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Call for Conference Papers on Mining Regulation & Disputes

The theme of the Conference is the intersection of mining, corporate social responsibility and dispute resolution. The Conference will kick off the inaugural year of UNIL's LL.M. in International Business Law* and will take place on 27 March 2020 at The Swiss Institute of Comparative Law (<https://www.isdc.ch/>) in Lausanne.

Description:

Transnational advocacy networks and an array of global normative instruments have developed in recent decades and corporations have increasingly adopted policies for various different jurisdictions in response to the pressures of both globalization and localization. Addressing concerns regarding the environmental and social impact of mining remains a key challenge for multinational mining corporations as they juggle diverse legal requirements, varying regulatory governance capacities, local expectations, global norms, and competing interests of advocacy organizations. Failure to establish and maintain good community relations could result in a mining company losing its social license to operate, even where the company possesses a regulatory license to operate, hence the need to adopt compliance measures beyond the minimum in order to meet social expectations.

Most mining disputes resolved by way of investor-State arbitration have arisen in the context of extraction of crude petroleum and natural gas, as well as mining of mineral ores and quarrying. In several of these disputes, environmental, social and economic impacts have been discussed, together with investment protection of mining projects implemented by foreign investors.

Commercial mining disputes run the gamut from the purely commercial to those that have farther-reaching policy implications for a jurisdiction. While disputes arise frequently around the construction of a pricing mechanism in a drilling or offtake agreement or in the context of EPC contracts, they also arise as a result of environmental and societal impacts. Mining construction is also ripe territory for fraud claims.

Like any other major construction dispute, liability caps often motivate claimants to pursue fraud or misrepresentation claims in order to increase damages. In an environment where underground construction companies often must make representations about their ability to complete projects in uncertain geological and hydrological conditions, respondents often raise allegations of recklessness. What proceeds is a dispute over whether statements made to win a contract are supported by complex scientific and technical evidence.

Finally, there is perhaps no industry subject to more disputes over the applicability of force majeure than mining. The so-called resource curse or paradox of plenty often means that mines are subject to natural disasters, insurrection and even disease outbreaks.

Papers of interest might, therefore, address any one of these areas in the context of commercial or investment arbitration, as well as the following topics: social license, local regulation, NGOs and/ or investment criteria of international funds.

The deadline to submit abstracts (maximum 300 words) is June 30, 2019. Successful authors will be notified by September 30, 2019. The deadline for final paper submissions will be January 31, 2020. For any enquiries regarding the conference, please contact Dr Shaheeza Lalani (shaheeza.lalani@unil.ch).

*The University of Lausanne, situated on the shores of Lake Geneva, is introducing a new LL.M. in International Business Law with an interdisciplinary, comparative and practice-oriented approach. The Program enables young lawyers to face the legal challenges in today's global business environment, offering the highest quality of teaching in small group settings and 5 specialisations (International Business Law and Innovation, International Business Law and Sports, International Business Disputes, International Business Transactions, and International Business Regulation) taught by an international team of distinguished academics and practitioners. For more information, see www.unil.ch/llm.

