

Here's what you need to know:

UPSTREAM PETROLEUM RESOURCES DEVELOPMENT BILL

Voted on by the National Council of Provinces
in **ONE** day

National Council of Provinces is the house of Parliament that represents the interests of the provinces. It has the power to consider, amend, and pass legislation.



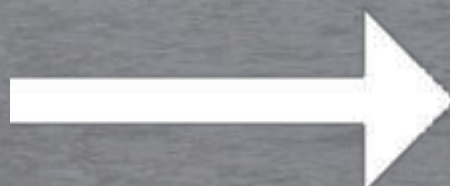
SUMMARY

1) What is the Bill?

2) Problems with the Bill

3) The Green Connection's stance

4) What's next?



1) WHAT IS THE UPSTREAM PETROLEUM RESOURCES DEVELOPMENT BILL (UPRDB)?

The UPRDB aims to facilitate and accelerate the exploration of South Africa's oil and gas resources.

For example, it proposes separating the regulation of petroleum resources from that of mineral resources, to provide a more stable and predictable environment for investors in the petroleum industry.



2)

PROBLEMS WITH THE BILL

Section 24 of the South African Constitution:
“Everyone has the right to have the environment protected.”

Oil and gas are polluting fossil fuels that are responsible for climate change.

The scientific consensus is that the world needs to divest from fossil fuels if we are to have a liveable future.

Accelerating fossil fuel exploration contradicts South Africa's international commitments to reduce greenhouse gas emissions (Kyoto Protocol and Paris Agreement).



BILL

To provide for orderly development of petroleum resources; to provide for equitable access to, and sustainable development of, the nation's petroleum resources; to provide for active State and black persons' participation in the development of the nation's petroleum resources; to provide for a petroleum right that integrates the right to explore and to produce; to provide for the facilitation of acquisition of petroleum geo-technical data; to provide for a controlled application system through licensing rounds; **to create an enabling environment for the acceleration of exploration and production of the nation's petroleum resources;** to provide for third party access to upstream petroleum infrastructure; to provide for a petroleum right holder to sell a percentage of petroleum to the State for strategic stock requirements; to designate a state-owned company as an entity responsible for managing the State's carried interest in petroleum rights; to provide for the advancement of national developmental imperatives by the state-owned company through the development of petroleum resources; to provide for the holder of a petroleum right to retain its empowerment status after the exit of black persons under circumscribed circumstances; to provide for local content as a development strategy to enable skills development, local recruitment and national participation through supply of goods and services; to designate the Petroleum Agency of South Africa as the regulatory authority for the upstream petroleum sector; and to provide for matters connected therewith.

PREAMBLE

ACKNOWLEDGING that South Africa's petroleum resources belong to the nation and that the State is the custodian thereof;

RECOGNISING that petroleum resources are non-renewable natural resources and must contribute to South Africa's social and economic development;

FURTHER RECOGNISING **the need to accelerate petroleum exploration and production;** and

REAFFIRMING the State's commitment to regulatory certainty and guaranteeing security of tenure in respect of petroleum rights,



2)

PROBLEMS WITH THE BILL

Section 24 of the South African Constitution:
“Everyone has the right to an environment that is not harmful to their health or wellbeing.”

Exposure to the pollutants released during fossil fuel extraction contributes to respiratory diseases, cardiovascular problems (Source: Harvard School of Public Health).

Increased investment in fossil fuels raises the risk of worsening climate change, resulting in more frequent and severe extreme weather events (Source: Western Cape Government).

For example: In May 2022, the KwaZulu-Natal province recorded the worst flooding in almost three decades. There were 459 fatalities (Source: Bloomberg).

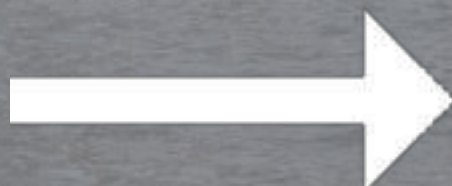


3)

THE GREEN CONNECTION'S STANCE

We submitted a letter to the National Council of Provinces stating that the bill undermines the Constitution and should not pass it in its current form.

We did not receive a reply.



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THE GREEN CONNECTION

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4 April 2024

To: Mr. Nkosiyakhe Amos Masondo
Chairperson of the National Council of Provinces
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To: Mr. Archibold Jomo Nyambi
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To: Adv. Modibedi Phindela
Secretary to the National Council of Provinces
PER: (Email) phindela@parliament.gov.za

Dear Hon Masondo, and colleagues,

The Upstream Petroleum Resource Development Bill [B13-2021] Undermines the Constitution and Parliament Should Not Pass it In Its Current Form.

We write to you as The Green Connection, a registered non-governmental ecojustice organisation, that promotes sustainable development.

The Green Connection has submitted extensive comments on the UPRDB in both the National Assembly as well as the NCOP public participation process. Part of our concern is that despite many civil society submissions, these comments were not taken into account and parliament seems intent on approving the current UPRDB which remains a flawed piece of legislation that we believe is completely out of step with our Constitution.

The Constitution of South Africa safeguards our human rights, and all legislation must pass constitutional muster. We believe that parliament and our current law makers have fallen short of their duty by approving the UPRDB. We therefore write to you to bring this to your attention so that you may intervene, to ensure that parliament effectively carries out its responsibilities.

Section 24: The right to a healthy environment:

"24. Everyone has the right— (a) to an environment that is not harmful to their health or wellbeing; and (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that— (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development."

Importantly, section 24 highlights the need to ensure that the environment is protected for the benefit of present and future generations. The aim of the UPRDB is to create a new regime for the exploitation of petroleum resources and to accelerate its exploitation. Oil and gas are polluting fossil fuels that are responsible for climate change and the scientific consensus is that the world needs to divest from fossil fuels if we are to have a liveable future.



3)



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This aim is contrary to South Africa's international and national climate change commitments and will undermine our national climate goals. Climate change effects such as floods have severely affected many vulnerable communities in South Africa [claiming hundreds](#) of lives in KwaZulu – Natal , while these are the communities that contributed least to climate change. The implementation of the UPRDB will lead to undermining our climate commitments and contribute to increased suffering due to climate change both for this generation and the next – this contravenes section 24.

Section 32: The right to accessing information:

"32. (1) Everyone has the right of access to— (a) any information held by the state; and (b) any information that is held by another person and that is required for the exercise or protection of any rights

Section 33: The right to just administrative action:

"33. (1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.

The provisions made for consultation under the UPRDB are inadequate, and do not meet the requirements for procedurally fair administrative action.

Section 18 allows for a person to appeal a decision but does not provide for such persons to be informed of such decisions, while section 19 enables interested and affected parties to be consulted but no provision is made in the UPRD Bill for sufficient information to be provided to I&APs to inform their comments (meaning that I&APs are required to comment or object 'blind').

This bill will not promote the much-needed local economic growth as its exploitation and extraction will only benefit the multi-national oil and gas companies, whilst communities bear the burden of the environmental harm. It is incumbent on lawmakers to uphold their duties of good governance and ensure that law making takes place within our constitutional framework as per Section 9 of the constitution.

Section 9: Right to equality

1. Everyone is equal before the law and has the right to equal protection and benefit of the law – Laws may not unfairly discriminate against anyone, and everyone is entitled to equal rights and freedoms.

We urge the National Council of Provinces to not pass the UPRDB in its current form. We believe this UPRDB in its current form unconstitutional and will have dire negative impacts on vulnerable communities.

We look forward to hearing from you and are open to have further discussions.

Your sincerely,

The Green Connection

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WHAT'S NEXT?

The Bill is scheduled to be tabled in the National Council of Provinces **tomorrow**, on April 25th.

If it is approved, it will be sent to the President for assent. If the President agrees with the Bill, he signs it. Then it becomes law. However, if he believes it is unconstitutional, he can refer it back to Parliament for reconsideration.

On the same date, the **Climate Change Bill** will too be considered by the NCOP.

