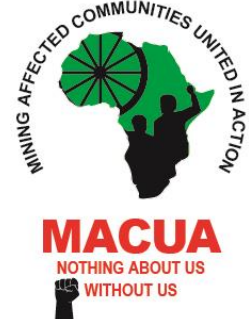


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27 May 2022

Submission To The Parliamentary Portfolio Committee on Environment, Forestry and Fisheries in respect of the Climate Change Bill [B 9—2022]

Introduction

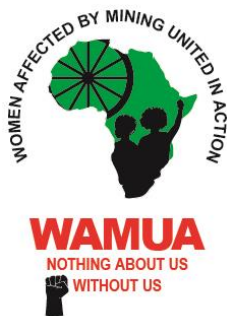
The movements of MACUA & WAMUA were established in 2012 at a conference attended by over 150 community activists from across the country to focus on building and strengthening the agency of marginalised and excluded communities so that they are able to hold those in positions of power to account and to amplify the voices of affected communities at a national level given that mining affected communities are not represented in all statutory and regulatory bodies that make decisions on their behalf.

MACUA currently consists of over 50 branches across the country and each branch includes a WAMUA group and some branches also include Youth groups who operate under the banner of Youth Affected by Mining United in Action (YAMUA)

MACUA and WAMUA have been actively campaigning for the right of communities who are impacted by destructive extractive industries, to enjoy Free Prior and Informed Consent, in which affected communities have to right to Say No to destructive developments on their land. It is in light of this ongoing campaign to mobilise marginalised communities in defence of their dignity, that we are encouraged to submit our submissions on the Climate Change Bill [B 9—2022].

Climate and the Economy.

Our submission proceeds from the understanding that the climate crisis is a direct consequence of the capitalist political economy which produces at least four types of externalization of costs, (or allocations of costs to society), in a process which socialises the costs but privatises the profits.



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The costs to society take the form of an extraction of surpluses, both economic and thermodynamic, as:

- 1) a social debt to dispossessed host communities.
- 2) a social debt to inadequately paid workers.
- 3) a social debt to women family caregivers; and
- 4) an ecological debt drawn on nature at large.¹

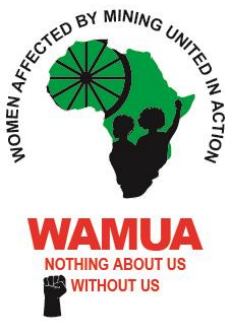
Proceeding from the understanding that we cannot solve our problems with the same thinking we used when we created them, we submit that addressing these problems requires a new paradigm in which we reject the fatally flawed bias towards economic imperatives of privatised profits and the socialising of costs, in the ways we assess costs and benefits.

A Climate Change Bill should then at the very least lay a foundation to catalyse a genuine just transformation of financing, extraction, production, transport and distribution, consumption, and disposal systems.

Attempts to separate out possible solutions to the climate crises from those activities which entrench and deepen the crises is a critical starting point to navigating the uncharted waters of the impending climate and social disaster.

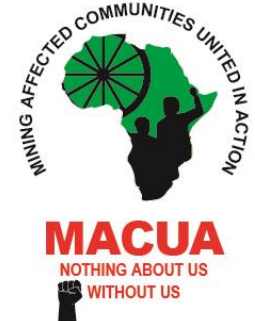
A corporate-led or corporate biased, profit-oriented Climate Change Bill, which does not present a real alternative to traditional fossil-based energy or the vested interests that underpins the Minerals Energy Complex, has little hope of changing the trajectory of an already existing large-scale land dispossession and exclusion.

¹ Adapted from : Bond, P., 2012. *Pambazuka News*. [Online]
Available at: <https://www.pambazuka.org/governance/inclusive-green-growth-or-extractive-greenwashed-decay>



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Climate and Women

It is rural and working-class women that carry the burden of immediate and long-term impacts of both fossil fuels extraction and energy production, and the false solutions to the climate crisis, including corporatized renewable energy.

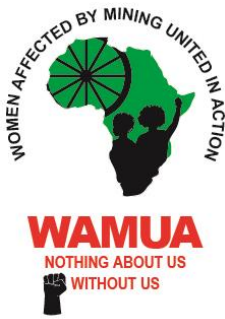
Women in rural and peri-urban areas, where MACUA and WAMUA organise, play key roles as food producers and caregivers. Many depend on natural resources for their livelihoods. In addition to their already precarious existence in the shadow of destructive mining operations, prolonged droughts brought about by the rise in Greenhouse Gas emissions devastate food supplies and dry up water sources. Withered crops and starving animals destroy livelihoods., while floods and landslides and other disasters disproportionately impact women's health, food security and livelihoods.

In places where mining and extractive industries produce greenhouse gases and associated chemicals that cause severe environmental problems, women and children often bear an unequal share of social, economic, and environmental risk and which also threatens women's reproductive health, resulting in higher rates of miscarriage and children born with abnormalities.

Rural women's health and livelihoods, which are directly affected by the quality of their environment are important entry points to help understand the impact of environmental degradation, including climate change.

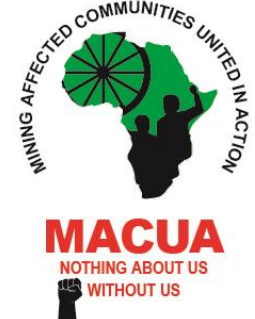
Climate and Democracy

The issue of climate change is integrally linked to democracy. The link between nature and society manifests through the ways in which large corporations in the Minerals and Energy sector has historically shaped (and continue to shape) the politics and economics in contemporary South Africa. The extraction of surplus value from exploration, mining, processing, distributing, subsidising and consuming of energy, is often prioritised above the interests of marginalised communities, leaving a legacy of destruction and poverty wherever it raises its head.



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The interests of large corporations are used to shape legislation that governs the way in which we live, the way in which we are governed and the way in which we organise our economy, including the way we produce and consume.

A Climate Change Bill which does not seek to reshape the way that societal priorities are identified and developed, will inevitably lead to a continuation of the very same patterns of extracting surplus value which has devastated the planet and subjected millions to poverty and marginalisation.

We have highlighted some of our concerns with the Climate Change Bill as follows:

Chapter 1:

Objects of the Act

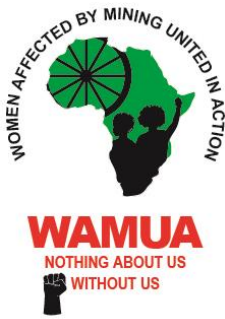
Concern 1:

It is our submission that society should be viewed as an integral whole, of which the economy is but one element (albeit an important and central element) which should be coordinated towards a more just and equitable environmental, societal, and economic response.

The objects of the Act are to 2(a) ***“provide for a coordinated and integrated response by the economy and society”***. The wording of this section suggests that the approach by the South African state to the economy will not change in any significant way. It suggests that the state will continue to view the economy, and its actors who are solely interested in pursuing maximum value extraction, as the shapers of society around whose interest the rest of society must be moulded.

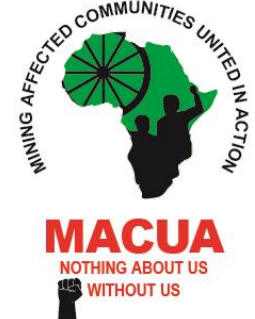
Concern 2:

It is our submission that **any bill that deliberately seeks to marginalise affected communities and deny them opportunities to participate in their own governance and to decide on their own developmental paths is inherently unjust.**



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The second concern we have with section 2(a) is the way **the Bill attempts to further exclude and marginalise affected communities**, when it announces that the above objective would be coordinated ***“in accordance with the principles of cooperative governance”***.

Our reading of the clause suggests that the Bill sees a role only for the state in the process of coordination. As a consequence of this approach, the Bill will further entrench the historically unjust exclusion of affected communities.

An alternative to the exclusionary and historically aligned path to inequality and environmental destruction can be phrased as follows:

“provide for a coordinated and integrated response by all relevant stakeholders and affected parties in accordance with the Right to Free Prior and Informed Consent”

Principles

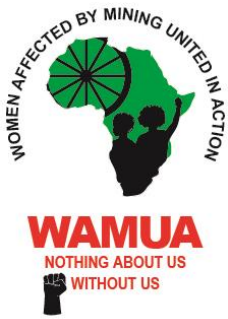
Concern 3:

We have noted with great concern that the principles which will underpin **the Climate Change Bill continues to frame affected communities as outside of the ambit of decision making and as mere subjects of the decisions that will be made by others.**

An example of the egregious and deliberate exclusion which this Bill seeks to advance and continue as a legacy from our colonial and apartheid past is **clause 3(f)** which states the following: ***“the need for decision-making to consider the special needs and circumstance of localities and people that are particularly vulnerable to the adverse effects of climate change”***

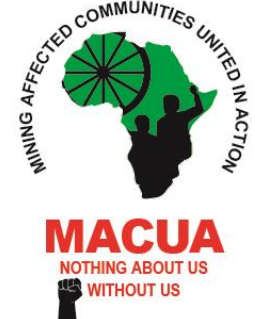
It is our submission that it is exactly this type of paternalism which sat at the heart of the colonial and apartheid project, and which resulted in, not only deep inequality, but also devastating environmental destruction.

It is furthermore our submission that **decision making that affects marginalised communities and vulnerable groups, should be based on the principles of Free Prior and Informed Consent** so that affected and impacted communities are able to make informed decisions about their well-being and the impacts on the environment.



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Any attempt to impose solutions on affected and impacted communities will lead to greater injustices and most likely to a continuation of the very same conditions that resulted in the current climate and social crises.

Concern 4: Public Participation

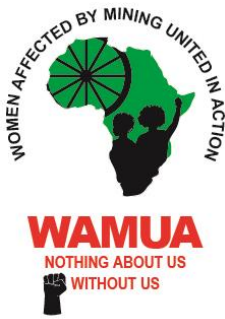
In line with our concerns expressed above, the Bill only allows for a veneer of public participation which substantively amounts to little more than sharing information about decisions that have already been taken on behalf of the marginalised and excluded.

If the intention of this Bill is to facilitate a **JUST TRANSITION**, then it fails to provide for a just and equitable process for communities who are impacted by the extractive and emission processes.

Any public consultation that does not allow affected and impacted communities to enjoy the full legal right of Free Prior and Informed Consent, and which instead reduces them to subjects who will be told what has been decided on their behalf, is fundamentally unjust and does not provide a pathway out of the destructive patterns of the past.

Accordingly, we propose a strengthening of the Public Participation element to include:

1. **Decisions affecting communities must be based on principles of self-determination. It is the collective right of indigenous peoples to negotiate the terms of externally imposed policies, programs, and projects that directly affect their livelihoods and well-being.**
2. **Public participation should be a form of decision making that enables a community to say "yes" or "no" to a proposed project or intervention.**
3. **Public Participation should ensure that consent is given freely, by people fully informed of the consequences, prior to any decision being made, and according to their own decision making processes.**
4. **Public Participation should be a part of a consultation process that allows people to provide input into how their natural resources are managed.**



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Concern
to

5: Access

Information

The Bill proposes that ***'any information that is provided to government must be made available to the public subject to the Promotion of Access to Information Act (PAIA) and the Protection of Personal Information Act (POPIA)'***.

Our concern in this regard is that the framing of the clause does not allow effective implementation. PAIA and POPIA have legal grounds to refuse providing information such as on commercial grounds.

It is our experience, having engaged multiple corporate entities on environmental and socio-economic concerns, that entities who do not wish to share information that communities need to protect their rights, often abuse this privilege.

Moreover, the required procedure by PAIA and POPIA to obtain information is time consuming and costly, for those seeking information and is even more so for marginalised and affected communities.

Lastly, the clause is too vague. The words used in this clause may be understood that the availability of the information to the general public is at the discretion of those who hold power over the decision-making processes, leaving vulnerable and affected communities at the mercy of those who make decisions on their behalf.

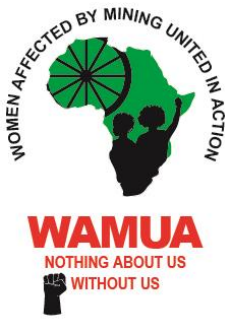
This is eminently unjust and in the light of the Bills attempt to guide a JUST TRANSITION, the clause is an anachronistic throwback to the past injustices perpetrated on affected communities.

It is our submission that **all information relevant to affected and impacted communities must be available to them as an indubitable right.**

Requests.

Request 1:

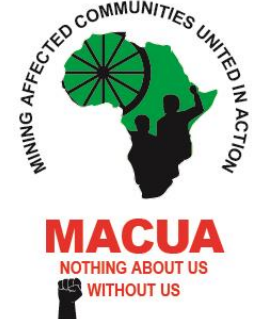
Climate Justice affects everyone, and the Climate Change Bill will have a great impact on how South Africa responds to climate change. In a country such as South Africa, which has suffered the indignity and exclusion of Colonialism and Apartheid, it is of utmost importance



that

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meaningful public participation be incorporated into the developmental paradigm of the Climate Change Bill if the Bill is to advance its aims of a Just transition.

We Request that elements of Free Prior and Informed Consent be built into the Bill to ensure that extensive, effective public participation hearings are held during the law-making process and beyond.

Request 2:

The hearings should be held widely across the country so that all communities, especially the marginalised and vulnerable have a voice and are heard. Notice of the public hearing must be shared well in advance and the venues where the hearing will be held must be accessible to rural communities. Arrangements must be made to ensure that financial support is provided to civil society groups to arrange transport for marginalised communities to attend the hearings.

Request 3:

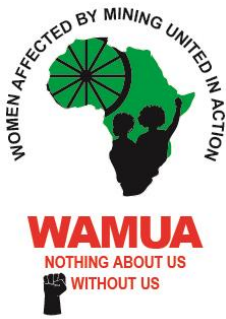
The youth are generally neglected in the law-making process. Women and the youth are most vulnerable to the impacts of climate change and the youth and women should be prioritised and their interests incorporated into the Bill

Request 4:

Information must be easily accessible to the public, in a language that is clear and easily understood by everyone. This right should be clearly set out in the Bill.

Request 5:

Regarding the “no timeline” for provisions such as compelling the Minister to set a timeframe for emissions trajectory, ought to be amended. We urge lawmakers to include timeframes on the determination of the reduction pathway that manages Greenhouse Gases emissions.

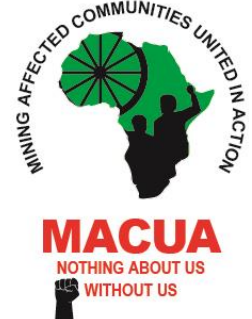


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