



## South Africa

### Country Reports on Human Rights Practices - [2006](#)

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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 47.4 million. President Thabo Mbeki led the African National Congress (ANC) party, which increased its seats to 279 in the 400-seat National Assembly after a free and fair national election in 2004. Parliament, in turn, elected the president. The 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 violence and mob justice; 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 and persons with disabilities; 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 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. The government investigated and punished some abusers.

According to the governmental Independent Complaints Directorate (ICD), there were 621 deaths in police custody or as a result of police action during the period from April 1, 2005, to March 31, 2006, a 5 percent decrease from the previous year; 267 of the deaths reported were identified as the result of natural causes, suicide, or from injuries sustained prior to detention.

The ICD reported "a worrying trend of on-going misuse and abuse of service issue firearms" by off-duty South Africa Police Service (SAPS) members "in disputes and circumstances totally unrelated to the business of the SAPS." ICD's 2006 Report also noted a number of incidents resulting in deaths due to "excessive use of force by members of SAPS in which some of the suspects were unarmed and attempting to flee from arrest."

Political violence between ANC and Inkatha Freedom Party (IFP) supporters in KwaZulu-Natal resulted in deaths prior to the March 1 local government elections. On March 4, newly-elected ANC councilor Zakhele Cele and two ANC members were shot and killed in Shobashobane. Three suspects, including an IFP candidate, were arrested and the investigation was ongoing at year's end.

On June 6, Estcourt Deputy Mayor Dolly Dladla and councilor Music Mchunu, both IFP members, were shot and killed. Police were still investigating the case and no charges had been filed at year's end. The investigation into the March 2005 killing of Zulu Royal Prince Thulani Zulu, chairman of the ANC's Nongoma branch in KwaZulu-Natal, was ongoing at year's end.

There were no developments during the year in the May 2005 killing of an IFP member who was campaigning in the party's by-election. The IFP had charged that the killing was politically motivated because the victim was hanging party posters when he was shot.

Incidents of vigilante action and mob justice continued, particularly in Gauteng, the Western Cape, and KwaZulu Natal. The 2004-05 ICD Report recorded a 184 percent increase in vigilantism over the previous year. On March 19, a mob in Soshanguve killed a suspected robber and seriously injured his accomplice. No action was taken against the perpetrators in either case.

There were no reports of killings by People Against Gangsterism and Drugs (PAGAD), an anticrime group with an antigovernment bias, but one ongoing court case remained from the numerous cases involving the group. PAGAD leader Salie Abader's suit against authorities for "wrongful arrest and malicious prosecution" following his acquittal in 2002 for a killing was ongoing at year's end.

There continued to be reports of violent attacks on foreigners (see section 5).

Killings and other violent crimes against farmers and, on occasion, their families continued in rural areas. Despite concern among white farmers that they were targeted for racial and political reasons, studies indicated that the perpetrators generally were common criminals motivated by financial gain. According to the 2005-06 SAPS report, there were 636 farm attacks and 88 farm killings in the 12 months prior to March 31. These figures have been similar for several years.

In September 2005 white farmer Mark Scott-Crossley was sentenced to life imprisonment for throwing his black former employee, Nelson Chisale, into a lion's enclosure in 2004. Scott-Crossley's accomplice, Simon Mathebula, received a 15-year sentence for his part in the crime. Scott-Crossley has appealed his conviction. Mathebula cooperated with authorities and received a reduced sentence.

In October 2005 Jewell Crossberg appeared in high court in connection with his alleged 2004 killing of a farm worker; however, the case was postponed until April 2007 for further investigation. Crossberg had told police that he had mistaken his victim for a baboon, but farm workers who witnessed the shooting said the killing was triggered by the victim's failure to report to work the day before.

Muti killings--killing, especially of children, to obtain body parts for traditional healing--remained a problem. In August two men were arrested in Cape Town for the alleged muti-related murder and mutilation of 23-year-old Siyabonga Shasha. The investigation was ongoing at year's end. In 2005 the SAPS estimated that 150 to 300 such killings occurred each year.

#### 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. Police torture and abuse occurred during interrogation, arrest, detention, and searches of persons' homes.

Police forcibly dispersed demonstrators, resulting in numerous injuries (see section 2.d.).

Incidents of police harassment against foreigners continued, particularly during coordinated police raids on areas where foreign nationals resided. Some state hospitals reportedly routinely refused emergency treatment to indigent foreigners despite regulations that require providing such treatment.

The press reported that many refugee seekers claimed that immigration personnel whipped, beat, and subjected them to other brutal treatment. Despite promises by the minister of home affairs to investigate such claims, no investigations had begun by year's end.

As of November, 80 South African Defense Force (SANDF) personnel previously deployed in multilateral peace support operations faced criminal charges on allegations ranging from murder to sexual exploitation of women and girls. The government had a "zero tolerance policy" for human rights abuses committed by SANDF members.

The court martial of Air Force Sergeant Philippus Jacobus Venter, accused of raping and murdering a 14-year-old girl while serving as a peacekeeper in Burundi, resumed in November but was not completed by year's end. The court martial had been postponed in 2005 after Venter allegedly shot and killed his two children, wounded his wife, and attempted suicide.

There were deaths resulting from vigilante and mob action against suspected criminals, as well as acts of violence against suspected witches (see section 1.a.). In Limpopo Province, where traditional beliefs regarding witchcraft remained strong, there were occasional reports of attacks on persons accused of witchcraft (see section 1.f.). Traditional leaders cooperated with government programs and reported threats against persons suspected of witchcraft. In March a group of boys allegedly set fire to the house of a 66-year-old woman accused of witchcraft. At year's end the investigation was ongoing.

There were incidents in which white employers abused their black South African farm laborers (see section 1.a.). After Western Cape authorities refused to prosecute four white Rawsonville farmers accused of sexually assaulting female farm workers, the NGOs Congress of South African Trade Unions and the Women on Farms Project alleged a pattern of refusal to prosecute whites for worker abuses and demanded a senior-level investigation. The issue was raised in the National Assembly on November 27, but no response had been received by year's end.

#### Prison and Detention Center Conditions

Most prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. The country had 240 prisons with a capacity of 114,500 prisoners; however, there were 158,501 prisoners in custody, according to the governmental Judicial Inspectorate of Prisons (JIP). Prisons were overcrowded and understaffed, according to the Police and Prisons Civil Rights Union. The 2005-06 JIP annual report noted that, with 27,992 fewer prisoners during the reporting period and 697 additional places, conditions in the majority of prisons improved. JIP indicated, however, that problems continued in some prisons, where severe overcrowding in some prisons led to poor health, with as many as 74 inmates occupying a cell designed to hold 16 people.

According to the Judicial Inspectorate report, there were 1,554 prison deaths in 2005, 1,507 of which resulted from natural causes, including HIV/AIDS. The remaining deaths were the result of suicides, assaults, accidents, or similar events. The Department of Correctional Services

(DCS) estimated that nearly 6 percent of sentenced prisoners were HIV positive. This HIV infection rate was much lower than the rate in the general population and was therefore suspect. According to DCS reports, only 800 HIV-positive prisoners (of a total 6,400 such prisoners) were receiving treatment with anti-retroviral (ARV) therapy. In partnership with a foreign government, DCS conducted programs to prevent HIV/AIDS, care for victims, and treat some patients with the disease. In June the Durban High Court ordered the government to provide ARV treatment to prisoners at the Westville Prison in KwaZulu-Natal. In September after its appeal was dismissed, the government agreed to comply with the court's ruling.

Prison employees and other prisoners abused and assaulted prisoners physically and sexually. Detainees awaiting trial reportedly contracted HIV/AIDS through rape.

Official corruption was a problem. There were credible reports that prison employees stole food and money from prisoners. According to NGOs, prisoners used drugs provided to them illegally by guards or other prisoners. In many cases offending police or correctional officers were suspended or expelled from their services for corruption. In October Correctional Services Minister Ngconde Balfour announced that a total of 109 officials, including seven senior managers, had been investigated for corruption. Of these, 31 had been found guilty and fired, and in 26 cases the charges were dismissed; 52 investigations were still in progress.

The Jali Commission completed its investigation into allegations of corruption and sexual abuse in prisons in 2005 and released its final report in October. The 1,000-page report cited widespread irregularities involving prisoners leaving the premises illegally, nepotism, drug trafficking, irregular appointments of personnel, extortion, abuse of parole procedure, abuse of disciplinary inquiries and appeal procedures, educational qualifications fraud, and massive medical aid fraud.

Human rights groups continued to raise serious concerns regarding C MAX prisons, designed to hold the country's most dangerous criminals. Concerns included the government's criteria for transferring prisoners from other prisons to a C MAX facility and the restrictive, solitary conditions of these prisons.

There were allegations of corruption and abuse of detainees by officials at the overcrowded Lindela Repatriation Center, the country's largest detention facility for undocumented immigrants. In July a riot erupted among Congolese nationals confined at the center to protest their lengthy detentions and alleged beatings by facility officers. Unlike in the previous year, there were no reports of detainee deaths at the center.

Although the government operated 13 youth detention facilities, juveniles sometimes were held with adults. There were credible reports that these youths were vulnerable to sexual exploitation, including rape. Pretrial detainees generally were held with convicted prisoners.

The government generally permitted independent monitoring of prison conditions, including visits by human rights organizations. According to the JIP's annual report, independent prison visitors--including visits by prisoners' counsel as well as third-party visitors--recorded 10,524 visits to prisons in 2005 and conducted 611,900 interviews with prisoners. The Judicial Inspectorate also visited all prisons regularly.

#### 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 (see section 2.b.).

#### Role of the Police and Security Apparatus

The SAPS, under the Department of Safety and Security, has primary responsibility for internal security. The SANDF, under the Department of Defense, is responsible for external security but also has domestic security responsibilities. The National Prosecuting Authority's (NPA) Directorate of Special Operations --the "Scorpions"--coordinates efforts against organized crime and official corruption.

SAPS continued its major restructuring and transformation from a primarily public order security force to a more accountable, community service oriented police force; however, it remained ill equipped, overworked, and poorly trained. As of November, there were 125,521 police officers and 32,948 civilians working in SAPS. The majority of police resources and law enforcement attention remained focused on wealthy residential and business areas.

SAPS continued to create partnerships between local police forces and the communities they served. Municipalities also maintained metropolitan police forces in major cities under local control, such as in Johannesburg, Durban, Pretoria, and Cape Town. SAPS continued to have deficiencies in mid level leadership and institutional memory that inhibited its overall performance.

During the year the ICD received 1,643 allegations of criminal offenses committed by police and 2,855 complaints of misconduct, representing a 5 percent decline in allegations of criminal offenses and a 16 percent decline in complaints of misconduct compared to the previous year.

Broad efforts to reform police practices continued; the ICD investigated reports of police misconduct and corruption. Reports of police killings, criminal offenses, and misconduct all decreased. The government made efforts to address abuses with an official antitorture policy and training programs for police and SANDF officers that included a focus on human rights.

#### Arrest and Detention

The law requires arrest warrants in most cases and provides that every detainee is to be informed promptly of the reasons for detention. Detainees must be advised promptly 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 of human dignity, allowed to consult with legal counsel at every stage, and permitted to communicate with relatives, medical practitioners, and religious counselors. Courts and police generally respected most of these rights; however, there continued to be problems with prison conditions and prolonged pretrial detention. 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 JIP, an estimated 13,000 prisoners remained in detention because they were unable to post bail. Some school children 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.

The Department of Justice 2005-06 annual report indicated that the backlog of court cases increased 11 percent over the previous year in district courts, and 2 percent in regional courts. As of September 30, 43,588 of the country's 158,501 prisoners were awaiting trial. According to the JIP, prisoners waited an average of three months, but some as long as two years, for a trial.

#### Amnesty

The National Director of Public Prosecution continued to prepare cases against persons who were denied amnesty, failed to apply for amnesty, or were implicated in human rights abuses during the Truth and Reconciliation Commission (TRC) process. In the first case, charges were brought against Gideon Nieuwoudt (who died of natural causes during the year), Johannes van Zyl, and Johannes Koole for the Pebco Three killing in 1985; however, the case was postponed to April 19, 2007, by the Pretoria High Court.

#### e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and while the judiciary was generally independent, it was understaffed, underfunded, and overburdened.

The Constitutional Court is the highest court for interpreting and deciding constitutional issues, while the Supreme Court of Appeal is the highest court for interpreting and deciding other legal matters. The lower courts include magistrates' courts, divorce courts, small claims courts, and courts of chiefs and headmen. Magistrates' courts--including regional and district courts--have civil and criminal jurisdiction. The country also has a range of special courts, including the labor appeals court, labor court, land claims court, special income tax courts, special (consumer) court, sexual offenses court, and the electoral court.

#### Trial Procedures

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. It also gives detainees 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.

There is a presumption of innocence for criminal defendants. Judges and magistrates hear criminal cases and determine guilt or innocence. 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 bail applications and sentencing.

The government operated 46 justice centers in the country, composed of the departments of justice, correctional services, welfare and health, and SAPS, to speed the administration of justice, reduce the court rolls, and alleviate overcrowding in prisons. However, serious delays continued to be a problem.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters.

#### 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 other criticisms against government legislation and practice.

During the year former National Intelligence Agency director Billy Masetlha was charged under the Intelligence Services Oversight Act with the unlawful surveillance of Saki Macozoma, and was subsequently fired by President Mbeki. Masetlha's appeal for reinstatement was rejected by the Pretoria High Court in December. The court ruled that President Mbeki's loss of confidence in Masetlha was a lawful reason

for dismissing him. In April General Manager Bob Mhlanga, former counter-intelligence chief, was also fired for his involvement with the unlawful surveillance of Macozoma. Deputy Director General Gibson Njenje, who was implicated with Masetlha, cooperated with investigators and was allowed to resign.

The Regulations of Interception and Provision of the Communication Related Information Bill, which provides for state monitoring of all telecommunications systems for criminal investigations, including cellular telephones, the Internet, and e mail, had not been implemented by year's end.

The Promotion of Access to Information Act is intended to assist authorities in obtaining personal information and is used solely in criminal investigations; however, opposition parties and human rights NGOs objected to its broadly defined provision that enabled the government to access an individual's personal information.

Farmers continued to evict workers legally and illegally. During 2005 the Land Claims Court rejected 25 percent of the 645 eviction orders it reviewed. The law requires that evictions be approved by a court; however, less than 1 percent of evictions involved a legal process, according to the NKUZI Development Association, a domestic NGO. NKUZI conducted an extensive national eviction survey which took more than two years to complete. The same study found that many farm workers were unaware of their right to legal counsel during eviction proceedings.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities. The trial continued of the 13 suspected ringleaders in the February 2005 burnings in Northern Limpopo Province of 39 houses belonging to persons accused of being witches. Some survivors of attacks and their families took refuge in "witch villages," without running water or electricity, in Limpopo Province.

## 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. Several apartheid era laws that remained in force posed a potential threat to media independence. Individuals criticized the government both publicly and privately without reprisal.

The independent media were active and expressed a wide variety of views, although some journalists expressed concern that the government heavily influenced the media.

Print media reached approximately 20 percent of the population. Due to socioeconomic and demographic circumstances, the majority of the population received news through radio broadcasts from the government-owned South African Broadcasting Corporation (SABC) and community radio stations.

The SABC provided broadcasting in the country's 11 official languages and continued to own and control the majority of television and radio outlets. The SABC provided news coverage of the government and the leading opposition parties; however, media commentators and opposition politicians continued to criticize the SABC for allegedly showing partiality in its coverage of government ministers or events. During the year the SABC was severely criticized for allegedly blacklisting several commentators deemed unfriendly to government policies, and for refusing to air a documentary considered critical of President Mbeki. A subsequent commission of inquiry determined that the managing director of the SABC News and Current Affairs Division excluded eight commentators for reasons that were not "objectively defensible," but it found no "definitively consistent pattern" of exclusion based on criticism of government policy or the president.

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 also withdrew a few for noncompliance with the terms of issuance. Two radio stations, Alex Radio and Radio Pretoria, were refused licenses in 2004, and subsequently challenged these refusals. At year's end Radio Pretoria was operational and on-the-air, while the appeal of Alex Radio was pending.

The only independent television station, e.tv, reached 78 percent of the population. Satellite programming also was available.

High ranking government officials on occasion reacted sharply to media criticism and accused black journalists of disloyalty and white journalists of racism.

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 instances in which these laws were invoked during the year; however, journalists and media managers considered them a threat to constitutional protections.

The Foreign Publication 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 criticized efforts during the year to extend the board's authority to incorporate newspapers and broadcast media. A proposed amendment to the Films and Publication Act would allow for board review and classification of print and broadcast products, and fueled fears that the government was seeking additional control over media.

## Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by electronic e-mail. Figures from Internet World Stats indicated that 7.4 percent of the country's population had ready access to and routinely used the Internet.

## 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. Some of the demonstrations had turned destructive prior to police taking action to break them up.

On April 13, police used rubber bullets to disperse a demonstration along the country's border with Swaziland, supporting human rights and trade union freedom in Swaziland. Seven people were injured and 25 arrested, including five trade union leaders.

On April 21, police in Pretoria used rubber bullets to disperse marchers protesting municipal boundary changes. No injuries were reported.

No information was available on the outcome of the trial of three police officers arrested and charged in 2005 in the 2004 killing of a demonstrator in Johannesburg.

#### 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; the government generally respected this right.

## Societal Abuses and Discrimination

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

There were approximately 90,000 Jews in the country. While anti-Semitic acts were rare, a few incidents were reported during the year. For example, on January 8, approximately 30 gravestones were desecrated at the West Park Jewish cemetery in Johannesburg. The police questioned five suspects, but no arrests were made. In June a court convicted Gerhard Barkhuizen of a hate crime for painting a swastika and the phrase "spiteful Hebrew bastard" on the home of the son of a Holocaust survivor. Barkhuizen was ordered to remove all slogans and words from the wall and required to pay \$285 (R2,000) to a charity of his choice.

On May 18, the SABC ruled that Muslim radio Station 786 aired hate speech, including Holocaust denial programs. The station was reprimanded and warned of more severe consequences if it engaged in further such activities.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the government generally respected them.

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

## Protection of Refugees

The law provides for the granting of asylum and refugee status in accordance with the 1951 UN 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 Convention Governing the Specific Aspects of Refugee Problems in Africa. In practice, the government provided protection against refoulement, the forcible return of persons to a country where they feared persecution, and granted refugee status and asylum.

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. The Department of Home Affairs stated that as of June there was a backlog of more than 100,000 asylum

requests.

The NGO Lawyers for Human Rights criticized the Department of Home Affairs for allegedly not following the provisions of the Immigration Act and the Refugee Act. There were reports that police and immigration officials abused refugees and asylum seekers and that asylum seekers were repatriated immediately upon arrival at airports without benefit of formal asylum processing. Applicants for asylum and NGOs assisting refugees also reported that immigration authorities asked for bribes to process applications for permits to remain in the country. During the year the government dismissed a number of immigration officials for corruption (see section 3).

Despite procedural safeguards, efforts to combat a growing illegal immigration problem occasionally resulted in the government arbitrarily deporting illegal aliens, some with potential refugee claims. However, there were no reports of the forced return of persons to countries where they feared persecution during the year.

### 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 held on the basis of universal suffrage.

#### Elections and Political Participation

The country held its third national election in 2004. Although largely peaceful, the election was marred by a few incidents of political violence in KwaZulu-Natal in the weeks before the election. The IFP registered a number of complaints with the Independent Electoral Commission, including excessive numbers of absentee ballots, posters being removed or defaced, individuals being threatened because of political affiliation, and other incidents of intimidation. The IFP challenged the legitimacy of the election in KwaZulu-Natal at the electoral court but later withdrew court action and accepted the election results.

Thabo Mbeki was reelected in 2004 to a second five-year term as president and head of state; there is a constitutional two-term limit for the presidency. The ANC increased its parliamentary strength from 266 seats to 279 out of 400 seats. The official opposition, the Democratic Alliance, increased from 38 to 47 seats. After the September 2005 floor-crossing period, the ANC increased its seats to 293. Five new parties were formed and received enough votes to obtain seats in Parliament, making a total of 17 parties with parliamentary representation.

Political violence between ANC and IFP supporters in KwaZulu-Natal resulted in deaths prior to the March 1 local elections (see section 1.a.).

On March 1, local elections were held nationwide. The ANC maintained its majority with approximately 63 percent of the vote. The elections were mostly peaceful, but there were a few incidents of political violence (see section 1.a.).

In June 2005 President Mbeki named Minister of Minerals and Energy Phumzile Mlambo-Ngcuka as the country's first female deputy president. Women held 12 of 28 ministerial positions and eight of 21 deputy ministerial slots. There were 150 women in the 400-seat National Assembly and 19 women in the 54-seat National Council of Provinces (NCOP). In addition women occupied three of four parliamentary presiding officer positions, including speaker and deputy speaker of the National Assembly and deputy chair of the NCOP.

There were approximately 140 members of minorities, (non-black citizens), in the National Assembly. There were approximately 20 minority members among the 54 permanent members of the NCOP. The cabinet included six members of minority groups.

#### Government Corruption and Transparency

The government continued its efforts to curb corruption, although the public perception of widespread official corruption, particularly in the police and the Department of Home Affairs, continued. The government's anticorruption actions included ongoing investigations into the alleged misconduct of public officials, which resulted in numerous convictions during the year. 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. The SAPS Anti-Corruption Unit and the Directorate for Special Operations (known as "the Scorpions") have dedicated units to combat corruption. The Special Investigating Unit (SIU) under the Office of the President, investigated corruption in government departments and identified civil servants who are now repaying the government for illicitly obtained income. The SIU was reportedly investigating 400,000 citizens suspected of fraudulently obtaining social grants and pensions from the government.

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.

In March Bloemfontein's municipal manager and chief operating officer were found guilty of corruption charges by a disciplinary hearing and were fired. They appeared in court, together with former mayor Papi Mokoena, in October on criminal charges of corruption and fraud. The criminal case was ongoing at the end of the year.

The government continued to prosecute officials involved in "Travelgate," the ongoing scandal involving misuse of official funds by parliamentarians and their travel agents. Thirty-two current and former members of Parliament concluded plea agreements with the state. Five travel agents and three members of Parliament faced criminal charges of defrauding the Parliament and were scheduled to appear in court in February 2007.

In November the full bench of the Supreme Court of Appeals dismissed the appeal of Schabir Shaik's conviction on two counts of corruption and one of fraud. He had been sentenced to 15 years in prison after being convicted in 2005 of seeking bribes on behalf of former deputy president Jacob Zuma, and for paying Zuma's expenses in return for Zuma's backing in business deals. Zuma was also charged, but the case against him was struck from the roll pending the outcome of the Shaik appeal. Following the dismissal of Shaik's appeal, the National Prosecuting Authority stated that there was "a reasonable prospect" that the charges against Zuma would be reinstated.

In August former ANC chief whip and defense committee chairperson Tony Yengeni began serving his four-year prison term for defrauding the Parliament. Yengeni was convicted in 2003 of accepting and failing to declare a discount on his luxury vehicle from a domestic company involved in the arms procurement process.

The Promotion of Access to Information Act provides for access to government information; however the government did not always comply with the law. 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. ODAC's 2005 annual report noted, however, that a "response to a request for information is more significantly about the requester than about the information or the agency" from which the request is made. Many requests are unclear or poorly drafted, making a response difficult. If a government department refuses to provide information, however, the requester can launch an internal appeal. If this also fails, the requester may appeal a decision to the high court, a time-consuming process that excludes groups or individuals who cannot afford it. In April 2005 the Cape high court ruled that access to records of private donations to political parties is not reasonably required under the act.

#### Section 4 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.

The South African Human Rights Commission (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 power to conduct investigations, issue subpoenas, and hear testimony under oath. During 2005 the SAHRC issued reports on the treatment of the Khomani San-an indigenous minority ethnic group-and other human rights issues.

The TRC, created to investigate apartheid era human rights abuses and compensate victims, released its final report in 2003. Of the 18,000 victims approved by the TRC for a one time payment of \$4,270 (R30,000), 16,000 received payment in 2004, and 700 received payment during 2005 after door-to-door campaigns conducted by the government. Remaining victims who had not received benefits by the end of 2005 had either not completed applications correctly or were believed to be dead. No further payments were expected.

#### Section 5 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, as well as limited resources, restricted the practical effect of these legal protections in some cases. The Promotion of Equality and Prevention of Unfair Discrimination Act places a responsibility on the state and any person in the public domain to promote equality. The act addresses discrimination in a broad context in the workplace, health care, education, services, pensions, and other socioeconomic areas.

##### Women

Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking by former partners. The law defines victims of domestic violence, 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 arrest abusers without a warrant. The law also applies to persons who are not in legal or common law marriages. Violating a protection order is punishable by a prison sentence of up to five years, or 20 years if additional criminal charges are brought.

Societal attitudes and a lack of infrastructure, resources, and training for law enforcement officials hampered the implementation of domestic violence legislation. According to NGOs, an estimated 25 percent of women were in abusive relationships, but few reported it. Doctors, police officers, and judges often treated abused women poorly.

The government financed 25 shelters for abused women, but more were needed, particularly in rural areas. The SAPS has been converting Child Protection Units to Family Violence, Child Protection, and Sexual Offenses Units (FCS); as of March there were 66 FCSs. FCS investigating officers and other police officers received annual training in gender sensitivity. The government continued to conduct domestic violence awareness campaigns.

Rape, including spousal rape, is illegal, but remained a serious problem. According to the 2005-06 SAPS annual report, the incidence of rape decreased slightly from the previous year to 117.1 rapes per 100,000 persons; of the 54,926 rapes reported, 31,101 were referred to court. A poor security climate and societal attitudes condoning sexual violence against women contributed to the problem. Amnesty International noted that the number of reported rapes was believed to be only one-third of the estimated number of actual rapes. Although judges in rape cases generally followed statutory sentencing guidelines, women's advocacy groups occasionally criticized judges for using questionable criteria such as the victim's behavior or relationship to the rapist as a basis for imposing lighter sentences.

Rape, sexual assault, and sexual harassment of black citizen and migrant female farm workers by farm owners, managers, and by other

farm workers were common.

The government operated 61 sexual offenses courts throughout the country that included designated waiting rooms and counseling for victims. The Sexual Offenses and Community Affairs Unit (SOCA) operated 10 centers known as Thuthuzela centers, which specialized in rape care management and streamlined a network of existing investigative, prosecutorial, and medical and psychological services in the hospitals where they were located.

Exacting a bride price ("lobola") was a traditional practice of some ethnic groups.

Prostitution is illegal but was widespread and practiced openly.

There were reports that women were trafficked to the country for prostitution or were trafficked to foreign territories such as Europe, China, and Macao (see section 5, Trafficking).

The law prohibits sexual harassment; however, sexual harassment remained a widespread problem. In December the ANC expelled its parliamentary chief whip, Mbulelo Goniwe, following an investigation into allegations that Goniwe sexually harassed a party intern. According to press reports, several other women also came forward with similar allegations against Goniwe.

Discrimination against women remained a serious problem despite equal rights under family law and property law with regard to inheritance, divorce, and custody of children, and equal legal rights under the judicial system. Women experienced economic discrimination in areas such as wages, extension of credit, and access to land. For example, township housing transfer schemes favored existing titleholders, who tended to be men. Many rural areas were administered through traditional leadership structures, often including a chief or a council of elders, who did not grant land tenure to women, a precondition for access to housing subsidies.

Women, particularly black women, typically had lower incomes and less job security than men. Most women were engaged in poorly paid domestic labor and micro enterprises, 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 businesses and micro enterprises for women, young persons, and persons with disabilities.

According to a survey conducted by the Businesswoman's Association during the year, women comprised 41 percent of the working population but held only 16.8 percent of executive-level and 11.5 percent of director-level positions.

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.

A number of governmental bodies and NGOs monitored and promoted women's human rights. Numerous active women's rights groups focused on such areas as violence against women and the economic advancement of women.

## Children

The government was generally committed to children's welfare. The law provides for greater educational opportunities 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. According to the July 2005 Statistics South Africa General Household Survey, 97.9 percent of children between seven and 15 years old were enrolled in school. Those not enrolled tended to be children with special needs. While there generally were comparable attendance numbers for boys and girls, a number of factors, including unplanned pregnancies, domestic responsibilities (particularly in rural areas), and gender stereotypes contributed to high drop out rates and lower secondary school pass rates for girls.

Each of the nine provincial departments of education had responsibility for the schools in their provinces, which resulted in the uneven distribution of educational resources. The disparity affected the poorer provinces of Eastern Cape, Limpopo, and KwaZulu Natal most severely. The availability and quality of primary schooling continued to be a problem, especially in rural areas where schools often were not easily accessible. Farm schools, which are public schools on private commercial farms (13 percent of all state-funded schools), were among the poorest resourced. Many schools reportedly had problems of poorly trained teachers, inadequate teaching materials, long vacant teaching posts, overcrowding, late pupil registration, and vacation-time vandalism.

There continued to be reports of widespread 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. Many girls, some as young as four years old, were raped on school premises.

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 activists, physicians, and opposition parties continued to criticize the government for failing to provide ARV therapy to pregnant and breast feeding women and thereby protect young children from HIV/AIDS transmission. The government responded to a 2004 constitutional court finding that it must provide programs to prevent the transmission of HIV from mothers to children by expanding the number of antenatal clinics providing nevirapine to HIV positive mothers. Implementation by the national and provincial governments was slow, and the government continued to raise concerns about the use of nevirapine mono-therapy to prevent transmission. The government was unable to provide for the rapidly growing number of children who were affected by HIV/AIDS, including both infected children and AIDS orphans.

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 2005-06 SAPS report, 23,453 children were raped, 1,075 were murdered, 20,879 were assaulted with intention to do grievous bodily harm, and 4,726 were subjected to indecent assault. Observers believed that these figures represented a small percentage of the actual incidence of child rape, because most cases involving family members were not reported. The country had a low conviction rate for rape and child abuse. The age of consent is 16 and the statutory sentence for rape of a child is life in prison; however, the law grants judges the discretion to issue more lenient sentences.

The law prohibits virginity testing but was not always enforced. For example, virginity testing occurred in KwaZulu-Natal, especially related to the "reed dance" ceremony in which only "maidens" could participate.

Despite outreach programs, adult male circumcision was still a prevalent initiation tradition in various parts of the country. Initiation practices, which included circumcisions, continued during the year. 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. The Department of Health in the Eastern Cape provided 400 surgeons, 425 officials, and 80 vehicles during the June initiation season to monitor initiation practices. Nonetheless, circumcision deaths reported in the Eastern Cape during the year increased from 20 in 2005 to 23 during the year, according to press reports.

Child prostitution continued during the year (see section 5, Trafficking).

The government continued to increase its social welfare programs to children affected by poverty and the loss of parents, and, according to the Ministry of Social Development, more than 5.5 million children received such grants during the year. Child support grants cover children up to the age of 14, but it was sometimes difficult for children, particularly those in rural areas or without documentation, to obtain access to health care facilities and other social welfare programs.

NGOs provided shelter, medical, and legal assistance for child prostitutes, and a hot line for victims of child abuse. The government donated land and buildings for various shelters for victims of sexual abuse, street children, and orphans.

Child labor was a problem (see section 6.d.).

#### Trafficking in Persons

In June the president signed into law the Children's Act of 2005, which prohibits the trafficking of children, namely "the recruitment, sale, supply, transportation, transfer, harboring or receipt of children, within or across the borders of the Republic." The penalty for violations of the act is up to a maximum of 20 years in prison. However, there is no law that explicitly prohibits trafficking in adults. The government used the Prevention of Organized Crime Act, the Basic Conditions of Employment Act, the Refugee Act, the Aliens Control Act, and provisions of criminal law to prosecute traffickers. The South African Law Reform Commission conducted consultative workshops in all provinces in July in preparation for drafting a comprehensive anti-trafficking law, but no reports or drafts of the proposed law were issued by year's end.

The law 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 country was a destination, transit route, and point of origin for the trafficking of persons, including children, from other countries in Africa, Asia, and Europe for prostitution and forced labor. A substantial number of persons were believed to be trafficked annually. Domestic and international organized crime syndicates trafficked women into the country for the sex industry. Young men were trafficked chiefly for agricultural work.

The extent of trafficking operations was unknown, but the International Organization for Migration (IOM) reported in 2003 that 12 major routes for trafficking operations made use of the country, including Southern Africa, Asia, and Eastern Europe.

Trafficked women and children who worked in the sex industry often lived with other trafficked victims in segregated areas; 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 trafficker for infractions of arbitrary rules. Young men trafficked for forced agricultural labor often were subjected to violence and food rationing.

According to the IOM, several major criminal groups operating in the country trafficked women: Bulgarian and Thai syndicates, and Russian, Chinese, and African (mainly West African) criminal organizations. Traffickers also included citizens and African refugees resident in the country.

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

The NPA's SOCA section coordinated an interagency task force to develop and implement a strategy for dealing comprehensively with trafficking in persons. The task force included the departments of foreign affairs, social development, justice and constitutional development, health, and safety and security, as well as the NPA, SAPS, and local and international NGOs. In August during a workshop organized by NPA/SOCA, prosecutors established a rapid response team to address trafficking cases.

During the year Amien Andrew was convicted for organizing prostitution and was sentenced to 51 years' imprisonment. In June the state successfully prosecuted Elizabeth Maswangane on charges of kidnapping and running a brothel for the purpose of luring three girls to work as prostitutes.

Corruption within the police, immigration, customs, and private services at the airport impeded interdiction efforts. For example, traffickers reportedly bribed officials to help them move victims out of the transit area to avoid detection. The border police incorporated antitrafficking material into their training manuals, and both police and judicial officials continued to receive training in antitrafficking activities. However, law enforcement units handling trafficking problems were understaffed and sometimes corrupt. The country used its 61 sexual offenses courts to handle trafficking cases and relied heavily on NGOs to provide witness protection. During the past two years, a few immigration officers from the Department of Home Affairs (DHA) were dismissed for involvement in trafficking. DHA officials reported that there were also dismissals for petty corruption.

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 care to trafficking victims.

#### Persons with Disabilities

The law prohibits discrimination on the basis of disability; however, government and private sector discrimination in employment existed. The law mandates access to buildings for persons with disabilities, but such regulations rarely were enforced, and public awareness of them remained minimal. The National Environmental Accessibility Program, an NGO staffed by persons with disabilities as well as service providers, had a presence in all nine provinces to lobby for compliance with the regulations and to sue offending property owners when necessary.

The law provides persons with disabilities with 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. The Black Economic Empowerment Act is law, and codes of good practices specifying company obligations under the act were approved by the cabinet, but at year's end they had yet to be published in the official gazette. Persons with disabilities constituted a tiny proportion of the public service workforce (estimated to be 0.02 percent), compared with 5.9 percent of the general population.

#### National/Racial/Ethnic Minorities

The law requires employers with 50 or more employees to ensure that previously disadvantaged groups--defined for legal purposes as "Blacks"--including "Africans," "Colored," and "Asians"--are represented adequately at all levels of the workforce. According to the Department of Labor's 2005 "Employment Equity Analysis," Blacks, while not a minority, remained underrepresented, particularly at the professional and managerial levels.

Notwithstanding the country's antidiscrimination legislation, the 2005 "Employment Equity Analysis" reported that racial imbalances in the workplace still exist and that only 28 percent of positions at the top management level in 2005 were held by Blacks. According to 2005 data, approximately 53 percent of professionals were Black. The report makes it clear that Black women by far remained the most disadvantaged in terms of the 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.

Blacks constituted 76 percent of the workforce in unskilled, low-paid jobs. In occupations such as newspaper vendors, garage attendants, car washers, gardeners, and garbage collectors, Blacks accounted for 98 percent of the workforce.

In the armed forces, the officer corps remained predominantly white.

The continued killings of mostly white farm owners by black African assailants created concern among white farmers that they were being targeted for racial and political reasons (see section 1.a.). There also were reports that white employers abused and killed black African farm laborers, and complaints that white employers received preferential treatment from the authorities (see section 1.a.).

There were a number of attacks on foreigners, and anti-immigrant groups such as the Unemployed Masses of South Africa often blamed immigrants for job losses. In January three foreigners were killed and 11 injured in clashes between South Africans and Mozambicans and Zimbabweans in Olievenhoutbosch following the alleged murder of a black South African boy by a foreigner. In August at least five Somali refugees were killed in Cape Town, bringing the number to 10 for the year. No arrests have been made.

No information was available as to final disposition of the cases against 50 residents of Plettenberg Bay arrested in May 2005 in connection with an attack on foreign nationals living in informal settlements; one person was killed in the attack.

#### Indigenous People

The Khoikhoi, nomadic herders of cattle and sheep, were the original indigenous people in the country and have lived mainly in the southwestern Cape. In the 1970s the Khoikhoi were dispossessed of their native lands and dispersed throughout the country. Today only a few thousand Khoikhoi remain, some of whom work as farmers or as laborers on farms. Under the law the Khoikhoi have the same political and economic rights as other citizens; however, their participation was limited due to fewer opportunities, minimal access to education, and relative isolation.

#### Other Societal Abuses and Discrimination

The post-apartheid constitution outlaws discrimination based on sexual orientation and on December 1 the country legalized same-sex marriage. Nevertheless, there was some societal violence and discrimination against homosexuals, but unlike in the previous year, there were no reports of official violence or discrimination. Gay and lesbian rights NGOs alleged that abuse of gay and lesbian persons by police was still occurring.

Although the government conducted campaigns to reduce or eliminate discrimination against persons with HIV/AIDS, the social stigma associated with HIV/AIDS remained a general problem. There were reports of the abuse of HIV infected individuals by their families and communities.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides for freedom of association, and workers exercised this right. All workers with the exception of members of the National Intelligence Agency and the Secret Service were entitled to join a union. Union membership continued to decline steadily as a result of job layoffs in heavily unionized sectors of the economy, such as manufacturing. According to a March South Africa Labor Force Survey, total union membership was approximately 2.9 million persons, out of a total work force of 9.8 million, or 30 percent of the total labor force.

Although labor laws protected farm workers, some farm workers unions encountered difficulties trying to organize workers because union organizers were considered trespassers on private property. In addition, farm workers or farm residents who attempted to organize were sometimes harassed, dismissed, and evicted. The Department of Labor (DOL) and unions enlisted the cooperation of AgriSA, the national farmers' organization, to educate farmers about workers' rights and to improve working conditions. The DOL reported in March that 8.8 percent of the agricultural labor force was unionized. Labor rights are protected by the constitution and by statute; a labor court and labor appeals court enforced these rights.

##### b. The Right to Organize and Bargain Collectively

The law defines and protects the rights of workers to organize and bargain collectively; workers exercised these rights. There are no export processing zones.

The law provides for the right to strike, and workers exercised this right. Although members of the SANDF were allowed to join a union, they and other workers considered to be providing an essential service were prohibited from striking. 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.

During the April-June strike by private security guards, more than 50 persons reportedly were killed. Most of the victims were described as security guards who reported to work and were allegedly attacked by striking guards. In August, 36 members of the South African Transport and Allied Workers Union were arrested and charged with public violence, while another member was charged under the Regulations of Gatherings Act. Property damage associated with the strike was extensive. Those arrested were awaiting trial at year's end.

##### 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 (see sections 5 and 6.d.).

##### 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 government generally enforced child labor laws in the formal sectors of the economy. The death of parents by HIV/AIDS has increased the number of children who have to support themselves and often younger siblings in households headed by children.

The law prohibits employment of a child under 15 years of age, or under the minimum school-leaving age, or over 15 but under 18, if the work places at risk the child's wellbeing, education, physical or mental health, or spiritual, moral, or social development. Underage children in

the performing arts were allowed to work if their employer received DOL permission and agreed to follow specific guidelines.

Child laborers, including some from Zimbabwe and Mozambique, worked illegally in the country on commercial farms, for the taxi industry, or as domestic servants.

There were reports that children were forced into prostitution and that some children worked under conditions that amounted to bondage (see section 5).

During the year the DOL employed approximately 1,000 labor inspectors to follow up on reports of violations and to enforce existing policies. Violation of laws regulating child employment are punishable by a maximum prison sentence of three years or a fine of \$2,135 (R15,000). In some cases, DOL inspectors opted to resolve child labor cases through 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.

In July the DOL conducted broad-based awareness campaigns about child labor. Prevention activities against child labor also included a government-issued child support grant which was modified and expanded during the year to cover basic living expenses of children up to their 14th birthday, and Regulations Relating to the Exemption of Parents from Payment of School Fees, issued on October 18. Child welfare advocates recommended that the child support grant be extended to children aged 15.

#### e. Acceptable Conditions of Work

There was no legally mandated national minimum wage, although the law gives the Ministry of Labor the authority to set wages by sector. Minimum wages were established for the retail sector, farm laborers, domestic workers, and taxi (minibus) drivers. As of March the minimum wage for farm workers was approximately \$142 (R994) a month in urban areas and \$126 (R885) a month in rural areas. The minimum hourly rates for domestics depended on the number of hours worked and could range from \$0.59 (R4.15) to \$0.86 (R6.04). Depending on province, compliance with the minimum wage rate ranged from 65 to 90 percent, according to figures published by the DOL in 2004. 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-by-industry or plant by plant basis for unionized workers in the formal economy. Such negotiated wages generally were 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. Thus many unskilled or rural workers were unable to provide an adequate standard of living for themselves and their families.

The law standardizes time and a half pay for overtime, establishes a 45 hour workweek, and authorizes four months of maternity leave for women. 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 government set occupational health and safety standards. 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. In addition, a tripartite mine health and safety council and an inspectorate of mine health and safety were responsible for enforcing the act and monitoring compliance with its provisions. The law explicitly prohibits discrimination against an employee who asserts a right granted by the law (for example, to leave a hazardous work site) and required mine owners to file annual reports providing statistics on health and safety incidents for each mine.

There were no laws or regulations, other than in the mining industry, 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.

In June the petrochemical company SASOL established a trust fund to compensate victims of a September 2004 explosion that killed 11 and injured 142 persons.

Labor conditions for mostly Black farm workers were harsh. Many, mostly white, farmers did not accurately measure working hours and often required their laborers to work 11 hours per day and six days per week. Twelve-hour days were common during harvest time, and few farmers provided overtime benefits. Human Rights Watch reported low wages, a lack of basic services in farm workers' housing, and inadequate education for workers' dependents (see section 5). Farm owners, predominantly whites, continued to evict workers legally and illegally. There was lack of compliance with labor legislation, lack of information on HIV/AIDS, 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.