

## MACUA & WAMUA - ADVICE OFFICE

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## MACUA Appeals to the Constitutional Court in Last Ditch Effort to Save Lives of Trapped Miners in Stilfontein

**FOR IMMEDIATE RELEASE | 30 December 2024**

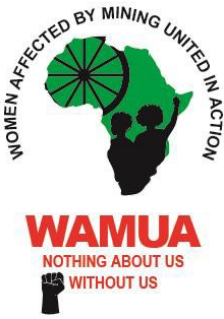
Yesterday, on 29 December 2024, Mining Affected Communities United in Action (MACUA), led by the Lawyers for Human Rights (LHR), filled an urgent application for direct access to the Constitutional Court of South Africa.

Our appeal to the Constitutional Court comes after the Gauteng Division of the High Court, Pretoria, inexplicably dismissed our urgent application on 20 December 2024 to compel the state to uphold its constitutional obligations to protect and save the lives of the trapped miners in Stilfontein, North West.

In our view, Honourable Madam Justice Mazibuko AJ, with respect, erred in her decision which has the effects of shielding the State from taking the responsibility to sustain the lives of the trapped miners, who, without food, will continue to die.

The Gauteng Division of the High Court, Pretoria, ruled that impoverished and unemployed community members, social movements and charitable organisations can provide humanitarian aid to the trapped miners, but that the State and the mining company who abandoned the mine, bears ZERO responsibility for remedying the situation it effectively caused. This, respectfully, is a miscarriage of justice.

The failure by the Buffelsfontein Gold Mine and the Department of Mineral and Petroleum Resources to close the mine properly, and the actions of the South African Police Service's (SAPS) Operation Vala Umgodi, which failed to plan effectively for the contingencies which are now playing itself out in Stilfontein, have led to an unprecedented crisis in which tens of miners have died, and in which hundreds more face imminent death and starvation.



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This finding is, with respect, fundamentally flawed.

The failures by the DMPR to ensure that the mine is closed properly, and the actions of the Police directly created the conditions for this crisis and, under common law principles, is obligated to remedy the situation.

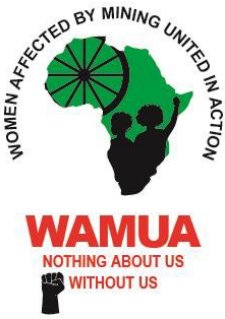
Similarly, the Minister of Social Development is mandated by the Constitution to provide social assistance, and the Minister of Cooperative Governance, is tasked with disaster management relief, are also responsible, but have failed to act. Their failure to act exacerbates this tragic and avoidable situation.

The court further acknowledged the common cause fact that the miners were trapped but determined that the respondents had no legal obligation to rescue them. This is again, with respect legally and morally untenable.

MACUA has asked the Constitutional Court to order the relevant state entities, being the North West MEC for Community Safety and Transport Management, Minister of Mineral and Petroleum Resources, Minister of Police, Minister of Social Development, Minister of Co-operative Governance and Traditional Affairs, as well as the Buffelsfontein Gold mine, to within two hours of the court handing down its judgement, provide the trapped artisanal miners at shaft 11 and shaft 10 with humanitarian aid, including sufficient food, water and medication pending the finalisation of the rescue operation.

We are also asking that the respondents be ordered to IMMEDIATELY commence the rescue operations at Shafts 10 and 11, and that the various state entities and Buffelsfontein Gold Mine, provide MACUA and the community members with a weekly progress report regarding the implementation of the rescue plan.

MACUA wishes to once again emphasise the fact that the more the State is allowed to shirk its constitutional obligations in rescuing the trapped miners, the more people will die. Recent reports from underground indicate that more people have



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died in the intervening periods between our last court appeal and our application to the Constitutional Court.

We have warned on several occasions that decisive actions need to be taken now. The latest reports from those trapped underground indicate that the situation has deteriorated further to the point that some of the trapped miners have resorted to sustaining themselves with the flesh of those who have torturously tried to climb to surface and eventually fell to their death, or who have succumbed to starvation. Reports indicate more bodies remain underground.

MACUA maintains that SAPS have misinterpreted their mandate when they insist that their pursuance of law enforcement mandates that they are free to violate and undermine the right to life of the trapped miners. This deliberate misinterpretation by SAPS speaks to a state of lawlessness (or deliberate undermining of the law by the very people who should uphold the law) in which trapped miners have been found guilty and sentenced to death by police, without any recourse to the constitutional principles which should underpin their actions.

In addition to the gross violation of the constitution and the human rights of those trapped underground, SAPS, has also deliberately refused lawyers from Lawyers for Human Rights to consult with the arrested miners in violation of the constitutional human rights of every citizen and person.

These rights have summarily been trampled on, and the SAPS have stood out as the main culprit in undermining the rule of law and the foundations of our constitution. Alongside the constitutionally delinquent behaviour, SAPS has consistently resorted to providing disinformation to the public and has used gullible and headline hungry news outlets to spread disinformation.

In what can only be described as embedded media outlets, these media outlets have undermined the very principles of their important work, and this has led to the independence of the media being undermined in the following ways:



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- **Bias:** Reporters were often seen as too close to the Police, potentially compromising their objectivity.
- **Restricted Coverage:** Access to selected interviews was granted to the embedded media operatives while the same individuals who were interviewed were denied access to legal representation and those miners who did not corroborate the Police narrative were denied access to the media or the community.
- **Narrative Control:** the manner in which these news outlets have been embedded allowed the Police to shape public opinion by emphasising certain aspects of the operation while downplaying others.

There are key news outlets that have failed to scrutinise all the evidence, and, in most cases, the embedded media reports have conflated different facts to construct false narratives. We call on the South African National Editors' Forum, which has the responsibility to enable a culture of real debate and promote free and independent journalism of the highest standard, to intervene and investigate this abominable collusion between the state and some embedded media in Stilfontein.

With the application, we are hoping for an urgent date as the situation is of urgency and every second wasted puts the trapped miners' lives at further risk.

MACUA remain determined to ensure that the right to life of the trapped miners is upheld and that all responsible parties be held accountable for their actions that have contributed to the gross violation of the human rights of the trapped miners.

For media inquiries, contact the Head of Communication and Media, Magnificent Mndebele at 064 785 9746 or [Magnificent.Mndebele@macua.org.za](mailto:Magnificent.Mndebele@macua.org.za).