellers: The Maputo Development Corridor Spatial Development Initiative and Informal Cross-border Trading*, 83 *South African Geographical Journal*, no. 2 (2001), 115–116; C.J. Savage *et al.*, *Developing Walvis Bay into a Logistics Gateway for Southern Africa: Issues, Challenges and the Potential Implications for Namibia’s Future*, 8 *Journal of Transport and Supply Chain Management*, no. 1 (2014), 1–10.

24 See T. Shumba, *Harmonising Regional Trade Law in the Southern African Development Community (SADC)* (Baden-Baden: Nomos, 2015), p. 121; Tsie (1996), *supra* note 21, p. 85; Yabu (2015), *supra* note 21, pp. 1, 19.

25 See A. Mazzolini, ‘The Rising ‘Floating Class’ in Sub-Saharan Africa and its Impact on Local Governance: Insights from Mozambique’, in C.N. Silva (ed.), *Governing Urban Africa* (London: Palgrave MacMillan, 2016), pp. 217–218; Pillay (2004), *supra* note 10, pp. 345–346; Shumba (2015), *supra* note 24, pp. 117–118, 138; Yabu (2015), *supra* note 21, pp. 1.

26 See Njoh (2006), *supra* note 13, pp. 22–25; Van der Merwe (2004), *supra* note 10, p. 40.

diversification has proved challenging. Meanwhile, intra-region trade and commerce is dominated by South Africa, with many of its neighbouring countries heavily dependent on it for imports, and South African retail firms having aggressively expanded across the region from the mid-1990s onwards.²⁷

Overall, despite significant progress towards economic integration and increased intra- and extra-region trade, formal international trade in and among the countries in SADC remains hampered by complex, outdated and poorly integrated legal regimes, ‘thick borders’ and convoluted customs procedures, tardy logistics networks, high immigration costs and delays, and deficient infrastructure.²⁸

2.1 High-end Economic Activity in the Global(ising) Cities of SADC

The treaties of the SADC and the enforcement mechanisms that they establish operate predominantly or exclusively at the level of the nation state and nowhere explicitly engage with local government. Apart from the *Regional Infrastructure Development Master Plan* also emphasising crucial urban infrastructure, there is also no explicit engagement with urban governance or urban development. Yet, such formal economic growth as has occurred in the SADC region has near exclusively taken place in its cities.²⁹ While they remain relatively poorly integrated into the global economy (especially since its shift away from flows of raw materials, agricultural products and minerals to flows of specialist financial services and innovations)³⁰ and whereas their economies remain geared towards raw material exports, are often dominated by the informal sector and often focus mostly on servicing surrounding rural areas and on

²⁷ See D. Miller, E. Nel, and G. Hampwaye, *Malls in Zambia: Racialised Retail Expansion and South African Foreign Investors in Zambia*, 12 *African Sociological Review* no. 1 (2008), 5–54; S. Peberdy, *Mobile Entrepreneurship: Informal Sector Cross-border Trade and Street Trade in South Africa*, 17 *Development Southern Africa*, no. 2 (2000), 202–204; Savage *et al.* (2014), *supra* note 23, p. 2; Shumba (2015), *supra* note 24, p. 119; Yabu (2015), *supra* note 21, pp. 4–7; 18.

²⁸ See C. Fish, C. Adendorf, and K. Jonker, *An Investigation into Factors Impacting on Exports from South Africa to the Southern African Development Community (SADC)*, 18 *African Sociological Review*, no. 1 (2014), 131, 137; Njoh (2006), *supra* note 13, pp. 24–28; Peberdy (2000), *supra* note 27, pp. 215–217; Shumba (2015), *supra* note 24, pp. 122, 127–134; Yabu (2015), *supra* note 21, p. 18.

²⁹ Mazzolini (2016), *supra* note 25, p. 218.

³⁰ Sassen (2012), *supra* note 1, p. 17. See also Onyebueke (2011), *supra* note 8, pp. 6, 18; Pillay (2004), *supra* note 10, p. 346; Van der Merwe (2004), *supra* note 10, pp. 38–40.

being self-sustaining,³¹ 'African cities are increasingly the commercial power-houses for their respective countries'.³²

The 2016 issue of the Globalization and World Cities Study Group (GAWC)'s ranking of global cities, based on office networks of producer services firms, contained sixteen cities from the SADC region ranked at levels above 'sufficient' world city presence.³³ This implies not only significant levels of multinational corporate activity but also the presence of diverse and specialized domestic service economies in several cities across SADC.

Johannesburg in South Africa is the region's only alpha-rated major global city, displaying levels of global connectedness comparable to first world cities such as Sydney, Amsterdam and Milan. Located at the core of South Africa's so-called 'Gauteng City Region' (GCR – comprising also of Pretoria and a several smaller industrial cities), Johannesburg is, alongside Kinshasa in the DRC, the region's largest city,³⁴ and hosts its largest and busiest stock exchange and airport. It boasts a remarkably diverse population as well as varied and sophisticated physical, electronic and digital infrastructure, the mix of which have enabled and sustained a sufficient agglomeration of economic activities to permit meaningful global economic participation.³⁵ While it is also the most unequal and one of the most violent cities in the region, the upshot is that Johannesburg exercises a disproportionate pull over skills, labour, firms and

³¹ See Pillay (2004), *supra* note 10, pp. 345–346; L. Marais *et al.*, *Planning for Economic Development in a Secondary City? Trends, Pitfalls and Alternatives for Mangaung, South Africa*, 26 *Bulletin of Geography, Socio-economic Series* (2014), 204–205; M.F. Sihlongonyane, *Local Economic Development in Swaziland: The Case of Manzini City*, 14 *Urban Forum*, no. 2–3 (2003), 244, 257.

³² Sassen (2012), *supra* note 1, p. 66.

³³ Available at: <<http://www.lboro.ac.uk/gawc/world2016.html>>, accessed May 1, 2019. These are Johannesburg (South Africa) rated Alpha; Cape Town (South Africa) rated Beta +; Port Louis (Mauritius) rated Beta-; Durban (South Africa) rated Gamma +; Dar es Salaam (Tanzania), Lusaka (Zambia), Harare (Zimbabwe), and Luanda (Angola) rated Gamma, and Maputo (Mozambique) and Gaborone (Botswana) at level Gamma-. Pretoria (South Africa), and Windhoek (Namibia)'s connectivity rate as being of 'high sufficiency', followed by Port Elizabeth (South Africa), Blantyre (Malawi), Antananarivo (Madagascar) and Kinshasa (DRC) rated as 'sufficiently' connected. On GAWC's methodology and the significance of its classifications, see P.J. Taylor, *Specification of the World City Network*, 33 *Geographical Analysis*, no. 2 (2001).

³⁴ Eight further metropolitan areas (around the cities of Luanda, Dar es Salaam, Cape Town, Durban, Maputo, Antananarivo, Lusaka and Harare) boast populations in excess of two million.

³⁵ See Onyebueke (2011), *supra* note 8, p. 7; Pillay (2004), *supra* note 10, pp. 353–355; Sassen (2012), *supra* note 1, pp. 86–87; Van der Merwe (2004), *supra* note 10, p. 40.

investment in SADC, with its allure having a significant brain-drain effect on the region's other cities.³⁶

Other significant international financial and service-oriented centres in SADC include Cape Town (South Africa), Port Louis (Mauritius) and Gaborone (Botswana), while Luanda (Angola) is a major commodity hub thanks to its oil industry, and Durban (South Africa) boasts a container port ranking in the world's top 50.³⁷ There are active stock exchanges based in Gaborone, Port Louis, Windhoek (Namibia), Victoria (Seychelles), Dar es Salaam (Tanzania) and Harare (Zimbabwe), large and busy airports in Cape Town, Durban, Port Louis and Dar es Salaam, and major ports in Cape Town, Port Elizabeth, Walvis Bay (home of the mooted 'SADC port' currently under development)³⁸, Maputo, Dar es Salaam, Richards Bay (South Africa), Beira (Mozambique) and East London (South Africa). Cape Town by far has the region's largest tourist market, whereas Port Louis, Durban, Johannesburg and Stone Town in Zanzibar (Tanzania) are also regarded as international tourist destinations.³⁹

Most of the cities mentioned here host universities and other tertiary knowledge centres (with universities in several major South African cities regularly featuring in global university rankings) as well as high-end commercial activity, and thus both produce and require skilled labour. Accordingly, there are constant cross-city (and cross-border) flows of labour throughout the region, with research predictably showing that both skilled and unskilled migrants prefer to locate in those cities that offer good job opportunities, high quality of life, a broad array of available consumer goods and services, safety, tolerance, diversity, vibrancy, and extensive expat networks.⁴⁰

However, while several cities across SADC thus clearly boast diverse, high-level economic activity, their economic potential remains hampered by inefficient and fragmented urban forms, poor intra- and inter-city connections and

³⁶ See Herrschel and Newman (2017), *supra* note 1, p. 81; A. Kent, and H. Ikgopoleng, *Gaborone City Profile*, 28 Cities (2010), 484.

³⁷ On Durban's port as determinative of its global economic status, see Houghton (2011), *supra* note 18, pp. 76–77.

³⁸ The Walvis Bay port development explicitly aims at competing with Durban for the SADC region's container traffic. See Savage *et al.* (2014), *supra* note 23, pp. 2–5.

³⁹ On South African cities' attempts to capture tourist markets, see Lemanski (2007), *supra* note 11, pp. 451–452; C.M. Rogerson, *Urban Tourism and Regional Tourists: Shopping in Johannesburg, South Africa*, 12 *Tijdschrift voor Economische en Sociale Geografie*, no. 3 (2011), 321–323.

⁴⁰ See Collins (2007), *supra* note 9, p. 76; Malecki (2007), *supra* note 8, p. 642; Rogerson (2011), *supra* note 39, p. 326; D. Tevera, *Remaking Life in Transnational Urban Space: Zimbabwean Migrant Teachers in Manzini, Swaziland*, 2 *Migracijske i Etnicke Teme* (2014), 155–170; Turok (2004), *supra* note 8, pp. 1074–1075.

insufficient economic diversity. Moreover, all of the cities in the region embody spatial and socio-economic inequalities, which not only hamper them economically but also diminish quality of life for their residents. A recent World Bank report has pinpointed deficient infrastructure and a fractured, physically overcrowded and disconnected urban form as main impediments to African cities' economic performance. According to the report, African cities' main economic drawbacks are, first, that they are physically crowded without being economically dense, secondly, that they are disconnected and fragmented, and, thirdly, that they are costly for both households and firms.⁴¹

This holds at least partly true for all the cities of SADC. 'Extractive' cities like Luanda and Kinshasa, for instance, were built as processing and transport plants for raw materials and were accordingly laid out in ways which bypass and exclude the majority of their residents from economic activity.⁴² Despite their comparatively sophisticated physical, digital and commercial infrastructure, all the major South African cities further struggle with the spatial legacy of Apartheid, which has rendered them impractical, inefficient and unjust.⁴³ In all SADC's major cities there is further the tendency, as elsewhere in the developing world, for high-end economic activity to cluster in spatially disconnected office parks, financial districts or elite suburbs, with the result that the majority of SADC's urban residents are physically excluded from the spoils of such global economic activity as does take place within their cities.⁴⁴ The SADC *Regional Infrastructure Development Master Plan* further affirms that the economic fortune of all cities in the region is hamstrung by expensive and unreliable transport and logistics services, insufficient energy supply, poor, uncoordinated and inadequately maintained road and rail infrastructure, inadequate IT infrastructure and poor essential service delivery.⁴⁵

⁴¹ S.V. Lall, J.V. Henderson, and A.J. Venables, *Africa's Cities: Opening Doors to the World* (Washington: World Bank, 2017), pp. 10, 16, 26, 28, 36. See also C. Karayalcin, and H. Yilmazkuday, *Trade and Cities*, 29 *World Bank Economic Review*, no. 3 (2014), 535–526, 529, 543; Njoh (2006), *supra* note 13, pp. 25–28.

⁴² See F. D'Ascenzo, *An African Metropolis: The Imploded Territoriality of Kinshasa*, 80 *Investigaciones Geograficas* (2013), 99–100, 109; P. Jenkins, P. Robson, and A. Cain, *Luanda City Profile*, 19 *Cities*, no. 2 (2002), 144; J.T. Kuditshini, *Global Governance and Local Government in the Congo: The Role of the IMF, World Bank, the Multinationals and the Political Elites*, 74 *International Review of Administrative Sciences*, no. 2 (2008), 196–199.

⁴³ See A. Du Plessis, *The Readiness of South African Law and Policy for the Pursuit of Sustainable Development Goal 11*, 21 *Law, Democracy & Development* (2017), 246; Lemanski (2007), *supra* note 11, pp. 455–456; Marais *et al.* (2014), *supra* note 31, p. 215; Pillay (2004), *supra* note 10, p. 352.

⁴⁴ See Davila (2014), *supra* note 4, p. 478; Sassen (2002), *supra* note 17, pp. 16, 22.

⁴⁵ SADC, *Regional Infrastructure Development Master Plan* (2012), pp. 5, 8–11, 13.

Urban form and functioning thus emerge as significant non-tariff barriers to formal trade and economic activity in the SADC region. This means that urban local governments in SADC are increasingly implicated in national attempts to render cities, and thereby national economies, more globally competitive.⁴⁶

2.2 Cross-border Informal Trade in Cities of SADC

While often stigmatized as illegal and tax-avoiding and dismissed as unorganised, small-scale, survivalist and inconsequential, informal trade is responsible for a substantial (by some estimates up to 40%) chunk of international trade and economic activity in SADC and is linked, in multiple and complex ways, to formal trade and to the formal economies of all of the region's major cities.⁴⁷

Street traders are a common sight in African cities. While localised survivalist street trade is of limited interest for present purposes,⁴⁸ there is more to informal markets than meets the eye. For instance, traders selling foodstuffs often have supply links with local fresh produce markets and with peri-urban and rural agricultural markets, and play an important role in maintaining regional urban food security.⁴⁹ In some cities, street traders also offer more sophisticated services, as in Harare and Bulawayo where the collapse of the formal Zimbabwean economy has led the preponderance of commercial,

⁴⁶ See Davila (2014), *supra* note 4, p. 474; Lemanski (2007), *supra* note 11, p. 449; Onyebueke (2011), *supra* note 8, p. 16; Shen (2004), *supra* note 2, pp. 20–21; Sheppard (2014), *supra* note 4, pp. 145–146.

⁴⁷ See S. Peberdy, *Border Crossings: Small Entrepreneurs and Cross-border Trade Between South Africa and Mozambique*, 91 *Tijdschrift voor Economische en Sociale Geografie*, no. 4 (2000), 362; Peberdy and Crush (2001), *supra* note 23, p. 116; S. Peberdy, and C. Rogerson, *Transnationalism and Non-South African Entrepreneurs in South Africa's Small, Medium and Micro-enterprise (SMME) Economy*, 34 *Canadian Journal of African Studies*, no. 1 (2000), 35; Pillay (2004), *supra* note 10, pp. 345–346; Southern African Liaison Office (SALO), *Informal Economy and Cross-border Trade between South Africa and Zimbabwe*, Policy Brief 1 (2017) pp. 1–3. This is also borne out by research in West Africa – see C. Mitaritonna *et al.*, *Regional Integration and Informal Trade in Africa: Evidence from Benin's Borders*, Centre d'Etudes Prospectives et d'Informations Internationales Working Paper (2018), 3, 6, 16, 35.

⁴⁸ On survivalist street trade in South African cities, see M. von Broembsen, *Informal Business and Poverty in South Africa: Re-thinking the Paradigm*, 14 *Law, Democracy & Development* (2010).

⁴⁹ See G. Hampwaye, *Local Economic Development in the City of Lusaka, Zambia*, 19 *Urban Forum*, no.2 (2008), 194–195; I.J. Minde, and T.O. Nakhumwa, *Unrecorded Cross-border Trade between Malawi and Neighboring Countries*, Office of Sustainable Development Bureau for Africa Technical Paper no 90 (1998), 5, 43; N. Onishi, and J. Moyo, *Trade on the Streets, and off the Books, Keeps Zimbabwe Afloat*, *New York Times* (March 4, 2017).

financial and foreign exchange transactions to take place informally on the streets.⁵⁰

Moreover, street trade constitutes a cog in an intricate wheel of international trade networks, with thousands of cross-border traders operating diverse import/export businesses, with not insignificant turnovers and numbers of employees, across SADC.⁵¹ The focus here is on so-called ‘cross-border shopping’ in the city of Johannesburg which, mirroring its role as the formal trade giant of the SADC, also dominates informal cross-border consumer retail trade in the region.⁵² Complementary informal transnational commercial networks in the region include trade in fresh seafood caught outside Maputo and supplied to restaurants in Johannesburg and Durban; trade in handmade curios from across SADC sold in tourist markets in Durban and Cape Town; trade in second-hand clothes as well as fabric manufactured in Maputo, Dar es Salaam and West African cities, supplied to formal and informal retail outlets in most major SADC cities.⁵³ Research into cross-border trade between Malawi and its neighbours further shows that formal international trade markets in SADC (around goods such as sugar, fertilizer, beer, coffee and tobacco) are accompanied by informal ‘shadow markets’ flowing along similar routes.⁵⁴

Thousands of traders from across SADC go on ‘shopping trips’ to the inner city of Johannesburg, sometimes jokingly referred to as the ‘Dubai of Africa’,⁵⁵ where they buy goods, both on order for customers and for general resale in both formal retail outlets and informal street markets in other (often multiple) SADC cities. A recent research report commissioned by the Johannesburg Inner City Partnership and conducted in ‘Jeppe’ – a small-scale, retail-heavy portion of the central business district (CBD) – interviewed ‘cross-border shoppers’ from Zambia, Malawi, Lesotho, Botswana, Zimbabwe, Namibia, Mozambique, the DRC, Swaziland and Cameroon, indicating the truly international character of

50 Onishi and Moyo (2017), *supra* note 49; C.M. Rogerson, *Responding to Informality in Urban Africa: Street Trading in Harare, Zimbabwe*, 27 *Urban Forum*, no.3 (2016), 237–238.

51 See for instance Minde and Nakhumwa (1998), *supra* note 49, pp. 31, 44; Peberdy (2000), *supra* note 47, pp. 369, 373; Peberdy and Rogerson (2000), *supra* note 47, pp. 28, 34–36.

52 See Rogerson (2011), *supra* note 39, p. 324; T. Zack *et al.*, *Cross Border Shopping in Johannesburg’s Inner City*, Research Report Commissioned by the Johannesburg Inner City Partnership (2017), 7.

53 See Minde and Nakhumwa (1998), *supra* note 49, pp. 35–36; Peberdy (2000), *supra* note 27, pp. 208–209, 212–214, 218; Peberdy (2000), *supra* note 47, pp. 360–361, 367–369; Peberdy and Rogerson (2000), *supra* note 47, p. 28; Rogerson (2011), *supra* note 39, p. 324; SALO (2017), *supra* note 47, p. 2.

54 See generally Minde and Nakhumwa (1998), *supra* note 49. This is also the case elsewhere on the continent – see Mitaritonna *et al.* (2018), *supra* note 47.

55 See Zack *et al.* (2017), *supra* note 52, p. 129.

this trade, which is said to contribute billions of Rands to Johannesburg's annual formal retail turnover.⁵⁶

Goods traded in this manner include homeware, furniture, foodstuffs, kitchen appliances, tools, electronics (cell-phones and accessories, television or audio equipment), new and second-hand clothing and shoes, medicine, cosmetics, car parts, liquor, luggage, hardware, sporting goods, computer software and books.⁵⁷ These are procured from and resold to both formal (wholesale and retail), semi-formal and street-level informal businesses.⁵⁸

The extensive urban supply chains for this massive retail market extend far beyond SADC – 'trade in this sector is truly globalised in terms of traders, retailers, customers and goods flowing across African and continental borders'.⁵⁹ In particular, there are mass imports of Chinese goods (homeware and clothing mostly sourced in Guangzhou, and electronic products mostly sourced from informal traders in Hong Kong's infamous Chunking Mansions) which are resold in Chinese-operated wholesale malls across the city. These 'China Malls' also have extensive retail links with Ethiopian traders operating small shops (also selling Ethiopian coffee, fabric and other imports) in 'Jeppe', which is located close to major cross-border transit hubs and therefore a preferred shopping spot. Also significant is significant networks of clothing, luggage, homeware and fabric imports from India, Bangladesh and Pakistan, sold at the nearby Oriental Plaza in Fordsburg on the CBD's outskirts.⁶⁰ 'Shoppers' further often double as suppliers, bringing goods (such as Mozambican fabric, or Malawian liquor) from their home towns for sale to their Johannesburg-based contacts.⁶¹

While much of the trade described here is above-board and passes through formal customs channels, not insignificant portions are below the radar and illicit. Significant amounts of knock-off and counterfeit goods are sold in Jeppe, shipments sometimes bypass customs, bulk payments sometimes ignore South

⁵⁶ *Ibid.*, pp. 6–7, 100, 129. See also Rogerson (2011), *supra* note 39, p. 319.

⁵⁷ See Peberdy (2000), *supra* note 27, p. 209; Peberdy (2000), *supra* note 47, p. 367–369; Peberdy and Rogerson (2000), *supra* note 47, p. 31; Rogerson (2011), *supra* note 39, p. 324; Zack *et al.* (2017), *supra* note 52, p. 110.

⁵⁸ See Peberdy (2000), *supra* note 27, p. 211; Peberdy (2000), *supra* note 47, pp. 364, 367, 374.

⁵⁹ Zack *et al.* (2017), *supra* note 52, p. 6.

⁶⁰ On these international supply chains and their different retail outlets across the city, see R. Grant, and D. Thompson, *City on Edge: Immigrant Businesses and the Right to Urban Space in Inner-city Johannesburg*, 36 *Urban Geography*, no. 2 (2015), 188–189; Peberdy (2000), *supra* note 27, p. 211; D.K. Thompson, and R. Grant, *Enclaves on Edge: Strategy and Tactics in Immigrant Business Spaces of Johannesburg*, 26 *Urban Forum*, no. 3 (2015), 255–256; T. Zack, *Jeppe – Where Low-end Globalisation, Ethnic Entrepreneurialism and the Arrival City Meet*, 26 *Urban Forum*, no. 2 (2015), 135–137, 139, 142; Zack *et al.* (2017), *supra* note 52, pp. 7, 12–13.

⁶¹ See Peberdy (2000), *supra* note 47, pp. 370–371.

African tax and foreign exchange regulations, traders sometimes transgress immigration laws and the terms of their visas, and many employment relations transgress labour laws.⁶² Warehouses and retail outlets in Jeppe further frequently infringe local government bylaws on building use, zoning, informal trade licencing, health and safety.⁶³

As such, the cross-border shopping 'trade' in Johannesburg concretely illustrates how globalisation produces not only high-end international financial and business flows, but also extensive and intricate low-end flows of goods, capital, information and labour.⁶⁴ It further reveals the poorly understood *linkages between* these high-end and low-end flows, as well as between different sectors of the economy and between formal and informal, legal and illegal trade. Moreover, it emphasises the inseparability of flows of goods and services, on the one hand, and flows of people, on the other.⁶⁵

As in the case of formal trade, urban shape, form and accessibility are crucial differentiators between cities competing for cross-border shopping and related forms of informal international trade. Johannesburg dominates the regional cross-border shopping market because it is accessible by road and rail from almost anywhere in SADC, because it is relatively easy to move around inside the city, and because of the sheer size and diversity of its formal and informal retail markets. But shopping malls in Gaborone, Lusaka and Maputo as well as a similarly multinational informal/formal sector agglomeration in Durban increasingly provide competition and lure cross-border shoppers away from Johannesburg's inner city,⁶⁶ and there are reports of formal South African retail as well as informal Ethiopian and Somali-run outlets relocating to the northern South African towns of Polokwane and Musina in order to capture the Zimbabwean cross-border shopping market.⁶⁷

Research among informal cross-border traders and of competition between cities for informal trade further shows not only how barriers of entry into formal trade networks create and feed informal trade networks,⁶⁸ but also reveal similar effects of non-tariff related barriers to trade on both the formal and informal

⁶² See examples discussed by Peberdy (2000), *supra* note 27, pp. 215–217; Peberdy (2000), *supra* note 47, pp. 373–375; Peberdy and Rogerson (2000), *supra* note 47, p. 23; Zack (2015), *supra* note 60, pp. 135–139, 144, 146.

⁶³ See examples discussed by Zack (2015), *supra* note 60, pp. 139–140, 147; Zack *et al.* (2017), *supra* note 52, p. 15.

⁶⁴ See Sassen (2012), *supra* note 1, pp. 86–89; Zack (2015), *supra* note 60, pp. 135–136.

⁶⁵ See SALO (2017), *supra* note 47, p. 3.

⁶⁶ See Rogerson (2011), *supra* note 39, pp. 323, 326.

⁶⁷ See Zack *et al.* (2017), *supra* note 52, pp. 7, 59.

⁶⁸ See Minde and Nakhumwa (1998), *supra* note 49, p. 42.

sectors. As with formal trade, cross-border shopping is inhibited by convoluted customs processes, regulations on customs duties and value-added tax, banking and financial sector regulations, road-tolls and visa costs, corruption and extortion at various points along supply chains, transport costs, poor transport-, storage- and related infrastructure, and the spatial fragmentation and poor, cumbersome and unsafe urban environment in many of the cities of SADC.⁶⁹ For example, Mozambican cross-border traders have bemoaned the cancellation of passenger train services between Maputo and Durban, which meant that traders from Maputo could now only reach Durban via Swaziland, which added another layer of customs and border-processes to their trade.⁷⁰ Cross-border shoppers in Johannesburg, meanwhile, complain of a lack of affordable and well-located accommodation options, difficulties reaching wholesale outlets in different parts of the city, lack of public bathrooms, xenophobia from locals and officials, harassment and extortion by metropolitan police, and safety concerns.⁷¹

While the presence of informal street trade in the business districts of African cities is often depicted as detracting from or obstructing 'formal' business activities, the cohabitation of African cities' formal and informal economies is in truth far more symbiotic. Over and above the sheer size of the informal sector's contribution to GDP, consumer spending power, start-up capital and sales-tax in African cities,⁷² there are distinct agglomeration benefits to the physical intermingling of formal and informal economic activity. In spaces such as the Johannesburg CBD, informal and formal (especially SMME) retail interact both as suppliers and customers, thereby expanding their overlapping international supply chains and customer bases. Their coexistence significantly diversifies and internationalises the range of goods and skills available in the domestic retail market, provides formal retail with indirect access to a customer base and export markets which it would otherwise never reach, facilitates access by cross-border traders to formal markets which they could otherwise not penetrate and, crucially, allows local consumers access to goods and services

⁶⁹ See Peberdy (2000), *supra* note 27, pp. 211, 215–217; Peberdy (2000), *supra* note 47, pp. 369, 373; Peberdy and Crush (2001), *supra* note 23, pp. 116, 120–122; Rogerson (2011), *supra* note 39, pp. 324–326; Thompson and Grant (2015), *supra* note 60, pp. 252, 256; Zack (2015), *supra* note 60, p. 144; Zack *et al.* (2017), *supra* note 52, pp. 62, 85, 91.

⁷⁰ See Peberdy and Crush (2001), *supra* note 23, p. 122.

⁷¹ See Rogerson (2011), *supra* note 39, pp. 324–326; Thompson and Grant (2015), *supra* note 60, pp. 252, 256; Zack *et al.* (2017), *supra* note 52, pp. 7, 76, 98, 124, 129, 132–133, 140.

⁷² On the significant extent of this see Hampwaye (2008), *supra* note 49, pp. 194–195; Peberdy (2000), *supra* note 47, p. 362; Peberdy and Rogerson (2000), *supra* note 47, pp. 35–36; SALO (2017), *supra* note 47, p. 1; Zack *et al.* (2017), *supra* note 52, pp. 7, 98.

which would otherwise be beyond their reach.⁷³ While more meaningful access by informal import and export traders' to the formal economy, as well as attendant benefit for cities, would indeed be facilitated through relaxed and more informal business-friendly visa regulations, customs processes and so forth, it would arguably depend as much on the enhancement of informal traders' day-to-day interactions with formal markets in the physical spaces of cities.

3 Local Government Power and Urban Economic Governance in Cities of SADC

National governments in the SADC region have clearly realised the importance of the region's cities for their economic prospects. Some impressive cross-border, development-orientated infrastructure projects have materialised, and governments are increasingly endeavouring to boost the economic strengths and capacities of their cities. Several countries in the region have adopted national urban development or urbanisation policies that aim to overcome their cities' structural drawbacks.⁷⁴ But while these policies and a number of constitutional and legal systems in the region explicitly affirm and entrench the developmental role of local government,⁷⁵ they often conceptualise of it only as implementing and/or enabling agent, whereas international evidence suggests that economically successful cities are taking the wheel *themselves*.

In response to global economic trends and pressures, SADC's national governments have all committed to the decentralization of state power so as to enable local government to fulfil a more primary developmental role, often to

⁷³ See D'Ascenzo (2013), *supra* note 42, p. 106; SALO (2017), *supra* note 47, pp. 2–5; Peberdy and Rogerson (2000), *supra* note 47, pp. 30–32, 39–40; Rogerson (2016), *supra* note 50, pp. 234–235; C. Skinner, *The Struggle for the Streets: Processes of Exclusion and Inclusion of Street Traders in Durban, South Africa*, 25 Development Southern Africa, no. 2 (2008), 227, 238; Von Broembsen (2010), *supra* note 48, pp. 14, 16; D. Webster, 'The End of the Street?' *Informal Traders' Experiences of Rights and Regulations in Inner City Johannesburg*, SERI Research Report (2015), 41, 57–59.

⁷⁴ See Republic of Botswana *Vision 2036: Prosperity for All* (2016); Republic of South Africa Department of Cooperative Government and Traditional Affairs *Integrated Urban Development Framework* (hereinafter 'IUDF') (2016); Kingdom of Lesotho Ministry of Local Government, Chieftaincy and Parliamentary Affairs *National Decentralisation Policy* (2014).

⁷⁵ See, for example, art 219 of the Angolan Constitution (2010); s 146 of the Malawi Constitution (1994); ss 152–153 of the South African Constitution (1996); s 270 of the Zimbabwean Constitution (2013); s 151 of the Zambian Constitution (2016).

the point of passing constitutional amendments or new legislation that dramatically increase the powers, resource base and functions of (especially urban) local government. But following through on this undertaking has been slow and uneven, hampered both by national government unwillingness to relinquish power (especially where the democratization of local government has led to cities being governed by opposition political parties), crippling resource shortages and a debilitating lack of capacity at local government level.⁷⁶

Perhaps predictably, the most powerful, financially secure and autonomous local governments in the SADC region are those at the helm of the major South African cities, which are democratically elected and function under an explicit constitutional developmental mandate.⁷⁷ South African cities are constitutionally empowered and enjoined to administer, make bylaws for and exercise executive authority over a large number of functional areas (including, importantly, ‘municipal planning’, ‘trading regulations’, ‘markets’ and ‘street trading’), a constitutional entitlement to have other functions which can be exercised more effectively by local government legislatively delegated to them, a constitutionally entrenched funding base (which has ensured that larger South African cities are mostly financially self-sustainable) as well as elevated financial and functional competencies in terms of national municipal legislation.⁷⁸

While devolution of some crucial urban functions (such as housing provision and transport) has been incomplete and somewhat dysfunctional,⁷⁹ and while cities have bemoaned their limited input in the governance of crucial urban infrastructure such as ports, railways and airports,⁸⁰ South African cities

⁷⁶ See generally C.M. Fombad, *Constitutional Entrenchment of Decentralization in Africa: An Overview of Trends and Tendencies*, 62 *Journal of African Law*, no. 2 (2018); M. Pieterse, *Devolution, Urban Autonomy and Local Governance in the Cities of SADC*, 20 *African Journal of International and Comparative Law* (forthcoming, 2020), as well as Hampway (2008), *supra* note 49, p. 202; Pillay (2004), *supra* note 10, p. 348; P. Reddy, and J. Kauzya, *Local Government Capacity in the Southern African Development Region (SADC)*, 14 *Public Policy and Administration*, no. 3 (2015), 207–216; Smit and Pieterse (2014), *supra* note 3, pp. 149–153, 161–162; I. Turok, *Transforming South Africa’s Divided Cities: Can Devolution Help?*, 18 *International Planning Studies*, no. 2 (2013) 170, 180, 184.

⁷⁷ Section 152(1) of the South African Constitution (1996) determines that the objectives of local government include ‘to provide democratic and accountable government for local communities’ and ‘to promote social and economic development’.

⁷⁸ See ss 155–156, 228, 230A and Schedules 4B and 5B of the South African Constitution (1996) read with s 2 of the Municipal Structures Act 117 of 1998.

⁷⁹ See Du Plessis (2017), *supra* note 43, pp. 253–254; Turok (2013), *supra* note 76, p. 182.

⁸⁰ See P. De Lille, and C. Kesson, *View from City Hall: Reflections on Governing Cape Town* (Cape Town: Jonathan Ball, 2017), pp. 161–167.

are largely well equipped to act autonomously in pursuit of economic development.⁸¹ Yet, even they have fallen victim to intergovernmental tugs-of-war and have sometimes been forced along developmental trajectories which they themselves would not have chosen.⁸² Moreover, lack of capacity outside of the major metropolitan areas have precluded secondary South African cities from effectively fulfilling their developmental mandate.⁸³

Elsewhere in SADC, the position is somewhat less favourable. While the new Zimbabwean and Zambian Constitutions grant cities a significant degree of autonomy and responsibility over economic development, their powers remain subject to stringent national oversight and have proved vulnerable to manipulation by central authorities, especially when it comes to control over local government resources.⁸⁴ A similar progressive constitutional conceptualisation of developmental local government in Malawi, Mozambique and Angola has been rendered near irrelevant by capacity and resource shortages,⁸⁵ whereas city governments in, for instance, Botswana, Mauritius, Mozambique, and Swaziland lack meaningful autonomy and mostly function as subservient implementers of central government policy.⁸⁶ Accordingly, when it comes to formal trade and economic interactions, city leadership across SADC mostly finds itself in the

81 See generally Du Plessis (2017), *supra* note 43, also Pillay (2004), *supra* note 10, pp. 351–352. For a comprehensive overview of local government powers and functions in South Africa, see J. De Visser, *Developmental Local Government: A Case Study of South Africa* (Antwerp, Intersentia, 2005).

82 See G. Robbins, *The Dube Trading Port – King Shaka International Airport Mega-project: Exploring Impacts in the Context of Multi-scalar Governance Processes*, 45 *Habitat International* (2015), 196–204 (detailing how eThekweni Metropolitan Council in the city of Durban was strung along to support, service and enable major developmental projects that it regarded as financially unsustainable and in contravention of its own developmental objectives).

83 See Reddy and Kauzya (2015), *supra* note 76, pp. 207–208; IUDF (2016), *supra* note 74, p. 86.

84 See A. Muzenda, and I. Chirisa, *Legal Ambiguity and Symbolic Structures: Local Government Reform in Zimbabwe*, African Urban Development Institute Discussion Paper, 03/2018 (2018); D. Resnick, *In the Shadow of the City: Africa's Urban Poor in Opposition Strongholds*, 49 *Journal of Modern African Studies*, no. 1 (2011), 142–155.

85 See M.K. Hussein, *Capacity Building Challenges in Malawi's Local Government Reform Programme*, 23 *Development Southern Africa*, no. 3 (2006), 371–383; Jenkins *et al.* (2002), *supra* note 42, p. 147; C.N. Silva, “Local Government and Urban Governance in Lusophone African Countries: From Colonial Centralism to Post-colonial Slow Decentralization”, in Silva (ed.) (2016), *supra* note 25, pp. 13–72.

86 See J. Fessha, and C. Kirkby, *A Critical Survey of Subnational Autonomy in African states*, 38 *Publius: Journal of Federalism*, no. 2 (2008); Reddy and Kauzya (2015), *supra* note 76, pp. 200–224; K.C. Sharma, *Role of Local Government in Botswana for Effective Service Delivery: Challenges, Prospects and Lessons*, 6 *Commonwealth Journal of Local Governance* (2010); Sihlongonyane (2003), *supra* note 31, pp. 246, 249; J.S. Wunsch, *Decentralization, Local*

position of kowtowing national developmental visions, meaning that, whatever their intentions may be, their ability to autonomously navigate the global economy remains limited.

As to inclination, it is probably not coincidental that only the leadership of the bigger South African cities appear keen to autonomously pursue economic growth and development. While a recent article detailing the rise of cities as international economic actors observed that over a third of the members of the World Association of Investment Promotion Agencies are local-government or regionally based,⁸⁷ in the SADC only Durban, the Gauteng Region and Pretoria are members, whereas all other SADC member states are represented by national economic development agencies.⁸⁸ Apart from South African cities being legislatively mandated to adopt Integrated Development Plans, and these sometimes revealing a unique economic vision,⁸⁹ Johannesburg, Durban and Cape Town further boast cooperative local government/private sector fora which explicitly concern themselves with the cities' economic growth. Between them, the Durban Growth Coalition, Johannesburg Development Agency, Johannesburg Inner City Partnership and the Cape Town Partnership, have spurred, overseen or participated in the majority of major urban infrastructure projects in the country, as well as in its most significant inner-city regeneration drives.⁹⁰

But aside from these major metropolises, South African urban local governments appear mostly unconcerned with economic development, with the country's Integrated Urban Development Framework ('IUDF') bemoaning that 'economic development has tended to remain marginal to the core municipal tasks of providing basic services' while 'municipal economic policies and economic development strategies are often dominated by wishful thinking and piecemeal initiatives'.⁹¹ The IUDF further laments that the majority of South African urban local governments lack structured mechanisms for communicating with local business and economic stakeholders and lack the capacity to

Governance and the Democratic Transition in Southern Africa: A Comparative Analysis, 2 African Studies Quarterly, no. 1 (1998), 19–45.

⁸⁷ Tavares-Lehmann and Tavares (2017), *supra* note 8, p. 1.

⁸⁸ See available at: <<http://www.waipa.org/members-list/>>, accessed May 1, 2019.

⁸⁹ See s 25 of the South African Municipal Systems Act 32 of 2000. On how these IDPs guide urban development, see Du Plessis (2017), *supra* note 43, pp. 252–254.

⁹⁰ See Houghton (2011), *supra* note 18, pp. 81–86 (re Durban); Lemanski (2007), *supra* note 11, pp. 451–453 (re Cape Town); Pillay (2004), *supra* note 10, pp. 353–360 (re Johannesburg).

⁹¹ IUDF (2016), *supra* note 74, p. 83. See also generally E.L. Nel, and C.M. Rogerson, *Pro-poor Local Economic Development in South Africa's Cities: Policy and Practice*, 35 Africa Insight, no. 4 (2005).

initiate meaningful developmental partnerships with these interest groups.⁹² The situation seems similar in other city governments across SADC, though a few cities are showing signs of economic self-awareness and ambition. Several are adopting development plans or similar economic strategic documents,⁹³ and there have even been instances of inter-city collaboration in this regard, such as a United Cities and Local Government (UCLG)-fostered ‘mentoring partnership’ between Johannesburg and Lilongwe around developing an Integrated Development Programme for the latter.⁹⁴

Over and above initiating and implementing economic development policies and associated infrastructure projects, the discussion above has shown that urban local governments’ most significant contribution to local economic development and urban competitiveness lies in spatial interventions through the everyday wielding of powers pertaining to, for instance, zoning, land and building use, property rates and taxes, traffic management, and urban health and safety. While many city governments in SADC possess the necessary powers on paper to advance their economic competitiveness in this manner, few have displayed intent to put these into practice. In those cities that have, attempts at wielding these powers have regularly fixated on making the urban environment conducive to high-end economic activity and attractive for formal and multinational business investment, without also attempting to regulate high-end economic activity in ways that benefit the broader urban community.⁹⁵

Often, this has involved spatially isolating and cushioning high-end economic activity from cities’ messy socio-economic realities, through the conception and maintenance of high-end international business districts, urban improvement districts and special economic zones. Johannesburg, Cape Town, Durban, Maseru, Gaborone, Luanda, Lusaka and Dar es Salaam all boast ultra-modern districts hosting offices for international and local business elites, which look and feel like the CBDs of first-world cities and which are separated from the surrounding urban fabric both by way of physical and infrastructural barriers and through place-specific urban management and security regimes. Typically managed in partnership with formal business, these developments have

⁹² IUDF (2016), *supra* note 74, pp. 84–87.

⁹³ See, for example, Hampwaye (2008), *supra* note 49, pp. 198 (on attempts to conceive and implement an integrated development plan for Lusaka); Marais *et al.* (2014), *supra* note 31 (articulating an economic vision for Bloemfontein); Sihlongonyane (2003), *supra* note 31, pp. 256–260 (on Manzini’s first economic strategic plan).

⁹⁴ See United Cities and Local Government (UCLG), *Mentoring Story: Lilongwe & Johannesburg Experience 2008–2012* (2012).

⁹⁵ See Davila (2014), *supra* note 4, pp. 474–478; Peberdy and Rogerson (2000), *supra* note 47, p. 25; Sheppard (2014), *supra* note 4, p. 145–146, 150.

attracted criticism for contributing to spatial polarisation and inequality in African cities, for fuelling gentrification and displacement, for perpetuating the extractive nature of African urban economies and for preventing the meaningful trickle-down of the economic benefits of globalisation into the lives of African urban inhabitants.⁹⁶

While local governments have limited power to resist or steer large-scale developments such as these, there is much more that they could do (in relation to, for instance, the imposition of local business taxes, property rates or development levies, the implementation of land value capture policies, and the governance of public space in ways that promote spatial integration and outlaw or resist enclaving) to ensure that international capital and high-end business conduct themselves in ways that benefit the broader urban population.

In particular, urban local governments in the region are often accused of wielding their significant powers in relation to the regulation of *informal* economic activity in ways that actively undermine the functioning of transnational informal networks and the agglomeration and intermingling of cities' formal and informal economic sectors. Almost all cities in SADC have significant powers and functional competency over the regulation of markets, hawking, street vending and other forms of informal trade.⁹⁷ But the content and implementation of their bylaws and regulations governing street trade typically reveal a disappointing lack of awareness of the economic importance and international dynamics of the informal sector.⁹⁸

⁹⁶ See C. Benit-Gbaffou, *Unbundled Security Services and Urban Fragmentation in Post-apartheid Johannesburg*, 39 *Geoforum*, no. 6 (2008), 1940; Lemanski (2007), *supra* note 11; M.J. Murray, *City of Extremes: The Spatial Politics of Johannesburg* (London: Duke University Press, 2011), pp. 240–241, 260–267; E. Peyroux, *City Improvement Districts (CIDs) in Johannesburg: Assessing the Political and Socio-spatial Implications of Private-led Urban Regeneration*, 89 *Trialog*, no. 1 (2006); M. Pieterse, *Rights-based Litigation, Urban Governance and Social Justice in South Africa: The Right to Joburg* (London and New York: Routledge, 2017), pp. 151–153.

⁹⁷ See e. g. Schedule 5B of the South African Constitution (1996); Schedule 2 items 11, 22(e) of the Malawi Local Government Act (1998); s 30(j) of the Namibian Local Authorities Act (1992); s 33 and Schedule 1 item 5(1) of the Botswana Local Government (District Councils) Act (rev. 2012); s 42(2) of the Lesotho Local Government Act (1994); s 50 of the Mauritius Local Government Act (2011); Schedule 2 item 99 of the Zimbabwean Urban Councils Act (rev. 1995); Schedule 2 items 55; 58 of the Zambia Local Government Act (1991); s 56 read with Schedule 5 item 2(f) of the Swaziland Urban Government Act (1969); s 55(1)(f) of the Tanzania Local Government (Urban Authorities) Act (1982).

⁹⁸ See M. Chen, and C. Skinner, *The Urban Informal Economy: Enhanced Knowledge, Appropriate Policies and Effective Organization*, in Parnell and Oldfield (2014), *supra* note 4, pp. 223–224; C. Skinner, *Getting Institutions Right? Local Government and Street Traders in Four*

Most cities in SADC's street trading bylaws are inherited from colonial regimes and reflect a bias against street trade, which cities tend to attempt to control, minimise or eradicate, often by way of 'clean-up' campaigns involving the expulsion and physical manhandling of street traders and the confiscation and destruction of their wares, as has been witnessed in Johannesburg, Harare and Lusaka.⁹⁹ Such restrictive practices are often misguidedly motivated by the twin desires to manage the urban environment in pursuit of global competitiveness and to protect formal business against informal competition.¹⁰⁰ Even cities like Durban and Johannesburg, which have adopted fairly progressive street trading bylaws, implement these restrictively and haphazardly.¹⁰¹ In Johannesburg, lack of appreciation for the international dimensions of informal trade increasingly coincides with xenophobic hostility towards foreign traders, who are regularly targeted in the course of so-called urban 'clean-up' operations.¹⁰²

Given the massive contribution of informal trade to the economies of SADC cities, the intricate links between developing world cities' formal and informal economies and the fact that informal trade primarily serves the economic interests of the less well-off, such hostility towards the informal transnational trade amounts to foolish economic self-sabotage and a change in regulatory mindset is urgently required. Not only must informal trade be enabled and regulated in the public interest, but SADC cities are in a unique position to

South African Cities, 11 Urban Forum, no.1 (2000), pp. 51; Zack (2015), *supra* note 60, p. 147; Zack *et al.* (2017), *supra* note 52, pp. 7.

99 See A. Pezzano, "Integration" or "Selective Incorporation"? *The Modes of Governance in Informal Trading Policy in the Inner City of Johannesburg*, 52 *Journal of Development Studies*, no. 4 (2016), 499; M. Pieterse, *Rights, Regulation and Bureaucratic Impact: The Impact of Human Rights Litigation on the Regulation of Informal Trade in Johannesburg*, 20 *Potchefstroom Electronic Law Journal*, no. 1 (2017), 5–7; Rogerson (2016), *supra* note 50, pp. 230–345; SALO (2017), *supra* note 47, p. 2; Thompson and Grant (2015), *supra* note 60, p. 244; E.J. van Rooyen, and L.P. Malan, *Informal Trading in the City of Johannesburg: Suggestions to Create an Enabling Environment*, 42 *Journal of Public Administration*, no. 7 (2007), p. 718.

100 See Peberdy and Rogerson (2000), *supra* note 47, p. 25; Rogerson (2016), *supra* note 50, p. 234; Zack (2015), *supra* note 60, pp. 139–142.

101 See Pezzano (2016), *supra* note 99, pp. 500–507; Pieterse (2017), *supra* note 99, p. 6; Skinner (2000), *supra* note 98, pp. 53–58; Skinner (2008), *supra* note 73; Thompson and Grant (2015), *supra* note 60, p. 244; Webster (2015), *supra* note 73, pp. 5–20.

102 At the time of writing, Johannesburg was experiencing a wave of xenophobic attacks after Metropolitan police had been cracking down on foreign street trade, ostensibly in compliance with counterfeiting laws and spatial bylaws, for several weeks. See D. Bruce, and T. Zack, *Joburg Vendors vs Police: When a System Wears the Badge of the Law but Lacks Moral Authority*, *Daily Maverick* (August 5, 2019), available at: <www.dailymaverick.co.za>, accessed September 29, 2019. On similar earlier instances, see Pieterse (2017), *supra* note 99; Webster (2015), *supra* note 73.

combine such regulation with spatial and infrastructure interventions aimed at enhancing market access for informal traders, fostering greater interaction between formal and informal economic sectors, and making economies work for a greater cross-section of their populations.¹⁰³ Upgrading poor street trade infrastructure, minimizing police harassment and corruption, addressing lack of storage facilities and poor inter and intra-city transport, and accommodating informal business' spatial practices in the course of public space and built environment regulation would not only enable informal cross-border trade and boost the economic agency of the city's poor, but would also go a long way towards addressing socio-spatial barriers to *formal* trade.¹⁰⁴ Enabling informal trade and ensuring its coexistence and dovetailing with the formal economy seems to be one obvious way in which developing-world city governments can simultaneously advance their global economic competitiveness and contribute to the socio-economic upliftment of their residents.¹⁰⁵

4 Reflections

This article has shown that trade and commerce in the SADC region are both constitutive of, and highly dependent on, its cities. While almost all of the SADC's economic initiatives have focussed on relations between its constituent nation states, the article has affirmed that '[t]he city is the more relevant scale for thinking about the constitutional rules that govern the interjurisdictional mobility of persons, goods and capital'.¹⁰⁶

As a regional trade block, the SADC is itself a creature of economic globalisation, devised to strengthen its member states' stakes in the global economy through cooperation and integration. In addition to more deliberately pursuing its objectives of regional economic integration (through, for instance, the establishment of a common market and a free movement zone, and the improved

103 See Peberdy and Rogerson (2000), *supra* note 47, pp. 39–40; SALO (2017), *supra* note 47, p. 5; Skinner (2000), *supra* note 98, p. 49; Van Rooyen and Malan (2007), *supra* note 99, p. 717; Zack (2015), *supra* note 60, pp. 147–148.

104 This seemed initially to have been the effects of Durban's progressive interventions towards enabling street trade and integrating it into the formal urban economic environment, in the late 1990s and early 2000s. See Chen and Skinner (2014), *supra* note 98, pp. 227–232; Skinner (2000), *supra* note 98.

105 See SALO (2017), *supra* note 47, p. 5; Skinner (2000), *supra* note 98, pp. 60–61; Zack (2015), *supra* note 60, pp. 147–148; Zack *et al.* (2017), *supra* note 52, pp. 6, 129–130.

106 Schragger (2011), *supra* note 8, p. 1107.

articulation of disparate commercial legal systems), the SADC needs to pay more attention to the economic functioning of its cities. Apart from enhancing inter- and intra-urban infrastructure through existing initiatives, this must also involve a regional commitment to the more deliberate and consistent devolution of state power to urban local government. There is arguably room for a SADC-level instrument setting common regional goals and standards for devolution, as well as for capacitating and resourcing urban local governments to both participate meaningfully in the global economy and to proactively pursue local economic development alongside socio-economic welfare and urban resilience, inclusiveness and sustainability.

Furthermore, the SADC is ideally positioned to foster cooperation and dialogue between its cities and to enhance their collective voice in regional economic governance – to ‘create new international spaces within which cities may operate as locales of economic activity as well as pro-active agents in promoting economic opportunities for “their” respective economies’.¹⁰⁷ Especially within co-dependent economic regions such as SADC, cities have much to gain from collaboration and interaction, not least because this might ameliorate some of the adverse effects of inter-urban competition.¹⁰⁸ While the various active local government organisations in the region, UCLG-driven collaborations such as that between Johannesburg and Lilongwe and an increasing number of sister-city agreements across the region¹⁰⁹ are positive developments in this regard, there is arguably much to be gained from a more institutionalised inter-city platform for dialogue and cooperation, perhaps along the lines of a SADC-level council of local governments.

As for urban local government, the article has shown that, by consciously directing their efforts (and enhancing their capacity) towards altering the urban form so as to be more conducive to economic agglomeration and functioning, SADC cities can do much to improve both formal trade and their broader commercial and economic fortunes.¹¹⁰ City governments in the region need to take more deliberate and coordinated action towards fostering local economic development and engaging local economic stakeholders, and should wield their

107 Herrschel and Newman (2017), *supra* note 1, p. 77.

108 See Marais *et al.* (2014), *supra* note 31, pp. 212–215; Turok (2004), *supra* note 8, pp. 1072–1074; Sassen (2012), *supra* note 1.

109 A casual internet search for twinned cities in SADC revealed the following couplings: Cape Town/ Luanda; Cape Town/Maputo; Durban/Bulawayo; Durban/Maputo; Johannesburg/ Kinshasa; Johannesburg/Matola; Johannesburg/Windhoek; Polokwane/Bulawayo; Brazzaville/ Kinshasa; Brazzaville/Johannesburg; Ndola/Walvis Bay; Ndola/Blantyre; Mutare/East London; Gaborone /Thabazimbi.

110 See also Turok (2013), *supra* note 76, p. 181.

'conventional' local government powers with developmental objectives, the improvement of urban infrastructure and a more functional urban form in mind.¹¹¹ Urban law frameworks at all levels must be updated, streamlined and improved in respect.

But, especially given their extractive histories, care should be taken to ensure that such urban governance practices in SADC's cities do not fall into the trap of blindly advancing the interests of multinational capital at the expense of imperatives of local economic development and the rights and needs of local residents.¹¹² Specifically, the temptation to wield municipal powers so as to cushion and isolate high-level economic activity from the realities of the surrounding urban fabric should be avoided. The fact that cities are the physical landing places for multinational capital means that local governments are best-positioned to hold such capital accountable and to ensure the symbiosis and articulation of its operation with the surrounding economic interests.¹¹³

Relatedly, this article has focused on the need for more forward-thinking management by cities in SADC of their informal economies. Given that the regulation of informal economic activity is typically a local government competence, and that informal economic activity is particularly sensitive to urban form and functioning, there needs to be a move away from current local government practices aimed at suppressing informal economic activity, not least because such practices in any one urban locale has severe negative knock-on effects in all the other SADC cities whose economies are intricately connected through informal flows.

Indeed, there appears a need for a SADC-level instrument aimed at facilitating and enhancing informal cross-border trade in the region, in mirroring existing efforts at reducing non-tariff barriers to formal trade. Such an instrument should arguably promote consistent municipal regulation of informal trade across the region, and should aim to enhance the voice of the region's informal economic actors. The formation and activities of the Lusaka-based Southern African Cross-Border Traders Association, functioning under the auspices of

111 See IUDF (2016), *supra* note 74, pp. 84–90; Lall *et al.* (2017), *supra* note 41, pp. 20–22, 28, 32; Schragger (2011), *supra* note 8, pp. 1106–1108; Njoh (2006), *supra* note 13, pp. 25–28; Turok (2004), *supra* note 8, pp. 1071–1072.

112 Frug and Barron (2006), *supra* note 3, pp. 56, 60; Lemanski (2007), *supra* note 11; Sheppard (2014), *supra* note 4, pp. 145–146.

113 On the need for local-level regulation and possibilities in this regard see, Frug and Barron (2006), *supra* note 3, pp. 43, 46, 47, 56; Picciotto (2008), *supra* note 3, p. 4612; Sassen (2002), *supra* note 17, pp. 13, 17, 19.

the SADC Council of Non-Governmental Organisations, are particularly welcome in this regard.

Through initiatives such as these, the SADC and the urban local governments of which it is comprised can play a more constructive role in the creation of a global local government law that focuses not only on the economic interests of elites in the north, but also advances the developmental interests of the majority. Withdrawing from the global economy is not an option for the cities of SADC and it is imperative that they are equipped and geared towards economic success, while simultaneously remaining committed to the human dimension of their developmental mandates.

References

- Aust, H.P. and A. Du Plessis, "The Globalisation of Urban Governance – Legal Perspectives on Sustainable Development Goal 11," in H.P. Aust and A. Du Plessis (eds.), *The Globalisation of Urban Governance: Legal Perspectives on Sustainable Development Goal 11* (New York and London: Routledge, 2019).
- Barber, B.R., *If Mayors Ruled the World: Dysfunctional Nations, Rising Cities* (New Haven: Yale UP, 2013).
- Begg, I., *Cities and Competitiveness*, 36 *Urban Studies*, no. 5–6 (1999).
- Benit-Gbaffou, C., *Unbundled Security Services and Urban Fragmentation in Post-apartheid Johannesburg*, 39 *Geoforum*, no. 6 (2008).
- Bruce, D. and T. Zack, *Joburg Vendors Vs Police: When a System Wears the Badge of the Law but Lacks Moral Authority*, *Daily Maverick* (5 August 2019) available at: <www.dailymaverick.co.za>, accessed September 29, 2019.
- Chen, M. and C. Skinner, "The Urban Informal Economy: Enhanced Knowledge, Appropriate Policies and Effective Organization," in S. Parnell and S. Oldfield (eds.), *The Routledge Handbook on Cities of the Global South* (London and New York: Routledge, 2014).
- Collins, A., *Making Truly Competitive Cities – on the Appropriate Role for Local Government*, *Economic Affairs* (September 1, 2007).
- D'Ascenzo, F., *An African Metropolis: The Imploded Territoriality of Kinshasa*, 80 *Investigaciones Geograficas* (2013).
- Davila, J.D., "Urban Fragmentation, 'Good Governance' and the Emergence of the Competitive City," in S. Parnell and S. Oldfield (eds.), *The Routledge Handbook on Cities of the Global South* (London and New York: Routledge, 2014).
- De Lille, P. and C. Kesson, *View from City Hall: Reflections on Governing Cape Town* (Cape Town: Jonathan Ball, 2017).
- De Visser, J., *Developmental Local Government: A Case Study of South Africa* (Antwerp: Intersentia, 2005).
- Du Plessis, A., *The Readiness of South African Law and Policy for the Pursuit of Sustainable Development Goal 11*, 21 *Law, Democracy & Development* (2017).
- Fessha, J. and C. Kirkby, *A Critical Survey of Subnational Autonomy in African States*, 38 *Publius: Journal of Federalism*, no. 2 (2008).

- Fish, C., C. Adendorf and K. Jonker, *An Investigation into Factors Impacting on Exports from South Africa to the Southern African Development Community (SADC)*, 18 African Sociological Review, no. 1 (2014).
- Fombad, C.M., *Constitutional Entrenchment of Decentralization in Africa: an Overview of Trends and Tendencies*, 62 Journal of African Law, no. 2 (2018).
- Frug, G.E. and D.J. Barron, *International Local Government Law*, 38 The Urban Lawyer, no. 1 (2006).
- Gipouloux, F., "From Entrepreneurs to Service Integrators: Asian Metropolises in a Changing Flows and Nodes Configuration," in F. Gipouloux (ed.), *Gateways to Globalisation: Asia's International Trading and Finance Centres* (Northampton: Edward Elgar, 2011).
- Grant, R. and D. Thompson, *City on Edge: Immigrant Businesses and the Right to Urban Space in Inner-city Johannesburg*, 36 Urban Geography, no. 2 (2015).
- Hampway, G., *Local Economic Development in the City of Lusaka, Zambia*, 19 Urban Forum, no. 2 (2008).
- Herschel, T. and P. Newman, *Cities as International Actors: Urban and Regional Governance beyond the Nation State* (London: Palgrave Macmillan, 2017).
- Houghton, J., *Negotiating the Global and the Local: Evaluating Development through Public-private Partnerships in Durban, South Africa*, 22 Urban Forum, no. 1 (2011).
- Hussein, M.K., *Capacity Building Challenges in Malawi's Local Government Reform Programme*, 23 Development Southern Africa, no. 3 (2006).
- Jenkins, P., P. Robson and A. Cain, *Luanda City Profile*, 19 Cities, no. 2 (2002).
- Karayalcin, C. and H. Yilmazkuday, *Trade and Cities*, 29 World Bank Economic Review, no. 3 (2014).
- Kent, A. and H. Ikgopoleng, *Gaborone City Profile*, 28 Cities (2010).
- Kuditshini, J.T., *Global Governance and Local Government in the Congo: The Role of the IMF, World Bank, the Multinationals and the Political Elites*, 74 International Review of Administrative Sciences, no. 2 (2008).
- Lall, S.V., J.V. Henderson and A.J. Venables, *Africa's Cities: Opening Doors to the World* (Washington: World Bank, 2017).
- Lemanski, C., *Global Cities in the South: Deepening Social and Spatial Polarisation in Cape Town*, 24 Cities, no. 6 (2007).
- Malecki, E.J., *Cities and Regions Competing in the Global Economy: Knowledge and Local Development Processes*, 25 Environment & Planning C: Government & Policy (2007).
- Marais, L., et al., *Planning for Economic Development in a Secondary City? Trends, Pitfalls and Alternatives for Mangaung, South Africa*, 26 Bulletin of Geography, Socio-economic Series (2014).
- Mazzolini, A., "The Rising 'Floating Class' in Sub-Saharan Africa and Its Impact on Local Governance: Insights from Mozambique," in C.N. Silva (ed.), *Governing Urban Africa* (London: Palgrave MacMillan, 2016).
- Miller, D., E. Nel and G. Hampway, *Malls in Zambia: Racialised Retail Expansion and South African Foreign Investors in Zambia*, 12 African Sociological Review, no. 1 (2008).
- Minde, I.J. and T.O. Nakhumwa, *Unrecorded Cross-border Trade between Malawi and Neighboring Countries*, Office of Sustainable Development Bureau for Africa Technical Paper no 90 (1998).
- Mitaritonna, C. et al., *Regional Integration and Informal Trade in Africa: Evidence from Benin's Borders*, Centre d'Etudes Prospectives et d'Informations Internationales Working Paper (2018).

- Murray, M.J., *City of Extremes: The Spatial Politics of Johannesburg* (London: Duke University Press, 2011).
- Muzenda, A. and I. Chirisa, *Legal Ambiguity and Symbolic Structures: Local Government Reform in Zimbabwe*, African Urban Development Institute Discussion Paper, 03/2018 [2018].
- Nel, E., *Critical Reflections on Urban and Local Development in Africa*, 25 *Development and Planning C: Government and Policy* (2007).
- Nel, E.L. and C.M. Rogerson, *Pro-poor Local Economic Development in South Africa's Cities: Policy and Practice*, 35 *Africa Insight*, no. 4 (2005).
- Njoh, A.J., *African Cities and Regional Trade in Historical Perspective: Implications for Contemporary Globalization Trends*, 23 *Cities*, no. 1 (2006).
- Onishi, N. and J. Moyo, *Trade on the Streets, and off the Books, Keeps Zimbabwe Afloat*, *New York Times* (March 4, 2017).
- Onyebueke, V.U., *Place and Function of African Cities in the Global Urban Network: Exploring the Matters Arising*, 22 *Urban Forum*, no. 1 (2011).
- Parnell, S. and J. Robinson, *Development and Urban Policy: Johannesburg's City Development Strategy*, 43 *Urban Studies*, no. 2 (2006).
- Peberdy, S., *Mobile Entrepreneurship: Informal Sector Cross-border Trade and Street Trade in South Africa*, 17 *Development Southern Africa*, no. 2 (2000).
- Peberdy, S., *Border Crossings: Small Entrepreneurs and Cross-border Trade between South Africa and Mozambique*, 91 *Tijdschrift Voor Economische En Sociale Geografie*, no. 4 (2000).
- Peberdy, S. and J. Crush, *Invisible Trade, Invisible Travellers: the Maputo Development Corridor Spatial Development Initiative and Informal Cross-border Trading*, 83 *South African Geographical Journal*, no. 2 (2001).
- Peberdy, S. and C. Rogerson, *Transnationalism and Non-South African Entrepreneurs in South Africa's Small, Medium and Micro-enterprise (SMME) Economy*, 34 *Canadian Journal of African Studies*, no. 1 (2000).
- Peyroux, E., *City Improvement Districts (cids) in Johannesburg: Assessing the Political and Socio-spatial Implications of Private-led Urban Regeneration*, 89 *Dialog*, no. 1 (2006).
- Pezzano, A., *"Integration" or "Selective Incorporation"? the Modes of Governance in Informal Trading Policy in the Inner City of Johannesburg*, 52 *Journal of Development Studies*, no. 4 (2016).
- Picciotto, S., *Networks in International Economic Integration: Fragmented States and the Dilemmas of Neoliberalism*, 17 *Northwestern Journal of International Law & Business* (1996–1997).
- Picciotto, S., *Constitutionalizing Multilevel Governance?*, 6 *International Journal of Constitutional Law*, no. 4 (2008).
- Picciotto, S., *International Transformations of the Capitalist State*, 43 *Antipode*, no. 1 (2011).
- Pieterse, M., *Rights, Regulation and Bureaucratic Impact: The Impact of Human Rights Litigation on the Regulation of Informal Trade in Johannesburg*, 20 *Potchefstroom Electronic Law Journal*, no. 1 (2017).
- Pieterse, M., *Rights-based Litigation, Urban Governance and Social Justice in South Africa: The Right to Joburg* (London and New York: Routledge, 2017).
- Pieterse, M., *Devolution, Urban Autonomy and Local Governance in the Cities of SADC*, 20 *African Journal of International and Comparative Law* (forthcoming, 2020).
- Pillay, U., *Are Globally Competitive "City Regions" Developing in South Africa? Formulaic Aspirations or New Imaginations?*, 15 *Urban Forum*, no. 4 (2004).

- Reddy, P. and J. Kauzya, *Local Government Capacity in the Southern African Development Region (SADC)*, 14 Public Policy and Administration, no. 3 (2015).
- Resnick, D., *In the Shadow of the City: Africa's Urban Poor in Opposition Strongholds*, 49 Journal of Modern African Studies, no. 1 (2011).
- Riegner, M., "International Institutions and the City: Towards a Comparative Law of Glocal Governance," in H.P. Aust and A. Du Plessis (eds.), *The Globalisation of Urban Governance: Legal Perspectives on Sustainable Development Goal 11* (New York and London: Routledge, 2019).
- Robbins, G., *The Dube Trading Port – King Shaka International Airport Mega-project: Exploring Impacts in the Context of Multi-scalar Governance Processes*, 45 Habitat International (2015).
- Rogerson, C.M., *Urban Tourism and Regional Tourists: Shopping in Johannesburg, South Africa*, 12 Tijdschrift Voor Economische En Sociale Geografie, no. 3 (2011).
- Rogerson, C.M., *Responding to Informality in Urban Africa: Street Trading in Harare, Zimbabwe*, 27 Urban Forum, no. 3 (2016).
- Sassen, S., *Locating Cities on Global Circuits*, 14 Environment & Urbanization, no. 1 (2002).
- Sassen, S., *Cities in a World Economy* (4th ed., New York: Sage, 2012).
- Savage, C.J., et al., *Developing Walvis Bay into a Logistics Gateway for Southern Africa: Issues, Challenges and the Potential Implications for Namibia's Future*, 8 Journal of Transport and Supply Chain Management, no. 1 (2014).
- Schragger, R.C., *Cities, Economic Development, and the Free Trade Constitution*, 94 Virginia Law Review, no. 5 (2011).
- Sharma, K.C., *Role of Local Government in Botswana for Effective Service Delivery: Challenges, Prospects and Lessons*, 6 Commonwealth Journal of Local Governance (2010).
- Shen, J., *Urban Competitiveness and Urban Governance in the Globalizing World*, 23 Asian Geographer, no. 1-2 (2004).
- Sheppard, E., "Globalizing Capitalism and Southern Urbanization," in S. Parnell and S. Oldfield (eds.), *The Routledge Handbook on Cities of the Global South* (London and New York: Routledge, 2014).
- Shumba, T., *Harmonising Regional Trade Law in the Southern African Development Community (SADC)* (Baden-Baden: Nomos, 2015).
- Sihlongonyane, M.F., *Local Economic Development in Swaziland: The Case of Manzini City*, 14 Urban Forum, no. 2-3 (2003).
- Silva, C.N., "Local Government and Urban Governance in Lusophone African Countries: From Colonial Centralism to Post-colonial Slow Decentralization," in C.N. Silva (ed.), *Governing Urban Africa* (London: Palgrave MacMillan, 2016).
- Skinner, C., *Getting Institutions Right? Local Government and Street Traders in Four South African Cities*, 11 Urban Forum, no. 1 (2000).
- Skinner, C., *The Struggle for the Streets: Processes of Exclusion and Inclusion of Street Traders in Durban, South Africa*, 25 Development Southern Africa, no. 2 (2008).
- Smit, W. and E. Pieterse, "Decentralisation and Institutional Reconfiguration in Urban Africa," in S. Parnell and E. Pieterse (eds.), *Africa's Urban Revolution* (Cape Town: Zed Books, 2014).
- Southern African Liaison Office (SALO), *Informal Economy and Cross-border Trade between South Africa and Zimbabwe*, Policy Brief 1 (2017).
- Tavares-Lehmann, A.T. and R. Tavares, *Economic Nationalism Is on the Rise, but the Future of Trade Lies with Cities*, World Economic Forum (3 February 2017), available at: <www.weforum.org>, accessed May 1, 2019).

- Taylor, P.J., *Specification of the World City Network*, 33 *Geographical Analysis*, no. 2 (2001).
- Tevera, D., *Remaking Life in Transnational Urban Space: Zimbabwean Migrant Teachers in Manzini, Swaziland*, 2 *Migracijske I Etnicke Teme* (2014).
- Thompson, D.K. and R. Grant, *Enclaves on Edge: Strategy and Tactics in Immigrant Business Spaces of Johannesburg*, 26 *Urban Forum*, no. 3 (2015).
- Tsie, B., *States and Markets in the Southern African Development Community (SADC): beyond the Neo-liberal Paradigm*, 22 *Journal of Southern African Studies*, no. 1 (1996).
- Turok, I., *Cities, Regions and Competitiveness*, 38 *Regional Studies*, no. 9 (2004).
- Turok, I., *Transforming South Africa's Divided Cities: Can Devolution Help?*, 18 *International Planning Studies*, no. 2 (2013).
- United Cities and Local Government, *Mentoring Story: Lilongwe & Johannesburg Experience 2008-2012* (2012).
- Van der Merwe, I.J., *The Global Cities of Sub-Saharan Africa: Fact or Fiction?*, 15 *Urban Forum*, no. 1 (2004).
- Van Rooyen, E.J. and L.P. Malan, *Informal Trading in the City of Johannesburg: Suggestions to Create an Enabling Environment*, 42 *Journal of Public Administration*, no. 7 (2007).
- Van Vliet, W., *Cities in a Globalizing World: from Engines of Growth to Agents of Change*, 14 *Environment & Urbanization*, no. 1 (2002).
- Von Broembsen, M., *Informal Business and Poverty in South Africa: Re-thinking the Paradigm*, 14 *Law, Democracy & Development* (2010).
- Webster, D., *'The End of the Street?' Informal Traders' Experiences of Rights and Regulations in Inner City Johannesburg*, SERI Research Report (2015).
- Wunsch, J.S., *Decentralization, Local Governance and the Democratic Transition in Southern Africa: A Comparative Analysis*, 2 *African Studies Quarterly*, no. 1 (1998).
- Yabu, N., *Assessing the Intra-SADC Trade in Goods and Services*, Bank of Tanzania Working Paper No. 6 (2015).
- Zack, T., *Jeppie – Where Low-end Globalisation, Ethnic Entrepreneurialism and the Arrival City Meet*, 26 *Urban Forum*, no. 2 (2015).
- Zack, T. et al., *Cross Border Shopping in Johannesburg's Inner City*, Research Report Commissioned by the Johannesburg Inner City Partnership (2017).

Note: This article grew from a presentation during a research exchange visit at the World Trade Institute (WTI) in Bern, Switzerland, during November-December 2017. The visit was enabled by the Swiss Secretariat for Economic Cooperation (SECO), the WTI Academic Cooperation Program and the Mandela Institute in the School of Law at the University of the Witwatersrand. A version was also presented at 'Spaces and Flows: Ninth International Conference on Urban and Extra-Urban Studies' in Heidelberg, Germany in October 2018. I am grateful for the comments of Rodrigo Polanco, Clarence Siziba, Alexander Beyleveld, Elisa Fornale and other participants at these events.

Reproduced with permission of copyright owner.
Further reproduction prohibited without permission.