CONDENSED GUIDE

to Legislatures and Legislative Processes Affecting Mining Communities in South Africa

Mining Communities Matter Project

In partnership with Bench Marks Foundation, Bafokeng Land Buyers Association and ActionAid South Africa
LEGISLATIVE STRUCTURES

NATIONAL PARLIAMENT

National Assembly

- 400 members
- It is elected to represent the people and to ensure government by the people under the Constitution.

National Council of Provinces

- 90 members
- Represents the provinces to ensure that their interests are taken into account in the national sphere of government.

POWERS

- To amend the Constitution
- To pass legislation
- To assign legislative powers to any other legislative body
- To oversee all organs of state, ensuring that they are accountable

POWERS

- To participate in amending the Constitution
- To pass legislation
- To consider legislation passed by the National Assembly
- To require an officials to attend a meeting of NCOP or its Committees.

PARLIAMENTARY DEMOCRACY OFFICES

The National Parliament has established Parliamentary Democracy Offices in Western Cape, Northern Cape, Limpopo and North West Provinces, to help involve the public.

Addresses and contact details for these offices can be found at:
https://www.parliament.gov.za/parliamentary-democracy-offices

PARLIAMENT’S OVERSIGHT ROLE

The Constitution requires parliament to oversee the functions of the state. Ministers and Deputy Ministers are accountable and must provide “full and regular reports” from their Departments. Mining communities and NGO's can assist with this function by providing information on the impacts of the work of the different departments on these communities.
Providing useful information to MP’s, MPL’s and Committees:

Communities and NGO’s can build relationships with MP’s, MPL’s and their staff by providing regular information on what is happening in their communities. This can also help influence decision-making and future policies.

- All information provided should be as clear and brief as possible. MP/MPL’s should be able to easily read the information and decide what to do about it.
- Information can even be provided through WhatsApp or Email to the staff or the MP’s/MPL’s themselves.
- Be sure that claims and accusations are backed by credible information. Try to be as specific as possible using numbers, amounts and percentages – general, vague statements do not make as much of an impact.

Below are some examples and tips for how to provide useful information:

**Photographic Evidence**

eg. Showing toxic waste, results of tests etc. Clear photos with brief, clear descriptions assist in putting pressure as well as providing information.

**Community Concerns**

Try to always include simple suggestions on what the MP/MPL, staff person or Committee can do and what steps they can take to help.

**Research Reports**

From communities, NGO’s, universities etc. Provide brief highlights on a cover page for the reader to focus on when reading the document.

**Policy Proposals**

Cite success stories from other communities, provinces or countries that have implemented proposals that are included in your advocacy.

**Satellite or Hand-drawn Maps**

eg. Showing mine encroachment onto community land. Providing evidence is always beneficial and will strengthen the case being made.

**Documentation**

From community monitors, Bench Marks Foundation as well as provided by ActionAid’s community representatives, MACUA, WAMUA and BLBA.
Committees generally meet once per week when Parliament is in session. You can find information and documents relating to their activities at the following links:

- [https://pmg.org.za/committees](https://pmg.org.za/committees)
- [https://www.parliament.gov.za/minutes-proceedings](https://www.parliament.gov.za/minutes-proceedings)

Below are some examples of the kinds of issues that might be brought to each Committee.

### NATIONAL ASSEMBLY COMMITTEES

<table>
<thead>
<tr>
<th>Committee</th>
<th>Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>PORTFOLIO COMMITTEE ON MINERAL RESOURCES AND ENERGY</td>
<td>Mining rights • Environmental impacts • Beneficiation • Compensation for loss of land • Worker rights at the mines • Problems with social and labour plans • Forced removals • Grave removal • Intimidation of activists</td>
</tr>
<tr>
<td>PORTFOLIO COMMITTEE ON ENVIRONMENT, FORESTRY AND FISHERIES</td>
<td>Environmental Impact Assessments and Environmental Management Plans &amp; Issues • Health • Drinking water, rivers, streams, lakes, dams • Land • Air • Crops and livestock • Water licences</td>
</tr>
<tr>
<td>PORTFOLIO COMMITTEE ON HEALTH</td>
<td>Diseases and health conditions eg. asthma, radiation illness, cancer, asbestosis, silicosis, tuberculosis • HIV/AIDS and other STD’s • Methemoglobinemia • Lack of adequate health services in relation to above</td>
</tr>
<tr>
<td>PORTFOLIO COMMITTEE ON AGRICULTURE, LAND REFORM &amp; RURAL DEVELOPMENT</td>
<td>Loss of ploughing and grazing land • Problems with replacement land after relocation • Health of crops &amp; livestock • Development / community projects related to the mine</td>
</tr>
<tr>
<td>PORTFOLIO COMMITTEE ON HUMAN SETTLEMENTS, WATER AND SANITATION</td>
<td>Environmental Impact Assessments and Environmental Management Plans &amp; Issues • Health • Drinking water, rivers, streams, lakes, dams • Land • Air • Crops and livestock • Water licences</td>
</tr>
<tr>
<td>PORTFOLIO COMMITTEE ON WOMEN, YOUTH &amp; PERSONS WITH DISABILITIES</td>
<td>Impacts of mining on women, eg. loss of water sources • Discrimination or harassment against women • Miscarriages due to radiation • Health issues from contaminated water • Unpaid care work when mine workers get sick • Lack of jobs for the young people or disabled • Problems with schools</td>
</tr>
<tr>
<td>PORTFOLIO COMMITTEE ON EMPLOYMENT AND LABOUR</td>
<td>Discrimination in relation to mine jobs • Violations of worker rights • Health and safety concerns of workers • Harassment of women • Lack of education and training opportunities that would lead to mine jobs • Transition to a carbon-free society</td>
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<tr>
<td>Portfolio Committee on Governance and Traditional Affairs</td>
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<tr>
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<tr>
<td>Harassment of traditional leaders • Problems relating to ancestral land • Corruption of traditional leaders</td>
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<tr>
<th>Portfolio Committee on Basic Education</th>
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<tr>
<td>Removal / closure or threats of removal of schools • Mine blasting disturbing school or damaging school buildings • Contamination of water due to mining - water at schools near mines should be regularly tested</td>
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<tr>
<th>Portfolio Committee on International Relations &amp; Cooperation</th>
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<tr>
<td>Concerns about multinational companies can be shared with this Committee</td>
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<tr>
<th>Portfolio Committee on Trade and Industry</th>
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<tr>
<td>Concerns about mining companies can also be shared with this Committee</td>
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<tr>
<th>Portfolio Committee on Police</th>
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<tbody>
<tr>
<td>Harassment and intimidation by police • Police corruption</td>
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<th>Portfolio Committee on Public Works &amp; Infrastructure</th>
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<td>Dams giving most of the water they produce to mines, bypassing local communities • Road and bridge infrastructure problems related to the mines</td>
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**NCOP Committees**

<table>
<thead>
<tr>
<th>Select Committee on Land Reform, Environment, Mineral Resources &amp; Energy</th>
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<tbody>
<tr>
<td>Mining rights • Environmental impact - water, land, air, crops, livestock, rivers • Health • Beneficiation • Land loss compensation • Worker rights • Social &amp; labour plans • Forced removals • Intimidation of activists • Environmental Assessments &amp; Management Plans • Water licences • Environmental law violations</td>
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<tr>
<th>Select Committee on Health and Social Services</th>
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<td>Diseases and health conditions eg. asthma, radiation illness, cancer, asbestosis, silicosis, tuberculosis • HIV/AIDS and other STD’s • Methemoglobinemia • Lack of adequate health services in relation to above</td>
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<tr>
<th>Select Committee on Cooperative Governance and Traditional Affairs, Water and Sanitation and Human Settlements</th>
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<td>Harassment of traditional leaders • Problems relating to ancestral land • Corruption of traditional leaders • Damage to houses from blasting • Lack of house foundations in relocation areas • Contamination of water • Poor construction of toilets and infrastructure in relocated communities • Other problems with housing</td>
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<tr>
<th>Select Committee on Transport, Public Service &amp; Administration, Public Works &amp; Infrastructure</th>
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<td>Dams giving most of the water they produce to mines, bypassing local communities • Road and bridge infrastructure problems related to the mines</td>
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<th>Select Committee on Education &amp; Technology, Sports, Arts &amp; Culture</th>
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<td>Removal / closure or threats of removal of schools • Mine blasting disturbing school or damaging school buildings • Contamination of water due to mining - water at schools near mines should be regularly tested</td>
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FORMAL ADVOCACY MECHANISMS

MAKING A SUBMISSION TO A COMMITTEE

A submission must be clear and easily understandable by the committee members. It can be supported by oral presentation. It is submitted to the committee secretary. More information can be found at this site: https://www.parliament.gov.za/submissions

WRITTEN SUBMISSIONS:

- Address to Committee with its full title
- Name of Bill or Issue at Hand
- Insert the name & position of who is putting forward the submission with Contact Details
- Name of Organisation/s
- Include a request to address the Committee if you would like to

CONTENT OF A WRITTEN SUBMISSION:

- Focus on providing a critique on the topic or the Bill rather than accusing or disrespecting people
- Be clear, concise, accurate – get straight to the point, avoid long sentences
- Once you’ve made your point – move on
- Use evidence to support your critique and you can also refer to scholars, community members, academics, other NGO’s, government documents and reports on the issue or Bill
- Use respectful language
- Ensure your submission is relevant to the topic or Bill
- Conclusion: Summarise the main points of your submission
- Recommendations: Provide suggestions for specific policies, content of the Bill, or for what the Committee should do in relation to the topic

ORAL SUBMISSIONS:

- These types of submissions are presentations in support of a written submission
- The Committee Secretary will provide the timeframe for the oral submission
- Visual Aids, such as a PowerPoint Presentation, can be of assistance if clear and to the point
- Any one of the official languages of South Africa may be used, but the Committee Secretary should be informed in plenty of time to prepare for an interpreter
- Video, audio or transcripts of other submissions can be researched to assist in preparation

PARTICIPATING IN PUBLIC HEARINGS

Public hearings are generally conducted by committees of both the national and provincial legislatures. They are often focused on a particular Bill but can also be about a specific issue or topic such as fiscal frameworks. Many NGO’s and mining community members have participated in public hearings, including ActionAid South Africa, Bench Marks Foundation, and the Bafokeng Land Buyers’ Association.

LODGING A PETITION

A petition is a formal request to the parliament to intervene in a matter of concern. According to the Constitution, “Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.”
WRITING AND SUBMITTING A PETITION

Petitions must be very carefully put together and worded. Here are some steps you can take to help ensure that your petition is accepted by the Secretary of Parliament.

CLEARLY IDENTIFY THE ISSUE
Before you start with the petition, be sure that you have clearly identified the issue that you want the government to intervene in.

INDICATE THE PETITIONER/S & THE RECIPIENT
Include the name/s and contact details of the petitioner/s, and clearly indicate to whom is the petition being addressed.

INCLUDE THE SUBJECT
Clearly indicate exactly what it is that you are petitioning about.

LANGUAGE/S
The petition can be in any of the official languages of South Africa and must not contain any improper or disrespectful language.

GET SIGNATURES
Petitions must usually be signed by the petitioner(s) themselves (unless the Speaker or Chairperson decides otherwise).

DOUBLE CHECK THE FORMAT
Petitions must be very carefully put together and worded. It may be useful to ask an MP or an MP’s staff to help put the petition together.

GET MP SUPPORT
You need an MP to support your petition because all petitions need to be formally presented to the House by an MP.

SUBMIT THE PETITION
Petitions are lodged with the Secretary to Parliament who reviews them then decides if they should go to the NA or the NCOP.
THE LEGISLATIVE PROCESS

When potential legislation is introduced, it is called a Bill. Bills are introduced to both bodies of the national Parliament. Before a Bill is introduced to Parliament, there may be Green and White Papers drawn up by the relevant Department.

GREEN PAPERS
A Green Paper is a document that outlines the issues related to the potential Bill. It is published so that the public can comment on it.

WHITE PAPERS
A White Paper is a refined version of the Green Paper after public comments. MP’s may submit amendments and send the White Paper back for revisions.

INTRODUCTION OF A BILL TO PARLIAMENT

National Assembly: All Non-Provincial related Bills are introduced here under Section 75 of the Constitution

National Council of Provinces: A Bill is introduced in the NCOP if it affects the Provinces or a particular Province, under Section 76 of the Constitution

Once introduced to the relevant House it is referred to the appropriate Committee for consideration and published in the Government Gazette for public comment

The Committee Discusses and Debates the Bill, adds amendments

The Bill is sent back to the full NCOP or National Assembly for Debate and Vote

The Bill is sent to the other House of Parliament for Review and Vote

The Bill is sent to the President for Assent (Signing)
HOW A LAW IS MADE IN SOUTH AFRICA (NATIONAL PARLIAMENT)

1. A Bill is introduced in the National Assembly (NA) or the National Council of Provinces (NCOP)
2. Referred to relevant Committee and published in Government Gazette for public comment
3. Debated in the Committee and amended if necessary
4. Submitted to the House for further debate before vote is taken
5. Transmitted to the other house for concurrence
6. To President for assent
7. Act

Concurrence is when the legislation is sent to the other House to agree or not
Assent is when the President signs a Bill to make it an Act of Parliament and a Law of the Land

NATIONAL vs PROVINCIAL LEGISLATION

Schedule 4 of the South African Constitution lists the areas in which both the National Parliament and the Provincial Legislatures can pass legislation. It is in two parts: Part A includes areas such as forests, agriculture, cultural matters, environment and disaster management, indigenous law and customary law. Part B covers areas such as pollution, building regulations, local tourism and municipal health services, as well as water and sanitation services.

Schedule 5 of the Constitution lists the areas of exclusive Provincial Legislative Competence. These are mostly less-important areas of legislation, but it does include noise pollution, refuse dumps and provincial cultural matters.

More information on this topic can be found at the following sites:


1. The PARLIAMENTARY MONITORING GROUP (PMG) has a useful website (www.pmg.org.za) for any questions about Parliament, parliamentary processes, minutes of sessions etc.
   - A resource by PMG on the legislative process: https://pmg.org.za/page/legislative-process
   - A document which reviewed the legislative process in Parliament can be found here: http://pmg-assets.s3-week-eu-west-1.amazonaws.com/docs/10903legislative-edit.pdf
   - Upcoming Bills and petitions being put before Parliament can be found here: https://pmg.org.za/page/parliamentary-programme
   - Committee reports can be found here: https://pmg.org.za/tabled-committee-reports/

2. The NATIONAL PARLIAMENT has the following media platforms:
   - The Parliament is televised on DSTV 408
   - Twitter: https://twitter.com/ParliamentofRSA (@ParliamentofRSA)
   - Youtube: https://www.youtube.com/user/ParliamentofRSA
   - Facebook: https://www.facebook.com/ParliamentofRSA
   - The National Parliament’s website is https://www.parliament.gov.za/


4. PROVINCIAL LEGISLATURE WEBSITES:
   - North West Provincial Legislature: https://nwpi.gov.za/
   - Northern Cape Provincial Legislature: https://www.ncpleg.gov.za/
   - Western Cape Provincial Legislature: https://www.wcpp.gov.za/

5. THE CLIMATE REALITY PROJECT has some excellent resources under its Action 24 project: http://climateredity.co.za/resources-action-24/

6. The DULLAH OMAR INSTITUTE at the University of Western Cape has excellent resources, including:
   - Parlybeat which is a newsletter covering what’s happening at Parliament: https://dulahmarinstitute.org.za/women-and-democracy/parlybeat
   - Parliament Watch or Parlywatch, which reviews the work of Parliament has reports: https://dulahmarinstitute.org.za/women-and-democracy/parliament-watch
   - Putting People in the People’s Parliament – more information can be found here: https://dulahmarinstitute.org.za/women-and-democracy/putting-people-in-the-peoples-parliament

7. The CENTRE FOR APPLIED LEGAL STUDIES (CALS) at University of the Witwatersrand has quite a few resources including submissions to Parliament on environmental and mining issues: https://www.wits.ac.za/cals/our-programmes/environmental-justice/

8. The LAND & ACCOUNTABILITY RESEARCH CENTRE (LARC) at University of Cape Town has many resources, including a guide to doing submissions and examples of petitions they have submitted: http://www.larc.uct.ac.za/submissions