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2009 Human Rights Report: South Africa

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

March 11, 2010

South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the president and the parliament. The country has a population of approximately 49.3 million. On April 22, in generally free and fair national elections the ruling African National Congress (ANC) gained 65.9 percent of the vote, and its parliamentary representation was reduced from 297 to 264 of 400 seats. Parliament then elected ANC President Jacob Zuma as the country's president. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens. However, the government, nongovernmental organizations (NGOs), and local media reported the following serious human rights problems: police use of excessive force against suspects and detainees, which resulted in deaths and injuries; vigilante and mob violence; abuse of prisoners, including beatings and rape and severe overcrowding of prisons; lengthy delays in trials and prolonged pretrial detention; forcible dispersal of demonstrations; pervasive violence against women and children and societal discrimination against women, persons with disabilities and the lesbian, gay, bisexual, and transgender (LGBT) community; trafficking in persons; violence resulting from racial and ethnic tensions and conflicts with foreigners; and child labor, including forced child labor and child prostitution.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of politically motivated killings by the government or its agents; however, police use of lethal force during apprehensions resulted in a significant number of deaths, and deaths in police custody were a problem. Police efforts to control vigilante violence also resulted in deaths. In some cases, the government investigated and punished the perpetrators.

According to the governmental Independent Complaints Directorate (ICD), there were 300 deaths in police custody and 612 deaths as a result of other police action in the year ending March 31, a 15 percent increase from the previous year. The ICD cited 29 deaths due to the negligent use of a firearm; domestic violence and off-duty shootings by police resulted in 39 deaths. Forty-four civilians died due to negligent handling of a police vehicle. The ICD report expressed concern that 32 bystanders were killed during police activity.

According to the ICD, KwaZulu-Natal (KZN) Province recorded a 47 percent increase in deaths in police custody and as a result of other police action, accounting for 258 of the national total. Of these, authorities attributed 117 deaths to natural causes, 108 to suicide, 48 to injuries sustained prior to detention, and 27 to injuries sustained in custody.

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Police struggled to address a violent crime rate that ranked highest in the world. Following inflammatory comments by Deputy Police Minister Fikile Mbalula, who called for the use of firepower against criminals, the media and civil society groups criticized what they called the police's "shoot to kill" policy. President Zuma stressed that the police do not have a "license to kill" and attributed the use of excessive force to a lack of training and resources.

On November 1, two intoxicated off-duty police officers in Pretoria shot and killed a street vendor after refusing to pay for the food the officers had eaten. Both officers were arrested, and the ICD launched an investigation; there were no further developments by year's end.

On November 7, outside Johannesburg, three-year-old Atlegang Phalane was shot and killed when police officer Shadrack Malaka, a constable, fired through the window of the parked car Phalane was sitting in. Malaka stated he mistook a metal pipe the child was holding for a gun. Malaka was arrested for murder and denied bail; the trial was pending at year's end.

Deaths while in police custody were a problem. On February 9, police officers kidnapped Sidwell Mkwambi and Siyabulela Njova, took them to the offices of the Bellville South Priority Crime Investigation (DPCI) unit, also known as "the Hawks," and assaulted them for hours. According to Njova, the men were beaten with fists, handcuffs, the butt of a gun, and a traditional heavy leather whip during interrogation. In a statement to police, Njova said he later saw unit members dragging Mkwambi's limp body down a passage. On February 11, Mkwambi's body was found in a police vehicle parked outside Tygerberg Forensic Pathology Services. The ICD stated that an investigation produced enough evidence to establish a murder case against 14 officers from the specialized unit; however, the Western Cape police commissioner had neither suspended nor arrested the officers by year's end.

There were reports of deaths from political conflict among parties, including killings between rival parties during the election period (see section 3).

There were no developments in the 2007 arrests of three persons in connection with the 2006 killings of Estcourt deputy mayor Dolly Dladla and councilor Music Mchunu, both members of the Inkatha Freedom Party (IFP).

Incidents of vigilante violence and mob killing continued, particularly in Gauteng, the Western Cape, Mpumalanga, and KZN in the rural areas and townships. For example, on January 4, in Durban, a Zimbabwean citizen and a Tanzanian citizen fell to their deaths from a high-rise building as they tried to escape a 150-person mob armed with homemade knives. Durban ANC municipal councilor Vusi Khoza, considered to be the mob leader, was charged with murder; the trial continued at year's end.

There were no further developments in the June 2008 stoning of a man by vigilantes who suspected he had stabbed another man in KZN.

Xenophobic attacks on foreign African migrants remained a problem; however, attacks did not occur on the scale of the previous year.

Killings and other violent crimes against white farmers and, on occasion, their families, continued in rural areas. Despite concern among the farmers that they were targeted for racial and political reasons, studies indicated that the perpetrators generally were common criminals motivated by financial gain. The South African Police Service (SAPS) incorporated farm attacks and killings into overall statistics of violence and homicide, rather than reporting them separately. The Freedom

Front Plus, an Afrikaner minority political party, and farmers' unions criticized what they viewed as an inadequate government response to the scale and brutality of farm attacks.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities, and in some cases murdered, particularly in Limpopo, Mpumalanga, KZN, and the Eastern Cape, where suspicion of witchcraft activity could lead to accusation, assault, forced exile, and killings, particularly of elderly women. Traditional leaders generally cooperated with government educational programs and reported threats against persons suspected of witchcraft.

For example, on March 13, a man in the Eastern Cape killed two women he suspected of trying to thwart his financial success through witchcraft and then hanged himself.

The September 2008 trial of two brothers in the Eastern Cape who admitted to killing their younger brother whom they suspected of practicing witchcraft continued at year's end. There were no developments in the 2007 killing of three family members accused of witchcraft in the Eastern Cape.

Ritual killings (muthi killings), especially of children, to obtain body parts believed by some to enhance traditional medicine practices, remained a problem. SAPS incorporated occult-related cases into its standard crime reporting of killings and assaults; specific muthi killing statistics were unavailable.

On March 4, the mutilated body of single mother Norah Dyanti was found outside of her home in the village of Etholeni in the Eastern Cape. Her throat and genitals had been cut out and her body exhibited multiple stab wounds. Police believed Dyanti was one of several victims of serial killings perpetrated by a crime syndicate, but they did not classify it as a muthi killing.

There were no further developments in the November 2008 suspected muthi attack on a man in the Eastern Cape, in which an assailant cut off the man's nose and genitalia. SAPS believed the attacker was a serial killer who used body parts in the preparation of muthi.

In August 2007, a South African military court found Air Force Sergeant Philippus Jacobus Venter guilty of raping and murdering a 14-year-old girl and assaulting a Burundian security guard while serving as a peacekeeper in Burundi in 2004. He was sentenced to 24 years' imprisonment. In October 2008 Venter appealed the ruling, claiming his constitutional right to a fair trial was breached, as the arresting military police officer failed to follow proper procedure. The judge reserved judgment on Venter's appeal; the case was pending at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices; however, some police officers reportedly tortured, beat, raped, and otherwise abused suspects. According to Amnesty International in a September memoranda to the government, methods included the use of electric shock, suffocation, and prolonged assaults with batons, fists, and booted feet. Police torture and physical abuse allegedly occurred during interrogation, arrest, detention, and searches of persons' homes, and sometimes resulted in death (see section 1.a.).

During the year the ICD reported 25 complaints of rape; however, unlike in previous years, they did not report complaints of torture. The report stated that three cases of torture from previous years were investigated but did not indicate the disposition of the complaints. The ICD received 928 reports of assault with the intent to cause grievous bodily harm.

Officers convicted of this charge were given sentences ranging from verbal and written warnings to fines and dismissal from service. The report did not stipulate how many officers were convicted.

On September 10, David Ndzumeka alleged he was kidnapped and tortured for several hours by Cape Town members of the DPCI. Ndzumeka stated that the officers placed a plastic bag over his head and repeatedly suffocated him until he was unconscious. An ICD investigation into the incident continued at year's end.

In a 2008 report to parliament, the ICD reported it was investigating 20 reports of torture and 739 reports of assault with the intent to cause grievous bodily harm. There were no developments in the following 2008 cases: the alleged torture in October of two brothers suspected of theft by 10 police officers from the Vosloorus Tracing Unit, the alleged beating and torture in November of a 17-year-old by six police officers from the Diepkloof Police Station, and the November death of Tefo Kgame of unnatural causes after police allegedly beat him at the same station.

Incidents of police harassment of foreigners continued, particularly during coordinated police raids in areas where foreign nationals resided. Some state hospitals reportedly refused emergency treatment on a routine basis to indigent foreigners, despite regulations requiring that hospitals provide such treatment.

Prison and Detention Center Conditions

The majority of the 237 operational prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. The Judicial Inspectorate of Prisons (JIP) received 2,010 complaints of assaults against prisoners by correctional officers for the reporting period from April 2008 through March 2009. There were several reports of physical and sexual abuse by both prison officials and prisoners. Some detainees awaiting trial reportedly contracted HIV/AIDS through rape. According to the JIP report, there were 1,048 prison deaths during the reporting period. Of these, 982 were from natural causes, including HIV/AIDS; the remaining deaths were the result of suicides, assaults, or accidents. Of the total deaths, 751 were sentenced prisoners, while the remaining 297 were pretrial detainees.

According to the JIP report, there were 165,230 prisoners in facilities designed to hold 114,822. Of these, 3,659 were women. There were 1,663 juveniles in prison facilities, 803 of whom were pretrial detainees. Due to severe overcrowding, many prisoners had less than 13 square feet in which to eat, sleep, and spend 23 hours a day. The unmet norm applied to prisons for floor space per prisoner is approximately 36 square feet for communal space and 60 for single cells. Chief Deputy Commissioner for Security Willem Damons reported to parliament's correctional services committee that prison overcrowding was down to 142 percent of capacity in 2008-09 from the 164 percent recorded the previous year.

A 2008 Department of Correctional Services (DCS) study on HIV/AIDS indicated 19.8 percent of sentenced prisoners between the ages of 15 and 49 were HIV-positive. However, NGOs working on HIV/AIDS in prisons believed that the percentage of HIV-positive prisoners was higher than that of the general population's 25 percent. According to the DCS's annual report, 18 centers dispensing antiretroviral (ARV) therapy were operational during the year.

Corruption remained a problem within prisons, although in most cases correctional services officials were either suspended or fired following an investigation. According to the JIP report, there were 500 complaints of corruption during the annual reporting period out of the 260,268 complaints received. In November 2007 then President Thabo Mbeki ordered the Special Investigating Unit (SIU) to look into allegations of tender abuse in the DCS. In May 2008 SIU briefed the Parliamentary Portfolio Committee on Correctional Services. Investigations, which continued, raised procedural concerns, identified irregularities in 23 contracts, and recommended that 433 officials be penalized. Twenty-six doctors and ten officials were charged with criminal offenses; an additional 433 officials were disciplined. In August 2008 the DCS national commissioner launched an investigation into allegations of malfeasance in tendering for contracts in which funds

were allegedly awarded unlawfully to a catering company. On September 17, the SIU delivered its final investigation results to Correctional Services Minister Nosiviwe Mapisa-Nqakula. On December 7, the National Prosecuting Authority (NPA) forwarded the findings to the Serious Economic Offenses Unit of SAPS for further investigation.

Unlike in previous years, there were no reports of abuse at the Lindela Repatriation Center, the country's largest detention facility for undocumented immigrants.

The government operated 13 youth detention facilities. Unlike in previous years, the JIP did not report on any children under the age of 18 being held with adults in order to be close to the courts.

Pretrial detainees generally were held with convicted prisoners.

The government permitted independent monitoring of prison conditions, including visits by human rights organizations to most facilities.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions; however, prolonged pretrial detention was a problem, and police arbitrarily arrested demonstrators.

Role of the Police and Security Apparatus

The SAPS, under the Department of Police, has primary responsibility for internal security. The South African National Defense Force (SANDF), under the Department of Defense, is responsible for external security but also has domestic security responsibilities such as patrolling the borders.

On January 30, the government officially disbanded the NPA's Directorate of Special Operations (DSO), known as "the Scorpions," which had coordinated efforts against organized crime and official corruption. The political opposition and general public criticized the move, charging that it was retaliation for DSO investigations of high-ranking ANC officials, including Jacob Zuma. On July 6, the Scorpions were replaced by the DPCI, also known as "the Hawks."

During the year the ICD received 6,119 complaints against the police, a 5 percent increase from the 5,830 complaints the previous year. Minister of Police Nathi Mthethwa reported to parliament that in 2008-09, a total of 669 officers faced disciplinary hearings, of whom 538 were found guilty. Among the accused, 38 officers were charged with murder, 33 with attempted murder, and 30 with rape. Minister Mthethwa stated that the status of the court cases was unavailable and declined to provide figures for previous years.

To address problems of crime and misconduct, SAPS provided its officers with comprehensive training in corruption prevention, human rights, and ethics and with access to social workers, psychologists, and chaplains to enhance psychological well-being. The ICD investigated reports of police misconduct and crime; during the reporting period, 14 officers were found guilty of murder and sentenced to imprisonment, while four officers were found guilty of culpable homicide and sentenced to imprisonment, suspended sentences, and/or fines.

There were no further actions taken by the 10 task groups commissioned in 2008 by the minister of justice to recommend reforms following a presidentially mandated review of the criminal justice system in August 2008. SAPS continued efforts to professionalize; however, it remained ill equipped, overworked, and poorly trained. Although SAPS made efforts to improve coverage in rural and township areas, most law enforcement activities remained focused on wealthy residential and business areas.

Arrest Procedures and Treatment While in Detention

The law requires arrest warrants based on sufficient evidence and issued by a magistrate or judge and provides that all detainees be informed promptly of the reasons for their detention, and of their right to remain silent and the consequences of waiving that right. Detainees must be charged within 48 hours of arrest; held in conditions respecting human dignity; allowed to consult with legal counsel of their choice at every stage of their detention or provided state funded legal counsel when "substantial injustice would otherwise result," and permitted to communicate with relatives, medical practitioners, and religious counselors. Courts and police generally respected these rights. Detainees must be released (with or without bail) unless the interests of justice require otherwise; however, bail for pretrial detainees often exceeded what suspects could pay. According to the annual JIP report, 8,500 prisoners remained in detention as of March 31 because they were unable to post bail. Some schoolchildren spent more than a year in detention because their families could not post bail.

Human rights groups, judges, and judicial scholars continued to express concern about the Criminal Procedure Second Amendment Act, which mandates minimum jail sentences and prohibits bail in certain cases.

There were cases of arbitrary arrest during the year. For example, on September 26, 40 local tavern owners in Durban ransacked and demolished the offices of Abahlali baseMjondolo (AbM), an organization that advocates for the rights of those who live in informal settlements, also known as the "shack dwellers movement." The AbM had been fighting the KZN provincial government's attempts at forcibly removing inhabitants and demolishing the Kennedy Road informal settlement. The mob also demolished the homes of several AbM members, allegedly in the presence of the local police. The attacks lasted for two days, during which time two persons were killed. Police subsequently arrested 13 members of AbM; the 13 were held without charge until December 16, when 12 members were charged with a range of crimes, including property destruction, public violence, and murder. Of these, seven members were released on bail; the additional person was released with all charges dropped. By year's end bail hearings for the five remaining prisoners had been postponed several times.

Lengthy pretrial detention was a problem. According to the JIP annual report, detainees waited an average of three months, but some as long as two years, before a trial. The report found that 49,477 prisoners were awaiting trial as of March 31, an increase from 48,729 prisoners from the previous year.

Amnesty

The remains of the three Port Elizabeth Black Civic Organization leaders, known as the Pebco Three, who were murdered by apartheid-era police in 1985 but not discovered until 2007, were finally identified and handed over to the families of the activists for burial. On October 3, during a ceremony attended by President Zuma, the remains of the Pebco 3 were reburied in Port Elizabeth. The 1999 Truth and Reconciliation Commission refused four security police officers amnesty for their involvement in the crime, and they were later found guilty on multiple charges, including murder.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence in practice. However, the judiciary was understaffed and underfunded, and there were reports that legal documents used in trials were lost. According to the presidentially mandated criminal justice system working group, made up of ministers and deputy ministers concerned with the judicial process, more than a million of the two million criminal cases reported annually were never resolved. According to the group, a number of problems contributed to the country's low 10.3 percent conviction rate in criminal cases, including inadequate collection of evidence at crime scenes, insufficient investigation of crimes, long trials, and ineffective court processes. During the year the government operated 58 justice centers that provided legal assistance to the poor to speed the administration of justice, reduce the court rolls, and alleviate overcrowding in prisons. However, serious delays continued to be a problem.

Trial Procedures

Criminal defendants enjoy a legal presumption of innocence. The bill of rights provides for due process, including the right to a fair public trial within a reasonable time after being charged, and the right to appeal to a higher court. Judges and magistrates hear criminal cases and determine guilt or innocence. In lieu of juries, the law requires that a panel of lay assessors and a magistrate hear cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in adjudicating bail applications and sentences. Detainees and defendants have the right to state funded legal counsel when "substantial injustice would otherwise result"; however, a general lack of information for accused persons regarding their rights to legal representation and the government's inability to pay for these services remained problems. Defendants have the right to be present in court and can question witnesses in court and present their own witnesses and evidence. Defendants have access to government evidence before going to court. There is no automatic right to appeal, but courts may give defendants permission to do so. For certain cases, such as when the accused is younger than 16 years of age, permission is not required. Additionally, the Criminal Procedures Act provides for an automatic review of all prison sentences longer than three months.

Political Prisoners and Detainees

The Inkatha Freedom Party (IFP) maintained that 384 IFP members had been imprisoned since 1994 for political reasons. In January 2008 the IFP petitioned both the president and the justice minister for their release. In February 2008 the IFP took the matter to the High Court, where the judge ordered the justice minister to consider all 384 applications for presidential pardons within three months. In April 2008 the IFP sent a letter to Amnesty International complaining that both then president Mbeki and Justice Minister Mabandla had ignored the matter. On September 30, the Constitutional Court ruled that because the petition included the justice minister, the IFP had pursued the incorrect party for legal relief and that the president, not the justice minister, should be held fully accountable for the delay. The same day, the IFP instructed its lawyers to start legal action against President Zuma for the delay in processing the applications; no applications had been processed by year's end.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. There is access to the courts to bring lawsuits seeking damages for, or cessation of, a human rights violation.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions. However, there were allegations of police abuse during sweeps and home searches and criticisms of police and judicial procedures, including complaints that warrants were issued despite inadequate evidence.

The law authorizes state monitoring of telecommunications systems, including cellular telephones, the Internet, and e-mail, for criminal investigations. However, opposition parties and many civil society groups opposed such laws. On July 1, the Regulation of Interception of Communications and Provision of Communication-Related Information Act came into effect, requiring all mobile operators, service providers, and cell phone vendors to register on secure databases the identities, physical addresses, and telephone numbers of new and existing customers. All cell phone subscribers were required to show proof of identity and proof of residence in order to be registered.

The Promotion of Access to Information Act allows any person to access information from the government or any other individual for the exercise or protection of any right. Authorities can also use the act to obtain personal information in

connection with criminal investigations. Opposition parties and human rights NGOs objected to its broadly defined provision that enables the government to access an individual's personal information.

Farm owners continued to evict workers legally and illegally. An extensive national eviction survey by the NGO Nkuzi Development Association, which provided legal assistance to farm workers, indicated that farm workers were generally unaware of their right to legal counsel during eviction proceedings. In Limpopo, where several hundred evictions took place, Nkuzi had only two attorneys and at times lacked funds for litigation.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press, and the government generally respected these rights. However, several laws remained in effect that posed a potential threat to media independence, and some journalists expressed concern over government involvement in the media sector.

Individuals, organizations, journalists and sectors of civil society were generally able to articulate criticism of the government openly, without fear of reprisals, although some journalists expressed concern that the government heavily influenced and tried to control the media. The practice of appointing journalists to key positions in the media due to their political allegiances remained a problem, particularly within the public broadcaster the South African Broadcasting Corporation (SABC).

According to the South African Advertising Research Foundation, print media reached 46.4 percent of the population. Despite the diversity of publications, the concentration of media ownership in the hands of large media groups limited plurality of opinion within the press.

The majority of citizens received news through radio broadcasts from the government-owned SABC and community radio stations. The SABC was the largest and most influential source of news for the majority of the population. It broadcast television and radio in the country's 11 official languages, with its signal received by an estimated 92 percent of citizens. After allegations surfaced in 2008 of mismanagement, nepotism, and political infighting, the SABC removed senior leaders and the board of directors during the year. On September 17, the National Assembly named 12 new board members, some of whom had already been named to an interim board in July. The nominations received a generally positive reaction from the media and opposition parties.

The SABC's election coverage was initially criticized by opposition parties; however, after the election the coverage was acknowledged to be "largely fair" by the media watchdog Media Monitoring Africa.

During the year an investigation by the Independent Communications Authority of South Africa into the SABC's alleged 2006 blacklisting of certain political commentators from appearing on the SABC's airwaves due to their political affiliations concluded. The committee found it had no jurisdiction over the SABC during the period in question, as the Broadcasting Act guarantees journalistic independence from the SABC, and referred the issue to the SABC board.

Due to alleged mismanagement, the SABC was unable to pay creditors, including independent content production companies, in a timely manner, leading commentators and analysts to predict that the local television industry faced collapse. In response to cost-cutting measures driven by the alleged mismanagement, the SABC proposed to develop content in-house rather than relying on more expensive independent companies. This decision raised questions within civil society about media independence in the country. The SABC sought a government bailout, which raised further concerns regarding the editorial independence of the public broadcaster.

Low-power, nonprofit community radio stations continued to play an important role in informing the mostly rural public; however, they often had difficulty producing adequate content and maintaining staff. Government broadcast regulators regularly issued new community radio licenses and withdrew others for noncompliance with the terms of issuance.

Privately owned E.tv was the second largest channel in the country, and the most viewed English-language channel, with a viewership of 11.9 million, approximately 25 percent of the population. Beginning in June 2008, E.tv's owners, Midi TV, operated a 24-hour news service, E-News Channel.

Government and political officials on occasion reacted sharply to media criticism and accused black journalists of disloyalty and white journalists of racism. Some journalists believed that the government's sensitivity to criticism caused self-censorship in the media.

In the period preceding the April elections, several high-ranking politicians, including the head of the ANC Youth League, made widely reported disparaging remarks about the media, accusing it of being unpatriotic and part of "third force" elements aimed at destabilizing the country. Several opposition parties also accused the SABC of giving disproportionate coverage to the ruling ANC. As a result, the SABC appointed a political coverage liaison to adjudicate complaints.

Several laws enacted during the year impacted press freedom. On August 28, the Films and Publications Act was passed by parliament. The act states that every publication not regulated by the press ombudsman, including online material, must be submitted to the Film and Publications Board for classification prior to publication if the publication contains references to "degrading sexual content, incitement to cause harm, promotion of propaganda for war, incitement of violence or the advocating of hatred based on any identifiable group characteristic." The bill was criticized by media watchdog organizations, as well as individual media commentators, as a possible vehicle for restriction of press freedom.

In addition, a February amendment to the Broadcasting Act allowed for the president to dismiss members of the SABC Board, a move that was widely criticized by opposition parties and the press as undue government interference. Several laws remained in effect that permitted the government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions. There were no reports that these laws were invoked during the year; however, journalists and media managers considered them a threat to constitutional protections.

The Film and Publications Board reviewed written and graphic materials published in, or imported into, the country. The board had the power to edit or ban books, magazines, movies, and videos, and it regularly exercised that power, mostly regarding pornographic material. Journalists, media houses, and industry associations continued to criticize efforts to extend the board's authority to newspapers and broadcast media.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail. A 2008 World Bank World Development Indicators survey estimated there were 4.5 million Internet users in the country, representing approximately 9 percent of the population. The study reported an increase in access of 12.5 percent since 2007, attributed largely to small businesses.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; however, police forcibly dispersed several demonstrations during the year, which resulted in injuries.

Several protests over poor delivery of basic services took place across the country, including violent demonstrations in Western Cape, Gauteng, and North West provinces. Police used batons and rubber bullets to control the demonstrations; several injuries were reported.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right.

c. Freedom of Religion

The constitution and law provide for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

There were occasional reports of desecration and vandalism or verbal or written harassment directed against religious minorities during the year.

On August 31, in Kulis River, a senior manager at the store Mr. Price Home told Shaheeda Groenmeyer, a Muslim employee, to remove her headscarf as she was in violation of the company's uniform policy. The company publicly apologized after Groenmeyer filed a complaint with the Muslim Judicial Council, which insisted that the chain store change its uniform policy.

The Jewish community was estimated at 75,000 to 80,000, although it was contracting due to the emigration of young professionals seeking economic opportunities.

On January 14 at a pro-Palestine rally organized by the Congress of South African Trade Unions (COSATU), then Deputy Foreign Minister Fatima Hajaig stated that "the control of America, just like the control of most Western countries, is in the hands of Jewish money, and if Jewish money controls their country then you cannot expect anything else." Then foreign minister Nkosazana Dlamini-Zuma distanced herself from the comments, and the South African Board of Jewish Deputies filed a complaint against Hajaig at the South African Human Rights Commission. On February 3, Hajaig apologized for her comments; however, the Board of Deputies accused her of giving an insufficient apology that "failed to address, let alone repudiate her anti-Semitic statements" and rejected it. On February 4, Hajaig was summoned to the office of then President Kgalema Motlanthe and later that day gave an apology for her hate speech that was accepted by the Board.

On March 5, at Witwatersrand University, COSATU International Relations Secretary Bongani Masuku made comments that the South African Human Rights Commission (SAHRC) found to be of an "extreme nature" that amounted to hate speech. The SAHRC subsequently launched an investigation. They reported that Masuku appeared to advocate hatred against Jews and Israel and "incited violence based on religion, an area which freedom of expression does not protect." The SAHRC recommended that the matter be resolved through litigation to seek a public apology from Masuku before the Equity Court. Masuku planned to appeal the decision; there were no further developments at year's end.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government partially cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The government's policy prohibited encampment of foreign asylum seekers and refugees in favor of free movement and integration of documented migrants into local communities, with guarantees for the right to work and access to social services. While this generally offered greater liberty to foreigners, many NGOs criticized government protection of foreigners as inadequate.

The law does not prohibit forced exile; however, the government did not use it.

Internally Displaced Persons (IDPs)

Foreign African migrants were displaced during the year following xenophobic attacks. On November 17, a mob chased approximately 3,000 Zimbabwean migrants out of the town of De Doorns by attacking and destroying the migrants' shacks. Police fired rubber bullets to disperse the mob and arrested 24 persons for public violence. The minister of home affairs sent a delegation to the town to assist those migrants who lost their identification documents during the attack. The migrants set up an informal IDP camp on a local rugby field and remained there at year's end. The attacks were reportedly sparked by competition for seasonal farming jobs, with residents accusing the Zimbabweans of agreeing to work longer hours for less pay. On December 17, Witswatersrand University's Forced Migration Studies Project (FMSP) released a study that indicated that dissatisfied local labor brokers pressured local leaders and residents to chase the Zimbabweans away because they were angered by income losses blamed on Zimbabwean labor brokers.

In May 2008 xenophobic attacks against foreign African migrants and ethnic minorities by South African civilians in townships in Johannesburg escalated into a national wave of violence in which 62 persons were killed in Western Cape, Gauteng, and KZN provinces. Of these, 21 were South African citizens, 11 were Mozambican, five were Zimbabwean, and three were Somali. The remaining 22 bodies were not identifiable. Fifty-three of the killings took place in Gauteng Province. An estimated 670 persons were seriously injured nationwide. The perpetrators blamed the immigrants for job and housing losses and increasing levels of crime. Most attacks were perpetrated by small mobs adopting vigilante tactics, in some cases under the influence of alcohol. Some victims were beaten to death, others were stabbed, and their shacks were looted and burned.

In 2008 the SAHRC stated that it would conduct a thorough inquiry into the xenophobic attacks; however, no investigation had been launched by year's end. The government was widely criticized for its slow response in arresting and prosecuting perpetrators. Field studies by the Institute for Security Studies and FMSP implicated local ward politicians in orchestrating attacks to gain political influence with residents, although no related arrests were made. In March the NPA reported that 1,627 xenophobia suspects were initially arrested, resulting in 469 criminal cases based on the 2008 attacks. Of these, 70 suspects were found guilty, 35 were found not guilty, 208 cases had been withdrawn, and 156 cases were outstanding. NGOs noted that none of the arrests or prosecutions were for murder, but the FMSP reported that one suspect was convicted of murder and sentenced to 15 years in prison. There were no further developments by year's end.

Although the government announced in May 2008 that it would set up special courts to speed the prosecution of the perpetrators of the violence, only the Western Cape created such courts, and significant delays were reported. On September 2, the Equality Court in Cape Town postponed until September 28 a xenophobia compensation claim by 11 foreign-national shopkeepers from Zwelethemba township in Worcester. The plaintiffs were seeking financial

compensation and an apology from the police for allegedly failing to protect them during the 2008 attacks. There was no further information about the case at year's end.

The estimated 80,000 migrants who were displaced by the violence fled to 72 temporary shelters set up by NGOs and the government in the wake of the attacks. Humanitarian organizations raised concerns that government efforts did not adequately meet the UN Guiding Principles on Internal Displacement.

The provincial governments' threatened closures of the shelter sites throughout July and August 2008 drew criticism from the UN and assistance organizations, which voiced concern that government efforts to encourage host communities to accept foreigners were inadequate. All sites in Gauteng Province were officially closed by October 2008, while the last shelter in Western Cape closed in November 2008. The provincial governments claimed that migrants were safe to return to the townships; however, some attacks continued to occur. Populations at the shelter sites gradually decreased, as some IDPs returned to their countries of origin, while others returned to their former homes or sought safer accommodation in new locations. The 80,000 displaced persons from the 2008 attacks had dispersed or reintegrated by year's end.

Protection of Refugees

The law provides for the granting of asylum and refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protection to refugees. The law also provides for a broader definition of refugee status to be granted if a person satisfies the definition in the 1969 Organization of African Unity's (now African Union's) Convention Governing the Specific Aspects of the Refugee Problem in Africa.

In practice the government generally provided protection against the expulsion or return of those recognized as refugees. However, refugee advocacy organizations charged that police and immigration officials abused refugees and asylum seekers and forcefully repatriated some asylum seekers, particularly Zimbabweans. Applicants for asylum and NGOs assisting refugees also reported that immigration authorities sought bribes from those seeking permits to remain in the country. The Department of Home Affairs (DHA) adopted anticorruption programs and punished officials or contracted security officers found to be accepting bribes.

Following concern about the expulsion or return of refugees and asylum seekers to countries where their lives or freedom would be threatened, the government took steps to address these concerns during the year, which were welcomed by some watchdog organizations. On May 1, the government suspended deportations of Zimbabweans; introduced a 90-day visa-free entry for Zimbabwean nationals and an associated right to work; and proposed a system of longer-term permits, known as special dispensation permits, for Zimbabweans already in the country under the Immigration Act. The proposed permit would allow holders to remain in South Africa for six months and afford the right to education, work, and access to basic health care; however, the permit system had not been implemented by year's end.

Due to the ongoing economic and political problems in neighboring Zimbabwe, the number of Zimbabweans seeking employment in the country continued to increase. While the DHA publicly stated that it did not know how many illegal immigrants were in the country, reports by independent organizations such as UNHCR and Doctors without Borders estimated there were one to three million Zimbabweans in South Africa. DHA struggled to keep up with processing asylum claims.

The government cooperated to some degree with the UNHCR and other humanitarian organizations in assisting recognized refugees and asylum seekers. The government also offered temporary protection to some individuals who may not have qualified as refugees under the 1951 Convention or the 1967 Protocol. According to the DHA Annual Report,

117,436 temporary and permanent residence permits were issued. The report did not indicate how many permits were rejected.

Although the law provides for guaranteed access to basic services, education for refugee children, and access to police and courts, NGOs such as Human Rights Watch found that in practice, asylum seekers, migrants, and refugees faced discrimination at health care facilities and by law enforcement representatives.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

On April 22, the country held a largely peaceful, free, and fair national election. The ANC received 65.9 percent of the vote, a decrease from 69.7 percent in 2004, and its parliamentary seats were reduced from 297 to 264 of 400 seats in the National Assembly (the dominant lower chamber of parliament). Parliament then elected ANC President Jacob Zuma as the country's next president. The lead opposition party, the Democratic Alliance (DA), increased its share of the vote to 16.7 percent and its seats to 67. The new ANC breakaway party established in 2008, Congress Of the People (COPE), won 7.4 percent of the vote for 30 seats. The remaining 39 seats in parliament were allocated to 10 other political parties based on election results. In the upper house of parliament, the National Council of Provinces (NCOP), the ANC held 35 seats, DA had 10, and COPE seven seats. The remaining two seats were allocated to the IFP and the Independent Democrats. The NCOP is primarily a reviewing chamber that has the power to send legislation back to the National Assembly for retooling and can vote on legislation affecting the rights of the nine provinces.

There were some reports of irregularities during the elections, including a few instances of violence and one attempted vote rigging.

According to an April 21 newspaper report, statistics released by the government's security sector ministers showed that KZN continued to be the province with the highest number of cases of election-related violence and intimidation. In the six weeks prior to the elections, 162 cases related to election violence were reported, including four killings, four attempted killings, one case of arson, and one case of intimidation with a firearm. Twenty-five cases of intimidation were reported, including 62 in the Northern Cape and 30 in Limpopo.

A report released by the NGO KZN Violence Monitor stated that at least nine killings believed to be politically motivated were reported in KZN since the beginning of the year.

On January 22, ANC stalwart Inkosi Mbongeleni Zondi was shot dead in Umlazi, KZN, while visiting his fiancée. Two IFP members, Makhosabo Mkhize and Siphamandla Mhlongo, were arrested and charged with murder. On July 1, the court granted Mkhize bail but denied it for Mhlongo. The case was adjourned until July 29; however, on July 28 Makhosabo Mkhize was killed, allegedly by a group of men who attacked him while he was sleeping in his home. No arrests were made; Mhlongo's trial was adjourned until next year.

On April 22 in KZN, Ulundi election official Sindisiwe Mncube was arrested after being caught with illegally marked ballot papers favoring the IFP. On June 26, Mncube was found guilty on five charges of forgery and violating the electoral code and sentenced to five years in prison.

On April 15, ANC member Ndikho Tyawana was found guilty of stabbing former ANC provincial secretary Mcebisi Skwatsha to death at a party meeting in June 2008 and sentenced to eight years in prison, three of them suspended.

In the new administration, women held 14 of 34 ministerial positions, including the ministerial portfolio of foreign affairs, and 11 of 28 deputy ministerial positions. There were 172 women in the 400-seat National Assembly and 19 women among the 54 permanent members of the NCOP. Women occupied two of four parliamentary presiding officer positions, including the deputy speaker of the National Assembly and deputy chair of the NCOP.

There were an estimated 119 members of minorities (nonblack citizens) in the National Assembly. There were 18 minority members among the 54 permanent members of the NCOP. The cabinet included 19 members of minority groups.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. Public officials were subject to financial disclosure laws, and the government continued its efforts to curb corruption; however, corruption remained a problem. The public perception of widespread official corruption, particularly in the police and the DHA, continued despite government assurances that the issue was being addressed. Additionally, public perception of corruption at the local government level increased following President Zuma's declaration that his government would fight to curb corruption among provincial and local government officials. Several officials, including leaders in Gauteng and Northwest provinces, were removed by the government following allegations that they took bribes.

On August 9, North West Province Auditor General Douglas Maphiri and four other officials in his office were suspended following allegations that Maphiri solicited bribes from politicians in the provincial legislature to cover up cases of corruption. An investigation continued at year's end.

The government's anticorruption actions included ongoing investigations into the alleged misconduct of public officials. At least 10 agencies were engaged in anticorruption efforts. Some, like the Public Service Commission, the Office of the Public Prosecutor, and the Office of the Auditor-General, are constitutionally mandated. SAPS had a unit dedicated to anticorruption activities.

On September 17, Finance Minister Praven Gordhan revealed the Treasury's review of provincial budgets and spending. The task team had identified more than 2,000 officials engaged in improper activity. In November President Zuma signed a proclamation authorizing an SIU investigation into provincial government corruption. The investigation probe alleged widespread financial irregularities in all 24 municipalities in North West Province; the investigation continued at year's end.

The SIU investigated corruption in government departments and identified civil servants alleged to have improperly received state housing subsidies. The government took administrative action to recover these subsidies. On November 27, Minister of Human Settlements Tokyo Sexwale reported that a special SIU team dedicated to investigating housing fraud would investigate 800 officials at the national and provincial level and 123 in local government for corruption. The investigation continued at year's end.

The Office of the Public Protector investigated government abuse and mismanagement and served as the office of last resort for citizens reporting unfair treatment by government entities. The office handled an increasing number of complaints but was hampered by severe resource constraints.

There were no developments in the trial, postponed since 2006, of Bloemfontein's former mayor, Pappie Mokoena, the municipal manager, chief operating officer, and nine other city officials on charges of corruption and fraud. The trial was postponed until early 2010.

The government suspended prosecutions in "Travelgate," the 2004 controversy involving misuse of official funds by parliamentarians and their travel agents. In May 2008 the liquidators of Bathong Travel, the agency at the center of the scandal, announced that the parliamentary probe had been terminated. Opposition parties asked parliament to explain

why all civil actions against members of parliament (MPs) were abandoned. Parliament responded that internal parliamentary proceedings against 11 implicated MPs continued. One of the MPs identified for prosecution, Mnyamezeli Booi, was later appointed as the ANC's chief whip in the National Assembly. Following the elections, Booi was appointed chairperson of the Portfolio Committee on Defense and Military Veterans. On September 28, Booi pleaded guilty and admitted to defrauding parliament of 92,000 rand (\$12,450) worth of travel vouchers. The court fined Booi 50,000 rand (\$6,765) and gave him a one-year suspended sentence. The DA quickly called for Booi's removal as an MP, but the ANC refused to recall him, saying Booi had shown remorse in admitting his guilt and by repaying the money to parliament.

On April 6, prior to the elections, the NPA dropped its investigation into corruption charges against ANC President Jacob Zuma. In December 2007 the NPA had indicted Zuma on 16 counts of racketeering, corruption, money laundering, and fraud. In July 2008 Zuma lost a Constitutional Court appeal to have the warrants used by the DSO to search his properties ruled invalid. In September 2008 High Court Judge Chris Nicholson dismissed the corruption charges against Zuma, ruling that the government had mishandled the case, and that Zuma had been wrongly denied a chance to give his side of the story to investigators before being charged. In his ruling, Nicholson stated he was not convinced that Zuma "was incorrect in averring political meddling in his prosecution," an inference that led the ANC to recall President Mbeki in October 2008. In March the NPA, citing state politicization of the case against Zuma, dropped all charges. The NPA subsequently reorganized, and Zuma became president on May 9 with no pending accusations against him.

The law provides for access to government information; however, the government did not always comply with the law. If a government department refuses to provide information, the requester can launch an internal appeal. If this also fails, the requester may appeal a decision to the High Court, a lengthy process that excludes groups or individuals who cannot afford it. The Open Democracy Advice Center (ODAC) continued to report that many requests for information went unanswered or were answered outside the period provided for in the legislation. However, ODAC's 2007 annual report noted that many requests were unclear or poorly drafted, making a response difficult.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Many organizations participated in governmental bodies that gathered information and developed policies related to human rights. Major independent human rights NGOs included Lawyers for Human Rights, the Foundation for Human Rights and the Human Rights Institute of South Africa. International and domestic NGOs and UN agencies spoke out against xenophobic violence in the country during the year and criticized the government's response.

The SAHRC, which was created by the government but operated independently, was responsible for promoting the observance of fundamental human rights at all levels of government and throughout the general population. The SAHRC also has the authority to conduct investigations, issue subpoenas, and hear testimony under oath. SAHRC enjoyed support from the government without interference, and the government reacted positively towards SAHRC reports. During the year the SAHRC issued reports on xenophobia, crime, refugees, human rights, and democracy.

The SAHRC investigated several complaints during the year, including an investigation into hate speech by COSATU International Relations Secretary Bongani Masuku (see section 2.c.).

There were no parliamentary committees that dealt exclusively with human rights; however, certain parliamentary committees looked into human rights issues for their constituencies.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination on the grounds of race, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, sexual orientation, or marital status. However, entrenched attitudes and practices often denied these rights in practice.

Women

Rape, including spousal rape, is illegal but remained a serious and pervasive problem. The country had one of the highest incidences of rape in the world. According to the 2008–09 SAPS annual report, the number of sexual offenses increased by 12 percent during the year to 71,500 reported cases from 63,818 reported cases in 2008. According to NGOs, rape of elderly women increased. SAPS began recording all sexually related offenses under a single category, as required by amendments to the Sexual Offences Act (SOA) in 2007. Among other provisions, the amendments also expanded the definition of rape to include all forms of sexual penetration without consent irrespective of gender and broadened definitions of sexual assault against children and persons with mental disabilities.

A June report released by the Medical Research Council found that more than 25 percent of men interviewed in KZN and Eastern Cape Province admitted to committing at least one rape and, of those, more than half admitted to raping more than one person.

A poor security climate and societal attitudes condoning sexual violence against women contributed to the problem. A 2005 study by the Medical Research Council estimated that only one in nine rapes was reported to SAPS, as in most cases the attackers were friends or family members of the victims, who therefore were afraid or reluctant to press charges. This estimate implied that during the year well over half a million women suffered sexual violence. The NGO Treatment Action Campaign reported that one in three South African women would be raped in her lifetime.

Allegations of rape, sexual assault, and sexual harassment of black and foreign female farm workers by farm owners, managers, and other farm workers were common.

In December 2007 parliament passed amendments to the SOA that broadened the physical definitions of rape and indecent assault, included males as victims, and restricted admission of victims' sexual histories as evidence in court in an effort to improve the government's capacity to punish perpetrators and protect victims. Victims' rights groups were critical, however, of the law's conditional provision of postexposure prophylaxis only to victims who filed charges with SAPS or reported the alleged offenses to designated health establishments.

The government operated 42 sexual offenses courts throughout the country that included designated waiting rooms and counseling for victims. During the year the NPA's Sexual Offenses and Community Affairs Unit (SOCA) opened seven and operated 17 Thuthuzela Care Centers (TCC) that specialized in rape care management and streamlined a network of existing investigative, prosecutorial, medical, and psychological services in the hospitals where they were located.

The number of courts for sexual offenses decreased from 64 to 42 during the year. While the NPA made no official statement on the decrease, it did appear to some stakeholders that support for dedicated sexual offenses courts was eroding and that some of the previously dedicated courts were hearing other types of cases. Subsequently, sexual offenses cases took longer to resolve, were harder to track for case managers, and the conviction rate within the sexual offenses courts, which was previously the highest in the country, decreased. The SOCA unit reported a 66.7 percent conviction rate during the year, which was a decrease from previous years, but still higher than the rates reported for other regional courts where convictions in sexual offenses cases averaged less than 50 percent. In their November report to the

parliamentary Portfolio Committee on Justice and Constitutional Development, the NPA outlined its desire to increase the number of sexual offenses courts.

Although judges in rape cases generally followed statutory sentencing guidelines, women's advocacy groups criticized judges for using criteria such as the victim's behavior or relationship to the rapist as a basis for imposing lighter sentences. According to a 2008 study by SAPS and the Centre for the Study of Violence and Reconciliation, only 4.1 percent of reported cases resulted in convictions. One in every eight suspects was under the age of 17. In rape cases involving victims under the age of 16, one of every 10 cases resulted in a conviction.

On June 10, seven men were found guilty of the 2005 rape of a woman known as Buyisiwe; the case had been postponed more than 20 times. On September 4, the men were sentenced to between 17 and 20 years' imprisonment each.

Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking by former partners. The Domestic Violence Act of 1998 defines victims of domestic violence (including persons who are not in legal or common-law marriages), facilitates the serving of protection orders on abusers, requires the police to take victims to a place of safety, and allows police to seize firearms at the scene and to arrest abusers without a warrant. Violating a protection order is punishable by a prison sentence of up to five years, or 20 years if additional criminal charges are brought.

According to NGOs, about one in four women were in an abusive relationship, but few reported it. A June report released by the Medical Research Council found that more than two-fifths of men interviewed in KZN and the Eastern Cape Province had been physically violent toward an intimate partner. TCC counselors also alleged that doctors, police officers, and judges often treated abused women poorly.

The government financed 39 shelters for abused women, but more were needed, particularly in rural areas. The government continued to conduct domestic violence awareness campaigns. In honor of August 9 National Women's Day, the government hosted numerous events focused on empowering women in government, health, sports, and the arts.

Prostitution is illegal but was widespread and practiced openly. Women were trafficked to, from, and within the country for exploitation in prostitution. Calls by some government officials to legalize prostitution in advance of the International Federation of Association Football (FIFA) World Cup in 2010 did not gather momentum. In September Cape Town created a vice squad to "clean up" the city's brothels. On October 7, the vice squad arrested 17 suspected sex workers. On October 16, they closed two brothels in Goodwood.

Although the law prohibits sexual harassment, it remained a widespread problem. The government left enforcement primarily to employers, with criminal prosecution a rare secondary step at the initiative of the complainant. The Department of Labor (DOL) issued guidelines to employers on how to handle workplace complaints, which allowed for remuneration of the victim's lost compensation plus interest, additional damages, and legal fees; and dismissal of the perpetrator in some circumstances. Tougher punishments could be generated for assault, which carries a range of penalties depending on the severity of the act, but only if the complainants press charges.

Couples and individuals have the right, and were able in practice, to decide freely and responsibly the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Contraception was widely available, and women could access it for free at government clinics. According to a 2008 Department of Health report, 94 percent of women had access to prenatal care while 84 percent had access to a skilled attendant at birth, except in the poorest communities where the rate was 68 percent. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

Discrimination against women remained a serious problem despite their equal rights under the law governing inheritance, divorce, and child custody. Women experienced economic discrimination in areas such as wages, extension of credit, and ownership of land. For example, township housing transfer schemes favored existing titleholders, who tended to be men.

Many rural areas were administered through traditional patrilineal authorities, such as a chief or a council of elders, who did not grant land tenure to women, a precondition for access to housing subsidies. A constitutional court ruling in June 2008 upholding a tribe's decision to allow Tinyiko Shilubana to succeed her father as chief was criticized by traditional authorities who said the verdict contravened African custom.

Women, particularly black women, typically had lower incomes and less job security than men. Most women were engaged in poorly paid domestic labor and microenterprises, which did not provide job security or benefits. The Department of Trade and Industry provided incentive grants to promote the development of small and medium-size businesses and microenterprises for women, young persons, and persons with disabilities.

According to the Businesswomen's Association's annual census, the number of women in top leadership positions remained constant. Women held only 18.6 percent of executive-level and 14.6 percent of director-level positions. The government's Labor Force Survey published in July indicated unemployment among women was higher than among men, at 25.7 percent versus 21.8 percent.

Female farm workers often experienced discrimination, and their access to housing often was dependent on their relationship to male farm workers. Female farm workers on maternity leave who could not obtain timely compensation via the Unemployment Insurance Fund often had no choice but to return to work shortly after giving birth, according to NGOs working with farm workers in Limpopo Province.

A number of governmental bodies, particularly the Gender Commission and the presidential Office of the Status of Women, and numerous NGOs monitored and promoted women's rights.

Children

The government was generally committed to children's rights and welfare. The law provides for citizenship by birth, descent, and naturalization. However, registration of births was inconsistent, especially in remote rural areas or among parents who were foreign nationals and themselves unregistered. This resulted in lack of access for children to public services such as education, health care, and financial grants. According to Social Development Minister Edna Molewa, more than nine million children were receiving social welfare grants. The government's 2008 budget extended child support grants from age 14 to 15; however, it was sometimes difficult for children, particularly those in rural areas or without documentation, to obtain access to health care facilities and other programs.

The law provides for access to education for disadvantaged children, traditionally black children, through a uniform system for the organization, governance, and funding of schools. It mandates compulsory education from ages seven to 15 and ensures that children cannot be refused admission to public schools due to a lack of funds. However, public education is fee based and the government does not fully subsidize education. Even when children qualified for fee exemptions, low-income parents had difficulty paying for uniforms, books, and supplies. Some children, therefore, were enrolled in school but did not attend.

According to the 2007 Education Statistics Report by the Department of Education, 91 percent of grade 1–12 school age children were enrolled in school. Those not enrolled tended to be children with special needs. Most children attended school until the age of 15, when eligibility for the Child Support Grant ends. There were an equal number of boys and girls

in grades 1-12, with boys slightly outnumbering girls in primary school (grades 1-7), but 3 to 4 percent more girls than boys were in secondary school (grades 8-12).

There continued to be reports of rape, sexual abuse, sexual harassment, and assaults of girls at school by teachers, students, and other persons in the school community. The law requires schools to disclose sexual abuse to the authorities; however, administrators often concealed sexual violence or delayed disciplinary action. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted pregnancies.

Although the law prohibits corporal punishment in schools, there were reports that teachers used physical violence to discipline students. Student-on-student violence, including racially motivated violence, continued to be a major concern of educational authorities and parents. Teacher organizations, parents, and police worked together in the "Safe Schools Program" to address these problems. Many schools implemented "Adopt-a-Cop" programs inviting SAPS officers into their schools for training and security.

HIV/AIDS remained one of the leading causes of death among women and children, accounting for 20 percent of maternal deaths and 40 percent of deaths of children under age five. HIV/AIDS activists, physicians, and opposition parties continued to criticize the government for failing to provide antiretroviral (ARV) therapy to all pregnant and breastfeeding women and thereby protect young children from HIV/AIDS transmission. To reduce maternal and infant mortality rates and HIV transmission from mother to newborn to a stated goal of less than 5 percent by 2011, the government worked with experts and the World Health Organization to revise the 2008 Prevention of Mother to Child Transmission guidelines to provide enhanced regimens of ARV therapy to pregnant women, as well as postnatal prophylaxis and early treatment for at risk or HIV-infected infants.

Violence against children, including domestic violence and sexual abuse, remained widespread. While there was increased attention to the problem, a lack of coordinated and comprehensive strategies to deal with violent crimes continued to impede the delivery of needed services to young victims. According to the 2008-09 SAPS report, 20,141 children were victims of all sexual offenses between April and December 2007, 843 were killed, and 12,422 were assaulted with intention to do grievous bodily harm. Observers believed that these figures represented a small percentage of the actual incidence of child rape since most cases involving family members were not reported. According to the NGO Childline, girls have a one-in-four risk, and boys a one-in-five risk, of being raped before age 16. According to a June report released by Solidarity, the country's largest independent trade union, 45 percent of all rapes were perpetrated against children, a child was raped every three minutes, and more than 88 percent of child rapes were never reported to the police.

The country had a low conviction rate for rape and child abuse. The law states that no child under the age of 12 can consent to any sexual activity and sets 16 as the lowest age for consensual sex with another minor. Statutory rape is defined as sexual intercourse between anyone under 18 and an adult more than two years older. The statutory sentence for rape of a child is life in prison; however, the law grants judges discretion to issue more lenient sentences. The traditional practice of "ukuthewala," the forced marriage of girls as young as 12 to adult men, continued in remote villages in the Eastern Cape.

Penalties for child prostitution include fines and imprisonment of up to 20 years. The country was a destination for child sex tourism. The law prohibits child pornography and provides for penalties including fines and imprisonment up to six years. The Film and Publication Board ran a web site during the year to enable the public to report incidences of child pornography.

The high incidence of HIV/AIDS resulted in an increase in the number of child-headed households. These children sometimes turned to prostitution to support themselves and their siblings. Other children were trafficked and forced into prostitution. NGOs provided shelter and medical and legal assistance for children in prostitution and a hotline for victims of child abuse.

AIDS activists alleged that children in prostitution were often highly sought after because of the widely held belief that sex with a virgin provided a cure for HIV/AIDS. SAPS officials, however, stated that under questioning perpetrators usually admitted they knew this claim was false.

Despite outreach programs to discourage the practice, ritual circumcision of males, including children, usually by medically unqualified practitioners, was still a prevalent initiation tradition in several provinces. Circumcision was considered a precondition for adult status, which permits marriage, inheritance, and other societal privileges. The House of Traditional Leaders attempted to address unsafe initiation practices and designed strategies to prevent deaths and the spread of diseases, such as HIV/AIDS. However, discussing the practice was taboo in many communities where it was considered a matter for chiefs to decide. Some traditional leaders spoke out against government interference in initiation and circumcision practices.

The Department of Health in the Eastern Cape provided surgeons, health officials, and vehicles during the June initiation season to monitor initiation practices. Nonetheless, 52 circumcision-related deaths, more than double the total in the previous year, and several penis amputations at the hands of unmonitored practitioners were reported in the Eastern Cape during the June initiation period, according to press reports. Twenty-six boys died in the Eastern Cape during December, the first month of the summer initiation period. From 2001 through 2007, the Eastern Cape recorded nearly 2,600 hospital admissions, 156 genital mutilations or amputations, and 232 deaths due to dehydration and infection from unsafe and unsterile procedures. Two boys died in Limpopo Province as a result of botched circumcisions. Eleven illegal traditional surgeons were arrested and charged with culpable homicide and illegal circumcision during the winter circumcision season.

Trafficking in Persons

The law does not prohibit trafficking in persons for all purposes, and there were reports that persons were trafficked to, from, through, and within the country. The government is limited to the use of piecemeal provisions of various laws to prosecute traffickers. The Prevention of Organized Crime Act of 1998 can be applied to trafficking, as can specific laws against child labor and forced labor. The SOA makes interim provisions outlawing trafficking for purposes of sexual exploitation, in addition to creating new or expanded statutory offenses applicable to all forms of sexual violation of children and the mentally disabled and provisions for prosecutions of extraterritorial sexual exploitation. The 2005 Children's Act prohibits "the recruitment, sale, supply, transportation, transfer, harboring or receipt of children, within or across the borders of the Republic." The law also prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, or permitting a female under 16 to stay in a brothel for the purpose of prostitution. The maximum penalty for violations of the law is 20 years in prison. The Children's Amendment Act of 2007 addresses unlawful child labor in extreme forms such as slavery and commercial sexual exploitation; however, the act was not fully implemented.

The country was a source, transit point, and destination for the trafficking of persons, including children, from other countries in Africa, Asia, and Europe for prostitution and forced labor. Domestic and international organized crime syndicates trafficked women in and out of the country for use in the sex industry, and girls were exploited for sex or domestic servitude. Young men were trafficked internally and across borders chiefly for agricultural work, but also for street vending, crime, begging, and prostitution.

The precise extent of trafficking operations was unknown, but a substantial number of persons were believed to be trafficked annually both internally and across borders. Of the 306 total victims directly assisted by the International Organization for Migration (IOM) from 2004 through December, most were Thai (153), Congolese (36), Zimbabwean (29), South African (25), Mozambican (20), Indian (12), and Chinese (11). From 2005 through November, IOM assisted 57 child victims of trafficking, almost half of whom were from the Democratic Republic of Congo.

Trafficked women and children forced to work in the commercial sex industry often lived with other trafficked victims in segregated areas. They were frequently under constant surveillance; usually had no money or identifying documents; were often in debt to the agents who arranged their travel; often worked long hours--in some cases up to 18 hours each day and on weekends and when ill; and sometimes were fined by their traffickers for infractions of arbitrary rules. Young men trafficked for forced agricultural labor, were often subjected to violence and food rationing.

Children were especially vulnerable to trafficking for sexual and labor purposes and remained relatively unprotected from exploitation. The trafficking of Mozambican, Malawian, and Zimbabwean children for agricultural labor resulted in the children's deportation as illegal aliens without appropriate protections. The government began to address the growing problem of child sex tourism, for which girls and boys were trafficked internally and across borders. For example, in conjunction with the June FIFA Confederations Cup and in advance of the 2010 FIFA World Cup, provincial governments developed action plans and mobilized antitrafficking teams to protect children. The government issued guidelines on how to identify at-risk children and police were trained to identify suspicious activity.

According to the NPA, which leads government efforts to combat trafficking, Chinese traffickers made Johannesburg a regional hub for collecting victims from Lesotho, Mozambique, and Swaziland for exploitation locally and in other cities. Trafficking from neighboring Angola, the Democratic Republic of Congo, and Zimbabwe was believed by law enforcement officials to be on the rise. Nigerian syndicates reportedly began moving trafficked women to the United States where they were exploited to attract African migrant clientele. The flow of trafficked Thai women to South Africa appeared to decrease during the year, potentially due to pressure by law enforcement. According to law enforcement officials, new brothels proliferated near football stadiums in advance of the 2010 FIFA World Cup. Many of the new venues undertook recruitment drives, for both willing sex workers and trafficking victims.

In most cases traffickers lured foreign women with phony promises of employment, marriage, or educational opportunities abroad. Traffickers often lured the children of poor families with fraudulent promises of jobs, education, or a better way of life. Victims, who might have been kidnapped or forced to follow their traffickers, were subjected to threats of violence, withholding of documents, and debt bondage to ensure compliance.

Although the country had 42 sexual offenses courts with authority to handle trafficking cases, the lack of clear and complete antitrafficking legislation inhibited prosecutions. However, the amended SOA provides some specific protections to trafficking victims by stipulating that victims cannot be charged with crimes, such as immigration violations or prostitution, which are the direct result of their having been trafficked. Following awareness and sensitivity training conducted by the UN Office on Drugs and Crime, IOM, and others, police treatment of trafficking victims improved. However, extensive pretrial delays caused some trafficking victims not to testify at the trials of their alleged traffickers.

On March 24, after a month-long investigation by a newly formed provincial task team comprising members of the organized crime unit, the NPA, and child prostitution experts, police arrested several businessmen linked to a child prostitution ring in Durban. The businessmen were charged under the human trafficking and child pornography provisions of the SOA. The investigation into the prostitution ring and the case were pending at year's end.

On November 26, Giang Broodryk, a Thai citizen, was arrested for allegedly assisting girls from Thailand to enter the country illegally. She was denied bail by the Rustenburg Magistrate's Court. Broodryk allegedly promised the girls employment in her massage parlor but then forced them to work as prostitutes in her brothel; the case was pending at year's end.

According to the IOM, the prosecution concluded argument during the year in the trial of Mozambican Aldina dos Santos, which began in 2008. There were no further developments at year's end.

There were no developments in the 2008 alleged trafficking cases involving a Sierra Leonean child trafficker in Durban and five Nigerian traffickers of Nigerian women.

Corruption within the police, immigration, customs, and private services at the international airports impeded interdiction efforts. Traffickers reportedly bribed officials to help them move victims out of transit areas to avoid detection. The DHA dismissed immigration officers for involvement in trafficking and for petty corruption relating to trafficking. The border police, SAPS, and judicial officials received additional antitrafficking training during the year, but confusion by officials between smuggling and trafficking remained a problem.

The NPA's SOCA unit leads an interagency task force to formulate new strategies for dealing comprehensively with trafficking in persons. The NPA subcontracted IOM to conduct training workshops for hundreds of social workers and government officials to improve recognition of trafficking victims, care and attention to victims, and referrals of cases to authorities. The government commissioned the Human Sciences Research Council to research the scale and nature of trafficking.

In conjunction with the June FIFA Confederations Cup, local governments established Provincial Joint Operation Command Centers staffed by NGOs, youth workers, and police. The centers reported to the National Joint Operation Command Center to protect and assist children at risk of becoming trafficking victims. The government also mobilized antitrafficking teams of police, issued guidelines on how to identify children being recruited for trafficking, and trained police to identify suspicious activity.

The NPA maintained a witness protection unit headed by a special director of public prosecutions, but it relied heavily on NGOs to provide witness protection for trafficking victims. Some domestic victims of trafficking were placed in government facilities for the sexually abused. The government continued to fund private shelters that provided short- and long-term health care, counseling, and legal support to trafficking victims.

Persons with Disabilities

The law prohibits discrimination on the basis of both physical and mental disability; however, government and private sector discrimination in employment existed. The law mandates access to buildings for persons with disabilities, but such regulations were rarely enforced, and public awareness of them remained minimal. General responsibility for the rights of persons with disabilities fell within the Department of Health, with individual NGOs advocating for the rights of persons with specific disabilities such as blindness.

The law provides persons with disabilities protection from harassment and, in conjunction with the Employment Equity Act, also provides guidelines on the recruitment and selection of persons with disabilities, reasonable accommodation for persons with disabilities, and guidelines on proper handling of employee medical information. Enforcement of this law was limited. The law also requires employers with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for persons with disabilities. Persons with disabilities constituted 3.4 percent of the general

population, but only an estimated 0.02 percent of the public service workforce. The law does not allow persons with mental disabilities to vote.

National/Racial/Ethnic Minorities

Although not as pervasive as in the previous year, xenophobic attacks on foreign African migrants and ethnic minorities occurred and sometimes resulted in displacement (see section 2.d.). Civil society organizations criticized the government for failing to address the root causes of the violence, provide opportunities for conflict resolution in affected communities, or undertake investigations and prosecutions on a scale necessary to deter additional attacks.

On May 24, a mob in Darling set fire to a shop belonging to Omar Josef and Hazim Amad, both Somalis. Josef and Amad were killed in the fire; an investigation continued at year's end.

On June 6, several taxi drivers beat a refugee near the Nyanga Refugee Reception Center and ripped his clothes off. No further action was taken in the case.

On June 15, Angolan refugee Sebastian Santana was stabbed to death by an unidentified man on a bridge near the Nyanga Refugee Reception Center when he resisted an attempted robbery. Angolan refugee leader Joao Nascimento told a local newspaper that Santana was on his way to the center to renew his papers when he was approached by the man and told to go back to his country. Police opened an investigation into the killing; there were no new developments by year's end.

On June 22, hundreds of Franschhoek residents stoned Somali-owned businesses over disputed food prices. Four foreign-owned shops were damaged and one Somali businessman was injured during the attack. The police dispersed the crowd with rubber bullets. Three men were charged with public violence, and an investigation continued at year's end. Police reported that they increased patrols in the area.

On December 7, residents of the Westernburg Township outside Polokwane attacked Zimbabwean nationals with sticks, knives, and stones. Six men were seriously injured. Residents blamed Zimbabweans for a spate of robberies, murders, and rapes in the township. More than 200 persons sought shelter at the Peter Mokoba Stadium under heavy police guard. Police arrested 12 suspects for public violence and assault; there were no further developments by year's end. All of the displaced persons returned home or found other housing by year's end.

The law requires employers with 50 or more employees to ensure that previously disadvantaged groups, legally defined as "Blacks" (including "Africans," "Colored," and "Asians" and collectively constituting more than 90 percent of the country's population) are represented adequately at all levels of the workforce. Notwithstanding the country's antidiscrimination legislation, however, the DOL 2007 Employment Equity Analysis reported that Blacks remained underrepresented, particularly at the professional and managerial levels. According to the report, Blacks held only 22.2 percent of top management positions and approximately 36.5 percent of professional positions. Black women remained by far the most disadvantaged group in number and quality of management or skilled jobs. Employers cited a lack of training and development, poor recruitment processes, and an antagonistic corporate culture as the main impediments to affirmative action.

In June 2008 the Pretoria High Court ruled in favor of the Chinese Association of South Africa's petition that ethnically Chinese South African citizens be defined as Black in legislation benefiting previously disadvantaged groups such as the Broad-Based Economic Empowerment Act and the Employment Equity Act.

The continued killings of mostly white farm owners by black assailants created concern among white farmers that they were being targeted for racial and political reasons, although studies showed perpetrators were generally common

criminals motivated by financial gain. There also were reports that white employers abused and killed black farm laborers and complaints that white employers received preferential treatment from the authorities.

Indigenous People

The NGO Working Group of Indigenous Minorities in Southern Africa estimated that there were approximately 6,000 indigenous San in the country, some of whom worked as farmers or as farm laborers. In the late 1990s, the Khomani, one of the last surviving San communities, reclaimed most of their land rights by lodging a claim with the Commission for the Restitution of Land Rights. By law the San have the same political and economic rights as other citizens; however, the government did not always effectively protect those rights or deliver basic services to the San communities. Their participation was limited due to fewer opportunities, minimal access to education, and relative isolation.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The post-apartheid constitution outlaws discrimination based on sexual orientation, and in 2006 the country legalized same-sex marriage. There were no reports of official mistreatment or discrimination. However, in its annual Social Attitudes Survey released in November 2008, the Human Sciences Research Council found widespread public intolerance of homosexuality activity, which was commonly labeled "un-African," with 80 percent of respondents believing sex between two same-gender persons was "wrong."

Rights groups reported that the LGBT community was subject to societal abuses including hate crimes, gender violence targeting lesbians, and killings. The NGO People Opposed to Women Abuse reported that attacks increased during the year and estimated that a lesbian was killed every three months in the country's townships. On September 22, Themba Mvubu was sentenced to life in prison for the April 2008 gang rape, robbery and murder of Eudy Simelane, a former player on the national women's soccer team and well-known lesbian activist. Khumbulani Magagula and Johannes Mahlangu, who were arrested with Mvuba, were acquitted based on testimony that the two were present but did not participate. The fourth accused, Thato Mphiti, was sentenced on February 13 to 32 years in prison for murder, robbery, and being an accomplice to rape.

The trial of seven men accused of the 2006 murder of Zoliswa Nkonyana, a lesbian, in Cape Town, was postponed several times during the year; there were no further developments.

Other Societal Discrimination

With availability of life-saving ARV treatments, civil society activities such as the Treatment Action Campaign, and government campaigns to reduce discrimination against persons with HIV/AIDS, the social stigma associated with HIV/AIDS began to decline but remained a general problem.

In May 2008 the Constitutional Court ruled that SANDF must conduct individualized health assessments of members of the armed forces and SANDF could not exclude HIV-positive persons from recruitment, external deployments, or promotions.

Section 7 Worker Rights

a. The Right of Association

The law allows all workers with the exception of members of the National Intelligence Agency and the Secret Service to form and join unions of their choice without previous authorization or excessive requirements, and these laws were applied. The two unions in the military are governed by provisions in the National Defence Bill that state that the unions cannot affiliate with any of the existing union federations and that they do not have the right to strike. A labor court and

labor appeals court enforced the right of association. As of March trade union membership was estimated at three million, or approximately 35 percent of the population employed in the formal sector.

Labor laws extend to farm workers. The National African Farmers' Union received no complaints of harassment of union representatives. The DOL and unions enlisted the cooperation of AgriSA, the national farmers' organization, to educate farmers about workers' rights and to improve working conditions. According to Cosatu's 2006 report, only 10 percent of the workers in the agricultural labor force were unionized.

The law provides for the right to strike, and workers exercised this right; however, workers considered to be providing essential services were prohibited from striking. Essential services were those deemed vital to the public's safety or health, such as police and military, prison wardens, firefighters, emergency health workers and maintenance workers providing critical services. Disputes between workers in essential services and their employers that are not resolved through collective bargaining, independent mediation, or conciliation are referred to arbitration or the labor courts.

Police occasionally used excessive force that resulted in injury against protesters during the year, particularly during the April to August period of wage negotiations for civil servants and subsequent strikes. On August 13, police used rubber bullets and tear gas to disperse a strike by municipal street cleaners and garbage collectors, who are barred from striking under the law, over a wage dispute.

On August 26, in Pretoria, a wage protest by the South African Security Force Union and the South African National Defense Union turned violent as 3,000 soldiers, who were union members but barred from striking under the law, attempted to gain access to the Union Buildings, the official seat of the government, to demand a 30 percent wage increase. Protesters armed with rocks, bottles, and petrol bombs hurled them at police and bystanders. Police attempted to disperse the protesters with rubber bullets and tear gas. The government subsequently launched a review of the soldiers' right to strike, and a decision was pending at year's end.

Some workers were dismissed for participating in strikes during the year. On February 2, the Police and Prisons Civil Rights Union reported that 60 percent of the Johannesburg Metro Police went on strike regarding the Occupational Specific Dispensation wage negotiations, a 2007 wage and promotion package signed with the government but only partially implemented in during the year following mass actions by public sector workers. The union reported that some workers were dismissed for participating in an illegal strike.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference. The government protected these rights, and workers exercised them. Collective bargaining is protected by law. The law prohibits employers from discriminating against employees or applicants due to past, present, or potential union membership or participation in lawful union activities. There were no lawsuits filed for antiunion discrimination.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred. Women and children were trafficked for prostitution, and domestic servitude. Young men were trafficked for forced labor in the agricultural sector (see section 6).

d. Prohibition of Child Labor and Minimum Age for Employment

Child labor is prohibited by law. However, child labor was widespread in informal and agricultural sectors, particularly in the former homeland areas. The law prohibits employment of a child less than 15 years of age. Children over 15 but under 18 are also prohibited from work that places at risk the child's wellbeing, education, physical or mental health, or spiritual, moral, or social development. The government generally enforced child labor laws in the formal sectors of the economy. Underage children were allowed to work in the performing arts if their employer received DOL permission and agreed to follow specific guidelines.

The HIV/AIDS epidemic contributed to the number of households headed by children who supported themselves and often younger siblings. However, in its 2007-08 Child Gauge Report, the Children's Institute at the University of Cape Town stated that there was little evidence of recent rapid growth in the orphan population due to HIV/AIDS. The South African Institute of Race Relations, a research and policy organization, reported that child-headed households accounted for 0.5 percent of all households, or approximately 148,000 households in 2007. The Children's Institute noted that the levels had remained relatively stable since the General Household Survey began in 2002.

Child labor was almost nonexistent in the formal and developed sectors of the economy. In the informal sector, children were engaged in the worst forms of child labor; reports indicated that these practices were most common in the sex trade industry, followed by the domestic sector. Children worked in subsistence and commercial farms and family business, particularly in former homeland areas. Many children in rural areas carried water for their families for excessive hours under physically demanding conditions. Some children were exploited by adults and forced to commit robberies, including armed robbery, and sell drugs. Children were trafficked within the country for the purposes of commercial sexual exploitation, domestic servitude, forced street vending, begging, crime, and agriculture, and for "muthi" (the removal of their organs for traditional medicine). Local criminal rings and street gangs organized child prostitution.

The DOL attempted to employ an estimated 1,000 labor inspectors to investigate reports of violations of child labor and trafficking and to submit any evidence to the SAPS. However, due to a shortage of skilled labor in the country, the DOL reported it was not always able to meet the goal and exact figures were unavailable. Violation of laws regulating child employment is punishable by a maximum prison sentence of three years or a fine of 15,000 rand (\$2,030). In some cases DOL inspectors opted to resolve child labor cases by counseling of employers, parents, and children, or by enlisting the services of professionals in the welfare and education departments. There were reports that inspectors had difficulty gaining access to farms where child labor was reported.

The government's Child Labor Program of Action integrated the priorities of government ministries to combat child labor with a variety of government financial support mechanisms. However, the single largest factor in reducing child labor remained the government's 250 rand (\$34) per month Child Support Grant to primary care givers of children under the age of 15.

e. Acceptable Conditions of Work

There was no legally mandated national minimum wage, although the law gives the DOL authority to set wages by sector. Minimum wages were established for the retail sector, farm laborers, domestic workers, and taxi (minibus) drivers. The minimum wage for farm workers was approximately 6.31 rand (\$.85) per hour. The minimum hourly wages for domestic workers employed more than 27 hours per week ranged from 4.85 rand (\$.65) to 7.06 rand (\$.95). Depending on the province, compliance with the minimum wage rate generally ranged from 65 to 90 percent, according to 2007 DOL figures. Minimum wages did not provide a decent standard of living for a worker and family; the government undertook other actions to alleviate poverty, including annual above inflation mandatory wage increases for farm workers, exemptions from school fees, and improved access to health care.

Annual negotiations between employers and employee associations or unions set wage rates on an industry or plant basis for unionized workers in the formal economy. Wage negotiations for civil servants resulted in numerous strikes during the year. Most unions demanded wage increases to compensate for rising inflation and price hikes. Local government employees received a 13 percent increase and national and provincial public servants received a 12 percent increase, which was above the August inflation rate. Such negotiated wages were generally sufficient to provide a decent standard of living for a worker and family; however, this was not the case in sectors where workers were not organized sufficiently to engage in collective bargaining. As a result, many unskilled or rural workers were unable to provide an adequate standard of living for themselves and their families. Following the April elections, the Ministry of Rural Development and Land Reform was established to assist with poverty and unemployment alleviation in rural areas.

The law establishes a 45-hour workweek, standardizes time-and-a-half pay for overtime, and authorizes four months of maternity leave for women. No employer may require or permit an employee to work overtime except by agreement, and overtime may not be more than 10 hours a week. The law stipulates rest periods of 12 consecutive hours daily and 36 hours weekly, which must include Sunday. The law allows for adjustments to rest periods by mutual agreement. These standards were effectively enforced in the formal sector, as labor unions and labor courts focused on compliance. A ministerial determination exempted businesses employing fewer than 10 persons from certain provisions of the law concerning overtime and leave. Farmers and other employers could apply for variations from the law by showing good cause.

The law protects both foreigners and immigrant workers. On May 1, the government suspended deportations of Zimbabweans, introduced a 90-day visa-free entry for Zimbabwean nationals and an associated right to work, and proposed longer-term permits for Zimbabweans already in the country under the Immigration Act; however, the new permit had not been implemented by year's end. In March 2008 the Commission for Conciliation, Mediation, and Arbitration (CCMA) ruled in favor of a foreign employee whose employment contract had been terminated by Discovery Health Limited when the employee's temporary work permit expired. The CCMA's ruling established that foreign workers are included and protected by the Labor Reform Act.

The government set occupational health and safety standards through the Department of Minerals and Energy (DME) for the mining industry and through the DOL for all other industries. Occupational health and safety issues were a top priority of trade unions, especially in the mining, construction, and heavy manufacturing industries where processes were dangerous and sometimes deadly. The law provides for the right of mine employees to remove themselves from work deemed dangerous to health or safety. The law prohibits discrimination against an employee who asserts a right granted by the law, and requires mine owners to file annual reports providing statistics on health and safety incidents for each mine. In addition, a tripartite mine health and safety council and an inspectorate of mine health and safety were responsible for enforcing the law and monitoring compliance with its provisions.

The 2008 DME Presidential Mine Audit reported 220 mining deaths in 2007; the mines subsequently underwent a DME compliance inspection. In November 2008 parliament passed amendments to the Mine Health and Safety Act, making employers liable for heavy fines or imprisonment for serious injury, illness, or death of employees due to unsafe mine conditions. The amendments provide for mine inspectors to enter any mine at any time to interview employees and audit records.

Outside the mining industry, there were no laws or regulations that permitted workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment; however, the law provides that employers may not retaliate against employees who disclose dangerous workplace conditions.

While labor conditions improved on large commercial farms, they remained harsh, especially for small holdings' workers, most of whom were black. Many owners of small farms did not measure working hours accurately. Twelve-hour days were common during harvest time, and few farmers provided overtime benefits. In February 2007 Human Rights Watch reported low wages, a lack of basic services in farm workers' housing, and inadequate education for workers' dependents. Farm owners continued to evict workers legally and illegally. There was a lack of compliance with labor legislation and significant violence and crime against farm workers and farm owners. Health and safety regulations often were not observed when chemicals were used in agricultural work.