

SOUTH AFRICAN HUMAN RIGHTS COMMISSION



Briefing to the Portfolio Committee on Mineral Resources and Energy National Assembly

On SAHRC Report on the Hearing on Issues and Challenges in relation to Unregulated Artisanal Underground and Surface Mining Activities in South Africa





Background

Before the National Hearing, the Commission's intervention on the issues of illegal mining were:

- ❖ In 2013, hosted a roundtable discussion on illegal mining to discuss human rights concerns associated with illegal mining;
- ❖ In 2013, provincial hearing in the mining community of Kommagas, Northern Cape to address and understand the artisanal mining tragedy that happened at Bontekoe mine;
- ❖ The Commission has also held several stakeholder engagements with experts and conducted site visit;

National Investigative Hearing on Unregulated Artisanal Mining



- ❖ In 2015, SAHRC undertook an investigative hearing into the issues and challenges relating to unregulated artisanal underground and above ground mining in South Africa.
- ❖ One of the objective of the hearing was to exploit avenues on how zamazamas can be counteracted and how livelihoods taken away with retrenchments of workers be installed with artisanal mining.
- ❖ The panel received submissions and heard oral testimonies from representatives from Chamber of Mines, Department of Mineral Resources, Department of Health, Department of Labour, the National Coordination Strategic Management Team on illegal Mining amongst other stakeholders.



Summary of Findings

- ❖ Lack of research and literature on the issue in South Africa
- ❖ Poor understanding of the profile of the 'zamazama'
 - ❖ As not all zamazamas began with intention to becoming involved in criminal syndicates and;
 - ❖ Not all zamazamas are non-nationals and illegal immigrants
- ❖ Legislations like Mineral and Petroleum Resources Development Act have failed to prevent criminal and dangerous practices
- ❖ That artisanal and small-scale mining is linked to other forms of criminality like: thieving of cables and tax evasion
- ❖ That some artisanal mining process have the potential to enable job creation and support informal trade and other economic activities



Summary of Findings (2)

- ❖ That artisanal mining cannot be eradicated if social economic conditions like poverty, unemployment, inequality persists;
- ❖ That the current mining legislation does not properly provide for artisanal mining



Summary of Recommendations

- ❖ Research that identifies the size, shape and scope of artisanal mining in the country;
- ❖ Build the profiles of zamazamas, illegal gold trading syndicates, and corrupt SAPS and security officials;
- ❖ Look at opportunities that artisanal mining can offer for marginalised people;
- ❖ Begin to unearth the hazards and risks - including in relation to health and considering psycho-social factors - connected to AM activities;
- ❖ Social conditions such as poverty and unemployment be monitored by way of implementation of development plans in mining areas;



Summary of Recommendations (2)

- ❖ State takes a firm stance in addressing the extent to which illegality pervades the entire mining industry, causing negative environmental and health impacts.



Impact on Human Rights

Given the prevalence of illegal mining the SAHRC is concerned of its impact of human rights. The following rights are directly impacted:

- ❖ Right to life
- ❖ Right to dignity
- ❖ Right to safe environment
- ❖ Freedom and security of person
- ❖ Right to health



Proposed Way Forward

The Commission believes its recommendation is still relevant today and as such will take the follow steps:

- ❖ Engage with the DMR to monitor the implementation of its recommendation;
- ❖ Engage with experts to develop a wealth of information;
- ❖ Conduct further research on artisanal mining;
- ❖ Develop a data-based recommendations;



Proposal to the Parliament

First, the Commission suggests that Parliament use its section 55 powers in terms of the Constitution “to ensure that all executive organs of state in the national sphere of government” who have a role to play in terms of the Commission’s recommendations fulfil such a role;

Secondly, and in addition to the above, the commission would like Parliament to request update reports from all those organs of state that have a responsibility in terms of the Commission’s report;

Thirdly, the Commission would like Parliament to consider having periodic meetings with the Commission on progress in the implementation of the recommendations of the report;

Lastly, the Commission would like Parliament to consider establishing an ad-hoc committee that would also include a Commissioner of the SAHRC in order to look at the issue of artisanal mining especially as contained in the Commissions report.



END

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