



# Pfanelo

Celebrating 20 years of the SAHRC: 02 October 1995 - October 2015

Transforming Society. Securing Rights. Restoring Dignity.

The South African Human Rights Commission Newsletter



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## SAHRC joins hands with UNICEF to highlight the impact of mining activities on children



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**SAHRC concerned that racism is still a problem in SA**

## 21 March: Human Rights Day

### *Sharpeville: Remembering our struggle for human rights*

Human Rights Day, 21 March, is a national holiday celebrating the sacrifices ordinary South Africans have made for their freedom. On this day in 1960, about 5 000 people gathered outside the police station in Sharpeville, a township.

The crowd was peaceful, but demanding to be arrested for disobeying the inhuman pass laws. Instead, police guns blazed - and 69 people died.

South Africa's Human Rights Day is 21 March. That date is also the United Nations International Day for the Elimination of Racial Discrimination. It is the day when, in 1960, 69 ordinary South Africans were gunned down by police - for protesting against the apartheid pass laws, and peacefully demanding to be arrested.

The protest took place in the historic township Sharpeville, which lies between the industrial cities of Vanderbijlpark and Vereeniging, about 50 kilometres south of Johannesburg. Source: SAhistory.org

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# Mines exploiting child labour in Africa - mining entrepreneur Bridgette Radebe



From left to right; Mr Buti Manamela, Deputy Minister in the Presidency; Ms. Kgomo Tshaka, Sustainability Executive; Mr Mike Teke, President of Chamber of Mines; Nadia Albino, United Nations Chief of Education; Nolitha Mtibe, TechnoGirl Alumni and Mrs Bridgette Radebe, Founder & President, SAMDA.

The United Nations Children's Fund (UNICEF) South Africa together with the South African Human Rights Commission (SAHRC) and the National Business Initiative (NBI) hosted a breakfast dialogue on 09 February 2016 to understand the social and economic impact on children in South Africa's mining communities. The Breakfast Meeting on the side-lines of the African Mining Indaba presented an opportunity to engage with mining sector stakeholders on child rights impacts, and position children and young people as a distinct stakeholder group that can be prioritized by the industry. The dialogue introduced the 'Children's Rights and Business Principles' (The Principles). The Principles identify a range of actions that all businesses could take to respect children's rights – to prevent and address any adverse impact on children's welfare and well-being.

**Mines exploit child labour in Africa and the world is doing little about it**

By Jay Caboz, FORBES AFRICA  
09 Feb 2016

(Mining Indaba, Cape Town) Mines exploit child labour in Africa and the world is doing little about it. This is the clear message from mining entrepreneur Bridgette Radebe, executive chairperson of Mmakau Mining, after the inaugural United Nations Children's Fund (UNICEF) breakfast round table, in the shadow of Table Mountain, running alongside the Mining Indaba.

"I don't want my daughter, nephew and nieces to stand up at my age and say we didn't do enough," says Radebe.

The message comes off the back of the African Union's 2063 key principles that targets youth as vital stakeholders of business. Social impacts such as poor living conditions, forced labour in unregulated mining and sexual exploitation remain prevalent issues according to Lindiwe Mokate, Commissioner of the South African Human Rights Commission.

"Over the last 20 years, we have seen a negative impact from mining. Our research shows children are affected at every stage of mining. We have

complaints from schools failing to be relocated, to environmental degradation of toxic water in Gauteng. Closed mines have caused houses to crack and sink holes where children have drowned. There are cases of unregulated mining where unlisted mining use children," says Mokate.

Radebe, who grew up in a township outside of mining town Klerksdrop, South Africa, was the first black female South African mine owner in the 1980s.

"It pains me to say, that goals set out by the 2014 mining charter have still not been met. Less than 40 per cent has been transformed to black management. We should have industrialisation....people shouldn't be living in shacks. If you read those 2014 goals the deliverables by mining companies have not been delivered," says Radebe.

## Did you know?

SAHRC's Children's Rights and Business Principles report available on [www.sahrc.org.za](http://www.sahrc.org.za) raises concern over the impact of mining activities on children.

# Mining the real gold: Children as stakeholders in sustainable development

By Commissioner Lindiwe Mokate  
SAHRC Commissioner responsible for Basic Education and Child Rights



The Mining Indaba is regarded as the largest mining investment event, bringing together key stakeholders in the industry;

We recognise that mining is an important developmental activity (contributes to home, office, schools and life in general);

For these reasons, mining has an important role in fostering the development and realisation of socio-economic rights within South Africa and beyond;

Notwithstanding these contributions, the mining sector if not properly regulated, can contribute to labour violations, exploitation of communities, ill-health of workers and people from surrounding communities, and destruction and/or degradation of the environment. For example, health and the environment can be impacted by acid mine drainage (AMD). AMD has a devastating effect on people, flora and fauna;

Children, because of their vulnerability, need utmost protection. It is therefore crucial that in mining activities the best interests of the child are upheld, and children are put first. Holding this event for the first time at the Mining Indaba is a positive step.



Children playing in an old mining area in Ermelo, Mpumalanga

## Role of the SAHRC in promoting and protecting the rights of children

The SAHRC is established in terms of the Constitution of South Africa to oversee the promotion and protection of human rights within the country and has a dedicated portfolio dealing with the rights of the child and as such monitors the observance of children's rights in the country.

The SAHRC has conducted several investigations related to mining operations in South Africa and the extent to which such operations have impacted on children's rights. Recommendations have been made to government and business.

## South Africa's legal framework for the protection of children

In relation to mining and its impact on children, Section 28(1)(e) and (f) of the Constitution stipulates that:

*Every child has the right:*  
to be protected from exploitative labour practices; and  
not to be required or permitted to perform work or provide services that –  
- are inappropriate for a person of that child's age; or  
- place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development;



## Violent clashes in the mining sector impact on the rights of children

### Experiences of SAHRC with regards to the impact of mining activities on children

Over the last 20 years the SAHRC has become aware of the potential negative impacts business practices can have on human rights. Over the past two years, the SAHRC has assigned its thematic focal area to business and human rights. Furthermore, the Commission has particularly looked at the role of the mining sector and its impact on the enjoyment of human rights;

Our experience and research has subsequently shown that children are impacted at every stage of mining activities, either directly or indirectly;

*At the pre-mining stage, the SAHRC is concerned about potential implications for children arising from the lack of information, transparency and free, prior and informed consent.*

Very often, consultations with the communities during the Environmental Impact Assessment (EIA) process do not consider the potential impacts of a mining project on children as not only a vulnerable group but also as holders of constitutional rights in their own right.

A clear example of this is a case currently being investigated by the Commission in one of the provinces. The complainants allege that a mining company was granted a mining licence after consultation with the community. In order to establish the mine, a school in the

community had to be relocated to an alternative site. The preliminary assessment of this complaint by the Commission indicated that potential adverse impacts on the child, both physical and psychological, were overlooked altogether or not adequately considered during community consultation.

*During the actual mining stage, a number of cases have been investigated by the SAHRC where children's rights are similarly impacted by mining activities.*

Some of the major issues that have been identified have included reports of (1) sexual exploitation of children; (2) children being unable to attend school; and (3) environmental degradation that directly impacts children.

The impact of environmental degradation on children can be best illustrated by a case that the SAHRC is investigating in Gauteng Province. At the request of an affected community, the SAHRC conducted a site visit in the affected area within Gauteng province. Toxic water in the area has destroyed aquatic life in two lakes within the area. Some boreholes are polluted. The soil is polluted resulting in people not being able to grow vegetables.

*At the post-mining stage, some of the challenges that the SAHRC is aware of relate to unrehabilitated mines and the danger these pose to children. For example, security, personal safety of children; injuries and deaths etc.*

The dangers of closed mines can be seen in a recent case that the SAHRC investigated. The case involves a mine that was closed more than 10 years ago in one of the provinces. The people living in the area have had problems with their houses (cracking and dangerous sinkholes). The weakening of houses and existence of sinkholes poses a danger to children, some

of whom have drowned in sinkholes. Impact on children's health has also been reported. Some children suffer from skin irritation that is suspected to be related to AMD.

The impact of mining on children's lives was unearthed in a recent national investigative hearing of the SAHRC on unregulated artisanal underground and surfacing mining (the report is also available on the SAHRC website). This hearing found that this unlicensed industry utilises child labour to carry out mining in unrehabilitated mines in various areas of South Africa. A further finding of the hearing indicated that violent clashes among different groups of illegal miners as well as between law enforcement agents and the illegal unlicensed miners had either resulted in, or exposed children to the danger of, loss of life.

### Conclusion

In 2012, UNICEF together with the UN Global Compact and Save the Children, developed a set of principles to guide businesses in respecting and protecting the rights of children in their spheres of influence, known as the Children's Rights and Business Principles (the Principles). These Principles represent the internationally agreed upon standards for businesses with regard to children's rights, and provide some important recommendations for all businesses.

We trust that even though this event is the first event of its kind at the Mining Indaba, we hope it is not the last and that in fact children's rights will form part of the annual agenda of this important event. Children constitute the future of mining whether as the people at the coalface of mining, as managers, owners and customers. It is therefore important that thought is given to the protection of this future generation. We therefore trust that among others, the Principles will receive wider acceptance and adherence within the mining industry.

# Human rights body concerned that racism still a problem in SA

Article by TMG Digital | 19 February, 2016

The South African Human Rights Commission (SAHRC) has formally acknowledged receipt of a petition on racism from the African National Congress (ANC), adding at the same time that it is deeply concerned that 20 years after democracy racism still remains a key issue for the country.

The human rights watchdog said on Friday that one of the leading human rights violations reported to the commission year-on-year were related to inequality.

“The Commission is deeply concerned that 20 years after democracy, the Commission still receives complaints regarding discrimination on the basis of race. Whilst many efforts have been undertaken in law and policy as well as in the establishment of institutions such as Equality Courts, racism still remains a key issue for the country.

“In both 2012/2013 and 2013/14, violations related to equality constituted at least 10% of the total number of complaints received by the Commission. Based on our 2013/14 financial year, 53% of all equality-related complaints related to racial discrimination alone,” the SAHRC said.

It noted that in January this year, the country had witnessed a heightened focus and debate on racism arising from social media remarks exchanged by individuals. On January 4 the commission released a statement to the public inviting those who felt that their rights had been violated to approach the SAHRC.



Pic: Timeslive

It undertook to investigate all cases received.

“Since then, the Commission has since over 200 racism-related complaints through all its provincial offices. This excludes other human rights related complaints that the Commission ordinarily receives through its offices located in all nine provinces across the country,” the commission said. It added that the petition received from the ANC would be one of many complaints that the commission would be reviewing over the next few weeks.

“The outcome of this review will be the release of a set of recommendations for remedial action by government and all other social actors concerned with transforming the culture of our country into a non-racial society,” the commission said.

It added that on March 14 and 15 March the Commission would be commemorating 20 years of its existence and had chosen to dedicate this important event to the theme of racism.

“This event will create a platform for engagement with government, the private sector and civil society to have a constructive dialogue on how to address the scourge of racism in the country. The conference seeks to emerge with a Declaration and Plan of Action for a societal response to this concern. This Declaration will be signed by all stakeholders and released to the public.

“The South African Human Rights Commission appreciates the receipt of this petition which the Commission will be considering as it continues to investigate this matter.”

## DA to lay charges against EFF for 'inciting violence'

By Kaveel Singh, News24

Durban – The DA will be laying criminal charges against the EFF for allegedly inciting violence on campuses, the party said in a statement.

DA MP and DA Student Organisation (Daso) leader, Yusuf Cassim, said the EFF had been using "violent and racially divisive language" to communicate with students over the past week.

"The charge relates particularly to a post by an EFF Youth Command leader, Omphile Seleke, on Facebook, which detailed the steps to make a petrol bomb. This post was subsequently retweeted by the EFF Student Command at the University of Pretoria.

"Incendiary and inciting public statements such as this are a cause of great concern and should be viewed as a serious offence, especially after the events that unfolded last week at the University of Pretoria, University of the Free State and North West University's Mafikeng Campus," he said.

According to Cassim, the EFF's leadership have yet to address the issue. He said the party was "turning a blind eye".

"This is not the first of such posts which has contained divisive and incendiary language. The DA will also be laying a complaint at the South African Human Rights Commission for the comments made by Mr Seleke," Cassim said.

Peaceful engagement and dialogue needed

"Political parties, and their repre-

sentatives, must not be allowed to incite violence, particularly when violence has already left a number of people injured, destroyed property and disrupted the academic year indefinitely for many young South Africans."

Cassim added that students needed support and motivation for peaceful engagement and dialogue.

Responding to the statement, EFF Student Command spokesperson, Peter Keetse, said the DA "does not know what they are talking about".

"Firstly, we do not have a youth command. We have a Student Command and the person they have identified is not our leader. He is not in the leadership of the student command. He is a normal member."

When asked on his response to the petrol bomb post, Keetse said: "All I can say is that the white people do not understand there is a revolution of the youth again.

"Our country has too many differences economically. Black people are still living with families living on a few thousand if not less every month.

"People will stand up and fight. No person can control people fighting for economic freedom. Yes, we have freedom, but what about economic freedom?" he asked.

"The black man has been angry for 22 years. The white man are conniving with the modern ANC. They want to be self-proclaimed messiahs."

### SAHRC should investigate allegations against Athol Trollip and family - ANC

28 February 2016

Party says farm workers are the most vulnerable and exploited sector of workforce

ANC statement on alleged abuse of workers by Trollip

The ANC has noted a series of allegations of human abuse violations by Athol Trollip and family. Farm workers are the most vulnerable and exploited, and mostly victimized, the ANC led government has adopted sectoral wage determination to stop abuses and discrimination against the most vulnerable

but critical workforce whose impact is felt by every individual based on their output. It is also disturbing that some of these allegations border on outright racism where people are likened to 'baboons'.

We call on the Human Rights Commission to investigate and act on these allegations and get to the bottom without delay. We call on the Trollip and his family to stop intimidating the complainants. The ANC will monitor this situation closely to ensure that our people enjoy protection by the democratic government.

Statement issued by ANC national spokesperson, Zizi Kodwa, 28 February 2016



# In the Seat

with Shireen Motara,  
Chief Operations Officer



*Tell us about Shireen in a nutshell?*

I am a highly motivated and independent minded woman, single parent of a 10 year old beautiful daughter Farah-Jane; and passionate about social justice and women's rights.

*Where were you born and how was it for you growing up?*

I was born in "Fietas" (now called Vrededorp, near Fordsburg) but grew up in Benoni and then Boksburg. I lived and went to school in an Indian community, where I became exposed to prejudice at a young age. I excelled at academics and sports. I spent most of my life growing up with a single mom who was a committed social worker and community champion. My mother

always motivated me to do my best and care for others.

*You are the COO, please describe what this role means to you?*

Operations is the "engine room" of the Commission. Being COO means juggling many, many balls at once, providing strategic and operational guidance, and striving to build good working relationships with the ultimate aim of achieving the Commission's mandate.

*What do you want to achieve at the Commission?*

Personally, I hope this opportunity will allow me to further build my executive management skills, and contribute towards the achievement of human rights in our country. Professionally... I just want to cope with this massive job 😊...Just joking. Professionally I hope to provide the support and guidance required by driving the operational improvement programme, leading by example and work on a basis of trust and kindness.

*Day outside office?*

I enjoy spending time alone, reading or watching TV. Otherwise I spend time with family or friends.

*What motivates and inspires you?*

I am self-motivated, so my own ambitions and my daughter's future motivates me to be the best I can be. I am inspired by the many, many young people who are taking their future into their own hands

and who are fighting for social justice by challenging the establishment, patriarchy, colonialism, capitalism and greed.

*Favourite activities?*

Reading with my daughter. We share a love for books ... and TV 😊... I hope to add Yoga and playing the piano to my list.

*Any interesting thing that people don't know about you?*

I grew up Muslim and I can (could) read Arabic and Urdu. Now I am Agnostic and I believe being kind and compassionate is more important than aligning to one specific religion.

*My favourite quotation*

**"We don't see things as they are, we see things as we are" Anais Nin**

*Tell us about your passion*

My passion is to live my best life and pay it forward.

My favourite book, music, chill out place etc

I am an old school R&B fan – Anita Baker, Regina Belle, Lionel Richie etc. but I also love younger artists like Jill Scott, Lauren Hill and our own Zonke and Thandiswa.

I read different genres, from romance and family novels to non-fiction about South Africa, business, leadership and biographies/autobiographies of people like Che Guevara.

My favourite chill out place is my couch 😊.



## SNIPPETS

### IEC to appeal Tlokwe postponement in ConCourt

Dineo Bendile |

**CENTURION** - The Independent Electoral Commission (IEC) says it will file an urgent application in the Constitutional Court to appeal the postponement of municipal by-elections in Tlokwe in the North West.

Last week, the Electoral Court ruled to have the by-elections postponed after it was discovered that more than 4,000 addresses were missing from the voters roll.

Last year, the same court ordered the IEC to list the addresses of all voters to ensure no member of the public casts their ballot outside their own district.

IEC Chairperson Glen Mashinini says the commission's appeal will provide clarity on the order from the electoral court, which calls for voter addresses to be registered.

"... and secondly, whether the lack of an address on the voters' roll invalidates that voters' roll."

While the IEC had listed the addresses of many Tlokwe voters, Mashinini says the body wants to understand how to deal with those without addresses.

"Suppose a person is a destitute person and does not have a home or an address. What does the judgment mean?"

It says the clarity gained from this urgent appeal will not only impact the voters' roll in the North West town alone, but across South Africa.

#### ALL SYSTEMS GO FOR LOCAL GOVERNMENT ELECTIONS

The IEC says its plans to appeal the postponement of the Tlokwe by-elections won't disrupt preparations for this year's local government elections.

While the body works to gain clarity on the operational aspects of its voters' roll, it says it's ready for voter registration this weekend.

The IEC's vice chairperson, Terry Tselane, says this year's municipal elections aren't expected to be im-

pacted by the ruling on the by-elections in Tlokwe.

"There has never been a consideration to postpone the election. That question has never arisen, and it will not arise."

Mashinini has urged eligible voters to use this weekend to update their addresses and other details.

"The commission is also considering additional opportunities for voters to register and update their information."

The commission says it has already started implementing initiatives to update the national voters roll with as many addresses as possible.

**Source: EWN**

### Pfanelo baby



Father - Paul Carter  
Mother - Eileen Carter

## Appointments

Ms Nāda Thobekā Kākāza	Research Associate – Commissioner Love	Head Office
Mr Collin Mduzuzi Shongwe	Advocacy Specialist	Head Office
Mr Oarabile Gaoraelwe	HuRA & Research Officer	North West Provincial Office

## Happy Birthday

The following colleagues celebrated their birthdays in March. Please join us in wishing them well.

Mabedle L. Mushwana, Victor Mavhidula & Loyiso Mphondo – 03rd

Kisha Candasamy – 05th

Sebongile Mutlwane – 07th    Querida Saal – 08th

Debra Nkwe – 14th    Peter Makaneta – 15th

Kenny Seretse & Thembi Madalane – 21st

Correlia Mabotho & Mantsibile Mojapelo – 25th