

University of Pretoria Yearbook 2021

Rights to and regulation of natural resources 801 (EIL 801)

Qualification	Postgraduate
Faculty	Faculty of Law
Module credits	30.00
NQF Level	09
Programmes	LLM Extractive Industry Law in Africa (Coursework) MPhil Extractive Industry Policy, Management and Regulation (Coursework)
Prerequisites	No prerequisites.
Language of tuition	Module is presented in English
Department	Public Law
Period of presentation	Semester 1

Module content

The objective of this module is to equip students with a thorough understanding of the legal and policy aspects of natural resources and the regulation of natural resources and industries to extract natural resources. Topics include:

- a. Industry background such as the extractive industry value chain and the role of extractive industries in national, regional and global economies, basic extractive industry business and project feasibility metrics, typical national public policy priorities, the differences between the mining and oil and gas industries, gas industry specifics, the various downstream industries (smelters, refineries and petrochemical and energy industries and policy issues pertaining to renewable energy and unconventional extraction methods such as hydraulic fracturing ("fracking");
- b. Natural resource and extractive industry policy concepts and regulatory options;
- c. Ownership of mineral rights dispensations (state versus private ownership of mineral rights), the legal position of the owner of the land and the owner of the products of extraction;
- d. The advantages and disadvantages of the main granting methodologies applied by host governments including concessions, production sharing agreements, participation agreements, services agreements and hybrid methods;
- e. Typical conditions to obtain, renew or transfer exploration or extraction rights and the veracity of the public policy basis of such requirements;
- f. Agreements and transactions to transfer rights to prospect and/or to extract;
- g. Constitutional and administrative law aspects of relevance in dealing with extractive industry legislation and regulation including the legality of administrative processes governed by an Act such as the MPRD Act and related regulation, the right of third parties to be heard in applications by resource companies under the MPRD Act and the constitutionality of the conversion of "old order mineral rights" to "new order mineral rights".

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