Communities want fairer say in mining laws

Late last year, just before the December shut down period, the Department of Mineral Resources and Energy released two important draft pieces of legislation for public comment. The Mineral Resources and Petroleum Development Regulations and the Mine Community Resettlement Guidelines were initially open for comment for one month until 27 December 2019 and 4 January 2020 respectively. These deadlines were later both extended to 31 January 2020 after pressure from community networks and civil society groups.

Image: Wikipedia

The Wits Centre for Applied Legal Studies (CALS), which is part of a collective of community networks and civil society groups, says both bills have far-reaching implications for mining affected communities and deserve considered, meaningful engagement. "Releasing them for public comment for a month over December, without proper consultation, shows a disregard for the people the department is meant to serve and further perpetuates the marginalisation of mining affected communities. In fact, our courts have recognised communities and community networks as key stakeholders in mining who must be consulted on the laws and policies that affect them," it said

In addition to the public participation process being flawed, both bills represent a further disregard for mining communities, CALS says. "Neither recognises that communities have a right to free prior and informed consent, to decide whether or not mining should take place, despite the major gains and court victories which have found that they should."

The collective is delivering its demands to the department, which include:

- A mining framework which is based on community agency in determining development and the right to free prior and informed consent.
  A broad-based public participation process for the draft laws with community networks, civil society organisations and trade unions.
- No laws or policies allowing resettlement without the consent of each person proposed to be resettled