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Stilfontein Humanitarian Crisis Has Become a Constitutional Crisis!

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The recent ruling delivered on 20 December 2024 by the Pretoria North High Court, dismissing MACUA's application to compel the state to immediately commence rescue and resurfacing operations and provide food and humanitarian aid to the trapped miners in Stilfontein, amounts to nothing less than a death sentence for those underground. It is a fundamental denial of their right to life.

While the court has affirmed the miners' right to receive humanitarian aid and acknowledged that they are trapped with no alternative source of sustenance, it may have erred in failing to affirm the state's duty and obligation to protect this right. The state bears the responsibility to ensure that the trapped miners' right to life is upheld and realised, especially given its role in engineering the existing crisis.

This crisis has been precipitated by the reckless implementation of Operation Vala Umgodi and the Department of Mineral and Petroleum Resource's (DMPR) failure to enforce proper mine closure regulations, which allowed the mining company to essentially leave the mine unrehabilitated and properly closed. The mine stopped operating in 2015 and almost 10 years later, the mine remains unrehabilitated.

The DMPR should have anticipated that an unrehabilitated mine—one of the deepest in the world with abundant remaining deposits, with improperly sealed access points, would inevitably become a readily accessible source of income. It is thus not far-fetched to anticipate that failing to ensure the mine's complete and secure closure would invite desperately poor unemployed miners to explore its depths as a means of survival.

Both the state and the mining company have benefited greatly from the wealth that has been extracted from the mine's belly, and it is a grave injustice to expect already struggling communities, who have depleted their meagre resources in solidarity with the miners, to shoulder this burden, while the state and corporations evade accountability.

On the face of it, the ruling is deficient, in that it leaves the lives of the trapped miners to fate, or chance, or on whoever can provide aid. That attitude cannot be sufficient or acceptable in a constitutional democracy where the state is the custodian of the realisation of human rights.

This ruling, which appears not to have considered the extensive evidence provided to the court, highlights a broader systemic failure of our justice and state systems. Most alarmingly, the state submitted to the court that the miners' right to life is subordinate to



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its policing mandate—a deeply troubling argument that not only devalues the lives of marginalised workers and communities but reduces their existence to mere collateral in the enforcement of state power, effectively criminalising the poor. This reasoning not only disregards the principles of human dignity and justice but also sets a dangerous precedent where the protection of life can be overshadowed by the narrow imperatives of state control and corporate greed.

While we respect the court's judgement, MACUA nonetheless unequivocally condemns the decision which appears to abdicate its responsibility to hold the state to account for the protection of the human rights of the miners. The court's decision essentially turned on the unfounded claim that the Police do not have an obligation to provide humanitarian aid, even if they have caused the situation, and even if they commonly do so with detained individuals, or others who may need assistance, despite their status.

We will study the full judgment and consider our options going forward including appealing directly to the Constitutional Court.

As a society that is comprised mostly of marginalised and impoverished communities, we cannot abide with a system that absolves those in power from their duty to protect and support marginalised, impoverished and generally excluded communities. Our Constitution values and centres the right to life and dignity, and we must insist that our constitution must be more than a place for the rich to find protection for their wealth, instead our constitution must be the shield that protects the marginalised and excluded.

The lives of the trapped miners and the communities that support them are not commodities to be negotiated or abandoned to the whims of fate; their lives and conditions are a reminder of the deep inequalities that mining, greed and disregard for human rights has engendered in our country.

Despite this setback, we continue to demand that the state, as the custodian of our minerals, and mining companies, and the mining industry more broadly, secure the safe resurfacing of the miners and provide the necessary supplies without delay. We will not rest until justice for the marginalised and excluded is realised in Stilfontein, and we demand that the process of amending the MPRDA be fast tracked with measures that ensure greater justice for communities and workers.

To the communities who have stood and continued to stand in solidarity with the trapped miners: your resilience and compassion are commendable, especially in a climate of hate and xenophobia that the state has sort to engender in dealing with the trapped miners. We will continue to fight alongside you to ensure that justice is served—not only for the trapped miners but for every community impacted by the mining industry's exploitative practices.



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MACUA remains resolute in our mission to ensure accountability and justice. Together, we will continue to push for a society where justice, dignity, and human rights are not privileges for the rich, but the foundation of a fair and equitable society that truly centres human dignity and the right to life.

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