It's About Time: A Proposal to Establish a Specialized International Agency for Coal Miner Safety and Health

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NOTES

IT'S ABOUT TIME:
A PROPOSAL TO ESTABLISH A SPECIALIZED INTERNATIONAL AGENCY FOR COAL MINER SAFETY AND HEALTH

Mining is inherently high risk and will always remain so as long as it is done by people. . . . All underground mines face the same problems. It takes eternal vigilance to stay on top of it.¹

I. INTRODUCTION

Traditionally, underground coal mining has posed significant risks to workers’ health and safety.² Through continued improvements in technologies, new capital investments, and continuously improved training, some dangers have been controlled.³ However, without a “safety net” including assessments and control of risks, “accidents and occupational diseases can and do occur.”⁴

Looking back at the recent coal mining disasters across the world, it is clear that uniform global safety and health standards for coal mining are imperative. Even though coal mining claims the lives of thousands of human beings across the world each year, it is a fundamental energy source that cannot be abandoned in the foreseeable future.⁵ The global

¹ Charles Hutzler, World’s Coal Use Carries Deadly Cost, ASSOCIATED PRESS, Nov. 11, 2007 (quoting Dave Feickert, an independent mine safety consultant based in New Zealand, who has worked extensively in China).
³ Id.
⁴ Id.
⁵ In 2006, there were seventy-three total mining deaths in the United States, forty-seven of which were related to coal mining. Overall mining deaths dropped in 2007 to sixty-seven, but
demand for coal needs to be balanced with appropriate safety measures. Currently coal mining is regulated regionally such as within the United States, the European Union, Australia, and China. However, these regional regulatory schemes are not equally effective or enforced. There is no justification for why a coal miner located in one part of the world is protected by effective safety and health standards, while a coal miner located in another part of the world is not protected. This Note asserts that the right of coal miners to safety and health protection is universal.

This Note then proposes the creation of an international coal mine safety and health regulatory agency. The agency, as created, would address safety and health issues that are universally encountered in all coal mines throughout the world. Its primary functions will be to articulate and promote the enforcement of common regulations, collect and publish vital statistical and informational reports, facilitate the exchange of information and technology, and ultimately work to help states solve universal safety and health problems that coal miners face.

Section II details and analyzes the shortcomings of current legislative and regulative efforts regarding coal miner safety and health by demonstrating the dangers inherent in underground coal mining and providing concrete examples of when legislation and regulations have failed. Section III of this Note describes the universality of coal, its unique features and importance to the global economy, as well as the dangers to coal miners everywhere. Section IV details a selection of current domestic, regional, and international regulations and standards, and highlights their inadequacies. Section V demonstrates that an international coal miner safety and health agency is needed and is feasible. Section VI proposes the establishment of an international coal miner safety and health agency. Section VII concludes that unless a coal mine safety and health international agency is established, coal miners around the world will continue to have their universal right to safety and health violated.

II. THE COAL INDUSTRY AFFECTS THE HEALTH AND SAFETY OF MINERS WORLDWIDE

There are many risks to underground coal miners and rescue workers, such as collapse, explosion, suffocation, fire, illness, and death. Recent accidents across the world exemplify the dangers of coal mining.

A. Safety and Health Risks to Underground Coal Mine Workers

"While great strides have been made in recent decades to reduce risks in mining emergencies, the potential for injury, illness, and death remains in this inherently challenging industry." Collapse is one of the most prominent, if not the foremost risk to underground coal mine workers. Mine collapses may trap miners thousands of feet below the surface with limited air supply. Even with recent advances in communication equipment, "there's absolutely no technology today that allows you to communicate with those trapped miners." Therefore, the time and effort required to find their exact location increases the risk of secondary collapse and harm to rescue workers. Collapses also entrap pockets of gas within the mines, which in turn leads to a higher risk of fire and explosion. In China, about 50% of fatalities are a result of methane gas explosions that stem from poor


7. NIOSH Focus on Coal, supra note 6.

8. Considering that intentional collapse is incorporated into some underground mining techniques, the risk of collapse is seemingly high. See infra text accompanying notes 56-66. Also, collapse may occur in tandem with other risks to coal miners such as explosion and fire. See infra Sec. II.B.

9. Examples of this devastating risk were seen in Utah, West Virginia, and China. See infra Sec. II.B.


ventilation and lack of monitoring.\(^\text{12}\)

The level of sophistication of a country’s coal mining protections, equipment, and workers is directly linked to the number of coal mining fatalities. China’s lax coal mining regulatory scheme causes the majority of the world’s coal mining fatalities.\(^\text{13}\) Most coal miner deaths occur in smaller village and town mines where mining techniques are labor intensive, unsophisticated equipment is used, and poor health and safety conditions exist.\(^\text{14}\) Lower fatality rates are seen in the United States, United Kingdom, and Australia as a result of a strong commitment to safety and health standards governed by strictly enforced legislation.\(^\text{15}\) If coal mining fatalities do occur, a thorough investigation into the cause of the accident results.\(^\text{16}\)

Pneumoconiosis or black lung is the most common health risk and fatal illness among coal mine workers.\(^\text{17}\) It is “a preventable, occupational lung disease that is contracted by prolonged breathing of coal mine dust.”\(^\text{18}\) Though the incidence of black lung appears to be falling due to greater awareness and implementation of directed legislation, it is still prevalent in developing countries with conventionally poor safety and health records.\(^\text{19}\) Coal miners working in poorly ventilated underground mines for extended lengths of time with

\(^{12}\) WORLD COAL INST. & UNITED NATIONS ENV’T PROGRAMME, INDUSTRY AS A PARTNER FOR SUSTAINABLE DEVELOPMENT: COAL 36 (2002) [hereinafter WCI & UNEP COAL].

\(^{13}\) Id. (noting that China has a fatality rate of more than 300 times that of Australia, which has the world’s lowest fatality rate).

\(^{14}\) Id.

\(^{15}\) Id.

\(^{16}\) Id.


\(^{18}\) UMWA Black Lung, supra note 17. This disease is not fatal in the short term in all occurrences, but it can develop into severe lung disease, also known as progressive massive fibrosis. NAT’L INST. FOR OCCUPATIONAL SAFETY & HEALTH, DEP’T OF HEALTH & HUMAN SERVS., PUBL’N NO. 2002-122, COAL WORKERS’ X-RAY SURVEILLANCE PROGRAM FREQUENTLY ASKED QUESTIONS & RESOURCE LIST (2002), available at http://www.cdc.gov/niosh/docs/2002-122/ [hereinafter NIOSH COAL WORKERS’ FAQ]. There is no cure for the damage caused by the inhaled coal mine dust, which shortens and compromises the health of the people who have contracted the disease. It is an altogether preventable disease and in other cases treatable, with health improvements in the work place. Id.

\(^{19}\) WCI & UNEP COAL, supra note 12, at 38.
outdated equipment are the most susceptible to this disease.\textsuperscript{20}

Over 10 years ago, there were approximately 5,000 cases of black lung in China.\textsuperscript{21} Today, that number is likely even higher than what is published due to underreporting in small-scale mines.\textsuperscript{22} Australia, by contrast, has nearly eliminated black lung from its coal mines through regulation and mandatory health examinations.\textsuperscript{23} While the United States may have more sophisticated regulation than China, it has a higher incidence of black lung disease in comparison to Australia.\textsuperscript{24} The explanation as to why the disease continues to persist in the United States is uncertain, but may be related to poor dust inspection or non-compliance with regulations due to economic difficulties.\textsuperscript{25}

\textbf{B. Miner Safety and Health Is At Risk Around the World}

A brief review of recent events demonstrates the strong need for an agency to promulgate global standards and to ensure compliance. "More than 3,700 died in coal mines [in 2007] making China, the world's largest producer and consumer of coal, home to the world's deadliest mining industry."\textsuperscript{26} That number did not improve much in 2008, given "at least 3,200 people died in China's coal mines . . . , making them the deadliest in the world."\textsuperscript{27} In December 2007, China experienced "one of the country's worst mining accidents" when a gas explosion in an illegal underground mine in Taiyuan claimed the lives of approximately 105 miners.\textsuperscript{28} Officials were unsure as to how many miners were working in

\begin{itemize}
\item \textsuperscript{20} Id. at 37-38.
\item \textsuperscript{21} Id. at 38.
\item \textsuperscript{22} Id.
\item \textsuperscript{23} Id.
\item \textsuperscript{24} Id. at 38-39.
\item \textsuperscript{25} Id. at 39. The fatality rates of pneumoconiosis among United States' coal mine workers increased after the passage of the Federal Coal Mine Health and Safety Act of 1969 because of new regulations requiring the cause of death to appear on the death certificate. NIOSH CHARTBOOK, supra note 17, at 239 fig. 4-19 (explaining how after the Federal Coal Mine Health and Safety Act of 1969 was passed, there was an increase in the reported number and rate of coal miner deaths from black lung because the cause of death was required to be recorded on the death certificate). Those numbers have since decreased, and were at an all time low in 1999. Id.
\item \textsuperscript{26} Lindsay Beck, Poor Safety Standards Blamed for China Mine Blast, REUTERS UK, June 15, 2008 (Sanjeev Miglani ed.), available at http://uk.reuters.com/article/oilRpt/idUKPEK702120080615.
\item \textsuperscript{27} China Mine Blast Leaves 18 Dead, BBC NEWS, Apr. 18, 2009, available at http://news.bbc.co.uk/2/hi/asia-pacific/8005523.stm.
\end{itemize}
the mine when the explosion occurred and it took them over six hours to report this accident.\textsuperscript{29} In July 2008, weeks before the Summer Olympics in Beijing, more than thirty miners were killed in an explosion and collapse of an unlicensed Lijiawa coal mine in Yu County.\textsuperscript{30}

A gas explosion in the summer of 2008 killed at least one miner and left twelve missing at a 110-year old coal mine in Donetsk, Ukraine.\textsuperscript{31} Gas explosions occur frequently in Ukraine’s aging mines because much of the coal is found at a depth of 1 kilometer or more, creating unavoidable difficulties for mining operations.\textsuperscript{32} President Viktor Yushchenko noted that “[t]his accident reflects all the key problems of the coal industry which have gone unsolved for years. . . . The state of the industry has worsened and the profession of miner has become a deadly one.”\textsuperscript{33}

A serious mining accident occurred in the Russian Ulyanovskaya mine in March of 2007.\textsuperscript{34} This accident, the “worst . . . for a generation,” resulted from a methane gas explosion, some 885 feet underground.\textsuperscript{35} The conditions in the mine after the explosion were atrocious, as rescuers reported poor ventilation, flooding, smoke, and collapsed roofs.\textsuperscript{36} In November of 2006, a mine collapse in Poland claimed fifteen miners’ lives.\textsuperscript{37} The levels of methane were so high that rescue efforts were slowed due to the threat of another explosion.\textsuperscript{38} These tragedies highlight the risks of methane gas explosions and accompanying collapses.

Fortunately, coal mining in the United States is safer, although accidents still occur. In the summer of 2007 much attention was drawn to Huntington, Utah, where six coal miners were trapped in a collapsed
mine. This accident brought nationwide attention, once again, to the coal industry and the inherent dangers facing miners and rescue workers. A report published by the Senate in 2008 revealed “multiple failures in both the company’s formulation and [the Mine Safety and Health Administration’s] review of the mining plans at Crandall Canyon.” There were many warning signs during the planning stage of the mine as well as during the mine’s operation that suggest this disaster could have been prevented.

The January 2006 Sago Mine tragedy in West Virginia also attracted national and international attention. This accident was caused when a lightning bolt ignited methane gas trapped in the mine and resulted in an underground explosion, trapping thirteen miners. Of the twelve who perished, only one died as a direct result of the blast. The eleven others died as a result of oxygen deprivation and carbon monoxide poisoning while waiting over forty hours to be rescued. This accident demonstrates that improvements to mine safety and rescue procedures must be implemented. Following this mining accident there was a push for mine safety reform, but unfortunately the disaster in Utah demonstrated that these new procedures and standards are not sufficient.

40. See Maher, supra note 10.
42. Id. at 5-6.
45. Id.
46. Id.
47. Moussa, supra note 43, at 211-12. In response to this disaster, the U.S. government enacted the Miner Act of 2006. See infra Sec. IV.A.
48. See infra Sec. IV.A.
49. Maher, supra note 10 (“The bleak outlook for six coal miners trapped underground in Utah is exposing shortcomings in last year’s efforts to overhaul mine safety regulations, including a delay in mandating better emergency two-way communications technology that some companies argue isn’t yet feasible.”).
III. THE COAL ECONOMY

Coal is a universal product. Not only is it mined throughout the world, but its impact is far reaching. Basic human rights, environmental effects, the economy, and world trade shape the coal mining industry. Its continuing presence and growing demand on the global front exhibits its universality and the need for a universal response.

A. What Is Coal?

“Coal is a rock that burns.” It is composed mainly of carbon derived from fossilized plant matter buried under layers of sediment. Thousands of years of pressure and heat resulted in the formation of gas pockets and coal seams. As the demand for coal grew, coal mining descended underground in the form of drift mines, slope mines, shaft mines, and tunnel mines where more coal could be obtained.


51. Coal is located on every continent and in over 70 different countries. Id. at 3. As of 2005, “coal mining directly employ[s] millions worldwide [and] generates income and employment in other regional industries that are dependent on coal mining.” Id. at 11. It is traded all over the world and heavily consumed in various markets. Id. at 13-14.

52. LONG, supra note 11, at 4.

53. Id. at 3.

54. Id. Three major types of coal formed: lignite, bituminous, and anthracite. Id. at 4. Lignite, which contains the least amount of carbon, is a “soft brown coal with visible plant components” and is usually found under plains. Id. Bituminous coal, the most common type of coal, is soft and burns with a “smoky yellow flame.” Id. Anthracite, having the most carbon, is a hard, dense, glossy black coal, and is usually found under mountains. Id. It is the cleanest burning coal; nonetheless, like all types of coal, it continuously emits methane gas. Id. at 3-4. Coal is also graded according to quality and how much sulfur and ash is emitted when burned. Id. at 4. “Sulfur is a noxious pollutant of both air and water.” Id.

55. Id. at 9, 24-26. Most underground mines are less than 1,000 feet deep, but some extend down to 2,000 feet. United Mine Workers of America, Underground Coal Mining: Types of Underground Coal Mines, http://www.umwa.org/index.php?q=content/types-underground-coal-mines (last visited Feb. 1, 2009) [hereinafter Types of Underground Coal Mines]. “Drift mines have horizontal entries into the coal seam from a hillside.” Id.; LONG, supra note 11, at 24-25. They can extend directly through a mountain and have natural drainage. LONG, supra note 11, at 24. Slope mines slant downwards and are usually not that deep. Id. at 25; Types of Underground Coal Mines, supra note 55. Shaft mines are usually very deep, and have access to the coal seam via elevators. Types of Underground Coal Mines, supra; LONG, supra note 11, at 25. They are a more expensive endeavor but yield a high return because they can access numerous coal seams. LONG, supra note 11, at 26. Tunnel mining approaches the coal seam through dirt as opposed to the other three types which tunnel through coal. Id. at 25.
Once the coal seam is reached there are two methods of retrieval—
room and pillar, and longwall. The most popular method of
underground coal removal in the United States is the room and pillar
method. A grid-like pattern is formed as rooms, usually twenty to
thirty feet wide, are cut into the coal bed leaving pillars of coal up to 100
feet wide to support the overlying strata and improve air circulation.
There are two types of room and pillar mines—conventional and
continuous. Conventional mining is an older method where “the coal
seam is cut, drilled, blasted and then loaded into cars” for removal.
Continuous mining is a more prevalent form that uses a machine for
cutting away the coal. At the end of the mine, retreat mining is used to
collect as much coal as possible from the pillars before the roof
collapses.

Another method of coal mining is longwall mining, which accounts
for approximately 31% of underground coal mining. After a tunnel is
made in longwall coal mining, “a cutting [device] moves back and forth
across a panel of coal about 800 feet in width and up to 7,000 feet in
length.” Artificial roof supports are used to hold up the roof of the
tunnel while the coal is then removed by a conveyer belt. The roof
supports are removed once the coal has been retrieved, which results in
collapse.

B. About the Coal Mining Industry

Coal is found in more than 70 nations, with the largest reserves in
the United States (28% of the world’s supply), Russia (19%), China
(14%), Australia (9%), and India (7%). There are approximately 984

56. LONG, supra note 11, at 26.
57. Id.; United Mine Workers of America, Underground Coal Mining: Room and Pillar
2009) [hereinafter Room and Pillar Mining].
58. Room and Pillar Mining, supra note 57; LONG, supra note 11, at 26.
59. Room and Pillar Mining, supra note 57.
60. Id.
61. Id.
62. Id.
63. United Mine Workers of America, Underground Coal Mining: Longwall Mining,
Longwall Mining]; LONG, supra note 11, at 41.
64. Id.
65. Id.
66. Id.
67. ENERGY INFORMATION ADMINISTRATION, DOE/EIA-0484(2008), INTERNATIONAL
billion tons of proven recoverable coal reserves worldwide, which could sustain the world’s energy needs for the next 190 years.\textsuperscript{68} As of 2004, coal was the second most consumed energy source in the world, accounting for more than 26% of the total global consumption.\textsuperscript{69} The great majority of coal, 85% or more, is used by electric utilities and industrial consumers.\textsuperscript{70} Other uses of coal include conversion into other liquid fuels, and individual consumption.\textsuperscript{71}

The International Energy Agency predicts that the world’s demand for coal will increase from under three billion metric tons in 2005 to approximately five billion in 2030.\textsuperscript{72} The largest consumers of coal in the future will shift from the United States and Japan to China and India.\textsuperscript{73} These two countries alone are predicted to consume nearly the same amount of coal that the entire world consumes presently.\textsuperscript{74} The environmental effects will be astounding as the energy demand and the use of coal increases.\textsuperscript{75}
C. International Coal Trade and the Economy

Coal is a global commodity; it is traded internationally, affects people across the world, and is consumed globally. As discussed, coal consumption rates are expected to increase, which will inevitably affect coal prices and the international marketplace for coal.

In 2005, 15% of the coal consumed worldwide was traded internationally. This figure may seem surprisingly low, especially because nearly every nation consumes coal. But, in fact, some of the largest coal-producing nations are also the world’s largest coal consumers. The majority of coal consumed is used domestically in the nation where it is produced.

D. Environmental Effects of Increased Coal Consumption

As the world’s demand for energy increases, reliance on coal as a viable energy source will increase, especially as oil reserves decline and the price of oil skyrockets. Coal, as compared with other sources of fuel, is one of the “dirtiest” fuels. Even in its cleanest forms coal emits carbon dioxide, a leading cause of environmental pollution and global warming. As of 2007, coal is second behind oil in producing carbon dioxide emissions, but as the demand for coal rises in the coming years, it is predicted to be the leading source of carbon dioxide. This greatly increases the environmental implications of the shift to coal as the number one source of energy consumption. In addition to pollution caused by coal use, coal mining also presents a myriad of other

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76. DOE/EIA-0484(2007), supra note 69, at 49.
77. Id. at 49 fig.54. World coal consumption may increase by 65% from 2005 to 2030, international coal trade may increase by 53% from 2005 to 2030, and the share of coal in world energy consumption may increase to from 27% in 2005 to 29% in 2030. DOE/EIA-0484(2008), supra note 67, at 47. See THE COAL RESOURCE, supra note 50, at 13.
78. DOE/EIA-0484(2008), supra note 67, at 52-53.
79. See id. at 50-55 (noting that among nations which both produce high amounts of coal and consume large amounts of domestic coal are China, the United States, India, Russia, and Australia); THE COAL RESOURCE, supra note 50, at 13-14.
80. THE COAL RESOURCE, supra note 50, at 13.
82. King & Swartz, supra note 72.
83. Id.
84. DOE/EIA-0484(2007), supra note 69, at 49.
environmental harms. 85 "Mining alters the landscape and underground structure of the land, simultaneously releasing pollutants into the air, water and soil." 86

IV. THE REGULATION OF COAL WORLD-WIDE IS INADEQUATE

Current regional and international coal mine safety regulations are inadequate given the frequency of accidents and the multitude of safety and health violations across the world. Within certain states and regions, such as the United States, Australia, and the European Union, there have been and continue to be sophisticated coal mine safety and health regulations. However, these regulations are disregarded at times, and only apply within those states and regions. International coal mine safety and health regulations are piecemeal and aspirational. They are not widely followed or enforced resulting in continued human rights violations and unsafe coal mines.

A. Regional Regulation

1. United States Federal Mine Safety and Health Act

The Federal Mine Safety and Health Act of 1977 ("MSHA") was the first comprehensive statute in the United States to adequately address coal mines and their safety. Effectively amended in November 1977, this Act created the Mine Safety and Health Administration (the "Administration"), which is a division of the Department of Labor. 88 MSHA, a sweeping act, covers nearly all issues concerning coal miner health, safety, and working conditions within coal mines. 89 The Act


86. Rubenstein & Winkowski, supra note 85, at 191.


88. Id. § 802(n); Federal Mine Safety & Health Act (MSHA) of 1977 § 302(a), 29 U.S.C. § 557a (2000).

89. 30 U.S.C. §§ 801-962. In the Findings and Purpose of the Act, Congress declared, "the first priority and concern of all in the coal or other mining industry must be the health and safety of its most precious resource—the miner." Id. § 801(a). In accordance with its Findings and Purpose, the Act includes many detailed subchapters. Id. § 811-962. Subchapter I established, inter alia, mandatory safety and health standards, and procedures for their enforcement. Id. §§ 811-825.
gave authority to the Secretary of Labor to study information on the conditions of mines, and propose and promulgate standards and regulations for mine safety.90 The Secretary was also vested with authority to enforce standards and reporting requirements, inspect mines, and issue penalties for mine operators who did not comply.91

Prompted by the Sago Mine Disaster, President Bush signed into law the Mine Improvement and New Emergency Response Act of 2006 (the “MINER Act”).92 The MINER Act amends MSHA and is the “most sweeping overhaul of federal mine safety law” in almost thirty years.93 The main focus of the MINER Act is safety in anticipation of, during, and after, mining disasters.94 It builds upon and furthers the Administration’s “efforts to enhance mine safety training, to improve safety and communications technology for miners and provide more emergency supplies of breathable air along escape routes.”95 The MINER Act significantly increases penalties to mine operators for first-time and subsequent willful violations of mandatory safety standards.96 Although U.S. mines are some of the safest in the world, as the MINER Act acknowledges, there is still much room for improvement.97


90. Id. § 801(g).
91. Id. §§ 801(g), 811, 813, 814.
95. Press Release, Office of the Press Sec'y, supra note 92.
96. Compare MINER Act § 8(a)(1)(B)(2), with 30 U.S.C. § 820(d) (2000). Criminal penalties for first time willful violations of mandatory safety or health standards have increased from a maximum of $25,000 to $250,000. The fines for subsequent criminal violations increase from a maximum of $50,000 to $500,000. The jail time maximums for such willful violations, one-year for first time violators and five-years for subsequent violators, remain the same.
97. See WCI & UNEP COAL, supra note 12, at 37.
2. Australia Coal Mining Safety and Health Act and Regulation

There is a strong commitment to safety and health standards in Australia, resulting in low fatality rates and the virtual elimination of black lung disease. Specifically in Queensland, the government enacted the Coal Mining Safety and Health Act of 1999 ("CMSHA"), which "binds all persons, including the State and, so far as the legislative power of the Parliament permits, the Commonwealth and all the other States." CMSHA was the product of collaboration between the government, and employee and employer organizations. It replaced the existing coal mining act and shifted the responsibility of safety and health to the coal mine site owners under an expanded duty of care principle. CMSHA imposes duties of safety and health on coal mine operators and managers. It provides for safety and health management systems at coal mines to promote risk management in accordance with regulations and standards made in response to CMSHA. A safety and health advisory council was also established "to allow the coal mining industry to participate in developing strategies for improving safety and health.

In drafting CMSHA, the drafters acknowledged the need to balance individual rights with a person’s right not to be endangered by another’s actions. Although there is a strong emphasis on protecting an individual’s rights, the need to establish the cause of serious mining accidents may take precedence. According to CMSHA, some of the

100. Id. § 3(l).
102. See id.
103. Coal Mining Safety and Health Act, 1999, § 7(a).
104. Id. § 7(b), (c).
105. Id. § 7(d). CMSHA further provided for coal mine worker safety and health representatives, inspectors to monitor effectiveness of safety and health implementations, assessment of coal mine worker competence, skilled supervisors, appropriate coal mine emergency and rescue procedures and preparedness, and assessment of coal mine worker’s health. Id. § 7(e)-(k).
106. Id. at 3.
107. See id.
most effective methods to achieve this are as follows: (a) requiring answers to questions related to establishing the cause of a serious accident or potential accident, and protecting the person from the evidence being used against them; (b) requiring documents related to safety and health aspects of accidents to be produced for examination by inspectors; (c) providing for entry into on- and off-site mines covered by the act without warrants or permission; (d) allowing corporations to allocate resources as needed, provided that they make safety and health a top priority; and (e) imposing penalties and fines to deter violations.108

3. China’s Labor Law

The majority of accidents and fatalities in the world occur within China’s coal mining industry.109 “In China, more than 4,700 people died [in 2006] in coal mines.”110 In 2007, “[a] total of 3,786 coal miners died in gas blasts, flooding and other accidents . . . down 20 percent from 2006. Officials reported another drop in the first 8 months of [2008].”111 Accidents occur mostly in illegally operated mines in small rural towns and villages.112 Although the Chinese government has taken steps to raise the level of safety, it has done so without much success.113 While in China, there are news reports of mining blasts, deaths, rescue efforts, and miners trapped in horrific circumstances almost every week, the United States has only about thirty mining deaths per year.114 The Chinese government’s focus lies not in workers’ safety but in coal companies bringing revenue into the country, which includes keeping labor costs low and risks to mine workers high.115 In addition, widespread government corruption has allowed poor conditions and illegal mining operations to continue.116

108. Id. at 4-6.
109. THE COAL RESOURCE, supra note 50, at 10.
110. Hutzler, supra note 1.
111. Buckley, supra note 5.
112. Id.; THE COAL RESOURCE, supra note 50, at 10.
113. THE COAL RESOURCE, supra note 50, at 10-11; see Hutzler, supra note 1.
115. See Hutzler, supra note 1 (noting that local officials are sometimes part-owners shifting their attention to business and away from safety).
China has a long history of poor working conditions and human rights violations. In late 2006 as a response to external pressures, China implemented new interim provisions to “increase accountability for coal min[ing] accidents.” These new provisions impose stricter penalties including legal prosecution, “warnings, demotions, and dismissal for violations of coal mine safety practices.” Among the new violations are: (a) failing to remedy hazardous conditions resulting in accidents; (b) “concealing, misreporting, or providing a delayed report of an accident”; and (c) “allowing mines with revoked licenses to continue oper[ating].” Despite these attempted improvements, such high corruption within the Chinese government imposes a barrier to their effectiveness.

4. European Coal and Steel Community

Signed in 1951 and entered in force in 1952, the treaty establishing the European Coal and Steel Community (“ECSC” or “the Community”) sought to ensure free-market supply of coal and steel to war-torn Europe following WWII. The objectives of the Community were primarily to secure the availability of coal and steel through a free market. Safe working conditions in mines and “improved standard[s] of living for” coal miners were also objectives of the Community, although not as central as others. The ECSC expired on July 23, 2002 leaving behind notable achievements, such as “a high level of technological

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119. Id.

120. Id.

121. See id. at 8.

122. Europa, Treaty Establishing the European Coal and Steel Community, ECSC Treaty, http://europa.eu/scadplus/treaties/ecsc_en.htm (last visited Mar. 21, 2009) [hereinafter ECSC Treaty]. This Community was created to ease their strained relations and to strengthen Franco-German solidarity. Id. France, Germany, Belgium, Italy, Luxembourg, and the Netherlands were the original parties to the ECSC. Treaty Establishing the European Coal and Steel Community, pmbl., Apr. 18, 1951.

123. ECSC Treaty, supra note 122, at art. 3.

124. Id. Only Articles 68 and 69 address specifically miners and working conditions within mines. The vast majority of the ECSC was devoted to economic issues that may impede the freely flowing coal and steel products from one member state to another, such as price fixing, production quotas, import and export tariffs, and duties. See id. at arts. 3-5.
Although these coal mine safety and health schemes are a positive step for the industry, they still have numerous faults and lack a universal solution. Although both effective and progressive, MSHA and CMSHA are regional acts and, thus, do not apply worldwide. China’s lack of concrete rules and enforcement leads to an unacceptable risk to miners. Furthermore, safety and health issues were subsidiary to the expired ECSC’s main economic agenda. These regional faults illustrate the need for a global solution.

B. International Regulation

1. International Labour Organization and the Safety and Health in Mines Convention

The International Labour Organization ("ILO") is "the tripartite UN agency that brings together governments, employers and workers of its member states in common action to promote decent work throughout the world." In 1995, the ILO hosted the Convention concerning the Safety and Health in Mines and published a Recommendation. This international convention sought to establish national standards for miner safety and health across the world. It came into effect in 1998, with twenty-three countries ratifying it as of 2009. Though no country denounced, if any

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125. See ECSC Treaty, supra note 122.
128. See id.
129. See id. (listing the twenty-three ratifying nations as: Albania, Armenia, Austria, Botswana, Brazil, Czech Republic, Finland, Germany, Ireland, Lebanon, Luxembourg, Norway, Peru, Philippines, Poland, Portugal, Slovakia, South Africa, Spain, Sweden, United States, Zambia, and Zimbabwe).
130. See id. at art. 19(1) ("A member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.").
131. See Safety and Health in Mines Convention, supra note 127 (displaying a table of the
country chose to exercise that option, the world would be moving backwards in terms of granting miners basic human rights.

The Safety and Health in Mines Convention has many positive aspects in seeking to improve the overall safety and health of miners. The heart of the convention urges States to set up internal agencies and promulgate minimal standards for the safety and health of mine workers. The lack of support for this convention is its major fault. Only two out of the five main “developed” coal-producing nations and few of the main “developing” nations have ratified the convention. Also, the effectiveness of this convention is capped because it only requires each ratifying State to establish and enforce national standards and agencies. Though the ILO has released a code of practice on safety and health of underground coal mines in 2006, it has no binding effect. This type of ILO convention may be effective in other areas, but something more standardized, focused, and widely accepted needs to be developed with respect to safety and health of coal miners.

2. The World Coal Institute and International Council on Mining and Minerals

The World Coal Institute (“WCI”) was established in 1985 to “provide a forum for the exchange of information and the discussion of challenges relating to the coal industry.” WCI is the only international non-profit, non-governmental organization working on the global front on behalf of the coal industry. Its members consist of
coal enterprises and associations from around the world. The WCI has seven core objectives, all focusing on developing the international coal industry by providing a forum for discussion of industry challenges, and collecting and exchanging information. Its work includes lobbying and policy development, forming strategic alliances with other institutions, organizing policy workshops, and producing and distributing information on coal.

The WCI has consultative status with the United Nations Economic and Social Council and the United Nations Industrial Development Organization. It is a member of numerous international organizations such as the International Chamber of Commerce, International Council on Mining and Metals ("ICMM"), and World Energy Council. Also, it has connections with the Coal Industry Advisory Board to the International Energy Agency, among others. Though there is seemingly no direct connection to the ILO or the Mine Safety and Health Convention, the WCI provides some information on coal mine safety.

The WCI acknowledges that there are still problems with safety in the

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138. Id.
   - Provide a voice for coal in international policy discussions on energy and the environment.
   - Promote the role of clean coal technologies in improving the environmental performance of coal.
   - Highlight the valuable role affordable and abundant coal resources play in a world ever more concerned with energy security.
   - Improve understanding of the importance of coal as the single largest source of fuel for electricity generation, and its vital role in other industries—including steel production, cement manufacturing, chemicals and liquid fuels.
   - Form strategic partnerships and alliances to coordinate actions and maximise [sic] resources to improve the perception of coal worldwide.
   - Ensure decision-makers and opinion formers are fully informed of the contribution of coal to social and economic development.
   - Address misconceptions about coal through the production and dissemination of information resources.
140. Id. at 4.
142. Id.
143. Id.
coal mining industry, especially in China, however it only provides limited information on the issue, not a solution.

The ICMM is another source of international focus on mining. The purpose of the ICMM is sustainable development through better business practices of its members. The ICMM Sustainable Development Principles include the need for "continual improvement of [companies'] health and safety performance." It seeks to accomplish this objective through: (a) the implementation of "a management system focused on continual improvement of all aspects of operations that could have a significant impact on the health and safety of [companies'] employees, . . . contractors and the communit[y]"; (b) the taking "all practical and reasonable measures to eliminate workplace fatalities, injuries and diseases"; (c) the provision of health and safety training for "all employees" and contractors; (d) the implementation of "regular health surveillance and risk-based monitoring of employees"; and (e) the rehabilitation and reintegration of "employees into operations following illness or injury, where feasible."

The WCI and ICMM are international informational centers with less of a focus on safety and health and have few enforceable standards. The ILO's Safety and Health in Mines Convention is a great model, but is lacking broad international support. Taken together, these schemes are piecemeal in addressing the problem and are not adequate as evidenced by the continuing disasters across the world.

V. A GLOBAL PROBLEM DEMANDS A GLOBAL SOLUTION

Existing national and regional coal mine safety and health regulatory schemes are inadequate to remedy what is a global problem. The current piecemeal scheme is limited in scope, geographic reach, and effectiveness, allowing for violations of basic human rights. A global coal mine safety and health organization with consistent application would close the existing gaps, thus, protecting

145. Id.
147. Id.
149. Id. at 3.
150. See supra Sec. III.
fundamental human rights of coal mine workers.

“It is estimated that coal employs over 7 million people worldwide, 90% of whom are in developing countries.”¹⁵¹ The Universal Declaration of Human Rights of the United Nations enshrines the rights to employment and to work in a safe environment as basic human rights.¹⁵² Article 23 of the Declaration directly deals with the right to employment and employment safety and stresses that the right includes “just and favorable conditions of work”:

Article 23.

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.¹⁵³

A person in a developed nation has no less a claim to safe and healthy work conditions than a person in a developing nation. In developed countries, laws usually mandate “rigorous safety procedures,
These measures have considerably improved safety levels. Nevertheless, "[e]ven in wealthy nations, where mining is more mechanized and safety regulations better enforced, risks remain." In developing countries there are lower safety levels and even when they are in place, they are less likely to be enforced.

Coal mining and industries associated with coal production are usually the main employers in the rural areas where coal seams lie. Larger coal mining operations provide substantial local income through wages, community programs, and contributions to the local economy. The community suffers great negative impacts from work stoppages and frozen income when coal mines are shut down for safety violations or accidents. Coal mining companies often evolve into a local monopoly...
employer within the area, giving them greater bargaining power over coal miners.\textsuperscript{161}

"Some miners fear poverty more than mining disasters," said Cao Yu, a senior at Hunan Normal University who conducted surveys among miners in Hunan province in 2005 and 2006. "Mining accidents create great stress. For them an accident means a colleague has departed the world but it also means the mine will stop work."\textsuperscript{162}

VI. A PROPOSAL FOR A GLOBAL MINE SAFETY AND HEALTH ORGANIZATION

The following section is a proposal for an international mine safety and health organization. The charter is drafted in a way to address the following: (a) the inadequate current regulations; (b) the need for a permanent agency, not merely an ad hoc convention; and (c) the need for an agency outweighs arguments against it. Sections of the proposal are analogized to other effective treaties, agencies, and conventions established in areas related to coal mine worker safety and health, energy, and human rights.

\textit{A. Organization Predicates}

1. Inadequate Current Regulations

As discussed in Section IV, \textit{supra}, currently coal is regulated nationally and regionally in an ineffective piecemeal fashion. The national regulations in developed nations, such as the United States, Australia, and the European Union, are both comprehensive and successful. Legislation exists establishing agencies to regulate and oversee coal mining operations, which provide baseline safety and health standards, emergency procedures, inspections, reporting, occupational

\textsuperscript{161} Hutzler, \textit{supra} note 1 ("Miners themselves are often complicit in the deadly bargain. Many face reprisals if they report accidents. And some do not want to see their mine shut down for an accident investigation, depriving them of work."); \textit{THE COAL RESOURCE, supra} note 50, at 10.

\textsuperscript{162} Hutzler, \textit{supra} note 1.
training, penalties for violations, and more. These countries and regions are excellent models of what all countries should strive for, and furthermore, what should be implemented on the global front.

Likewise, international coal mine safety and health standards, such as those promulgated by the ILO, are a good foundation for a solution. The WCI and the ICMM recognize the need for a global solution. The Safety and Health in Mines Convention provided suggested standards and codes of practice for the states to implement internally. However, the Convention is weakened because major coal producing nations have not ratified it and those that have can now easily withdraw.

The proposed organization, infra, will provide such a permanent agency to administer and carry out a set of standards in hopes of attaining a crucial global solution.

2. A Permanent Agency, Not Merely an Ad Hoc Convention, Is Needed

The safety and health problems facing coal miners are permanent and continuous; this is why a permanent organization is imperative. The success with MSHA in the United States and with CMSHA in Australia is due partly to the establishment of a permanent body to administer the legislation.

There are numerous advantages in having a permanent organization for mine worker safety and health. It would allow for the efficient administration of the standards with a central location to maintain records, develop and research technology, and conduct meetings. Having a central location would provide for efficient management of the safety and health aspects of the coal mining industry and, thus, save governments and companies invaluable resources. An ad hoc structure would inevitably be more costly and would not be able to adequately address the continuing safety and health problems facing coal miners, given the frequency of mining accidents in some countries.

3. The Need For an Agency Outweighs Arguments Against It

There will always be arguments against international organizations.

163. See discussion supra Sec. IV.A.
164. See discussion supra Sec. IV.B.
165. Id.
166. Id.
167. See discussion supra Sec. IV.A.
and regulatory agencies, yet, a global problem demands a global solution. Arguments by states concerning the agency's usurpation of their sovereign rights must be balanced with coal miners' universal rights to safe and healthy working conditions. The benefits, as previously discussed, outweigh the criticisms and concerns about having such an organization.168

4. Sections of the Proposal Are Analogized to Other Effective Treaties, Agencies, and Conventions

The treaties and conventions analogized to in the proposal were chosen because they are widely accepted and effective throughout the international arena. The International Atomic Energy Agency ("IAEA")169 is an excellent model because it is effective and respected, and it regulates a field of energy derived from mining.170 Though the IAEA has particular authority and specialized requirements not feasible for coal due to the enhanced dangers inherent in nuclear energy production, it provides a solid foundation for the creation of an international coal mine worker safety and health organization.

As discussed above, the rights to employment and a safe and healthy work environment are fundamental human rights guaranteed by the Universal Declaration of Human Rights Article 23.171 The proposal draws its organization's reporting requirements from the International Covenant on Civil and Political Rights ("ICCPR"),172 a treaty enforcing human rights derived from the Universal Declaration of Human Rights.173 Since coal miner safety and health is within those fundamental human rights, it is appropriate to draw from the reporting requirements in the ICCPR.

Both the IAEA and the ICCPR are well established and followed throughout the international community. In combination, they work to address many of the issues facing coal miners and they, therefore, present ideal role models for the creation of the proposal.

168. See discussion supra Sec. VI.A.
171. See discussion supra Sec. V.
173. Id. at pmpl.
B. A Draft Global Mine Safety Organization Charter

Article I: Establishment of the Agency

The Parties hereto establish a World Coal Miner Safety and Health Regulatory Agency (hereinafter referred to as “the Agency”) upon the terms and conditions hereinafter set forth.

Article II: Objective and Purpose

The Agency shall establish regulations and standards to improve the overall safety and health of coal miners throughout the world. The Agency shall require coal mine operators to report to the States annually with their compliance. The member States shall compile these annual reports and produce them to the Agency for review. The Agency shall facilitate cooperation with States and between States in the development and enforcement of effective coal mine safety and health programs. A collaborative committee of States and industry specialists shall be established to advance research and development and training programs aimed at preventing coal mine accidents and occupationally caused diseases.

Article III: Functions

A. The Agency is authorized:

1. To establish and adopt, in consultation and collaboration with States, competent organs of the United Nations, and specialized agencies, regulations and standards that shall prevent injury to coal miners, improve working conditions in coal mines, and
protect safety and health of coal miners worldwide;

2. To establish a Consultative Committee of fifteen members from the General Assembly, as defined in Article V, who shall advise the Agency on select matters;

3. To apply the findings and proposals of the Consultative Committee;

4. To foster the exchange of technical information on safe working conditions in coal mines, and to encourage individualized training within the coal mining industry;

5. To make provisions, in accordance with this Charter, for materials, services, and equipment to meet the needs of research on, and development and practical application of, safe working conditions, with due consideration for the needs of the underdeveloped areas of the world;

6. To encourage and assist research on, and development and practical application of, safe working conditions for coal miners throughout the world; and, if requested to do so, to act as an intermediary for the purposes of securing the performance of services or the supplying of materials, or equipment, by one member of the Agency for another; and to perform any operation or service useful in research on, or development or practical application of, safe working conditions for coal miners.

B. In carrying out its functions, the Agency shall:

1. Conduct its activities in accordance with the purposes and principles of the United Nations to promote peace and international cooperation;

2. Allocate its resources in such a manner as to secure efficient utilization and the greatest possible general benefit in all areas of the world, bearing in mind the special needs of the underdeveloped areas of the world;
3. Submit reports on its activities annually to the General Assembly of the United Nations, to the Economic and Social Counsel and, when appropriate, other organs of the United Nations on matters within the competence of these organs.

C. In carrying out its functions, the Agency shall not make assistance to members subject to any political, economic, or other conditions incompatible with the provisions of this Charter.

D. Subject to the provisions of this Charter and to the terms of agreements concluded between a State or a group of States and the Agency, which shall be in accordance with the provisions of the Charter, the activities of the Agency shall be carried out with due observance of the sovereign rights of States.

Article IV: Membership

A. The initial members of the Agency shall be those State members of the United Nations or of any of the specialized agencies, which shall have signed this Charter within eighteen months after it is opened for signature and shall have deposited an instrument of ratification with the United Nations.

B. Other members of the Agency shall be those States and institutions, whether or not members of the United Nations or of any of the specialized agencies, which deposit an instrument of acceptance of this Charter after their membership has been approved by the General Assembly, as defined in Article V, upon the recommendation of the Board of Governors. In recommending and approving a State for membership, the Board of Governors, as defined in Article VII, and the General Assembly shall determine that the State is able and willing to carry out the obligations of membership in the Agency, giving due consideration to its ability and willingness to act in accordance with the purposes and principles of the Charter of the United Nations.

C. The Agency is based on the principle of sovereign equality of all its members, and all members, in order to ensure to all of them the rights

177. Id. art. IV, 8.1 U.S.T. at 1097, 276 U.N.T.S. at 8.
and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with this Charter.

Article V: General Assembly

A. A General Assembly consisting of representatives of all members shall meet in regular annual sessions and in such special sessions as shall be convened by the Secretary General, at the request of the Board of Governors or of a majority of members. The sessions shall take place at the headquarters of the Agency unless otherwise determined by the General Assembly.

B. At such sessions, one delegate who may be accompanied by alternates and by advisers shall represent each member. The cost of attendance of any delegation shall be borne by the member concerned.

C. The General Assembly may discuss any questions or any matters within the scope of this Charter, and may make recommendations to the members of the Agency, or to the Board of Governors, or to both on any such questions or matters.

D. The General Assembly shall:

1. Elect members of the Board of Governors (the "Board");

2. Approve States for membership;

3. Suspend a member from the privileges and rights of membership;

4. Consider the annual report of the Board;

5. Approve the budget of the Agency recommended by the Board or return it with recommendations as to its entirety or parts to the Board for resubmission to the General Assembly;
6. Approve reports to be submitted to the United Nations as required by the relationship agreement between the Agency and the United Nations, or return them to the Board with its recommendations;

7. Approve any agreement or agreements between the Agency and the United Nations and other organizations or return such agreements with its recommendations to the Board, for resubmission to the General Assembly;

8. Approve rules and limitations regarding the exercise of borrowing powers by the Board, rules regarding the acceptance of voluntary contributions to the Agency, and the manner in which the general fund may be used;

9. Approve amendments to this Charter;

10. Approve the appointment of the Secretary General by the Board.

E. The General Assembly shall have the authority:

1. To take decisions on any matter specifically referred to the General Assembly for this purpose by the Board;

2. To propose matters for consideration by the Board and request from the Board reports on any matter relating to the functions of the Agency.

Article VI: Secretary General

A. The Secretary General shall be appointed by the Board of Governors by majority vote and approved by the General Assembly.

B. The Secretary General shall direct meetings of the General Assembly and shall work to coordinate between the Board of
Governors, Consultative Committee, and General Assembly.

C. The Secretary General shall have a staff to oversee and direct administrative matters of the Agency.

**Article VII: Board of Governors**

A. The Board of Governors shall be comprised of twenty members drawn from the members of the Agency and shall include one member from United States, Australia, United Kingdom, Germany, and China. The remaining fifteen appointees shall be drawn proportionately from the various regions.

B. The first Board of Governors will be appointed by a majority vote of the General Assembly. Subsequent appointments are made by outgoing members and approved by the General Assembly.

C. The Board of Governors shall serve a term of four years.

D. The Board shall be responsible for financially related matters, enforcement of monetary sanctions, and compiling reports. The Board of Governors shall compile and produce an annual report to the General Assembly. The Board shall also collect reports of members and compile reports to the United Nations.

**Article VIII: Consultative Committee**

A. The Consultative Committee shall be comprised of fifteen experts in the coal mine safety and health field.

B. The Board of Governors and the Secretary General shall appoint experts for a five-year term on the Consultative Committee.

C. The Consultative Committee shall be responsible for research, development and recommendations for coal mine safety and health standards, procedures, and regulations to be presented to the General
Article IX: Finance

A. The Board of Governors shall submit to the General Assembly the annual budget estimates for the expenses of the Agency. To facilitate the work of the Board in this regard, the Secretary General shall initially prepare the budget estimates. If the General Assembly does not approve the estimates, it shall return them together with its recommendations to the Board. The Board shall then submit further estimates to the General Assembly for its approval.

B. The Board of Governors shall apportion the Agency expenses, among members in accordance with a scale to be fixed by the General Assembly. In fixing the scale the General Assembly shall be guided by the principles adopted by the United Nations in assessing contributions of member States to the regular budget of the United Nations.

C. The Board of Governors shall establish periodically a scale of charges, including reasonable research and inspection costs, for materials, services, equipment, and facilities furnished to members by the Agency. The scale shall be designed to produce revenues for the Agency adequate to meet the expenses and costs, less any voluntary contributions, which the Board of Governors may, in accordance with paragraph D, apply for this purpose. The proceeds of such charges shall be placed in a separate fund, which shall be used to pay members for any materials, services, equipment, or facilities furnished by them and to meet other expenses, which may be incurred by the Agency itself.

D. Any excess of revenues referred to in paragraph C, and any voluntary contributions to the Agency, shall be placed in a general fund, which may be used as the Board of Governors, with the approval of the General Assembly, may determine.

E. Subject to rules and limitations approved by the General Assembly,

the Board of Governors shall have the authority to exercise borrowing powers on behalf of the Agency without, however, imposing on members of the Agency any liability in respect of loans entered into pursuant to this authority, and to accept voluntary contributions made to the Agency.

F. Decisions of the General Assembly on financial questions and of the Board of Governors on the amount of the Agency's budget shall require a two-thirds majority of those present and voting.

**Article X: Reimbursement of Members**

Unless otherwise agreed upon by the Board of Governors and the member furnishing to the Agency materials, services, equipment, or facilities, the Board shall enter into an agreement with such member providing for reimbursement for the items furnished.

**Article XI: Exchange of Information**

A. Each member should make available such information as would, in the judgment of the member, be helpful to the Agency.

B. Each member shall produce and submit an annual report to the Consultative Committee. This annual report shall contain data on injuries and fatalities of coal miners within the member State and effective improvements implemented or discovered through practice and/or research and development that may assist other member States in improving overall safety conditions in coal mines.

C. The Agency shall assemble and make available in an accessible form the information made available to it under paragraphs A and B of this article. It shall take positive steps to encourage the exchange among its members of information relating to safe working conditions of coal miners, and shall serve as an intermediary among its members for this purpose.

180. *Id.* art. VIII, 8.1 U.S.T. at 1102, 276 U.N.T.S. at 18.
Article XII: Reporting

A. The parties to the Agency shall submit reports on the measures they have adopted in light of this Agency and on the progress made:

1. Within six months of the Consultative Committee's findings as set forth in Section B for the parties concerned;

2. And every year thereafter.

B. The contents of the report shall be determined within six months of the establishment of the Agency.

C. All reports shall be submitted to the Secretary General of the Agency, who shall transmit them to the Consultative Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the Agency.

D. The Secretary General of the Agency may, after consultation with the Committee, transmit to the specialized agencies, including the United Nations and its concerned organs, copies of such parts of the reports as may fall within their field of competence.

E. The Committee shall study the reports submitted by the parties to the Agency. It shall transmit its reports, and such general comments as it may consider appropriate, to the parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from member States.

F. The parties to the Agency may submit to the Committee any observations or comments that may be made in accordance with paragraph D of this article.

181. ICCPR, supra note 172, art. 40.
Article XIII: Privileges and Immunities\textsuperscript{182}

A. The Agency shall enjoy in the territory of each member such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.

B. Delegates of members together with their alternates and advisers, members appointed to the Consultative Committee together with their alternates and advisers, and the Secretary General and the staff of the Agency, shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Agency.

C. The legal capacity, privileges, and immunities referred to in this article shall be defined in a separate agreement or agreements between the Agency, represented for this purpose by the Secretary-General acting under instructions of the Consultative Committee.

Article XIV: Settlement of Disputes\textsuperscript{183}

A. Any question or dispute concerning the interpretation or application of this Charter, which is not settled by negotiation shall be referred to the International Court of Justice in conformity with the Statute of the Court, unless the parties concerned agree on another mode of settlement.

B. The General Assembly and the Consultative Committee are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of the Agency's activities.

VII. CONCLUSION

Underground coal mining has continually posed significant risks to

\textsuperscript{182} IAEA, \textit{supra} note 169, art. XV, 8.1 U.S.T. at 1109-10, 276 U.N.T.S. at 32-34.

\textsuperscript{183} Id. art. XVII, 8.1 U.S.T. at 1110, 276 U.N.T.S. at 34.
worker safety and health throughout history. The proposal in this Note, for an international mine safety and health organization, addresses those recurring dangers. The problem is perpetuated by current regulatory schemes throughout the world, which have limited scope and numerous gaps. Having a permanent agency focusing on solving coal mine safety and health problems would broaden the reach of regulations and standards thus filling those gaps.

The proposed permanent specialized international coal miner safety and health agency could focus on continuing to research, improve, and develop technology, training, and procedures to reduce if not eliminate dangers to coal miner safety and health. By uniting international experts in this field, only positives can result. With the efforts of this proposed agency, maybe history will not have to repeat itself after all.

*Sara Mischner & Paula Rothfeld*

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