



Legal issues in reputational risks

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LEGAL ASPECTS OF REPUTATIONAL RISKS IN THE MINING INDUSTRY

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The mining industry has, in the past, not had an excellent reputation

- **Challenged in relation to its dealings with**
 - **governments**
 - **labour force**
 - **communities**

- **Challenged in relation to environmental issues**

More parties are interested in this reputation

- Mining companies, their management and their shareholders
- The governments and opposition parties of host countries
- The government of the mining companies' countries
- Commercial and institutional lenders
- International institutions (the U.N., the World Bank)
- NGOs
- The media



Reputational loss means financial losses

- **Damaged share value**
- **Difficulties in raising equity and debt finance**
- **Difficulties in finding partners, officers and employees**
- **Difficulties in obtaining new titles**
- **Difficulties with governments**
- **Liability of the management**
- **A harder day in court and punitive damages**
- **Increased insurance premium**

You mean a lawyer is going to advise me on how to have a good reputation? Is this another lawyers' joke?

- Lawyers can help preventing the crisis from occurring
- Lawyers can help containing the crisis once it has occurred
- Lawyers can help addressing the aftermaths of the crisis



Preventing the problem from occurring

- Complying with all relevant laws
- Internal procedures and codes of conduct
- Imposing obligations on the contractors
- Incorporating lenders' and IFI's demands
- Lobbying

Preventing the problem from becoming public

- Confidentiality clauses
- Arbitration clauses
- Out of court settlements
- Preventing publication

Responding once the crisis is public

- Enforcing the company's procedures
- Choosing a lawyer with the right reputation
- Denying or acknowledging responsibility
- Suing contractors and third parties
- Publicly compensating the victims

Defending against public statements

- Enforcing confidentiality clauses
- Using legal rights of response
- Enforcing defamation procedure
- Contacting the media ombudsmen

Addressing the aftermath of the crisis

- Ensuring it does not happen again
- Obtaining compensation
- Monitoring the comments



Don't leave it to the lawyers!

- Act pre-emptively
- Prepare and properly regulate behaviour

If you have any question about this presentation, our Global Mining Group or Simmons & Simmons please contact:

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“Highly respected for his mining expertise”

“A team that truly understand the nuances of the African markets”

Any question please contact either:

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