



“Reform and Resistance in the Shadow of a Disaster”

Honourable Guests, Partners, Human Rights Defenders, Civil Society Allies, and Members of the Public,

It is both an honour and a profound responsibility to deliver this keynote address on the theme “Reform and Resistance in the Shadow of a Disaster.” This theme speaks not only to the crises we face as a nation but also to the courage and endurance of those who stand between injustice and accountability, silence and truth — our human rights defenders.

In South Africa, disaster is not always abrupt. Sometimes it unfolds over decades — the slow erosion of rights, the abandonment of communities, the disregard for constitutional promises. These are not just natural calamities; they are man-made, state-enabled, and systemically sustained. But in their shadow, resistance grows — bold, determined, and often led by those whose voices have been ignored the longest.

As the country’s National Human Rights Institution (NHRI), the South African Human Rights Commission (SAHRC) exists to amplify the voices of those who need support. We stand at the intersection of international human rights obligations and domestic constitutional commitments. Our mandate is clear: to protect dignity, monitor the realisation of human rights, investigate violations, and advocate for systemic transformation.

We do so as a Paris Principles-compliant institution with full speaking rights at the United Nations Human Rights Council and the African Commission on Human and Peoples’ Rights. The SAHRC played a key role in establishing the Global Alliance of NHRIs and the Network of African NHRIs. Since 2019, we have coordinated South Africa’s National Preventive Mechanism under the Optional Protocol to the Convention

Against Torture. These international roles are anchored in our daily domestic reality — one where inequality, exclusion, and institutional failure continue to define the lives of many.

In no sector is this reality more visible than in the mining industry. For over a century, South Africa's mineral wealth has been extracted at a significant human cost. Communities have been displaced, ecosystems degraded, and workers exploited — while the wealth has largely bypassed those whose land and labour made it possible.

In 2016, the Commission held a National Hearing on the Underlying Socio-Economic Challenges in Mining-Affected Communities. We found that mining companies frequently failed to consult communities, ignored environmental rehabilitation obligations, and undermined local governance. Traditional leaders were sometimes co-opted into processes that excluded their own people. Women, despite carrying the heaviest burdens of extractive development, were systematically sidelined.

In 2022, we released a report on Unregulated Artisanal Underground and Surface Mining, highlighting the precarious lives of informal miners — men and women criminalised for survival in the absence of economic alternatives. Our findings revealed that instead of being integrated into the formal economy, these miners face violent evictions, arrests, and death. They are called “zama-zamas,” but they are citizens. They are providers. And they deserve protection, not persecution.

The disaster in Stilfontein, where miners died slowly underground — not from collapse, but from starvation and systemic neglect — must be remembered not as an isolated event. It is for this reason that the Commission is launching a National Inquiry into artisanal mining and the humanitarian that took place at Stilfontein.

Similarly, in Jagersfontein, the collapse of a tailings dam released millions of cubic metres of toxic sludge into nearby communities, killing people, displacing families, and contaminating the environment. Investigations revealed long-standing legal ambiguities around the regulation of tailings dams. The Commission has since called for urgent legislative reform, including the reclassification of tailings under environmental law, the establishment of a national register of tailings facilities, and community-inclusive safety audits.

These events are not aberrations. They are the logical outcome of a system that privileges extraction over people, secrecy over transparency, and development for the few over justice for the many.

In late 2023, the United Nations Special Rapporteur on Toxics and Human Rights, following his visit to South Africa, confirmed much of what affected communities and civil society have long warned: that the legacy of extractive industries in South Africa has produced a toxic burden on poor and marginalised communities, particularly in mining belts and informal settlements. The report notes that tailings storage facilities — some of which are located alarmingly close to schools and homes — pose severe health and safety risks. These include exposure to dust and airborne heavy metals, acid mine drainage, and contamination of surface and groundwater resources. The report raised deep concerns about abandoned and derelict mines, historical tailings dams, and the chronic under-resourcing of enforcement agencies.

The Rapporteur emphasised that these environmental and health harms are not merely technical failures, but human rights violations, disproportionately affecting those who have already borne the brunt of South Africa's colonial and apartheid-era dispossession.

In response, the South African government, through its official submission to the UN system, outlined several regulatory and policy initiatives aimed at mitigating these harms. These include:

- The enforcement of Government Notice 704, requiring tailings dams to be lined and appropriately managed, with ongoing accountability resting with the original right-holder;
- The establishment of an Inter-Ministerial Committee on Acid Mine Drainage has resulted in the rollout of major water treatment infrastructure and the implementation of surface water ingress controls, reportedly saving the state approximately R80 million annually.
- A National Strategy for the Management of Derelict and Ownerless Mines, dating back to 2009, which includes a comprehensive inventory of such mines, risk categorisation, and prioritised rehabilitation, particularly for asbestos sites;

- The 2023 publication of draft National Regulations on Mercury Management, which propose prohibiting mercury use in artisanal gold mining and classifying it as a hazardous substance under South African law;
- The use of MPRDA and NEMA enforcement mechanisms, including administrative penalties, criminal prosecutions, and environmental interdicts, applied even against some municipalities.

These are essential steps. But they remain piecemeal, reactive, and under communicated. As the Rapporteur noted, unless implemented transparently and consistently, they are unlikely to rebuild trust or meaningfully reduce harm. A system that outsources compliance to overburdened communities, while failing to ensure corporate accountability, is not a rights-based system. It is a broken one.

Women and children suffer the most under these circumstances. Women often live closest to tailings dumps, where exposure to toxic pollutants affects their reproductive health and increases the risks of cancer and respiratory illness. Children play in contaminated streams and walk to school along roads lined with chemical dust. The trauma of environmental degradation intersects with hunger, displacement, and gender-based violence. This renders any discussion of sustainable development hollow unless it encompasses the full realisation of ecological, social, and gender justice.

Defending human rights is not a threat to national security. It is the foundation of it. It is part of the constitutional democracy contract—a duty owed to the Constitution.

This is why, as the SAHRC, we say that defending human rights — particularly in the context of mining, environmental justice, and disaster response — is not an act of opposition. It is an act of loyalty. Loyalty to the Constitution. Loyalty to the people. Loyalty to the promise of a better, more inclusive South Africa.

Our work, like the work of many in this room, is grounded in the belief that reform must be structural, and resistance must be principled. We must dismantle the extractive relationships that view communities as expendable and replace them with systems that value participation, equity, and intergenerational justice.

And let us be clear: resistance is not only about protests and court cases. It is also about persistence — the quiet, patient work of community leaders who refuse to be silenced. It is about academics who produce evidence where others deny harm. It is about journalists who uncover what others try to bury. It is about educators who ensure the next generation sees rights not as privileges, but as inheritances.

The shadow of disaster is long — whether it comes from poisoned rivers, broken promises, or buried miners. But even in that shadow, there is courage. There is mobilisation. There is hope.

We must reform — not just our policies and laws — but the very way we understand power, justice, and accountability. And we must resist — not simply out of defiance — but because history demands it and the Constitution requires it.

To all those who have fought, are fighting, and will continue to fight: we see you. We honour you. We walk with you.

Let us rebuild — not just what was lost, but what was never just to begin with.

Thank you.

Part time commissioner

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