



MINERAL LAW  
IN AFRICA

DECEMBER 2018

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## INTRODUCTION

And just like that, 2018 is almost behind us! MLiA's previous newsletter reported on a very busy first quarter. Whilst Cape Town is usually abuzz with activity in February because of the annual Mining Indaba and the Alternative Mining Indaba, MLiA also hosted its annual colloquium, presented courses and lectures, and participated in other events taking place in the mining industry.

The second and third quarters of the academic year provided students with the opportunity to settle in and focus on their studies, but the MLiA team remained busy. Our collaborations with other partners in the industry produced noteworthy results that we share with you here. Our members have been publishing on mineral law matters and presented at conferences. We are also finalising our arrangements for upcoming courses and workshops to be hosted by MLiA in the near future.

To learn more about the activities of MLiA, please visit our website at <http://www.mlia.uct.ac.za/>. Should you wish to unsubscribe, please follow the link below.

## COLLABORATION PROJECTS

Collaboration with other academics and practitioners in the field, locally and globally, enables MLiA to deliver tangible results from our research endeavours. Here we describe some projects where the chair or individual members of the chair participate in legal research and interdisciplinary projects.

### **Community of Practice: Towards Resilient Futures Workshop - Post-Mining Transformation through the Fibrous Plant Economy**

On 28 May, Prof Hanri Mostert and Dr. Chery-Leigh Young of MLiA, together with Prof Alexander Paterson of UCT's Institute for Marine & Environmental Law, participated in a workshop hosted by the Community of Practice: Towards Resilient Futures. The multi-disciplinary workshop focused on sustainable economic diversification of mining land and infrastructure through the fibrous plant

economy. The presentation of Prof Mostert, Dr Young and Prof Paterson was entitled “Mine Land Rehabilitation through Fibrous Plants: Carrots and Sticks in the Law”.

## Project Background

Through a Community of Practice (CoP), the focus of this multi-disciplinary project is to rethink the transformation of degraded mining land. It aims to determine whether fibre-rich biomass, including bamboo, may be used to remediate degraded mining land in a way that is economically feasible; leading to enhanced economic complexity, the establishment of a fibrous plant micro-industry, and crucially, value-added input and output job creation.

The project seeks to reimagine the potential of the infrastructure already present in existing mining economies – both physical and institutional. The intention is to repurpose this infrastructure to make it suitable for the development of fibrous crops while considering the bioremediation and rehabilitation potential of selected crops.

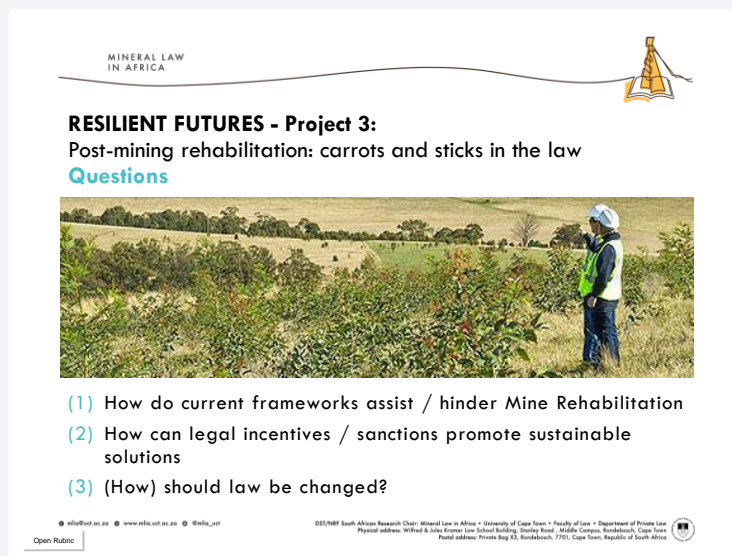
This multi-faceted problem is considered from the perspective of natural scientists (bio, environmental and inorganic chemists), chemical engineers, legal specialists and developmental economists. The intention is to find more holistic, integrated solutions and opportunities to the complexities of mine closure.

The project provides a unique opportunity to analyse the extent to which the legal framework enhances or hinders the adoption of innovative technology insofar as mine rehabilitation is concerned. Whilst other disciplines may provide the innovative technologies and solutions to a complex problem, it will be of little practical value if the legal framework is prohibitive in terms of the implementation of these suggestions. However, the research of the other disciplines to the project is essential to informing and guiding the direction of the legal research. As a result, the research relationship is symbiotic, working towards a common goal.

## MLiA's Involvement

To complement the research in other disciplines, the MLiA Chair provides insight into the complexities of the legal and regulatory frameworks governing mine closure and post-mining rehabilitation. A study of the law is critical to the project, and understanding the legal framework in this regard can promote adoption of the envisaged solutions proposed by other disciplines. Furthermore, if the law is indeed a barrier to the adoption of these solutions, the project aims to identify and suggest ways in which the legal framework should be amended. Finally, proposals will be made regarding the current mechanisms for enforcement of the law in respect of mine rehabilitation. More specifically, the current remedies, sanctions, and penalties afforded and imposed by the law will be interrogated to establish the extent to which they will facilitate the envisaged mine rehabilitation proposals.

For more information on the project, visit <http://www.resilientfutures.uct.ac.za/about-Towards-Resilient-Futures>.



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**RESILIENT FUTURES - Project 3:**  
Post-mining rehabilitation: carrots and sticks in the law

**Questions**

- (1) How do current frameworks assist / hinder Mine Rehabilitation
- (2) How can legal incentives / sanctions promote sustainable solutions
- (3) (How) should law be changed?

Open Rubric

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## AMLA Participation

Mr. Godknows Mudimu, third-year Ph.D. candidate, and researcher at MLiA, was selected to participate in the African Mining Legislation Atlas (AMLA) workshop, which took place in Nairobi, Kenya in December 2017. The AMLA is a capacity-building project, run by the African Legal Support Facility (hosted by the African Development Bank) which aims to provide free online access to the mining legal frameworks of African countries. It also aims to train African legal professionals in mining law. The 2017 training session was attended by students from across the African continent representing SADC, the East African Community, the Community of Sahel-Saharan States (Cen-SAD), ECOWAS and Arab Maghreb Union (Uma). At the conclusion of the two-week training session, Mr. Mudimu was selected as one of the members of the AMLA Legal Research Team ("LRT") for the year 2018. The AMLA LRT's goal is to do research on mineral law in the jurisdictions allocated to the relevant team member.

The LRT's aims for 2018 included populating the mining codes on the AMLA platform for Malawi, Sierra Leone, and Botswana. The AMLA Guiding Template is an open access, free, online drafting and reference tool that provides information on mining law across the continent. The tool specifically focuses on the needs and realities of Africa. Over 200 topics (for instance, how to obtain a mining right) are covered. For every topic, a description and extract of the relevant legislation are provided, accompanied by an annotation explaining the local context and issues. By making this information available to anyone, including prospective investors, this platform enables African countries to obtain the optimal benefits from their mineral resources. The AMLA is also in line with the broader objectives of the African Mining Vision, since it contributes to the development objectives for Africa's mineral sector.

For the next AMLA training session (2018/2019), three student nominations were successful: We wish Analisa Ndbebele, Hannah Massyn and Scott Roberts all the best in participating in the training programme that will be held in Kigali in December 2018.

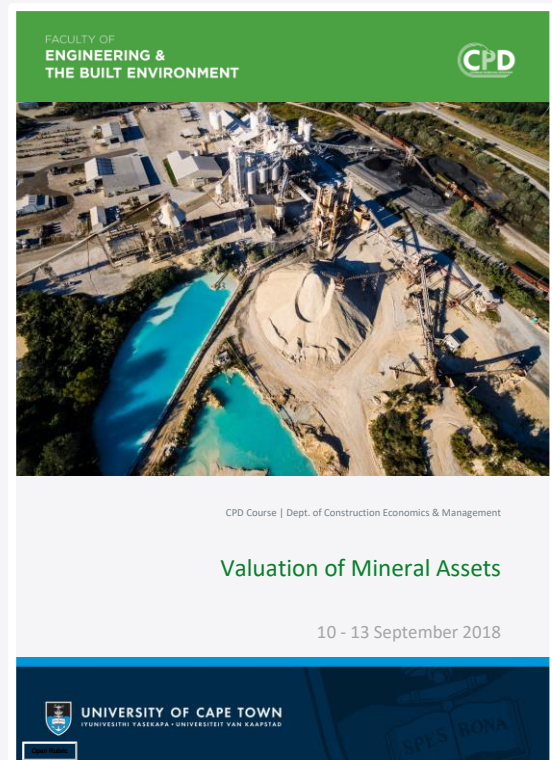
For more information visit AMLA's website: <https://www.a-mla.org/about/about>

## CPD Course: Valuation of Mineral Assets

The University of Cape Town's Faculty of Engineering and the Built Environment hosted a Continuing Professional Development (CPD) Course on Valuation of Mineral Assets. The four-day course was presented in Sandton, Johannesburg from 10 – 13 September 2018. Ms. Louie van Schalkwyk represented MLiA at this event.

### Course Content

The course is designed to bridge the gap that exists in South Africa between the regulated property valuation profession and the professional practice of mineral asset valuation as led by the engineering, geology and surveying professions. The aim is to equip participants with advanced skills regarding the valuation and reporting of a range of mineral assets. The course provides an overview of the South African mining industry and the applicable legislative framework. It covers different methods and techniques for the valuation of



The banner features a green header with the text 'FACULTY OF ENGINEERING & THE BUILT ENVIRONMENT' and a 'CPD' logo. Below the header is an aerial photograph of an industrial mining site with large blue water reservoirs and various structures. The bottom section of the banner is white with green text: 'CPD Course | Dept. of Construction Economics & Management', 'Valuation of Mineral Assets', and '10 - 13 September 2018'. At the very bottom is a dark blue footer with the University of Cape Town logo and name in multiple languages: 'UNIVERSITY OF CAPE TOWN', 'YUNIBESITHI YASEKAPA', and 'UNIVERSITEIT VAN KAAPSTAD'.



mineral assets; interpretation and analysis of financial statements and financial reporting in the mining industry; application of the South African Code for Mineral Asset Valuation (SAMVAL) and the South African Code for the Reporting of Exploration Results, Mineral Resources and Mineral Reserves (SAMREC).

### Targeted Participants

The course benefits all who are concerned with the valuation and investment analysis of mining assets. This includes professional property valuers, mining industry analysts/consultants, mining investors/developers and property investment analysts. The course was particularly useful to those participants who hold technical qualifications, such as in mining engineering, surveying, and geology, who wish to obtain knowledge and skills in valuation broadly, and as applied to mineral assets.

### Presenters

Ms. Louie van Schalkwyk (Researcher at MLiA, UCT) discussed the legislative framework for mineral asset valuation in South Africa. Dr. Godknows Njowa (Ernst and Young Transaction Advisory Services) focused on the nature and characteristics of mineral assets. Associate Professor Manya Mooya (Department of Construction Economics & Management, UCT) covered the fundamental concepts and principles of value and valuation, as well as the different valuation approaches. Ms. Shelly Herbert (Chartered Accountant (SA); UCT lecturer) discussed financial reporting in the mining industry and analysis of mining industry financial statements. Mr. Ken Lomborg (Chair: SAMREC Committee) focused on the SAMREC code, with Ms. Kelly-Lynn Redman (Chair: SAMVAL Committee) discussing the SAMVAL Code.

### Further Information

If you would like more information about the course and the registration procedures for 2019, please visit [www.cpd.uct.ac.za](http://www.cpd.uct.ac.za). For any technical enquiries, contact Associate Professor Manya Mooya: [manya.mooya@uct.ac.za](mailto:manya.mooya@uct.ac.za).

### Books and Journal Articles

In their article “Three Mining Charters and a Draft: How the Politics and Rhetoric of Development in the South African Mining Sector are Keeping Communities in Poverty” (*Law and Development Review* 2018 vol. 11 issue 2) Prof. Hanri Mostert and Ms. Anri Heyns explore the development of mining communities as one of the main features of empowerment in the mining industry. An analysis of the various versions of the Mining Charter shows a certain progression in the approach to the empowerment and development of rural mining communities: There is an increased



emphasis on the poverty still faced by these communities, years after the introduction of the first Mining Charter. The question is whether the increased emphasis will mean much for mining communities. The paper argues that the empowerment of mining communities in terms of the Mining Charter can be situated in the development paradigm and is subjected to the politics of

development - the underlying political and ideological assumptions of the idea of development, which have consequences for how a development problem is framed and the development beneficiary is represented. Inevitably, development beneficiaries are reduced to being poor, thereby ignoring other challenges and showing how the politics of development will affect how development solutions are constructed. Regarding the Mining Charter specifically, the politics of development causes uncertainty as to who may benefit from community development initiatives.

The UN Sustainable Development Goals (SDGs) are a concerted global effort to realise the imperatives of sustainability. In “From Promise to Practice: Can South Africa’s Legal Framework for Mineral Resources Facilitate the Realisation of the Sustainable Development Goals?” published as **SAIIA Occasional Paper No 279, May 2018 Prof. Hanri Mostert and Dr. Cheri Young** emphasises the importance of South Africa, as a leading role player on the African continent, making every effort to realise the



targets set out by the SDGs. This paper assesses the extent to which the legal framework governing mineral resources is capable of facilitating the realisation of two targets within the broader goal of ‘responsible consumption and production’. The focus is on two specific targets associated with this goal, namely the sustainable management and efficient use of natural resources and the adoption of sustainable practices. It is posited that the South African legal framework already incorporates the tools required to achieve the realisation of the SDG targets. Practical implementation, however, is likely to be bedevilled by the usual culprits that undermine successful implementation of the law: lack of political will, inefficiency and a lack of capacity, as well as a failure by departments to coordinate.

The issue of sustaining the livelihoods of mining communities after the closure of mines is of concern to all parties involved. In “Finding ways to keep communities alive after mine closures” (<https://theconversation.com/finding-ways-to-keep-communities-alive-after-mine-closures-98505>), published by **The Conversation**, a group of UCT scholars representing various disciplines, including MLiA’s **Dr. Cheri Young**, share some of their preliminary findings as to possible opportunities for mining communities after mine closure. Major focus is placed on using mining infrastructure for agriculture to diversify local economic activity.

The **Annual Survey of South African Law** for 2016 has been published. The MLiA team, led by Prof. Hanri Mostert, were responsible for reporting new developments in mining and mineral law. See p 1008-1070.

In response to a call for input on the reviewing of the Mining Charter, Prof. Nic Olivier, Prof. Hanri Mostert, Ms. Anri Heyns and Mr. Lindokuhle Ntuli made a submission to the DMR and the presidency on behalf of MLiA. The submission, entitled “A new shared vision for mining in South Africa: Towards enduring transformation in our sunrise industry” is viewable here <http://www.mlia.uct.ac.za/news/comments-2018-draft-mining-charter-submission-mlia-presidency>

## MLiA Website Contributions

**Richard Cramer** considers the possibility of abandoning rights granted in terms of the Mineral and Petroleum Resources Development Act in “The abandonment of mining and prospecting rights: A not-so unilateral transaction” (30 April 2018). A closer

examination of the provisions of the Act reveals that while abandonment in some form may be possible, it is clearly not a unilateral act, and most certainly does not free the would-be abandoner of its obligations.

The LLM and doctoral researchers at MLiA regularly publish short commentaries on recent developments in mineral law on the African continent. See e.g. some of the most recent contributions:

**Bernard Kengni** looks at how poor compliance with and enforcement of the law results in loss of lives on mine sites in the Eastern Region of Cameroon in his article “Mining and the environment: A need to close deadly mine sites in the eastern region of Cameroon” (18 May 2018).

In “The fight against galamsey: How Ghana’s ban on small-scale mining has discriminated against legal small-scale mining activities” (18 May 2018) **Rebecca Pein** looks at the “temporary” ban on all small-scale mining operations in Ghana in an attempt by the

Ghanaian government to ensure greater sustainability in the Ghanaian mining industry. Consequently, legal small-scale mining activities are now regarded in the same manner as illegal small-scale mining operations, causing large protest against the ban to take place across Ghana.

The rise of illegal mining in South Africa is considered in the article “Addressing the rise of illegal mining in SA: Enforcing laws and adopting tracing mechanisms” by **Lindokuhle Ntuli** (31 May 2018). The piece considers a new approach for dealing with illegal mining in South Africa. While strict enforcement of laws and partnership between different stakeholders are important in the industry, tracing and certifying minerals appears to be a real alternative according to the United Nations Economic Commission for Africa Subregional Office for Southern Africa (UNECASOSA).

In “Recent developments in South Africa’s transition to renewable energy: Independent Power Producer deal ends up in court” (25 July 2018) **Richard Cramer** notes that the move towards renewable energy sources in South Africa has finally gained momentum due to the signing of 27 Independent Power Producer (“IPP’s”) agreements. Stakeholders in the coal mining industry, however, have The DMR has finally heeded calls to formalise mining activities carried out by *zamazamas*. **Shamila Mpinga** argues in “Mining permit granted to zamazamas – a step towards the formalisation of artisanal small-scale mining in South Africa” (25 July 2018) that the granting of a mining



permit to the Kimberley Artisanal Mineworkers allows them to operate within the confines of the law. The decision has been well received by *zamazamas* and some mining analysts. However, other mining analysts believe that more needs to be done to address illegal mining.

Legislative measures have been put in place to ensure that mineworkers who contract silicosis and tuberculosis (TB) are compensated. The statutory compensation system is failing and reform is needed. In “The Mine Health and Safety Report: Assessing the functioning of the Occupational Diseases in Mines and Works Fund” (16 August 2018) **Shamila Mpinga** discusses the findings

of the South African Institute of Race Relations in its report titled “Deep and dangerous: Health and safety in our mines”. Mpinga argues that government and mining companies need to bolster their efforts in addressing the health challenges at mines.

In “The Mine Health and Safety Report: The use of mining stoppages to address safety challenges at mines” (28 September 2018) **Shamila Mpinga** looks at how safety challenges are being addressed through mining stoppages under section 54 of the Mine Health and Safety Act 29 of 1996. The act empowers inspectors to halt mining operations when the conditions in a mine pose a threat to the safety of mineworkers. Mpinga notes that mining companies, however, view some of the safety stoppages as unnecessary, believing that the legislation can be better implemented to ensure the safety of mineworkers while continuing production.

**Rebecca Pein** considers the somewhat worrying state of the South African mining industry in “New Hope for South Africa’s Mining Industry?” (17 October 2018). South Africa is no longer a favoured mining investment destination. Pein argues that there is a need to improve South Africa’s mining policy in hope of improving regulatory certainty for investors, thereby kick-starting the country’s lagging economy.

**Pein** also considers the issues surrounding cobalt mining. As technology and vehicle companies become increasingly reliant on cobalt, many businesses, governments, and non-profit leaders have grown concerned about the mineral’s controversial supply chain. In “Hunting for Treasure in a Playground from Hell: Child Labour in DRC Cobalt Mines” (13 November 2018) Pein considers how a large amount of cobalt continues to be mined using child labour in the Democratic Republic of Congo (DRC). In particular, the dominant roles played by both China and the DRC have raised major concerns about ensuring supply of this increasingly valuable commodity.

In “Morocco: Mining Tax Reform to Benefit Local Communities” (13 November 2018) **Bernard Kengni** discusses the mining tax reform in Morocco driven by the Minister of Energy, Mines and Sustainable Development with the aim to benefit local communities directly.

## CONFERENCE PRESENTATIONS

As part of our research endeavours, our members participate in local and global conversations on mineral law and related issues. The platforms provided by academic conferences enable us to create awareness of issues pertaining to mineral law, experienced on our continent, but also to report on locally crafted solutions.

### 2nd Dundee Energy Forum: Evolving Global Energy and Resources Landscapes: Law, Policy and Economics – University of Dundee

The 2<sup>nd</sup> Dundee Energy Forum was hosted by the Centre for Energy, Petroleum and Mineral Law and Policy at the University of Dundee <https://www.dundee.ac.uk/cepmlp/> on 25 and 26 June 2018. This year’s forum focused on “The Evolving Global Energy and Resources Landscape: Law, Policy and Economics”. Presentations were delivered by academics and practitioners on





issues pertaining to global energy markets, the oil and gas industry, the mining industry and resource taxation. Representatives of the World Bank, the European Commission and the International Council on Mining and Metals also contributed to the conversations. The conversations illustrated the effects of a global move towards cleaner, low carbon energy sources on resource and energy markets. Several suggestions were made as to the way forward.

As a representative of MLiA, Ms. Anri Heyns, 3<sup>rd</sup> year Ph.D. candidate, presented on “The effects of the politics of development for poor mining communities in South Africa” during a session on Resource Taxation and Governance. Presentations delivered during this session raised questions about the application of the SDG’s and African Mining Vision to domestic legislative systems that provide for the development and empowerment of communities affected by mining.

### **2018 ISSR Forum: Governance, Policy and Regulation Panel – University of Dundee, Scotland, UK**

Prof. Hanri Mostert (MLiA) and Dr. Elizabeth Bastida (CEPMLP) made a joint presentation on their envisaged project “Mining Law from Below” at this meeting, which consisted of two panels, one on Natural Resources and the Environment and the other on Politics, Law and Regulations. Their presentation argued for a new look at designing of mining law regimes, not with the historical “top-down” decision-making processes, but with greater emphasis on the local government decision-making, and consultation with affected parties, such as land holders and communities. They intend to develop their study of the systemic incoherency in mining law and governance to find integrative approaches to law and social justice within the sector.

### **2018 Law and Development Conference – Humboldt University, Berlin**

The Law and Development Institute (“LDI”) <http://www.lawanddevelopment.net/> together with the Humboldt University in Berlin and De Gruyter publishers, hosted the 9<sup>th</sup> annual Law and Development Conference in Berlin on the 6<sup>th</sup> and the 7<sup>th</sup> of July 2018. LDI focuses on law and development studies and the impact of international and domestic legal systems on economic and social development. LDI is also a partner of the Global Forum on Law, Justice and Development that is hosted by the World Bank.

This year the focus of the conference was on the relationship between law and development in theory and law and development in practice. The desirability of creating a universal theory to explain the relationship between the law and development was considered.

Another prominent theme of the conference was the necessity of including voices from the global South in conversations on law and development. Presentations were delivered by academics and practitioners working in the field of law and development, international law, international economic law and human rights.

In a session on “Development governance and the role of development agencies in the development process”, Ms. Anri Heyns from MLiA presented on the approach of the law and development to the concept “community” and how this approach affects the way in which legislation provides

for the development of mining communities in South Africa. Discussions ensued on how other jurisdictions define “community” for the purposes of the development of mining communities.





## COURSES AND EVENTS PRESENTED AND HOSTED BY MLIA

### COURSES

Over the last couple of months, MLiA has presented one LLM course and one LLB elective course. The different themes covered in these courses were presented by experts in the relevant fields, based in industry and academia.

If you are interested to enrol for these courses in 2019, please contact the office of the Faculty of Law.

#### **Comparative Mineral Law in Africa (RDL5630S) [LLM]:**

From 31 July to 8 August, MLiA presented a course on Comparative Mineral Law in Africa. This course aims to introduce students to the complexities of mineral law. The principles of mineral law are contextualised within particular historical, constitutional and political settings. Students are also allowed the opportunity to examine the impact of the constitution (applicable in a specific jurisdiction) on mineral law. The course aims to promote critical study of mineral law through comparison of principles from different disciplines. Mineral law is furthermore examined in a practical context and with comparative case studies from other African countries.

The course is a comparative course and students' are assessed based on their critical analytical outputs. The comparative focus varies from year to year, depending on student and teacher profile. Target jurisdictions for comparison may e.g. include South Africa, Namibia, Botswana, Zambia, and Ghana.

#### **South African Mineral Law: Theory, Context and Reform (RDL45043) [LLB elective]**

During the second semester of 2018, final year LLB students can take the course on South African mineral law: Theory, context and reform as an elective. In enabling the study of the theory and practice of mineral law, this course focuses on building understanding of the complexities of South African mineral law in its historical, constitutional and political setting. It introduces the topic by dealing with the origins and historical development of mineral law, and the core concepts thereof. It deals specifically with the nature and content of rights to minerals and the current regulatory framework for these rights. In doing so, it analyses critically the extent of current regulatory controls and/or lack thereof, focusing specifically on provisions dealing with social and environmental responsibility and the recording of rights to minerals. This allows students to gain a critical understanding of the practical context in which mineral law operates, and the need for reform.

Upon completion of this course, students should have acquired a basic understanding of how principles of private property law and public law intersect in the context of mineral law. They should be able to demonstrate their knowledge of defined aspects of mineral law and engage in interpreting defined provisions in applicable statutes. Students are assessed based on their final research paper and their attendance and satisfactory participation in seminars.

## WORKSHOPS

### MLiA & DPME Scoping Workshop

On 21 August 2018, MLiA and the Department of Planning, Monitoring, and Evaluation (DPME) co-hosted a one-day workshop on the coordination of mineral regulation and compliance across different organs of state. The workshop was held at the University of Cape Town.

The regulation of mining is the exclusive competence of the Department of Mineral Resources. However, many other government departments are impacted by or have a role to play in the mining industry. Those officials entrusted with implementing compliance or regulation of specific aspects of mining governance, need clarity on their functions and on how these functions relate to those of their peers in other departments.

Various government departments entrusted with ensuring regulatory compliance for mining, report the need for effective internal communication and integrated processes. Systems may be incompatible for the cross-sharing of information, which will affect counterparts in other departments. This creates a knowledge imbalance within government and constrains cooperation between different departments. The workshop served as a scoping exercise to assess current efforts at coordination and the extent of the need for integration and systemic support.



The workshop forms part of a larger project of MLiA, which aims to map the respective application processes for mining rights, environmental authorisations, water use licences and rezoning of land. Based on a workflow diagram created by the MLiA team, aspects of legislative uncertainty and inconsistency have been identified. Identification of these issues can assist to improve the efficiency of processes prescribed by the Mineral and Petroleum Resources Development Act and other related legislation. The purpose is to improve intergovernmental relations and cooperative government initiatives.

To scope the extent of the needed intervention, the workshop evaluated the processes and involvement of different government departments in the mining context. The workshop served as a platform for representatives from different departments to highlight and discuss current difficulties and frustrations experienced, but also successes achieved in coordinating activities relating to the implementation of decisions about mining with other affected departments. Discussions were structured according to five themes: Mining Right Applications and Cooperative Government; Community Consultation and Section 10 Notices; The One Environmental System; Social and Labour Plans and the Integrated Development Plans; and Spatial Development Frameworks and Land Use Schemes.

Key stakeholders from various quarters of government participated in the scoping workshop. These include the Departments of Mineral Resources; Environmental Affairs; Water and Sanitation; Cooperative Governance and Traditional Affairs and Rural Development and Land Reform. Representatives from City of Cape Town, City of uMhlatuze, Moses Kotane, Lephalale, Musina, Ba-Phalaborwa, Sol Plaatjie, and Thabazimbi Local Municipalities participated in lively discussions of the different themes. PetroSA and representatives of the EU-LA Mining Programme also attended.

Various issues have been identified during the workshop. The findings of the workshop will be published and a follow-up workshop is planned for February 2019. MLiA gratefully acknowledges the enthusiastic participation and the generous time commitments of all workshop attendees to improve cooperative governance in the mining context.

View the presentations by Prof Mostert and Ms Van Schalkwyk on MLiA's YouTube Channel

[https://www.youtube.com/channel/UCdg\\_wPaJJu2\\_QAksi\\_VXv\\_A](https://www.youtube.com/channel/UCdg_wPaJJu2_QAksi_VXv_A).



## UPCOMING COURSES AND EVENTS

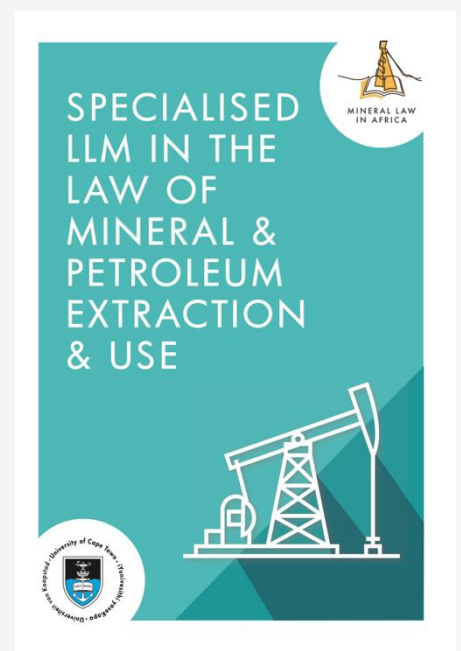
### Specialised LLM

#### LLM IN THE LAW OF MINERAL AND PETROLEUM EXTRACTION AND USE

MLiA will as from 2019 offer a specialised LLM in the **Law of Mineral and Petroleum Extraction and Use**, in the Faculty of Law at the University of Cape Town.

If you are interested in the regulation and operation of the mining sector, this program is for you! It covers a broad array of topics, with the intention of giving you a comprehensive overview of the sector, and specialist knowledge of the legal facets of mineral and petroleum extraction and use.

Depending on your preferences, you are able to tailor the LLM program to focus on a number of selected courses, including (a) Mineral Resources; (b) the Negotiation of Mining Contracts; (c) Oil and Gas; (d) Resource Revenue Law (taxation); (e) Property Law; as well as (f) Natural Resources Law (on offer in the faculty). Each of the courses



adopts a holistic approach to the legal framework, embedding the law within the relevant socio-political context.

The various relationships between the mining sector and government, society, communities, the environment, employees, as well as other stakeholders, are canvassed. This multi-stakeholder perspective provides a practical and multi-disciplinary approach, thus affording a unique and contextual insight into the complexities of the sector.

Topics that may be covered within each of the courses include (i) governance, (ii) licensing, (iii) foreign investment, (iv) expropriation, (v) corporate social responsibility, (vi) Black Economic Empowerment, (vi) environmental obligations, (vii) technical considerations, (viii) crime, (ix) stakeholder obligations, and (x) zoning, etc.

Follow this link for more information: <http://www.mlia.uct.ac.za/llm-law-mineral-and-petroleum-extraction-and-use>

## SUGGESTED READING MATERIAL

Below is a list of suggested reading material covering a broad range of mineral law issues. We trust you find them informative.

- Kuntala Lahiri-Dutt *Between the Plough and the Prick: Informal, artisanal and small-scale mining in the contemporary world* (2018) Acton, Australia: ANU Press
  - This Book deepens our understanding of informal, artisanal and small-scale mining, popularly known as ASM. The contributors are international scholars and practitioners who explore the complexities in the histories of labour and production practices in the forces driving ASM, the creative agency and capacities of ASM miners, as well as the human and environmental costs of ASM.
  
- Hendrik Louw & Lochner Marais “Mining and municipal finance in Kathu, an open mining town in South Africa” *The Extractive Industries and Society* 28 May 2018
  - Worldwide, normalising mining towns or transforming them into open towns has become conventional wisdom. Kathu, in the Gamagara Local Municipality in South Africa, serves as one example hereof. Local planning and municipal finance have been put under pressure and the mining companies continue to shoulder these responsibilities – albeit indirectly. The mines actively support normalisation because it minimises their own long-term risks. This article argues that the South African government does not do enough to assist mining towns.
  
- Lochner Marais “Housing policy in mining towns: Issues of race and risk in South Africa” *International Journal of Housing Policy* 3 April 2018 (Volume 18, Issue 2)
  - Mining has had much to do with the pattern of housing in South Africa today. This paper critically reviews post-apartheid government policy for mine housing in South Africa.
  
- Tony Corbett, Ciara O’ Faircheallaigh & Anthony Regan “Designated areas and the regulation of artisanal and small-scale mining” *Land Use Policy* 3 August 2017 (Volume 68; p393-401)
  - This article explains the rationale for use of designated areas for ASM activities, identifies key policy issues and choices involved in creating them and provides examples of legislation providing for their establishment.
  
- Paseka Leeuw & Hudson Mtegha “The Significance of mining backward and forward linkages in reskilling redundant mine workers in South Africa” *Resource Policy* 5 February 2018 (Volume 56, page 31-37)
  - The Chamber of Mines of South Africa has drawn up a strategy to modernise mining by embracing automated and autonomous technologies among others. The unintended consequences of these technologies are the reduction in labour, particularly in low skills categories. It is then prudent to reskill the affected mine workers to lessen the dire effects of redundancy. To this effect, this paper analysed mining forward and backward linkages with the aim of identifying the best path with the most absorptive capacity for redundant mine workers.
  
- Akusa Asamoah Debrah, Hudson Mtegha, Frederick Cawood “Social licence to operate and granting of mineral rights in sub-Saharan Africa: Exploring tensions between communities, governments and multi-national mining companies” *Resource Policy* 22 February 2018 (Volume 56; p 95-103)



- This paper discusses some of the root causes of such tensions surrounding the assignment of mineral rights and their effect on customary land rights frameworks. The mineral rights' frameworks of Ghana, Namibia, South Africa and Tanzania are explored for a better understanding of the tensions that arise in mining communities.

□ Nancy Coulson "The role of workplace health and safety representatives and the creeping responsabilisation of occupational health and safety on South African mines" Resource Policy June 2018 (Volume 56: p 38-48)

- ILO Convention 176 provides for worker selected health and safety representatives (HSRs) with which the South African Mine Health and Safety Act (MHSA) No 29 of 1996 as amended complies. Although arrangements for worker consultation is well established in other industrialised contexts worldwide, it is threatened by neo-liberalism and a trend within occupational health and safety (OHS) regulation described as 'responsibilisation.' This paper examines the experience of South African health and safety representatives in relation to this globalised context.

Season's greetings from all of us at MLiA. May you have a wonderful, restful festive season. We will be back at our posts on 14 January 2019.

### MLiA Team



### IN MEMORIAM: PROF DEE BRADSHAW

We at MLiA were deeply saddened by the untimely passing of Prof. Dee Bradshaw in June this year. As the SARChI: Minerals Beneficiation, Prof. Bradshaw and her team co-operated closely with MLiA ever since its inception in 2016. Prof. Bradshaw's Chair was hosted by the Minerals to Metals Initiative in the Faculty for Engineering and the Built Environment. Read Prof. Mostert's tribute to her [here](http://www.mlia.uct.ac.za/news/lessons-ive-learned-dee-bradshaw)