



**Submissions on the Climate Change Bill [B9 – 2022]
by the Climate Justice Charter Movement**

CJCM

About CJCM

- The Climate Justice Charter Movement emerges out of campaigning with drought-affected communities during the worst drought in South African history (2014-2020).
- We are a movement whose goals and aspirations are summated in the Climate Justice Charter (CJC)
- The CJC is the first climate justice charter in the world.
- The CJC has been endorsed by 275 organisations
- We call on parliament to adopt the CJC as per section 234 of the constitution
- As a movement of water-stressed communities, labour, media, faith-based organizations, youth organizations, climate justice organizations, women's organizations, academics, and leading climate scientists, we are united in our diversity.

A climate change bill must:

- Be guided by climate science,
- recognise the urgency of the climate crisis,
- strengthen adaptation and mitigation measures,
- have clear targets for decarbonisation,
- provide sufficient penalties for violations,
- be in line with our global commitments,
- based on the principle of Batho Pele,
- must deepen and accelerate the Just Transition

Principles for a deep just transition (CJC)

- Climate justice
- Social justice
- Eco-centric living
- Participatory democracy
- Socialised ownership
- International solidarity
- Decoloniality
- Intergenerational justice

Meaning public participation

- Section 59 1 (a) of the constitution states that:
“The National Assembly must— facilitate public involvement in the legislative and other processes of the Assembly and its committees.”
- Public hearings should be held with the vulnerable communities (drought-affected communities, flood-affected communities, women, children and people with disabilities)
- Participation cannot be a tick box approach
- “All parties interested in legislation should feel that they have been given a real opportunity to have their say, that they are taken seriously as citizens and that their views matter and will receive due consideration at the moments when they could possibly influence decisions in a meaningful fashion.” *Doctors for Life v Speaker of the National assembly* (2006) para 234.

Our Concerns

- We are concerned with section 8 subsection 2 of the bill which says that, “Sections 17 and 19 of the Intergovernmental Relations Framework Act apply to a Provincial Forum on Climate Change.”
- The concern is that Section 19 Subsection 1 (a) and (b) of the Intergovernmental Relations Framework Act does not specify the frequency with which a premier should convene the intergovernmental panel.
- As per sections 17 and 19 of the Intergovernmental Relations Framework Act, the Premier’s intergovernmental forum is composed of the premier, mayors of the district and metropolitan municipalities or administrators and then it provides for the premier to invite any other person the premier deems appropriate. This cannot be the structure of a provincial panel on climate change
- We are concerned that the Presidential Climate Commission will not be an effective body. The commission is not independent. It enlarges the office of the president.

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- Section 21 subsection 3 of this bill is shocking and extremely disappointing. The National Greenhouse Gas Trajectory cannot be based on an outdated and abandoned 2015 Nationally Determined Contribution (NDC).
- Even the 2021 NDC falls short of what is required to avoid an overshoot of 1.5° above pre-industrial levels. According to the Global Annual to Decadal Climate Update released by the World Meteorological Organization, there is a 48% chance that global average temperatures will reach 1.5° within the next five years
- Southern Africa is already warming at about twice the global rate of temperature increase.
- As the world overshoots by 1.5, Southern Africa will overshoot by 3 degrees.

Conti'd

- Southern Africa will become drier, and water will increasingly be a site of struggle
- Climate-induced rain bombs, like the one that killed over 400 people in KZN will become frequent.
- Droughts will increase in frequency, severity and spatial distribution.
- increase in heat-wave duration
- The maize crop and cattle industry is projected to collapse under 3 degree increase
- Rainfed agriculture is already in a precarious situation with unpredictable rainfall and livestock farmers, especially subsistence farmers, are giving up.
- The bill should not legitimise Carbon budgets. They are a false solution!
- 2050 is not a scientific target.

Conti'd

- Section 29 subsection 3 of this bill is insufficient for public participation.
- Civil society is not empowered to object to the exercise of a power emanating from this bill.
- This is likely to result in public concerns simply being ignored and public objections being overlooked.
- Empowering meaningful public participation is essential in ensuring there is no need for endless litigation of social issues.
- Even worse is the fact that the bill says in 'appropriate circumstances' the Minister, MEC or Mayor may allow interested parties to make oral submissions and objections. This then begs the question, in what circumstance is public participation inappropriate in a democracy?
- We, therefore, propose that once an objection has been made, the minister, MEC or Mayor must respond to that objection within 30 days before exercising a power emanating from this bill and must justify why the power will be exercised despite objections to it.

Conti'd

- The offences and penalties set out in section 32 of this bill are not enough to serve as deterrence. The offences are based on Section 49B(2) of the National Environmental Management Act which says that;
- “A person convicted of an offence in terms of section 49A (1) (i), (j) or (k) is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, and in both instances to both such fine and such imprisonment.” NEMA ACT 107 of 1998. Section 49 B2.
- The bill must stipulate a harsher penalty. Failure to abide by an allocated carbon budget (false solution) and failure to implement a greenhouse gas mitigation plan must result in a fine of 10% of earnings in the financial year where the violation was made

Conti'd

- this bill should not be silent on mitigating the impacts of the climate crisis on our Agriculture. The fact is, South Africa is a starving country. A study by Ipsos for the Centre for Social Development in Africa based at the University of Johannesburg found that 46% of South Africans are experiencing hunger. The climate crisis is worsening this situation. Globalised and export-oriented neoliberal agriculture has failed, it cannot be fixed by sectoral emissions. Only through food sovereignty pathways that produce food through agroecological farming, delinked from globalised corporate control can South Africa have a food system that materialises the right to food.

Democratic Climate Emergency State

- The bill must provide for transparency with regard to Sector Adaptation Strategy and Plans, climate change needs and Response Assessments and Climate Change Response Implementation Plans. There must be transparency regarding where national departments, provinces and municipalities stand with regard to the implementation of such plans. The information must be readily available to the public so that South Africans can hold their elected officials to account.
- The urgency of the crisis demands planning beyond the NDP, NEDLAC, or the PCC
- The urgency of the climate crisis demands a Climate Emergency Social Contract/ Climate Justice Deal for South Africa.
- The Climate Crisis cannot be outsourced to the Department of Environment.
- The bill must provide for transparency in climate finance.
- The amount of finance, the type of finance, conditions by lenders, allocation, management of the finance and all relevant information relating thereto must be disclosed.
- This bill must categorically state that no amount of climate finance will be used towards the development of new fossil fuel infrastructure or nuclear. All climate finance must be used for the phasing out of such infrastructure in a just transitional way.