PETITION TO PARLIAMENT

On Mining Accountability, Capital Flight, and Community Abandonment

To:

The Honourable Speaker of the **National Assembly**
Parliament of the Republic of South Africa

Submitted by:

Mining Affected Communities United in Action (**MACUA**)
*In partnership with the Tlou Mogale Foundation(**TMF**), Bench Marks Foundation(**BMF**), South African Federation of Trade Unions (**SAFTU**), General Industries Workers Union of South Africa (**GIWUSA**); Institute for Economic Justice(**IEJ**), Centre for Applied Legal Studies(**CALS**), Legal Resource Centre (**LRC**), Lawyers for Human Rights(**LHR**), Just Share(**JS**), Open Secrets(**OS**)*

Contents

EXECUTIVE SUMMARY 3

Legal Basis of The Petition 5

Background and Context 6

2. **How South Africa's Mining Order Was Built, and Why Anglo Still Sits at the Center.** 6

3. **The Minerals-Energy Complex (MEC): Mining, Finance, and the Apartheid State.** 7

4. **From Apartheid to 1994: Disinvestment abroad, consolidation at home.** 7

5. **Post-1994 law: "Minerals for the benefit of all", but enforcement lagged** 8

6. **Anglo at the center—then and now.** 8

7. **Inequality today: high and persistent** 9

8. **Mining record exceptional earnings globally while South Africa's inequality remains.** 10

9. **Pattern of Transnational Evasion and Failure to Remedy Historical Harm** 11

10. **Why the "restrictive policy" story doesn't fit the record** 13

11. **Anglo American's central role in South Africa's Minerals-Energy Complex, historically and today,** 13

12. **Evidence Before Parliament:** 14

13. **Capital Flight and the Externalisation of Mining Wealth** 15

14. **Erosion of Mining Municipalities' Tax Base and Declining Mining Royalties (2015–2025)** 16

15. **Reduced Mining Royalties and Provincial Revenues** 18

16. **Case Studies: Fiscal Stress in Mining-Dependent Municipalities** 19

16.1. **Emalahleni (Mpumalanga) – Coal Decline and Municipal Distress** 19

16.2. **Rustenburg (North West) – Reliance on Platinum and Vulnerability** 20

16.3. **Sekhukhune District (Limpopo) – Mine Closure and Service Impacts** 21

17. **Impact on Service Delivery and Governance.** 22

18. **Consistent Profits amid community neglect** 23

19. **High Profits vs. Minimal Community Benefit** 24

20. **Chronic Under-Delivery of SLP Projects** 24

21. **Systemic Issues: Lack of Transparency, Exclusion, and Non-Enforcement** 26

22. **Excluded community participation: Meaningful consultation has been gravely lacking** 26
23. **Regulatory non-enforcement: failure to enforce SLP commitments.** 27
24. **Lack of accountability and oversight:** 27
25. **Misuse and disappearance of funds:** 28
26. **Regulatory failure and ignored human rights findings:** 29
27. **Constitutional and Parliamentary Accountability.** 31
28. **Grounds of the Petition** 32
29. **Comparative Lens: Canada's higher bar on consent.** 35
30. **What Parliament can do** 36
31. **In conclusion** 37
32. **Relief Sought:** 37
33. **Requested Parliamentary Actions;** 42
34. **Conclusion** 43

EXECUTIVE SUMMARY

PETITION TO PARLIAMENT

Title: *Petition on Mining Accountability, Corporate Disinvestment, and the Protection of South Africa's Economic Sovereignty*

Submitted by:
Mining Affected Communities United in Action (MACUA), Tlou Mogale Foundation(TMF), Bench Marks Foundation(BMF), Institute for Economic Justice(IEJ), Centre for Applied Legal Studies(CALS), Lawyers for Human Rights(LHR), Legal Resource Centre(LRC), Just Share(JS).

Submitted in terms of:

- **Section 56(d)** of the Constitution of the Republic of South Africa, 1996; and
- **Rule 352** of the National Assembly Rules, providing for petitions to Parliament.

Purpose of the Petition

This petition calls on Parliament to urgently investigate and address the **socio-economic, environmental, and governance failures** associated with **Anglo American's disinvestment from South Africa** and the broader pattern of **extractive corporate conduct** that undermines national economic sovereignty and community well-being.

The petition seeks to ensure that South Africa's mineral wealth, constitutionally held in custodianship for the people, is governed transparently, equitably, and in the public interest.

Key Constitutional and Legal Grounds

1. **Section 24:** Environmental rights and the duty to prevent ecological degradation.
2. **Section 195:** Principles of transparent, accountable, and equitable public administration.
3. **Sections 55 and 56(d):** Parliament's duty and power to exercise oversight, summon persons, and call for documents.
4. **Rule 352 and 353 of the National Assembly Rules:** Procedures for petitions requesting Parliamentary intervention.

Core Issues Raised

- **Corporate Disinvestment and Economic Sovereignty:** Anglo American's proposed relocation of its headquarters and merger with Teck Resources

(Canada) without binding obligations to rehabilitate mines or compensate affected communities.

- **Environmental Liabilities:** Thousands of unrehabilitated or derelict mines left in the custody of the State, contrary to purpose of the Mineral and Petroleum Resources Development Act (MPRDA) and NEMA.
- **Community Abandonment and Job Losses:** The failure to fulfil Social and Labour Plan obligations, leaving mining communities without livelihoods, healthcare, or basic services and Jobs.
- **Regulatory Capture:** Evidence of private and political influence undermining state oversight of multinational mining corporations.
- **Public Finance Accountability:** Loss of national revenue and pension value due to corporate restructuring and capital flight.

Relief Requested

The petitioners respectfully request that the National Assembly:

1. **Establish a Parliamentary Inquiry** (under the Portfolio Committee on Mineral Resources and Energy, and/or a Joint Committee) into Anglo American's disinvestment, its social and environmental legacy, and the regulatory failures enabling corporate impunity.
2. **Call for testimony** from Anglo American, the Department of Mineral and Petroleum Resources (DMPR), the Public Investment Corporation (PIC), National Treasury, affected communities and civil society.
3. **Develop legislation** ensuring:
    - Binding obligations to FPIC, mine closure and rehabilitation;
    - Corporate reparations for historic harm and ecological debt;
    - Stronger oversight of corporate disinvestment and transnational mergers.
4. **Mandate DIRCO and Treasury** to engage diplomatically with the Government of Canada to ensure Anglo's liabilities are not extinguished under Canadian law.
5. **Support the creation of an Independent Grievance Mechanism** for mining-affected communities.

Legal Basis of The Petition

1. This petition is submitted under:

1.1. **Section 56(d) of the Constitution of the Republic of South Africa, 1996**, which empowers the National Assembly to *"receive petitions, summon persons to appear before it, and require reports from any person or institution.*

1.2. **Rule 352 of the Rules of the National Assembly** (9th Edition, 2016), permitting any citizen or organisation to lodge a petition for the House's consideration.

1.3. **Section 195 of the Constitution**, which mandates that public administration be *accountable, transparent, and responsive to the needs of communities*.

1.4. **Section 24 of the Constitution**, guaranteeing everyone the right to an environment that is not harmful to health or well-being, and to have the environment protected for present and future generations through reasonable legislative measures.

1.5. **Section 27(1)(b)** of the Constitution, which provides for the right of access to sufficient water and health care services, underscoring the State's duty to prevent environmental harm that infringes on these socio-economic rights.

Background and Context

2. How South Africa's Mining Order Was Built, and Why Anglo Still Sits at the Center.

2.1. For almost two centuries, mining has shaped South Africa's economy, and its inequality. **Anglo American** emerged as the dominant corporate power in that system and, by the early 1990s, controlled a vast swathe of private industry. Contemporary and historical accounts note that by the end of apartheid **Anglo had interests in thousands of firms and controlled a very large share of JSE market capitalization** (variously estimated as "more than half of private industry" and "60% of JSE market cap")[1]. This conglomerate dominance is well-documented in corporate histories and critical timelines.

[1] https://dailyinvestor.com/mining/69772/the-company-that-controlled-half-of-south-africa/

3. The Minerals-Energy Complex (MEC): Mining, Finance, and the Apartheid State.

3.1. Political-economy scholars **Ben Fine** and **Zav Rustomjee** described South Africa's growth model as a **Minerals-Energy Complex (MEC)**, a tightly coupled system of mining houses (led by Anglo), energy monopolies, finance, and the state, which organised accumulation around minerals and cheap energy while suppressing labour and externalising environmental costs. Their foundational work and subsequent debates remain the standard references for understanding how corporate power nested within state policy under apartheid.[2]

3.2. That apparatus both **generated and entrenched racialised inequality**. Peer-reviewed work on the political economy of apartheid shows how **apartheid policies boosted mineral-centric accumulation while depressing investment in human capital for the majority**, with long-run effects visible well after 1994.[3]

4. From Apartheid to 1994: Disinvestment abroad, consolidation at home.

4.1. As apartheid came under mounting international pressure in the 1980s, South Africa's mining and finance conglomerates, chief among them **Anglo American**, confronted a dual crisis: a tightening sanctions regime abroad and a legitimacy crisis at home. Foreign investors were divesting; the rand was collapsing; and domestic unrest made the apartheid model economically unsustainable. Yet these same conditions created an opportunity for Anglo and its peers to **restructure capital on their own terms**.

4.2. Anglo's vast network, by then controlling **well over half of Johannesburg Stock Exchange capitalisation**, allowed it to absorb assets sold off by sanction-stricken firms, consolidating power inside South Africa even as global capital withdrew. But the company also looked outward. To maintain access to global markets, Anglo **shifted from a South African-centred industrial group to a transnational holding company**, listing in London and cultivating ties with Western governments and financiers.

4.3. Economic historians note that by the late 1980s, **Anglo and its senior leadership had become interlocutors in the political negotiations that produced South Africa's democratic transition**. While liberation

---

[2] The Political Economy of South Africa: From Minerals-energy Complex to Industrialisation. Authors Ben Fine, Zavareh Rustomjee. Publisher C. Hurst & Co. Publishers, 1996

[3] Bhattacharya, R., Lowenberg, A. Impact of Apartheid on Economic Growth: Implications and Empirical Evidence from South Africa. *Comp Econ Stud* **52**, 38–61 (2010). https://doi.org/10.1057/ces.2009.15

movements pushed for political equality, the corporate elite pursued a parallel goal: securing a **liberal macro-economic order** that would protect capital mobility and investor confidence after 1994.

4.4. This strategy succeeded. The settlement that followed democracy enshrined political rights and constitutional protections but also **liberalised exchange controls and guaranteed capital's freedom to exit**, embedding South Africa into global financial circuits under terms favourable to mining and finance conglomerates.

4.5. Anglo emerged as one of the main beneficiaries of this new order. The shift to a **liberalised capital account**, coupled with privatisation and market deregulation in the 1990s, enabled it to **move headquarters and profits offshore while retaining control over domestic mineral assets**.

4.6. The company's relocation to London in 1999 symbolised the culmination of a process it had helped to design: **a globalised mining giant legally domiciled abroad yet still drawing immense value from South African minerals and labour.**

5. Post-1994 law: "Minerals for the benefit of all", but enforcement lagged.

5.1. Democracy brought a legal reset. The **Mineral and Petroleum Resources Development Act (MPRDA, 2002)** declare minerals the **"common heritage of all the people"** with the **state as custodian for the benefit of all South Africans** and empowers the Minister to grant and manage rights. In intent, this was a clear move away from private mineral ownership toward **public interest stewardship**.

5.2. In practice, however, **regulatory capacity and enforcement have lagged**. Social and Labour Plan (SLP) delivery, meaningful community participation, and mine-closure accountability have repeatedly fallen short (as documented by the SAHRC and civil-society audits), allowing companies to operate with **wide discretion and limited consequences**.[4]

6. Anglo at the center—then and now.

6.1. Anglo's enduring centrality is visible in two ways:

6.1.1. **Historic dominance and policy accommodation.** Throughout the late apartheid and transition periods, Anglo's conglomerate structure **set prices,**

[4] https://www.sahrc.org.za/home/21/files/SAHRC%20Mining%20communities%20report%20FINAL.pdf + https://macua.org.za/social-audits/

allocated capital, and shaped industrial strategy, all feasible in an era of permissive competition rules and state alignment around the MEC.[5]

6.1.2. **Contemporary restructuring and externalization.** Recent reporting shows Anglo still **drives national debates**: government opposed BHP's 2024/25 takeover overtures because **Anglo's local footprint is strategically sensitive**, while Anglo itself proposed shedding De Beers and SA platinum assets to simplify globally, classic **portfolio externalisation** moves.[6]

7. Inequality today: high and persistent

7.1. Despite progressive legal framing, **inequality remains among the highest in the world** and has not decisively fallen in the democratic era. The **World Bank** and academic analyses characterise South Africa as **the most unequal country globally**, with the **Gini index** persistently extreme.[7]

7.2. In 1980, South Africa's mining sector generated approximately **R5 billion in profits**[8]. By 2023, that figure had surged to an estimated **R270 billion**[9], marking a more than **50-fold increase** in nominal terms.

7.3. Despite this massive growth in profitability, employment in the sector has steadily declined, from over **827,000 workers in the mid-1980s**[10] to under **480,000 today**[11].

7.4. This glaring contradiction exposes a structural reality: **increased profitability in the mining sector has not translated into broader economic inclusion or job creation**, but instead reveals an economy geared toward value extraction for shareholders and elites, while offloading social and environmental costs onto workers and communities.

---

[5] https://www.writersroom.co.za/anglo-american-through-the-ages/

[6] https://businesstech.co.za/news/business/774423/bhp-pulls-out-of-anglo-american-takeover-with-south-africa-a-major-reason-why/#:~:text=could%20leave%20the%20newly%20independent,the%20shares%20in%20the%20spinoffs.

[7] https://documents1.worldbank.org/curated/en/099125003072240961/pdf/P1649270b73f1f0b5093fb0e644d33bc6f1.pdf

[8] https://www.resbank.co.za/content/dam/sarb/publications/reports/annual-economic-reports/1980/5563/Annual-Economic-Report---1980.pdf

[9] https://www.mineralscouncil.org.za/reports/2023/downloads/mcsa-iar2023-our-context.pdf

[10] https://www.gtac.gov.za/wp-content/uploads/2022/02/South-African-Mining-Sector-Forecast-to-2025.pdf

[11] https://www.mineralscouncil.org.za/industry-news/publications/facts-and-figures

8. Mining record exceptional earnings globally while South Africa's inequality remains.

8.1. **The Profit–Inequality Paradox as Evidence of BEPS:** When global mining groups like **Anglo American, Glencore, BHP, and others** report *record global earnings* but the South African fiscus shows *shrinking corporate tax and royalty receipts*, this discrepancy implies that **profits are being realised elsewhere**, not where the minerals are extracted. That's the essence of **base erosion** (shrinking the local taxable base) and **profit shifting** (reallocating income to low-tax jurisdictions).

8.2. **Key indicator:** Between 2021 and 2024, Anglo's reported global profits remained high, but South Africa's mining tax receipts fell by **50% (R39.2 billion)**.[12] This divergence cannot be explained by commodity prices alone; it reflects **where profits are booked and taxed**, not just how much is earned.

8.3. **Mechanisms Enabling BEPS in Mining**

Mechanism	Description	Example
Transfer pricing in commodity sales	Minerals sold to affiliated trading arms abroad at discounted prices, reducing local taxable profit.	Anglo's marketing arms in London or Zug price bulk commodities for global sale.
Intra-group loans and interest deductions	SA subsidiaries borrow from offshore affiliates and pay high interest, reducing taxable income.	Interest payments to Anglo American plc Treasury (UK) or offshore finance hubs.
Management & service fees	Parent firms charge SA operations for "management, technical, or branding" services.	Administrative overheads booked in London offices.
Royalty & intellectual property charges	Offshore IP holding companies collect royalties on proprietary technologies or trademarks.	Common in globalised extractive groups.
Commodity trading hubs	Switzerland (Zug) or Singapore used as centralised marketing entities; profits accrue there.	Glencore, Anglo, and Trafigura structures.

[12] Since 2021, Anglo's presence in the South African economy has been in steady decline:

- 2021: $2.8 billion/R 41billion (tax and royalties)/41 000 people employed in South Africa. [Link]
- 2022: $1,4 billion/R 23 billion (tax and royalties)/41 000 people employed in South Africa. [Link]
- 2023: $583 million/R10,8 billion(tax and royalties)/36 000 people employed in South Africa. [Link]
- 2024 – $425/R7,8 billion(tax and royalties) / 32 000 people employed in South Africa. [Link]

8.4. The OECD[13] and the **African Tax Administration Forum (ATAF)**[14] have documented all of these as *typical BEPS channels in extractive industries.*

9. Pattern of Transnational Evasion and Failure to Remedy Historical Harm

9.1. **The Kabwe Case: A Precedent of Abandonment**
The ongoing class action of *Kabwe v. Anglo American South Africa (AASA)* before the Supreme Court of Appeal, demonstrates Anglo's systematic evasion of accountability for historic environmental and human rights violations.

9.1.1. The case, brought by over **140,000 Zambian women and children**, concerns catastrophic lead poisoning in Kabwe, one of the world's most contaminated towns, resulting from operations of the Broken Hill lead mine, which Anglo American oversaw between **1925 and 1974**.

9.1.2. **Evidence of Negligence and Evasion**: Plaintiffs allege that Anglo American's South African subsidiary **controlled, advised, and supervised** mine operations during the period of peak contamination and knowingly failed to prevent or remediate environmental harm despite being aware of severe public health impacts.

9.1.3. When it exited Zambia in 1974, Anglo **retained profits but left behind enduring pollution**, later denying responsibility on the basis of corporate structure and shareholding, a defence that mirrors its present conduct in South Africa.

9.1.4. **Relevance to South Africa's Sovereignty and Accountability Framework:** The Kabwe case illustrates a broader **pattern of corporate behaviour** by Anglo:

9.1.5. **Legal restructuring and relocation** to jurisdictions (London in 1999, now Canada) that shield it from local liability.

9.1.6. **Denial of operational responsibility** by invoking corporate fragmentation (subsidiaries, minority holdings).

9.1.7. **Failure to rehabilitate** environmental and social harm in the countries that generated its wealth.

9.1.8. **Resistance to class action and public redress**, exploiting legal asymmetry between Global South victims and Global North corporations.

9.2. **International Communities Impacted by Anglo American.**

[13] https://www.oecd.org/en/about/programmes/beps-in-mining.html
[14] https://www.idos-research.de/uploads/tx_veranstaltung/5-Monkam_ATAF_Challenges_in_Taxation_and_ATAF_s_response.pdf

9.2.1. The harms experienced in Kabwe are not isolated. Across Latin America and beyond, Anglo American's operations show a consistent disregard for community rights, environmental protection, and social accountability:

9.2.1.1. **Chile – Los Bronces & El Soldado** (Valparaíso and Santiago Regions): Communities in El Melón and Lo Barnechea face dust contamination, water scarcity, and forced displacement. Anglo's expansion threatens the La Yerba Loca Nature Sanctuary and key water sources for Santiago's population.

9.2.1.2. **Peru – Quellaveco** (Moquegua Region): Local farmers report the depletion of rivers and contamination from copper operations. Anglo's failure to secure meaningful community consent has intensified social conflict, with Indigenous and rural groups accusing the company of violating their water rights.

9.2.1.3. **Brazil – Minas-Rio** (Minas Gerais): Communities along the Passa Sete River have endured catastrophic environmental damage from tailings leaks, leading to polluted water, fish deaths, and the destruction of small-scale agriculture. Anglo's monitoring data show chronic exceedances of pollution limits since 2018.

9.2.1.4. **Colombia – Cerrejón** (La Guajira): In Wayuú Indigenous territory, coal mining has destroyed ancestral lands, dried rivers like the Ranchería, and caused widespread respiratory illness. Despite global criticism and legal findings of rights violations, Anglo remains financially linked to Cerrejón through joint ventures and legacy interests.

9.3. These cases demonstrate a global pattern of extractive violence that mirrors the suffering of Kabwe's victims, the same operational logic that devastated Zambia's Broken Hill community continues across continents under Anglo's corporate umbrella.

9.4. **Conclusion**: The Kabwe litigation stands as a warning of what happens when corporate power escapes national accountability. Anglo American's actions in Zambia, like those in Chile, Peru, Brazil, and Colombia, expose how the failure of one state to enforce justice emboldens transnational impunity everywhere. These are not isolated incidents, but the global consequences of South Africa's own regulatory inaction and its reluctance to hold former domestic giants accountable beyond its borders.

9.5. The Anglo–Teck merger is therefore not merely a corporate transaction; it is the latest chapter in a century-long pattern of wealth extraction without restitution, in which the beneficiaries of South Africa's mineral riches relocate abroad, leaving behind poisoned communities, unrehabilitated mines, and unpaid ecological debts. If Parliament fails to intervene, it will affirm that the same companies that built their fortunes on South African labour and land can now abandon both with impunity.

10. Why the "restrictive policy" story doesn't fit the record

10.1. Mining executives now argue South African policy is "restrictive," discouraging investment. Yet, the evidence cuts the other way:

10.1.1. **South Africa's Legal standard is consultation, not consent.** South Africa **does not require Free Prior and Informed Consent (FPIC)**; by contrast, **Canada** has moved toward United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) aligned consent frameworks (federal UNDRIP Act; British Columbia's Declaration on the Rights of Indigenous Peoples Act(DRIPA) based practice).

10.1.2. That makes SA **more permissive** than a peer mining jurisdiction.

10.1.3. **Royalties are sliding-scale and relatively light**, not confiscatory.

10.1.4. The binding constraints investors cite are **logistics and governance** issues(ports, rail, load-shedding), **not** unusually onerous social or environmental rules.

10.1.5. As **Action for Southern Africa (ACT SA)** argues, **"corporate amnesia"** reframes long-standing public-interest safeguards as "red tape" while ignoring continuing **under-delivery to communities** and a **declining domestic fiscal footprint** by the majors.[15]

11. Anglo American's central role in South Africa's Minerals-Energy Complex, historically and today,

11.1.1. **Anglo American's central role in South Africa's Minerals-Energy Complex, historically and today, illustrates how law and policy have long been crafted around mining interests.**

11.1.2. Under apartheid, Anglo dominated private industry and shaped the economy's mineral-centric trajectory, embedding patterns of accumulation that generated wealth for shareholders while externalising social and environmental costs onto Black communities.

11.1.3. **Post-1994, Parliament sought to reverse this legacy.** The MPRDA (2002) re-cast minerals as the **common heritage** of the people with the state as **custodian for the benefit of all**, promising equitable access, community participation, and responsible closure.

11.1.4. **Yet weak enforcement, especially of SLPs, participation, and mine-closure, has allowed a permissive status quo** that favours corporate convenience over community rights.

[15] https://www.africaninsider.com/business/whats-corporate-amnesia-south-africa/

11.1.5. At the same time, **inequality remains among the world's highest**, even through commodity booms that delivered exceptional earnings to global mining groups[16].

11.1.6. **When executives now claim that South Africa's regime is "restrictive", the comparative evidence points elsewhere:** unlike Canada's UNDRIP-aligned consent practice and public-interest reviews, South Africa still relies on minimal **consultation**, light-touch royalties, and has few consequences for non-compliance, conditions that have enabled **capital externalisation and community neglect** rather than shared prosperity.

12. Evidence Before Parliament:

Recent developments and data illustrate the severity of the problem, as detailed below:

12.1. **Anglo American's restructuring and losses:** After fending off a 2024 hostile takeover attempt by BHP, Anglo American announced a "streamlined portfolio" to improve returns[17]. Instead, it reported a **$1.9 billion loss** in the first half of 2025 alongside project delays and failed asset sales[18]. Notably, a planned **$3.8 billion sale of its Australian coal assets collapsed** in 2025 after a mine disaster, prompting arbitration with the buyer (Peabody Energy) over the terminated deal[19]. These outcomes call into question Anglo's assurances and commitment to its South African stakeholders.

12.2. **Capital flight; investment abroad versus home:** Anglo American's strategic focus has shifted abroad. As part of a pending merger with Canada's Teck Resources, *"Anglo Teck will invest at least approximately CAD$4.5 billion over five years in Canada,"* including major mine expansions[20]. This starkly contrasts with **declining investment and tax contributions at home**: [21]

12.3. Taxes and royalties paid to the South African government have **fallen from R41 billion in 2021 to just R7.8 billion in 2024**, a staggering **85% decline**.

---

[16] https://documents1.worldbank.org/curated/en/099125003072240961/pdf/P1649270b73f1f0b5093fb0e644d33bc6f1.pdf

[17] https://www.theguardian.com/business/2025/sep/09/anglo-american-merge-teck-copper-london-listing?CMP=share_btn_url

[18] https://www.reuters.com/world/uk/anglo-american-posts-19-billion-loss-cuts-dividend-restructuring-continues-2025-07-31/

[19] https://www.edgen.tech/news/stock/anglo-american-initiates-arbitration-against-peabody-over-terminated-coal-deal

[20] https://www.angloamerican.com/media/press-releases/2025/09-09-2025

[21] Since 2021, Anglo's presence in the South African economy has been in steady decline:

- 2021: $2.8 billion/R 41billion (tax and royalties)/41 000 people employed in South Africa. [Link]
- 2022: $1,4 billion/R 23 billion (tax and royalties)/41 000 people employed in South Africa. [Link]
- 2023: $583 million/R10,8 billion(tax and royalties)/36 000 people employed in South Africa. [Link]
- 2024 – $425/R7,8 billion(tax and royalties) / 32 000 people employed in South Africa. [Link]

12.4. **Employment** of local employees have dropped from 41 000 in 2021 to 32 000 in 2024, representing a **22% decline**, leaving mining towns in deeper economic crisis.

12.5. South Africa's share of Anglo American's global taxes fell sharply between 2021 and 2024, from being the **largest single national contributor (47%)** to a **secondary one (23%)** by 2024.

12.6. Such capital flight and revenue loss directly affect public finances, local employment, and community development.

12.7. At the ecosystem level, **private fixed investment contracted in H1-2024**, **South Africa's share of global exploration spend has fallen below 1% for three consecutive years**, and **formal mining employment declined in 2024** with multiple companies announcing cuts[22].

12.8. According to Treasury data, revenues from mining-sector corporate income tax in South Africa dropped by R39.2 billion (-50.4 %) in the first ten months of 2023/24 compared with the previous year. Simultaneously, mineral-and-petroleum royalty projections declined from R15.9 billion in 2023/24 to an estimated R11.3 billion in 2024/25. These declines mark a departure from earlier boom-period contributions and point to an **eroding fiscal base in the mining sector**[23].

13. Capital Flight and the Externalisation of Mining Wealth

13.1. South Africa is facing a profound contradiction in its mining economy: **record or near-record corporate profits abroad coincide with collapsing fiscal returns and job losses at home.**

13.2. Yet, over the same period, major mining houses have reported unprecedented profits:

13.2.1. **Anglo American** recorded **US $4.9 billion in underlying EBITDA from South Africa in 2023**, but its **tax and royalty payments fell by 78% since 2021**, from US $4 billion to under US $900 million[24].

13.2.2. **Pan African Resources** announced a **78 % rise in after-tax profit to US $140.6 million in 2024**, even as **local clinics and schools in host communities around their operations remain under-resourced**[25]**.**

[22] https://www.treasury.gov.za/documents/national%20budget/2024/review/Chapter%204.pdf
[23] https://www.treasury.gov.za/documents/national%20budget/2024/review/Chapter%204.pdf

[24] https://www.angloamerican.com/~/media/Files/A/Anglo-American-Group-v9/PLC/investors/annual-reporting/2024/aa-annual-report-full-2024.pdf
[25] https://www.sharenet.co.za/v3/sens_display.php?scode=PAN&seq=15&tdate=20250910080000&utm

13.2.3. **Glencore's coal operations** maintained high global margins, but their South African subsidiaries showed reduced royalty payments and minimal local reinvestment[26].

13.2.4. This divergence, **profits up, public revenues down**, points not to a commodity-cycle correction but to **capital externalisation**. Multinational structures enable mining conglomerates to shift profits abroad through:

13.2.4.1. Transfer pricing between local mines and offshore affiliates;

13.2.4.2. Financing and treasury functions domiciled in low-tax jurisdictions;

13.2.4.3. Dividend repatriation and offshore share buybacks rather than domestic reinvestment.

13.3. The **South African Reserve Bank** reported **R73.5 billion in net foreign direct investment (FDI) outflows in Q2 2025**, driven largely by **Anglo American's spin-off of its platinum unit and its pending merger with Canada's Teck Resources**[27].

13.4. The merged company ("Anglo Teck") has pledged **CAD 4.5 billion in new investment in Canada over five years**, while South African capital expenditure and mining employment contract at home.

13.5. **Mining employment continues its decline**, marking the fourth consecutive year of decline (Minerals Council South Africa, 2025)[28].

13.6. The result is **shrinking municipal tax bases, weaker local economies, and declining public service capacity** in historically mining-dependent regions such as Emalahleni, Rustenburg, and Sekhukhune.

14. Erosion of Mining Municipalities' Tax Base and Declining Mining Royalties (2015–2025)

14.1. Declining Local Government Revenues in Mining Towns

14.1.1. Mining-dependent municipalities in South Africa have seen their local tax bases shrink over the past decade, undermining their finances and service delivery.

14.1.2. **Economic downturns and mine closures have led to revenue declines**, leaving these municipalities increasingly unable to fund services.

14.1.3. For example, Matjhabeng (Welkom) in the Free State, once a prosperous gold mining area, is now **"locked in a vicious cycle: economic**

[26] https://capeargus.co.za/business-report/economy/2025-02-19-south-african-coal-impairments-wobble-glencores-full-year-financials/

[27] **South African Reserve Bank's Quarterly Bulletin**

[28] https://www.mineralscouncil.org.za/all-categories?catid=133&id=2555%3Aa-quarter-on-quarter-increase-in-mining-jobs-in-q2-2025&task=download.send&utm

decline leads to revenue decline, which causes infrastructure and service delivery failure"[29].

14.1.4. The collapse of local mining economies means fewer businesses and residents to tax, and less income from property rates and service charges.

14.1.5. The Auditor-General's reports have flagged that many municipalities are financially distressed due to **reduced revenue** bases, which, coupled with poor financial management, leaves them unable to meet obligations or maintain services[30].

14.1.6. The Financial and Fiscal Commission (FFC) has similarly noted the **diminishing fiscal capacity** of many local governments and urged greater support for those in economically stagnant areas. In its 2019/20 submission, FFC recommended increasing national transfers to rural and under-resourced municipalities (often in former mining areas) to compensate for their **weak own-revenue base.**[31]

14.1.7. Multiple data points confirm the strain on mining municipalities' revenues. **National Treasury** reports show that as local economies slowed, **municipal revenue growth stalled in mining regions**, with many becoming more reliant on grants.

14.1.8. Emalahleni Local Municipality (Mpumalanga), a coal-mining hub, saw its ability to generate its **own revenues fall from 85% of its budget in 2004/05 to about 70% by the early 2010s**.[32]

14.1.9. In other words, two decades ago Emalahleni could fund 85% of its operating costs from local taxes/fees, but by 2013 this had dropped significantly, clear evidence of an **eroding tax base**.

14.1.10. By 2013, Emalahleni was effectively bankrupt and placed under administration; an official turnaround report noted **"acute financial problems,"** and that **service delivery had nearly collapsed, prompting businesses and residents who could afford it to leave** – further **shrinking the city's revenue base**.[33]

---

[29] https://matjhabengmunicipality.co.za/assets/resources/FinancialRecovery/1.%20Matjhabeng%20LM%20%20updated%20SQA.pdf#:~:text=The%20Vicious%20Cycle%20and%20the,which%20in%20turn%20creates%20a

[30] https://www.accountancysa.org.za/recommend-more-complex-reporting-or-back-to-basics/#:~:text=The%20financial%20deterioration%20noted%20in,spending%20the%20limited%20funds%20available

[31] https://www.gov.za/news/media-statements/financial-and-fiscal-commission-launches-202021-division-revenue#:~:text=through%20the%20pooling%20of%20resources,base%20to%20legislative%20requirements

[32] https://www.sacities.net/wp-content/uploads/2019/12/Emalahleni-final-report-author-tc.pdf#:~:text=generating%2070,It

[33] https://www.sacities.net/wp-content/uploads/2019/12/Emalahleni-final-report-author-tc.pdf#:~:text=%EF%82%B7%20An%20unresponsive%20council%20that,of%20capacity%20in%20bulk%20services

14.1.11. This illustrates the feedback loop: poor services and infrastructure (often a result of mine-related environmental damage or population influx) lead to out-migration and non-payment, which in turn squeezes the municipality's income. A similar pattern is seen in other mining towns across different provinces.

15. Reduced Mining Royalties and Provincial Revenues

15.1. Beyond local taxes, **public revenues from mining, notably mineral royalties and mining-related taxes, have declined in recent years**, impacting the broader fiscus and, indirectly, provincial budgets.

15.2. South Africa's mineral royalty is a national revenue stream (paid into the National Revenue Fund), but its performance affects the resources available for provinces via the budget.

15.3. **After a commodity price peak in 2021/22, mining royalties have fallen sharply**. According to the Minerals Council, mineral royalty receipts dropped from R28.5 billion in 2022 to R25.3 billion in 2023, an **11.2% decline** year-on-year.[34] This was due to lower production volumes and prices for key minerals in 2023.

15.4. Likewise, National Treasury's 2024 Budget Review highlighted a steep fall in mining-tax collections: **corporate income tax from the mining sector was R39 billion lower (year-on-year) in the first 10 months of 2023/24**.[35]

15.5. Such declines underscore that **government revenues from mining are highly volatile and have trended downward during commodity slumps** (for instance, a commodities downturn around 2015–2016 also saw sharply lower royalties and mining taxes).[36]

15.6. For provincial governments, these trends mean **less fiscal space**. While provinces do not collect mining royalties directly, they benefit from the general revenue pool funded by national taxes (including royalties). Thus, when **mineral royalties and mining taxes shrink, the pool of funds available for the provincial equitable share and infrastructure grants also tightens**.

15.7. Provinces with mining-centric economies (such as North West, Limpopo, Mpumalanga) feel this acutely: as mining output and company profits fall, associated tax receipts (royalties, income taxes, VAT from mining activity) decline, affecting funding for provincial services.

---

[34] https://www.mineralscouncil.org.za/component/jdownloads/?task=download.send&id=2310&catid=17&m=0#:~:text=Company%20tax%20paid3%20R85,5%20billion%29%20Page%205

[35] Ibid

[36] https://www.pwc.co.za/en/assets/pdf/sa-mine-2016.pdf#:~:text=Funds%20reinvested%2032,%2812

15.8. In Limpopo, for example, mining contributes about **27% of the province's GDP** and generates significant tax revenue.[37]

15.9. A sustained dip in mining output or prices directly **reduces the revenues flowing to the state**, forcing provincial departments to scale back programs or delay infrastructure projects. The **net result is constrained provincial budgets**, especially in infrastructure and service delivery to mining communities.

15.10. Nationally, **the state's share of mining-generated value has diminished**, PWC noted that in 2015 the government received about 19–20% of mining value-added in taxes and royalties, but this fell to 15% by 2016 due to weaker commodity prices.[38]

15.11. The **decline in royalties in recent years** further reflects that mining's contribution to public coffers has not kept up with rising service delivery needs on the ground.

16. Case Studies: Fiscal Stress in Mining-Dependent Municipalities

16.1. Emalahleni (Mpumalanga) – Coal Decline and Municipal Distress

16.1.1. Emalahleni (formerly Witbank) is a municipality historically built on coal mining and power generation. In recent years it has become an emblem of **fiscal stress linked to a declining mining economy**. As noted, Emalahleni's own-revenue collection capacity eroded significantly over the last decade.

16.1.2. The city's 2013 financial crisis was precipitated by **years of mismanagement compounded by a shrinking economic base**. When major mines scaled down or closed and Eskom shifted some operations, Emalahleni lost business ratepayers and jobs.

16.1.3. The Auditor-General flagged Emalahleni for **"financial distress"**, and the province intervened. A turnaround report by the appointed administrator described **massive corruption, a militant workforce, and service delivery breaking down – with firms and middle-class residents relocating to nearby towns (like Middelburg) to escape the dysfunction, "with the resultant loss of (potential) revenue for the city."**[39]

16.1.4. The departure of key industries and ratepayers meant **less property tax and service charges**, creating a funding shortfall for basic services. Indeed, by 2019 Emalahleni was **unable to service over R5 billion in debt**,

[37] https://www.news24.com/citypress/business/there-is-no-life-without-the-mine-20170823
[38] https://www.pwc.co.za/en/assets/pdf/sa-mine-2016.pdf#:~:text=Funds%20reinvested%2032,%2812
[39] https://www.sacities.net/wp-content/uploads/2019/12/Emalahleni-final-report-author-tc.pdf#:~:text=%EF%82%B7%20An%20unresponsive%20council%20that,of%20capacity%20in%20bulk%20services

including to Eskom, and struggled to provide water and electricity to its communities.

16.1.5. This case shows how **the decline of mining (coal in this case) directly undermined the municipal tax base**. As mines wind down, **property values fall and many workers leave**, shrinking both billing volumes and collection rates.

16.1.6. Emalahleni's experience underscores that **erosion of a mining town's economic base leads to chronic budget deficits and service delivery failures**, necessitating external bailouts or administration.

16.2. Rustenburg (North West) – Reliance on Platinum and Vulnerability

16.2.1. Rustenburg is often cited as a **platinum mining boom town** that faces the challenge of diversification. During the 2000s commodity boom, Rustenburg's economy grew rapidly, mining accounted for **over half (53%) of Rustenburg's GDP by 2009**.[40]

16.2.2. The local government benefited from increased rates and business activity. However, this heavy reliance on a single industry has made Rustenburg **highly vulnerable to mining downturns**.

16.2.3. In the mid-2010s, falling platinum prices and labour unrest (such as the 2014 platinum belt strike) hit the city hard.

16.2.4. Rustenburg's manufacturing sector never developed alongside mining – in fact, **manufacturing jobs declined from 12,000 in 1995 to 7,000 by 2009**[41], leaving the city with **little alternative tax base** when mining falters.

16.2.5. The South African Labour Bulletin observed that this is "a very risky situation for a mining town". Indeed, **provincial and municipal reports note rising unemployment and service delivery backlogs in Rustenburg's townships when mining production slows**.

16.2.6. The municipality has struggled with informal settlement growth and infrastructure strain without commensurate revenue growth. Anticipating the future, city planners acknowledged that **platinum mining is projected to decline post-2040** and formulated a *Rustenburg Vision 2040* strategy in 2014 to diversify the local economy.

16.2.7. This is an implicit admission that the **current tax base, heavily tied to platinum mines, will erode as the mineral resource is depleted or becomes less profitable**.

16.2.8. In short, Rustenburg's fiscal health is tightly bound to the mining cycle: **during booms, revenues rise**, but in busts the **municipality faces deficits, higher debtor levels, and pressures to cut services**.

---

[40] https://www.southafricanlabourbulletin.org.za/wp-content/uploads/2021/11/2.-Gated-Rustenburg.pdf#:~:text=winners%20and%20losers%20and%20Rustenburg,approximately%2012%2C000%20in%201995%20to

[41] Ibid

16.2.9. Without diversification, Rustenburg's ability to deliver services will be impaired by any sustained mining decline.

16.3. Sekhukhune District (Limpopo) – Mine Closure and Service Impacts

16.3.1. Sekhukhune, a largely rural district, contains some of South Africa's richest platinum and chrome reserves.

16.3.2. Mining is a crucial economic pillar, **Limpopo province derives 27% of its GDP from mining, and 41% of the nation's platinum group metal reserves are in the Sekhukhune area**.[42]

16.3.3. However, the benefits to local communities and government finances have been limited, and when mining activity retracts, the impacts are severe. In 2017, Anglo American Platinum's **Bokoni Platinum Mine (Atok) was placed on care-and-maintenance**, resulting in about 2,600 job losses.[43]

16.3.4. The closure of this major operation sent Sekhukhune's local economy into a tailspin. Residents described the situation bluntly: **"There is no life without the mine… Without the mine, we will starve. We are facing a big crisis,"** said one community member.[44]

16.3.5. Another local business leader estimated that **"98% of the business community in the area relied on the mine… If the mine shuts down… it's going to be like a desert here."**

16.3.6. This illustrates how deeply the local tax base and livelihoods depend on mining in Sekhukhune. **Small businesses folded or suffered huge declines in income** once thousands of former mine employees could no longer spend locally.

16.3.7. For the Sekhukhune District Municipality and its local municipalities, this translated into **lower revenues from business licenses, VAT on local sales, property rates, and service tariffs**, at the very time that **demand for social services (indigent support, free basic services) was rising** among households hit by unemployment.

16.3.8. Sekhukhune has long struggled with underdevelopment, many villages still lack clean water and proper roads, and the decline in mining revenues has only made it harder for the district to fund infrastructure improvements.

16.3.9. In effect, **the promised economic boom from mining did not create a self-sustaining local economy**, and when the mines retrench or close, the municipalities are left with **high poverty, little else to tax, and increased burdens on provincial social services**.

16.3.10. This case starkly connects **mining decline to local fiscal stress**: provincial treasury officials have noted that when mining royalties and

---

[42] https://www.news24.com/citypress/business/there-is-no-life-without-the-mine-20170823
[43] Ibid
[44] Ibid

associated taxes fall, **funding for district development projects (water schemes, roads in mining villages) also gets curtailed**, impairing service delivery in areas like Sekhukhune.

17. Impact on Service Delivery and Governance.

17.1. The erosion of mining municipalities' tax bases and the drop in mining-related revenues have **directly impaired service delivery**. With less income, local governments in mining areas often **cannot maintain infrastructure or expand services** to meet community needs.

17.2. The Auditor-General's 2021/22 local government audit report warned that **"local government is financially distressed due to reduced revenue… [and] not prudently spending the limited funds available."**

17.3. This financial squeeze results in cutbacks on maintenance of water treatment plants, electricity networks, and road repair in many mining towns.

17.4. For instance, in Matjhabeng, the gold-mining decline left the municipality **unable to afford maintenance of revenue-generating assets (like water and electricity systems), leading to frequent breakdowns** – which in turn fuel public dissatisfaction and non-payment, **further undermining revenue collection**.[45]

17.5. It's a vicious cycle seen across mining regions. Declining royalty flows also strain provincial budgets for health, education, and roads in mining provinces. The **Financial and Fiscal Commission** and National Treasury have noted that provinces such as **North West and Limpopo face additional service delivery pressures in mining communities (housing, health impacts, water pollution remediation) even as mining revenues decline**.[46]

17.6. In summary, evidence from 2015–2025 overwhelmingly supports the claim that **mining-dependent municipalities have experienced an erosion of their tax base and that government revenues from mining (especially provincial shares of those revenues) have declined**, with detrimental effects on service delivery.

17.7. Official reports and case studies show that **when mines downscale or shut, local government finances go into distress**, characterised by falling property rates income, rising unemployment (reducing fees collected), and greater dependence on intergovernmental transfers.

17.8. Meanwhile, **national mining royalties and taxes have been volatile and in recent years declined**, meaning provinces have less funding to redistribute to these areas.

---

[45] https://matjhabengmunicipality.co.za/assets/resources/FinancialRecovery/1.%20Matjhabeng%20LM%20%20updated%20SQA.pdf#:~:text=services,that%20further%20undermine%20revenue%20collection

[46] https://www.gov.za/news/media-statements/financial-and-fiscal-commission-launches-202021-division-revenue#:~:text=,innovative%20business%20process%20redesign%20and

17.9. The result has been **severe fiscal strain** in municipalities like Emalahleni, Rustenburg, Sekhukhune and others, often manifesting in poor audit outcomes, infrastructure collapse, and inability to deliver basic services.

17.10. Strengthening these municipalities' financial positions, through economic diversification, improved governance, and targeted fiscal support, is critical to breaking the cycle of decline and ensuring sustainable service delivery in South Africa's mining regions.

17.11. **Fiscal and social impacts of mine closures:** The downturn in domestic mining engagement has real human costs. Even as Anglo and others withdraw capital, **mine closures have left thousands jobless and communities with unrehabilitated land**.

17.12. Tax bases of mining municipalities have eroded, and provincial revenues from mining royalties have dwindled, impairing service delivery. For example, between 2011 and 2016 only **6 mine closure certificates were issued in Mpumalanga (none for coal mines) despite the province having nearly 800 abandoned mines**[47].

17.13. Unrehabilitated pits and acid mine drainage now endanger residents' safety, water, and health, a dereliction of corporate and governmental duty that perpetuates apartheid-era spatial and environmental injustices.

17.14. **PIC's exposure and passive role:** The Public Investment Corporation (PIC), as manager of government employee pensions, is **Anglo American's largest single shareholder (7% ownership)**[48]. One would expect the PIC to leverage this stake to safeguard South Africa's long-term economic and social interests. Instead, the PIC has been conspicuously silent while Anglo shifts wealth abroad.

17.15. This passivity not only risks erosion of pension value but arguably betrays the PIC's **constitutional mandate to act in the public interest** and uphold the principles of accountability and equity in Section 195 of the Constitution.

17.16. No substantive public report has been made by PIC on how it is managing the socio-economic ramifications of Anglo's restructuring, despite the immense public stake in the company's trajectory.

18. Consistent Profits amid community neglect:

18.1. Between 2018 and 2025, **Mining Affected Communities United in Action (MACUA)** conducted community-led social audits across multiple mining regions in South Africa.

18.2. These audits reveal a consistent pattern: **while mining companies (including major firms like Anglo American and Pan African Resources)**

[47] https://www.hrw.org/report/2022/07/05/forever-mines/perpetual-rights-risks-unrehabilitated-coal-mines-south-africa#:~:text=sites%20%E2%80%93%20they%20risk%20polluting,In%20South

[48] https://ca.marketscreener.com/quote/stock/ANGLO-AMERICAN-PLC-4007113/company-shareholders/#:~:text=Name%20Equities

have reported substantial revenues and profits, their legally mandated Social and Labour Plan (SLP) commitments to local development are largely unmet.

18.3. In fact, the 2018 baseline audit already found that the promised benefits of mining (jobs, development, services) were **"not supported" by evidence on the ground, with communities experiencing burden rather than benefit**. The subsequent social audits up to 2025 reinforce this conclusion with detailed data and case studies[49].

19. High Profits vs. Minimal Community Benefit

19.1. Mining companies have continued to enjoy **high profits while investing only a token amount back into host communities**.

19.2. Across 11 audited mining sites in the 2025 report, MACUA found that these operations generated an estimated **R218.8 billion in combined turnover and R72.2 billion in profits**, yet only **about 0.13% of those profits** flowed back to the communities where the mining takes place.

19.3. For example, **Pan African Resources**, where the Police recently conducted a Vala Umgodi Operation, saw its profits rise by 78%, **yet schools in its host communities remained under-resourced**.

19.4. In short, the wealth extracted from mining-affected areas is not translating into substantive improvements in local living conditions.

20. Chronic Under-Delivery of SLP Projects

20.1. MACUA's audits uncovered a **widespread failure to deliver the projects promised in SLPs**, which are legally binding plans intended to promote social and economic development in mining communities. Key findings include:

20.1.1. **Most SLP funds never reach communities:** Out of **R376.25 million in committed SLP projects audited, roughly R284 million (75%) was unaccounted for**, either missing, undocumented, or falsely reported as delivered.

20.1.2. Only about **R92 million in projects (25%) could be verified as actually implemented** on the ground.

20.1.3. The average SLP project completion rate across the audited sites was a mere **23.3%**, with an even lower average "community value" score of **21.5%** (**indicating minimal real benefit**).

20.1.4. **"Ghost" projects and incomplete infrastructure:** Audit teams found many cases where companies claimed SLP projects were completed on paper, but site visits revealed **empty lots, unfinished structures or non-operational facilities**.

[49] https://macua.org.za/wp-content/uploads/2025/05/Looted_Promises-4.pdf

20.1.5. In **Phola**, for instance, a youth center proudly listed in reports existed only as a concrete foundation at the site. In **Ikemeleng**, a clinic that the company reported as "delivered" was found padlocked and non-functional, residents still had to travel long distances for healthcare.

20.1.6. These are not isolated incidents but part of a pattern of **projects left half-done or never started, despite budget allocations**.

20.1.7. **Unmet needs in education and health:** Several SLP projects aimed at schools and clinics have either not materialised or were done to poor standards.

20.1.8. In **Brits (Rabokala)**, a school "refurbishment" was implemented so poorly that the new structures were **declared unsafe for use**. Instead of providing new facilities, companies sometimes did the bare minimum (e.g. repainting old buildings instead of rebuilding).

20.1.9. Likewise, some communities were promised healthcare centers that remain **shuttered or unstaffed**, offering no relief to local families. MACUA reports note that **"clinics were padlocked, roads unfinished, and schools repainted instead of rebuilt"** in sites where SLP projects were ostensibly completed. These failures directly affect basic education and healthcare outcomes in mining areas.

20.1.10. **Infrastructure gaps (water, roads, housing):** Many audited communities still lack fundamental services **despite SLP commitments to improve infrastructure**.

20.1.11. For example, **over 80% of residents in one audited community (Rabokala, Brits) reported having no access to clean water**. Across multiple sites, promised water supply projects or road upgrades never materialised, leaving entire communities without safe water or proper roads.

20.1.12. In Sandfontein, a new community hall and an agricultural support center were listed as "completed" in company SLP reports, but **community interviews confirmed that construction never even began on these projects**.

20.1.13. Such cases underscore how SLP commitments to critical infrastructure (including water, sanitation, roads, and even housing in some areas) have been **routinely broken or grossly under-fulfilled**.

20.1.14. These examples illustrate a broader trend of **"developmental theft,"** in which mining companies meet the letter of SLP reporting through paperwork but **fail to deliver tangible improvements**.

20.1.15. As MACUA puts it, this is not mere underperformance but a deliberate pattern where companies *"inflate compliance reports to avoid accountability, while leaving communities with hollow shells of development"*. Communities are often left with **ghost infrastructure**, incomplete buildings, unusable facilities, or promised services that never arrive, **exacerbating poverty and frustration** in already underserved areas.

21. Systemic Issues: Lack of Transparency, Exclusion, and Non-Enforcement

21.1. The social audits between 2018 and 2025 also highlight **systemic failures** surrounding SLP implementation. These include issues of transparency, community inclusion, and regulatory oversight that have enabled SLP neglect to persist:

21.1.1. **Opacity and lack of transparency:** Even though SLPs are legally public documents (since a 2018 regulatory update), many mining companies have **withheld information about their SLP projects from communities**. Several companies – for example, *Ikwezi Mining, Glencore (Waterval), Bushveld Vametco,* and others, **refused to provide copies of their SLPs upon community request**, citing "internal policy" in defiance of transparency rules under the Mineral and Petroleum Resources Development Act (MPRDA).

21.1.2. As a result, most community members remain in the dark about what was promised. In a 2024 survey across audited sites, **97.4% of respondents had no knowledge of what an SLP is**, and nearly **97% said they had never been informed or consulted about these plans**.

21.1.3. This secrecy around obligations meant to be public ensures that local people cannot effectively monitor or claim their rights under the SLP system.

22. Excluded community participation: Meaningful consultation has been gravely lacking.

22.1. MACUA found that in the majority of cases, communities (especially women and youth) were **not involved in identifying or planning SLP projects**.

22.2. In fact, *96.8%* of over 1,300 community members surveyed reported they had **never been consulted by the mining companies** operating in their area.

22.3. Many audits noted that **"not a single woman had been consulted"** in SLP planning in some communities, despite women often bearing the heaviest social burdens.

22.4. This exclusion violates principles of **public participation** and **Free, Prior and Informed Consent (FPIC)** and leads to projects that are out of touch with actual community needs.

22.5. One result is that even when infrastructure is delivered, it may be of little value or sit unused, a phenomenon reflected in the **low "Community Value Score" (21%) recorded by the audits**.

23. Regulatory non-enforcement: failure to enforce SLP commitments.

23.1. The Department of Mineral Resources and Energy (DMRE), now referred to as the DMPR (Department of Mineral & Petroleum Resources) in some reports, is legally obligated to monitor SLP implementation and issue corrective notices for non-compliance.

23.2. However, MACUA's 2022 report found the DMRE **"consistently reluctant to apply the law,"** even when **presented with evidence of SLP non compliance**.

23.3. Regional mining officials and even the national DMPR leadership largely **ignored community submissions and social audit findings** that flagged unfinished projects and missing funds.

23.4. **No enforcement notices or penalties** were issued to offending companies as of the time of reporting. This regulatory inaction amounts to what MACUA describes as **"regulatory abandonment by design,"** whereby authorities rely on unverified company self-reporting and turn a blind eye to on-the-ground realities. The result is a loophole that enables mining corporations to **falsify or exaggerate compliance with impunity**.

24. Lack of accountability and oversight:

24.1. The social audits also point to failures of political oversight. **Parliamentary bodies have been slow or silent** in responding to the SLP crisis. Despite MACUA repeatedly briefing the **Portfolio Committee on Mineral Resources & Energy** about systemic non-compliance and community harm, the Committee **did not hold any formal inquiry or hearings** on SLP corruption through 2024.

24.2. MACUA even lodged an ethics complaint in April 2025 against the Committee's chairperson for dereliction of duty, noting conflicts of interest and the blocking of community voices, but **no investigation followed**.

24.3. This absence of oversight has fostered a culture of impunity. At the same time, communities that protest or demand accountability often face **repression**, for example, protesters are met with police action or SLAPP suits, while huge sums (millions in SLP funds) can go missing without legal consequence.

24.4. The imbalance in accountability (harsh responses to community activism versus leniency toward corporate violations) has been sharply criticised in these reports.

25. Misuse and disappearance of funds:

25.1. A recurring theme is the **"disappearance" of SLP money through mismanagement or fraud**, leading MACUA to dub the phenomenon *"Crumbs Capture."* This term reflects how even the *small fraction of mining wealth earmarked for the poor is being stolen or diverted* before it ever reaches its intended beneficiaries.

25.2. The audits uncovered numerous instances of **budgeted SLP funds simply not translating into real-world projects**. For example, at **Bushveld's Vametco mine (North West province)**, now in liquidation, roughly **R9 million in SLP funds vanished**, with **not a single functional project on site** to show for it. The community was left only with *"rusted construction signs and empty foundations"* where projects (such as school upgrades or water infrastructure) were supposed to be.

25.3. In another egregious case, the audit of **Magojaneng (Northern Cape)** found that a politically connected mining operation (UMK, co-owned by a ruling-party investment arm) **failed to deliver approximately R172 million worth of SLP obligations**, yet the mine continues to operate **without any sanction or consequence**.

25.4. These examples underscore how vast sums meant for community development have effectively been **embezzled, misreported or lost**, while oversight institutions appeared indifferent. The *"looted promises"* of SLP funds not only deprive communities of basic services but also erode public trust in the law and development framework.

25.5. Overall, MACUA's 2018–2025 social audit findings paint a stark picture of a **systemic failure in the implementation of Social and Labour Plans**. Across different provinces and companies, the **same trends** emerge: **mining companies trumpet transformation and profits, but on the ground, promised community projects remain largely undelivered**.

25.6. Communities are left with persistent poverty, underdevelopment, and a sense of betrayal, as **schools collapse, clinics stay shuttered, and basic infrastructure is absent** despite the paper commitments.

25.7. The audits attribute this crisis to *structural factors*, **lack of transparency, exclusion of communities, weak regulatory enforcement, and corporate misconduct**, which together have allowed SLP obligations to be treated as a mere formality rather than a real contract with the people.

25.8. These evidence-based findings, drawn from community testimony, site inspections, and official records, provide a compelling basis for policy intervention.

25.9. In the context of a formal petition to Parliament, they **underline the urgent need for accountability and reform**. The data shows that **without stronger oversight and inclusion of mining-affected communities**, the constitutional promise that South Africa's mineral wealth shall benefit all its people remains unfulfilled.

25.10. The **systemic "SLP gap"** identified by MACUA, billions in private profit versus broken public promises, must be closed through decisive action, so that **mining communities can finally see tangible improvements in education, healthcare, housing, and infrastructure as envisioned in the law**

26. Regulatory failure and ignored human rights findings:

26.1. The **Department of Mineral and Petroleum Resources (DMPR)** has shown a **consistent pattern of regulatory capture and institutional inertia**, privileging corporate convenience over constitutional and community rights.

26.2. This trend is not speculative, it has been systematically documented by the **South African Human Rights Commission (SAHRC)** and corroborated by legal analyses of the **Mineral and Petroleum Resources Development Act (MPRDA)**.

26.3. According to the SAHRC's **2018 National Hearing Report on the Underlying Socio-Economic Challenges of Mining-Affected Communities**, the Commission found that *"the MPRDA fails to adequately provide for community participation, environmental protection, and equitable benefit sharing"*.

26.4. The Act, in practice, entrenches a **top-down, technocratic approach** in which mining rights are granted without genuine consultation or consent from affected communities.

26.5. The SAHRC observed that despite constitutional guarantees in **Sections 24 and 33**, communities are often treated as obstacles to development rather than as rights-holders whose participation is essential to sustainable governance.

26.6. The Commission's recommendations, which included explicit calls for **community representation in licensing processes**, **transparent publication of Social and Labour Plans (SLPs)**, and **mandatory financial provisioning for mine closure and rehabilitation**, have **not been implemented by the DMPR**.

26.7. The attached analysis confirms that, seven years after the report's release, **"the structural deficiencies identified by the SAHRC persist unchanged,**

suggesting an intentional pattern of regulatory non-compliance rather than administrative delay"[50].

26.8. Furthermore, the DMPR's refusal to integrate **Free, Prior and Informed Consent (FPIC)** into mining law directly contravenes South Africa's obligations under international human rights frameworks, including the **UN Declaration on the Rights of Indigenous Peoples (UNDRIP)**.

26.9. As the SAHRC notes, South African law currently requires only "consultation," not consent, a distinction that has allowed the state to issue mining rights **without community agreement**, often resulting in social conflict and displacement (pp. 14–16).

26.10. The Commission explicitly recommended that FPIC be incorporated into the MPRDA to give substantive effect to Section 195 of the Constitution, the principle that public administration must be "accountable, transparent, and responsive to the needs of the people."

26.11. The SAHRC's findings were unequivocal: **the DMPR has failed to uphold its constitutional duty to protect the rights of mining-affected communities.**

26.12. The Commission's own monitoring shows that the Department continues to approve mining rights despite outstanding environmental liabilities, unrehabilitated sites, and incomplete SLP obligations.

26.13. This failure undermines **Section 24(b) of the Constitution**, which guarantees the right to an environment that is not harmful to health or well-being, and **Section 195**, which requires ethical, transparent, and participatory governance.

26.14. The **SAHRC and the MPRDA** analysis further argues that this inertia constitutes **"a form of soft regulatory capture"**, where policy and enforcement frameworks align more closely with the interests of extractive capital than with the public interest (pp. 18–20).

26.15. For instance, the document highlights how the Department's own internal review of the MPRDA Amendment Bill ignored civil society submissions calling for FPIC and stronger community protections, opting instead for language that diluted community rights (p. 21).

26.16. This demonstrates that the failures identified by the SAHRC are not isolated oversights but **symptoms of a systemic bias within the regulatory apparatus**.

26.17. In practical terms, this means that **mine closures, environmental degradation, and social harm continue unchecked**.

26.18. The DMPR's lack of enforcement has allowed hundreds of unrehabilitated and "ownerless" mines to persist across provinces such as Mpumalanga and North West, sites that continue to pollute water and air, infringing constitutional rights and burdening public health systems.

[50] SAHRC and the MPRDA report produced by MACUA

26.19. The absence of accountability mechanisms also allows corporations to externalise environmental costs, undermining both fiscal stability and community welfare.

26.20. As the attached MACUA report on SAHRC and the MPRDA report concludes:

26.20.1. "The state's failure to operationalise the SAHRC's recommendations amounts to a dereliction of constitutional oversight. The persistence of these failures has entrenched a governance culture where communities are systematically excluded from decisions about their land and livelihoods." (p. 24)

26.21. Taken together, these findings paint a picture of **systemic accountability failure**. Global mining corporations continue to restructure, divest, or transfer assets abroad, often under the pretext of "portfolio optimization", while **local communities, workers, and the public fiscus bear the fallout**.

26.22. Public entities like the **Public Investment Corporation (PIC)** have likewise failed to use their influence as shareholders to demand compliance with environmental and human rights standards.

26.23. Meanwhile, the **SAHRC, South Africa's constitutionally mandated human rights body, has repeatedly sounded the alarm**, yet the Executive has failed to act. This neglect undermines the Commission's authority, weakens democratic oversight, and leaves constitutional rights unenforced.

26.24. In this context, **Parliament remains the only institution with the constitutional mandate and moral authority to restore accountability**, ensuring that the mining sector operates in alignment with human rights, environmental justice, and public transparency.

27. Constitutional and Parliamentary Accountability.

27.1. Parliament and the Executive bear joint responsibility for this governance collapse. Under **Section 42(3)** and **Section 55(2)** of the Constitution, the National Assembly is elected *"to ensure government by the people"* by scrutinising executive action and **providing oversight mechanisms to hold the Executive accountable**.

27.2. Furthermore, **Section 92(2)** stipulates that Cabinet members are *collectively and individually accountable to Parliament* for the performance of their functions, and must provide Parliament with full reports on matters under their control.

27.3. In the context of mining governance, these constitutional duties translate into a clear mandate: **Parliament must actively interrogate** the decisions and omissions of those in power, including Ministers and state agencies, that have enabled unchecked capital flight, environmental damage, and neglect of mining communities.

27.4. Yet, to date, **there has been a breach of this duty**. The failure to question Anglo American's retreat, the PIC's inaction, and the DMPR's dereliction of its regulatory responsibilities represents a serious oversight lapse. This inaction by oversight bodies effectively abets executive complacency and corporate impunity.

27.5. Public resources and the nation's mineral wealth have been put at risk through non-transparent decision-making. Communities have been excluded from decisions affecting their lands and livelihoods, in violation of the participatory ethos of our Constitution (including **Section 195(1)(e)**, which demands that *"people's needs must be responded to, and the public must be encouraged to participate in policy-making"*).

27.6. The **right to an environment not harmful to health or well-being (Section 24)** has been compromised by pollution and mine abandonment, undermining also the **rights to water and health (Section 27)**.

27.7. Parliament is not a passive spectator in this scenario; it is **a constitutionally empowered counterweight** to executive failure. If it does not act, the promises of our Constitution to mining-affected communities remain hollow.

27.8. It is thus in defence of the Constitution and the public interest that this petition calls for urgent parliamentary intervention.

28. Grounds of the Petition

28.1. We, the undersigned mining-affected communities and civic organisations, submit that the following grounds warrant immediate attention and redress by Parliament:

28.1.1. **Failure of Mining Legislation and Enforcement:** The current legal framework, principally the Mineral and Petroleum Resources Development Act (MPRDA), and its enforcement mechanisms have **failed to prevent capital flight or to guarantee equitable benefit-sharing** from South Africa's mineral wealth. The spirit of the MPRDA, which declares mineral resources the common heritage of all people, is being undermined by corporate practices that externalise profits and socialise harm. In practice, mining laws have not stopped companies from **"use it and loot it"** exploitation, whereby assets are stripped and profits expatriated without adequate reinvestment or community compensation. This failure betrays constitutional principles of equality and dignity, as the State abdicates its Section 7 duty to *"respect, protect, promote and fulfil"* fundamental rights in the mining sector.

28.1.2. **Harmful Impact of Corporate Disinvestment:** Corporate decisions like Anglo American's effective exit from many South African operations (through asset sales or de-mergers) have **left workers, municipalities, and the national fiscus exposed to cascading losses and abandoned**

liabilities. The evidence of Anglo's dramatic tax/royalty contribution decline (over 75% drop in three years) and the job losses from recent mine closures illustrate the severe socio-economic toll. Local economies built around mining are plunged into crisis when a major company abruptly disinvests. Meanwhile, environmental rehabilitation duties are evaded or shifted to an under-resourced State, resulting in hundreds of unrehabilitated mines that endanger communities. Such outcomes contravene Section 24 of the Constitution (environmental rights) and amount to an unjust transfer of private burdens onto the public.

28.1.3. **PIC's Breach of Public Trust:** The Public Investment Corporation, as custodian of public pensions (GEPF) and a major investor in mining, has **not exercised due diligence or transparency in protecting national and worker interests** vis-à-vis Anglo American and other mining holdings. With roughly 7% ownership in Anglo American, the PIC had both the means and the mandate to demand responsible conduct, such as retaining jobs, reinvesting locally, and honouring social commitments, yet there is little evidence of such advocacy. This raises concern that the PIC has prioritised short-term financial metrics over its broader fiduciary duty to the South African public. The PIC's inaction in the face of Anglo's capital flight is arguably **inconsistent with the constitutional imperatives for public administration (Section 195), including accountability, responsiveness, and transparency**.

28.1.4. **DMPR's Regulatory and Ethical Failures:** The Department of Mineral and Petroleum Resources has **failed to implement the SAHRC's 2018 recommendations** on mining-affected communities, and has, in effect, delegated critical oversight to corporate players ("regulatory outsourcing"). Despite clear SAHRC findings of widespread legal non-compliance and siloed governance, the Department has not remedied chronic issues in licensing, environmental compliance, or community consultation. The SAHRC report specifically urged stronger enforcement of environmental duties, transparency in Social and Labour Plans, inclusion of communities in decision-making, and better inter-departmental coordination. Yet **seven years on, those directives have been largely ignored**, with the SAHRC itself noting that its recommendations were not carried out and abuses have continued unabated. This inaction violates not only statutory mandates but **constitutional rights to just administration and effective remedy**. It also reflects **"regulatory capture,"** wherein the regulators advance industry interests over the public interest. Such failure to govern impartially and effectively is incompatible with Section 195's requirement of a high standard of professional ethics and equitable service delivery.

28.1.5. **Exclusion of Affected Communities, Lack of FPIC:** Communities at the forefront of mining (often rural, indigenous, or historically disadvantaged groups) remain effectively **rightless stakeholders** in the current system.

They are **excluded from meaningful decision-making** about mineral projects on their land, and are routinely denied their right to **Free, Prior and Informed Consent (FPIC)**. South African law does not yet recognise a community veto over mining projects, and consultation processes are frequently superficial or marred by misinformation. This is despite international norms and a growing body of precedent establishing FPIC as a necessary standard. *For example, the United Nations in 2007 called for universal adoption of FPIC for indigenous communities before any project on their lands*[51]*, and South Africa's own Xolobeni judgment (2018) upheld that mining cannot proceed on communal land without the community's permission*[52]. By failing to guarantee communities a decisive voice, or at least a fair share of mining benefits, our current framework violates the rights to participation, property, and culture (Sections 25, 30, 31), and undermines the principle of local self-determination. The absence of FPIC also sets the stage for conflict, as seen in protests and even tragedy (e.g. the 2016 assassination of anti-mining activist Sikhosiphi Rhadebe in Xolobeni and Fikile Ntshangase in Somkele). Communities are simply asking that *"what we say matters"*, a plea this petition echoes.

28.1.6. **Ongoing Environmental Harm and Unrehabilitated Sites:** The legacy of mining has left an **ecological debt** that continues to grow due to insufficient rehabilitation and accountability. There are hundreds of **derelict or ownerless mines** leaking acid water, contaminating soil, and posing physical dangers across the country. Many companies have failed to provide adequate financial provisions for rehabilitation or have escaped liability via sales and insolvencies. Government oversight has been weak, evidenced by the fact that *"of 445 closure certificates issued countrywide from 2011–2016, only 6 were in Mpumalanga (none for coal mines)"*, while Mpumalanga alone had ~800 abandoned mines as of 2019. This is a clear breach of the **"polluter pays" principle**, which is both an international norm and part of South African law (Section 2(4)(p) of NEMA) requiring that those who cause environmental damage bear the costs of remedying it[53]. The consequence of non-enforcement is evident in communities like Ermelo and Carolina, where acid mine drainage has polluted water sources and infrastructure, infringing on the constitutional rights to water (Section 27) and a healthy environment

---

[51] https://earthworks.org/issues/fpic/#:~:text=In%20the%20past%20decade%2C%20debacles,of%20indigenous%20and%20tribal%20peoples

[52] https://www.unep.org/news-and-stories/story/south-african-indigenous-community-win-environmental-rights-case-over-mining#:~:text=depend%20on%20it%20for%20their,Applicants%20grant%20their%20consent.%E2%80%9D

[53] https://www.wylie.co.za/Articles/Read/16/Remediation-costs%3A-Who-is-liable%3F#:~:text=South%20Africa%20subscribes%20to%20the,previous%20owner%2C%20especially%20if%20the

(Section 24). Each day that mines remain unrehabilitated is a day that constitutional rights are violated anew. This petition asserts that such **ecological injustice** is no less urgent than economic injustice, and that Parliament must act to correct it.

29. Comparative Lens: Canada's higher bar on consent.

29.1. **Consent & consultation architecture:**

29.1.1. Canada enacted a federal UNDRIP implementation statute (**Bill C-15, 2021**), committing to align federal laws with UNDRIP and acknowledging the **duty to consult and accommodate** Indigenous peoples where rights may be impacted.[54]

29.1.2. Provinces like **British Columbia** have operationalised **FPIC-aligned processes** in environmental assessments (EAO guidance) and the **Declaration on the Rights of Indigenous Peoples Act (DRIPA)** framework, explicitly aiming to **create opportunities for Indigenous consent decisions**.

29.2. **Mandatory disclosure and technical reporting**

29.2.1. Canada's **NI 43-101** imposes stringent standards for technical disclosure (Qualified Person sign-off; detailed content and assumptions), policed by securities regulators.

29.2.2. South Africa's **Code for the Reporting of Exploration Results, Mineral Resources, and Mineral Reserves** (**SAMREC)** code exists and is recognised by the JSE, but public reporting and enforcement latitude remain broader and, per MACUA/SAHRC evidence, **downstream compliance (SLPs, community rights) is not comparably enforced**.

29.3. **Mine-closure financial assurance (bonding)**

29.3.1. Canadian jurisdictions typically require **closure plans** backed by **financial assurance** posted up-front (or phased, but always sized to cover outstanding liabilities), and security is **held by the Crown** until obligations are met (e.g., BC and Ontario rules/guidance).[55]

29.3.2. Policies increasingly target **100% security coverage** of reclamation liability to protect taxpayers if a company defaults.

---

[54] https://www.justice.gc.ca/eng/trans/bm-mb/other-autre/c15/qa-qr.html

[55] https://www2.gov.bc.ca/gov/content/industry/mineral-exploration-mining/permitting/mine-reclamation-securities

29.4. **Public-interest oversight on foreign investment/restructurings ("exit tests")**

29.4.1. Under the **Investment Canada Act**, significant transactions can face a **"net benefit to Canada"** review, where ministers can require **binding undertakings** on employment, capital expenditure, R&D, and local participation as a condition for approval; thresholds and guidance are published and updated.[56]

29.4.2. **Implication:** In Canada, consent/consultation duties, disclosure standards, bonding, and public-interest reviews **raise the floor** for corporate conduct and community protection. South Africa, by contrast, **does not require FPIC**, does **not** tie closure to SLP delivery, and **rarely enforces** SLP breaches, while royalties remain light. The comparative burden is **clearly higher** in Canada.

29.5. **Why the "policy is to blame" argument fails on its own terms**

29.5.1. If South African policy were unusually restrictive, we would observe **tighter ex-ante consent standards, automatic penalties for SLP failures, mandatory public registers of enforcement, and strong closure bonding**.

29.5.2. Investment hesitancy tracks **infrastructure/logistics** constraints and **uncertainty/weak enforcement**, not the presence of rigorous rights-based regulation (which is largely absent).

29.5.3. Blaming "unsupportive policy" deflects from **companies' own retreat** and the state's failure to enforce obligations that would convert mineral wealth into local benefits.

30. What Parliament can do

30.1. **Legislate FPIC** into the MPRDA and its regulations (aligning with Constitutional Court jurisprudence and SAHRC directives).

30.2. **Harden SLPs**: set **minimum content and funding floors**, require **publication**, create **independent oversight**, and **link closure certificates** to SLP delivery, mirroring international practice of tying closure to verifiable obligations.

30.3. **Adopt a Public-Interest Exit Test** for delistings/redomiciles/major restructurings, drawing on the **Investment Canada Act** model (pre-approval conditions/undertakings on jobs, capex, community obligations, and environmental liabilities).

[56] https://ised-isde.canada.ca/site/investment-canada-act/en/investment-canada-act/guidelines/all-guidelines

31. In conclusion

31.1. The weight of evidence shows **South Africa's mining regime is not "restrictive"** in the senses that matter for rights and accountability. It is permissive (no FPIC), **poorly enforced** (SLPs), and **light** on fiscal rent capture (sliding-scale royalties), while the real deterrents to investment are **logistics and governance failures**.

31.2. By contrast, jurisdictions like Canada impose **higher legal and public-interest bars**, from FPIC-aligned processes and rigorous disclosure to bonding and **net-benefit** reviews.

31.3. Parliament should therefore **reject the over-regulation narrative** and instead legislate **enforcement, FPIC, transparency, and a Public-Interest Exit Test**.

31.4. In light of the above grounds, which span economic, social, and environmental dimensions, it is clear that the status quo in mining governance is untenable and unconstitutional. The people who **built South Africa's mining industry, workers, communities, and taxpayers, cannot be abandoned as private capital departs**. Remedial action is both a moral and legal imperative.

32. Relief Sought:

32.1. Accordingly, we respectfully call upon Parliament to exercise its full powers under the Constitution and law to provide the following relief:

32.1.1. **Establish a Joint Parliamentary Inquiry:** In terms of Sections 55 and **56 of the Constitution**, the National Assembly (through its committees) can **summon persons, require reports, and investigate matters** of public interest. We urge the Assembly to convene a multi-party *Joint Inquiry* – drawing on the Portfolio Committees on Mineral Resources & Energy; Finance; Public Enterprises (for PIC oversight); Public Service & Administration; and Environment, to investigate:

32.1.1.1. **Anglo American's disinvestment and capital-flight practices:** Scrutinise the extent of assets and funds shifted abroad, the impact on jobs and revenues, and whether any regulatory or tax provisions were exploited. The inquiry should compel testimony from Anglo American's leadership (including those now heading "Anglo Teck" in Canada) on their undertakings to South Africa, especially in light of the generous support the company historically enjoyed (e.g. state-backed protection from the BHP bid and other incentives).

32.1.1.2. **The PIC's stewardship of public assets:** Examine the PIC's actions (or lack thereof) regarding Anglo American and other mining investments. This includes probing whether the PIC conducted proper risk assessments on Anglo's restructuring, what governance engagement it pursued as a major shareholder, and whether it complied with Section 195 values of

accountability and transparency (e.g., did it report potential losses of value or social impact to its ultimate beneficiaries, the government employees?).

32.1.1.3. **The DMPR/DMRE's response to the SAHRC and overall regulatory compliance:** Determine why the **SAHRC's 2018 recommendations have not been implemented**, by hearing from the Minister and officials on steps taken, budgetary issues, and any disagreements they had with the SAHRC's findings. The inquiry should also look into the current state of compliance monitoring, for instance, how many mining rights holders are in violation of environmental or social obligations, and what enforcement (if any) has been pursued. It should investigate allegations that **mining companies routinely "dodged responsibility" on approval conditions** and that the Department asked SAHRC to fund implementation of recommendations[57], which points to a disturbing abdication of duty.

32.1.1.4. **The systemic neglect of mining-affected communities:** Provide a platform for community representatives from major mining regions (e.g. Emalahleni, Rustenburg, Sekhukhune, Matjhabeng, etc.) to present evidence on living conditions, unmet commitments by companies, and interactions with regulators. The inquiry should document the human toll of regulatory failure: health impacts, water scarcity due to mine pollution, loss of agricultural land, etc., all of which relate to constitutional rights. It should also consider whether current laws (MPRDA, NEMA, etc.) and institutional arrangements adequately empower communities or if reforms (like formalising FPIC or strengthening local government role) are needed. The Joint Inquiry's mandate would be to report back to the Assembly with findings and recommendations, including potential culpability of any officials or executives and any legislative gaps identified. The inquiry hearings should be open to the public to restore confidence in oversight.

32.1.1.5. **Inter-departmental inputs**, including from National Treasury (on tax leakage and illicit financial flows in mining), the Department of Environment, Forestry & Fisheries (on compliance with NEMA and the state of environmental monitoring in mining regions), and the Department of Water & Sanitation (on water use license compliance and acid mine drainage management). This multi-faceted issue spans beyond one department, and a coordinated report would help Parliament see the full picture. By ordering these disclosures, Parliament would send an immediate signal that opacity and evasion will no longer be tolerated. It would also arm itself with the data needed to legislate effectively.

32.1.1.6. **Initiate Reforms to the MPRDA and Related Legislation:** The petitioners urge Parliament to draft and adopt amendments to the mining

[57] https://pmg.org.za/committee/58/

and environmental laws to **rectify structural injustices**. Among the reforms we propose for consideration are:

32.1.1.6.1. **Incorporation of Free, Prior and Informed Consent (FPIC):** Amend the MPRDA to require that *no mining right be granted, renewed, or transferred without the **Free, Prior and Informed Consent*** of affected communities (in particular, those with informal or customary land rights). This goes beyond the current consultation requirements by giving communities a decisive say. It aligns with emerging international law and the spirit of the 2018 Xolobeni decision affirming community consent. FPIC should be defined in law (drawing from established criteria: free from coercion, prior timing, informed by full disclosure, and consent through community decision-making processes). This reform will help prevent conflict and ensure that projects only proceed where they are socially sustainable.

32.1.1.6.2. **Benefit-Sharing and "Resource Sovereignty" Mechanisms:** Introduce provisions to **ring-fence a portion of mining revenues** (royalties, windfall taxes, or a share of profits) for direct benefit of host communities and mine labour. This could be done via community trusts or local development funds that are transparently managed with community and worker representation. Parliament should ensure that royalties and taxes meant for community upliftment (such as through SLPs) are *actually spent on education, housing, healthcare, and infrastructure for those communities*. If current SLP enforcement is weak, consider establishing an independent oversight body or trustee for community funds. The principle should be that **those bearing the social and environmental costs of mining receive a fair share of its economic benefits**.

32.1.1.6.3. **Strengthening Environmental Accountability:** Amend NEMA or the MPRDA to plug loopholes in financial provisioning for mine closure. For instance, require independent assessment of cleanup costs (subject to public review) and annual updating of rehab funds (enforcing Section 24P of MPRDA and NEMA regulations). Also, codify the **"polluter pays" principle strongly**: companies that cease operations without proper rehabilitation should face financial penalties, and their directors should be held liable, to prevent the pattern of mines being sold off to shell companies that evade cleanup. In line with Section 2(4)(p) of NEMA, the law should empower regulators to seize assets or insurance to fund rehabilitation if needed.

32.1.1.6.4. **Governance of the Public Investment Corporation:** Given the PIC's importance, we propose introducing a requirement that appointments to the PIC Board be subject to **parliamentary confirmation hearings** (similar to Chapter 9 institutions). This would help ensure only persons of high competence and integrity oversee the nation's pension

investments, insulating the PIC from narrow political or corporate capture. Additionally, mandate the PIC to publish an annual stewardship report detailing how it has advanced ESG (environmental, social, governance) objectives in its investee companies, especially those like Anglo that have major socio-economic impact. Through these legislative reforms, Parliament can restore a measure of **justice and balance** to the mining sector, aligning it with the constitutional vision of equality, dignity, and sustainable development.

32.1.1.6.5. **Address Historical and Ongoing Ecological Damage:** We ask Parliament to spearhead a **national assessment of the "ecological debt"** owed by mining corporations to South Africa. This would involve:

32.1.1.6.5.1. **Commissioning an independent audit** of all unrehabilitated mines and polluted sites attributable to major mining houses (for example, legacy Anglo American coal and gold operations, among others). The audit should quantify the remediation costs for each site and identify responsible parties. It is only by knowing the true cost that a rational plan for reparations can be made.

32.1.1.6.5.2. Based on the findings, develop a framework for **reparations and environmental remediation** that holds companies accountable in line with the *polluter-pays principle*. This may include compelling companies (or their successors) to fund cleanup of old sites or contribute to a dedicated **Rehabilitation Fund** for orphaned mines. Notably, international jurisprudence supports this approach: in a 2024 judgment, the Inter-American Court of Human Rights ordered collective reparations for a Peruvian town poisoned by decades of smelter pollution – including environmental cleanup, specialized health care for victims, and compensation – recognizing these remedies as essential to vindicate the community's rights[58]. South Africa should be no less bold in seeking remedies for Mpumalanga's acid mine drainage, the Vaal River's pollution, or the radioactive mine residue around Johannesburg. Our legal system (via NEMA and constitutional damages) already allows for such measures; Parliament's role is to formulate the policy and push the Executive to implement it.

32.1.1.6.5.3. Considering climate change commitments, **assess the climate-related harm from mining emissions** (such as coal's contribution to CO_2 and the costs of transitioning coal communities). This is part of the broader "ecological debt." Companies that profited from high-carbon activities should assist in funding adaptation and transition measures for affected workers and regions, consistent with climate justice principles.

32.1.1.6.5.4. Ensure that **any future mine closures or exits require a "just transition plan"**, meaning companies must invest in alternative

[58] https://earthjustice.org/experts/jacob-kopas/la-oroya-v-peru-historic-precedent-on-human-rights-and-the-environment

economic opportunities (agriculture, tourism, renewable energy, etc.) for the local area to mitigate the socio-economic shock. This could be tied into licensing conditions or closure approvals.The aim is a comprehensive reckoning and responsibility for environmental impacts, past, present, and future. It is time to give practical effect to Section 24(b) of the Constitution, which calls for *"secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development."* By enforcing polluter-pays and reparations, Parliament will be upholding this constitutional directive and global best practice.

32.1.1.6.5.5. **Safeguard Jobs and Local Economies in Mining Transitions:** Lastly, Parliament should act to prevent in future the kind of unilateral disinvestment that Anglo American undertook, by embedding requirements for a **"Just Transition and Job Protection Compact"** whenever a mining company plans large-scale restructuring or a foreign merger/exit. Concretely, we request that Parliament:

32.1.1.6.5.5.1. **Mandate advanced notification and negotiations** for any mine closure or major downscaling. Companies should, by law, give the government and workers' representatives sufficient notice (at least 12–24 months) of any intended operation cessation, and during that period engage in good-faith negotiations to save jobs or retrain/redeploy workers. If a multinational is selling its South African assets, the deal should be reviewed for its impacts, much like how other countries screen foreign takeovers for national interest. The Canadian government, for instance, extracted a commitment of "no net job losses in Canada" and a $4.5 billion investment pledge as conditions for approving the Anglo-Teck merger[59]. South Africa must likewise leverage its approval processes to protect local interests.

32.1.1.6.5.5.2. **Include in the MPRDA a requirement for a Social Exit Plan:** Before a mineral right can be transferred or relinquished, the company must submit a Social Exit Plan detailing how it will mitigate the closure's impact on employees and the community. This could involve severance packages, worker retraining programs, transfer of community projects to local authorities, and funding for infrastructure to replace company-provided services. The Exit Plan should be subject to public consultation and sign-off by regulators. Failure to adequately provide for a just transition should be grounds to withhold consent for the transaction.

32.1.1.6.5.5.3. **Impose local re-investment commitments:** If a company is moving capital out, there should be enforceable commitments for local

[59] https://www.theguardian.com/business/2025/sep/09/anglo-american-merge-teck-copper-london-listing#:~:text=The%20merger%20to%20form%20one,its%20headquarters%20to%20Vancouver%2C%20Canada

reinvestment or contributions to development funds. For example, if Anglo American plc is paying a special $4.5 billion dividend to shareholders ahead of its merger, policymakers could question why a portion of that windfall is not being funneled into a South African just transition fund to support ex-mining communities. Going forward, legislative mechanisms (perhaps via tax incentives or penalties) could be devised to encourage that a fair share of the wealth generated from South African resources stays in the country to develop other industries and jobs.

32.2. In summary, Parliament is asked to **legislate for the future**, to ensure that South Africa's mining communities are not simply left as ghost towns and scarred landscapes when capital leaves but are supported into new livelihoods with dignity. This is aligned with the constitutional values of human dignity and social justice, as well as South Africa's international commitments to sustainable development.

33. Requested Parliamentary Actions;

33.1. To effect the above relief, the petitioners request that Parliament take the following **immediate actions**:

33.1.1. **Formally refer this petition to the Portfolio Committee on Mineral Resources and Energy**, as well as any other relevant committees (for example, Trade and Industry for aspects of investment, and Environment for rehabilitation issues), for urgent consideration and public hearings. The Rules of Parliament allow committees to hear evidence on petitions; we urge that this process begin forthwith given the ongoing harm detailed. Time is of the essence especially for communities facing current mine closures and environmental dangers.

33.1.2. **Exercise summons powers** to call key officials and stakeholders to account. In particular, we request that the *Ministers of Mineral Resources & Energy, Finance, and Public Enterprises*, the *Chairperson or head of the PIC*, and senior executives of **Anglo American** (including its Chief Executive **Duncan Wanblad**) and **Teck Resources** (given the merger) be **summoned to testify under oath** before the committee(s). Their testimony should cover the issues raised: Anglo/Teck on their investment decisions and responsibilities to SA; PIC on its oversight approach; DMRE on regulatory enforcement; and National Treasury on fiscal losses. This will ensure a complete record and enable Parliament to make informed determinations.

33.1.3. **Within 90 days, table a Joint Report to the National Assembly** with findings and recommended actions. The outcome of the Joint Inquiry and committee engagements should be consolidated into a report that Parliament can debate and adopt. We urge that the report not only highlight problems but put forward concrete **legislative amendments** (as sketched above)

and **budgetary or fiscal measures** (such as increased funding for mine rehabilitation via either public funds or levies on industry). The report could also recommend executive actions, like instructing the DMPR to implement specific SAHRC recommendations by a set deadline or requiring the PIC to improve its investment mandate criteria. Crucially, the report should address how to align mining governance with the Constitution, reasserting the supremacy of constitutional rights in this sector.

33.1.4. We further request that this process be conducted with transparency and that petitioners and affected communities be kept informed and allowed continued participation where appropriate (for example, providing submissions to the inquiry or commenting on draft legislation).

34. Conclusion

34.1. This petition is lodged at a defining moment for South Africa's democracy. The **extraction of wealth without accountability**, exemplified by Anglo American's exit, the PIC's inaction, and the DMPR's regulatory failures, exposes not only corporate impunity but also a weakening of parliamentary oversight itself. If unchecked, these trends will deepen inequality, undermine the rule of law, and erode public trust in our institutions.

34.2. Parliament is the tribune of the people. It is empowered to correct the course when the executive falls short and when private power overshadows public good. We call upon Parliament to act decisively, to reclaim the "public" in public resources and investment, and to ensure that South Africa's mineral and financial wealth serve **the people, not private empires**. By doing so, Parliament will be honouring its constitutional role and the sacrifices of mining communities who, for generations, have given their labour and land to build this nation.

34.3. South Africa stands at a crossroads where choices made now will determine whether mining continues to be a story of dispossession or becomes a story of shared prosperity and restorative justice. We urge you to choose the latter by granting the relief sought in this petition.

Signed by Christopher Rutledge on behalf of:
*Mining Affected Communities United in Action (**MACUA**)*

*Tlou Mogale Foundation(**TMF**)*

*Bench marks Foundation(**BMF**)*

*South African Federation of Trade Unions (**SAFTU**)*

*General Industries Workers Union of South Africa (**GIWUSA**)*

*Institute for Economic Justice(**IEJ**)*

*Centre for Applied Legal Studies(**CALS**)*

*Lawyers for Human Rights(**LHR**)*

*Legal Resource Centre(**LRC**)*

*Just Share(**JS**)*

*Open Secrets (**OS**)*

Date: 26 November 2025

Appendices: *Attached separately – includes:*

MACUA Social Audit Report: Looted Promises 2025

MACUA SEIAS Report

MACUA Report on the SAHRC and the MPRDA