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South Africa

Country Reports on Human Rights Practices - [2005](#)

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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 46.9 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 April 2004. Parliament, in turn, elected the president. The civilian authorities 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, including beatings and rape, of prisoners 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 racism, xenophobia, and ethnic tensions
- child labor, including forced child labor related to 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 366 deaths as a result of police action during the year and 286 deaths in police custody between April 1, 2004, and March 31; 170 of the 286 resulted from suicide or natural causes.

On October 17, the court convicted Witdraai Constable Sebastian van Wyk of killing a Khomani San civilian in 2004; Inspector Johannes Liebenberg was acquitted of the same charge.

A formal inquest during the year concluded that no one was liable for the January 2004 police killing of a civilian fleeing the scene of a crime.

Political violence between ANC and Inkatha Freedom Party (IFP) supporters in KwaZulu-Natal resulted in deaths during the year. On March 2, unknown assailants shot and killed Zulu Royal Prince Thulani Zulu, chairman of the ANC's Nongoma branch in KwaZulu-Natal. Three persons were arrested and released after questioning. An investigation was ongoing at year's end.

On May 10, a campaigning IFP member was killed while campaigning in the party's by-election. The IFP charged that the killing was politically motivated because the victim was hanging party posters when he was shot; however, no additional evidence was uncovered to support the charge. No arrests had been made by year's end.

During the year at least 13 persons in Kwa-Zulu-Natal were killed in taxi violence, which resulted from the rivalry between taxi associations for lucrative routes. Politicians and police officers owned taxis companies in some areas and were allegedly involved in the violence. Taxi associations also charged that the government provided preferential treatment to taxi associations that supported certain politicians. Local residents reportedly were reluctant to provide information or testimony about such violence to police because of their suspected involvement;

therefore, many cases remained unsolved.

There were no developments in the December 2004 attacks on members of a taxi association by unknown assailants.

On November 28, the appeal hearing began of right-wing Afrikaners Leon Peacock, Hercules Viljoen, and Alan Rautenback, who plotted to blow up the Vaal Dam in 2001 and were convicted in 2003 of sabotage.

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 January 11, a mob in Pretoria attacked 2 Angolan men for allegedly raping a 17-year-old girl; 1 of the Angolans was beaten to death, and the other was critically injured. On April 30, in Port Elizabeth, a mob beat to death Desmond Zothe after he allegedly hit a pedestrian with his car. On May 1, a mob in the Barcelona informal settlement beat a man to death for allegedly stealing a bicycle.

The trial continued of 14 persons charged with kidnapping and murder for allegedly attacking 2 men accused of murder in May 2004.

Unlike in previous years, there were no reports of killings by Mapogo A Mathamaga, a vigilante group with more than 90 branches and 50 thousand members throughout the country. Mapogo targeted persons suspected of property crimes against their members, tortured suspected criminals, and beat persons with clubs and whips.

On February 24, after the only surviving witness disappeared, the public prosecutor withdrew murder charges against Bertrams Pringle, Willie Skhosana, and Mapogo member Robert Van der Colff, who in 2002 had beaten to death Adam Potgieter and Samuel Moletsane for allegedly stealing construction equipment.

Unlike in previous years, there were no reports of killings by People Against Gangsterism and Drugs (PAGAD), an anticrime group with an antigovernment bias. One ongoing court case remained from the numerous cases involving the group. On March 7, the Cape high court acquitted Moegamat Isaacs, Nasrodien Gamielden, Achmat Abrams, Loegmaan Sapat, and Gabiebodien Burton of murdering three drug dealers in 1999; however, the five remained in prison serving sentences for other PAGAD-related crimes. In March the court sentenced PAGAD member Shaheem "Doc" Ismail to 12 years in prison for the attempted killing of a Cape Town magistrate. PAGAD leader Salie Abader's suit against authorities for "wrongful arrest and malicious prosecution" following his acquittal in 2002 for a killing had not concluded by year's end.

There continued to be reports that xenophobia led to a number 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 Agriculture South Africa (AgriSA), there were 652 farm attacks and 86 farm killings by the end of October 2004. There were 82 killings and 694 incidents of violence against the farming community, according to the 2004-05 SAPS report. Security forces generally lacked the capability to prevent such activities.

On April 25, farm owner Mark Scott Crossley and farm workers Richard Mathebula and Simon Mathebula were found guilty of the 2004 killing of a former farm laborer, who they tossed into a lion enclosure.

On October 17, Jewell Crossberg appeared in high court in connection with his alleged June 2004 killing of a farm worker; however, the case was postponed until April 2006 for further investigation. Crossberg had told police that he had mistaken his victim for a baboon, but farmworkers who witnessed the shooting said the killing was triggered by the victim's failure to report to work the day before.

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 April a man from Dan Village in Rityavi, Limpopo, killed his grandmother with an ax after accusing her of bewitching him; the man was charged with murder. On May 11, the court sentenced a man to life imprisonment for the 2004 killing of four elderly women accused of witchcraft in Nontshinga Village in the Eastern Cape. The trial of those accused of the 2003 killing of a man suspected of witchcraft in KwaZulu-Natal was ongoing at year's end.

Muti killings--killing, especially of children, to obtain body parts for traditional healing--continued. In February charges were dropped against a businessman and a traditional healer for allegedly hacking off a young boy's hand, ear, and genitals in 2004; the boy died 10 days later. An inquest into the incident was ongoing at year's end. 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 law prohibits such practices; however, some police officers beat, raped, tortured, 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.b.).

Incidents of police harassment against foreigners continued, particularly during coordinated police raids of areas where foreign nationals resided. Some state hospitals reportedly routinely refused emergency treatment to indigent foreigners despite regulations that required 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. No information was available on the case of four soldiers arrested in 2004 on allegations of ambushing, stripping, raping, and robbing illegal Zimbabwean immigrants.

Unlike in the previous year, there were no reports that police abused homosexuals; however, gay and lesbian rights NGOs alleged that such incidents were still occurring.

During the year SANDF troops stationed in the Democratic Republic of the Congo (DRC) as part of the UN peacekeeping mission were accused of sexual misconduct towards women and girls. According to UN statistics, 30 of the 95 accusations of sexual misconduct made against UN peacekeepers in the DRC involved members of the SANDF; 8 of the allegations were substantiated, and the responsible soldiers were returned to the country. The government reportedly had a "zero tolerance policy" for human rights abuses perpetrated by SANDF members.

Vigilante action and mob justice resulted in attacks on suspected criminals, some of whom were killed (see section 1.a.). Acts of violence against suspected witches also were a problem (see section 1.a.).

There were incidents in which white employers abused their black South African farm laborers (see section 1.a.). NGOs claimed that rural police and courts refused to arrest or prosecute whites in many cases.

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 thousand prisoners; however, there were 189,748 prisoners in custody, according to the Governmental Judicial Inspectorate of Prisons. Prisons were overcrowded and understaffed, according to the Police and Prisons Civil Rights Union. Severe overcrowding in some prisons led to poor health, with as many as 75 inmates occupying a cell designed to hold 40 inmates.

According to the Judicial Inspectorate Report, there were 1,758 prison deaths in 2004, 1,689 of which resulted from natural causes, including HIV/AIDS. In June Correctional Services Minister Ngconde Balfour stated that 8 thousand prisoners were HIV positive and that only 195 were receiving treatment with anti-retroviral (ARV) therapy. In partnership with a foreign government, Correctional Services conducted programs to prevent HIV/AIDS, care for victims, and to treat some patients with the disease.

Prison employees and other prisoners abused and assaulted prisoners physically and sexually. Detainees awaiting trial reportedly contracted HIV/AIDS through rape. The Institute for Security Studies (ISS) reported in 2003 that some inmates intentionally infected other inmates with HIV/AIDS to control or punish them in a process called "slow poison."

Official corruption was a problem. There were 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. On March 2, Correctional Services Minister Balfour announced that since 2002, 132 officials had been referred for criminal prosecution related to corruption in prison, of whom 105 were convicted. Two of those convicted were dismissed, and 95 were given final warnings.

The Jali Commission completed its investigation into allegations of corruption and sexual abuse in prisons, but its final report had not been released by year's end. The commission has reported 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, which were 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 the prisons.

There were allegations of corruption and abuse of detainees at the overcrowded Lindela Repatriation Center, the country's largest detention facility for undocumented immigrants. On October 28, the Department of Home Affairs released an inquiry into the deaths of two immigrants at Lindela in July. The inquiry found that the deaths resulted from meningitis and could have been prevented had proper medical care been available. In a separate inquiry, three officials from home affairs, including a deputy director general, were briefly suspended for mismanagement of the Lindela facility. However, on a December 7 visit to the facility, the regional representative of the UN High Commissioner for Refugees (UNHCR) noted improvements for women and children and characterized sanitary conditions and medical facilities as "good."

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 a November 14 study by the Institute for Security Studies, groups like Lawyers for Human Rights, the South Africa Human Rights Commission, and faith-based groups like Khulisa were granted extensive access to prisoners and were allowed to conduct various programs. Unlike in previous years, there were no reports that organizations sometimes were told that only lawyers were able to visit prisoners or that certain groups were routinely denied access. The Judicial Inspectorate visited all prisons regularly.

d. Arbitrary Arrest or Detention

The law prohibits 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 South African Police Service (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 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. According to the 2004-05 SAPS annual report, there were 115,595 police officers and 33,375 civilians working in SAPS. The majority of police resources 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 damaged its overall performance.

During the year the ICD received 1,731 allegations of criminal offenses committed by police and 3,407 complaints of misconduct.

Broad efforts to reform police practices continued, and the ICD investigated reports of police misconduct and corruption; however, reports of killings and misconduct decreased, while reports of criminal offenses increased. The government made efforts to address abuses with an official anti-torture policy and training programs for police and SANDF officers that included human rights.

Arrest and Detention

The law requires arrest warrants in most cases and provides that every detainee 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. An estimated 10 to 15 thousand prisoners remained in detention because they were unable to pay bail. Some school children spent more than a year in detention because their families were unable to afford to pay 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 no reports of political detainees.

Minister of Justice Mabandla reported in July that the backlog of court cases increased 13.2 percent over the previous year in district courts, 6.2 percent in regional courts, and 10.4 percent in high courts. As of January 31, 52,326 of the country's 187,446 prisoners were awaiting trial. According to the ISS, prisoners waited an average of three months, but some as long as two years, for a trial. This problem was primarily due to an understaffed, underfunded, and overburdened judiciary (see section 1.e.).

Amnesty

Between June and August, the Department of Correctional Services reduced the sentences of 10 thousand prisoners by 6 months to ease prison overcrowding. The sentence reduction only applied to prisoners convicted of non-violent crimes and excluded persons who committed sexual crimes such as rape, incest, and child pornography.

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 during the year of natural causes), Johannes van Zyl, and Johannes Koole for the Pebco Three killing in 1985; however, the case was postponed.

e. Denial of Fair Public Trial

The law provides 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 offences 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 backlogs in the numbers of cases that have gone to trial remained.

Political Prisoners

There were no reports of political prisoners.

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

The law prohibits such actions; however, there were allegations of police abuse during sweeps and home searches and other criticisms against government legislation and practice.

In October National Intelligence Agency Director General Masetlha, Deputy Director General Njenje, and General Manager Mhlanga were suspended for conducting surveillance on Saki Macozoma, a political ally of President Mbeki. Njenje subsequently resigned.

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 cell phones, 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 the year 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. Many farmworkers were unaware of their right to legal counsel during eviction proceedings, according to an study released in October by the Nkuzi Development Association.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities (see section 1.a.). In February approximately 90 youths burned 39 houses in 4 villages in Limpopo, accusing the occupants of being witches. Thirteen suspected ringleaders were arrested and charged with public violence and arson; their trial was expected to resume in March 2006. Some survivors of attacks and their families took refuge in "witch villages," which had no running water or electricity, in Limpopo Province.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides 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.

The independent media was 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 socio-economic 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, which was managed by black South African executives and provided broadcasting in the country's main African languages, continued to own and control the majority of the television and radio outlets. SABC provided news coverage of the government and the leading opposition parties; however, media commentators and opposition politicians continued to criticize SABC for allegedly showing partiality in its coverage of government ministers or events.

Low-power, not-for-profit 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. The cases of two radio stations that were refused licenses in 2004, Alex Radio and Radio Pretoria, were pending at year's end.

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

Police injured journalists covering a strike (see section 6.b.).

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

On May 26, the Johannesburg high court blocked the liberal weekly *Mail and Guardian* from publishing a follow-up article regarding a scandal involving alleged misappropriation of public funds. On June 7, the judge lifted the order because the article had been discussed openly in parliament, making the case moot.

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. While these laws rarely were used, journalists considered them a threat to constitutional rights. There were no instances in which these laws were invoked during the year.

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.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly; however, police forcibly dispersed numerous demonstrators during the year, which resulted in injuries and one death.

On May 25, in Cape Town, police used tear gas and stun grenades to disperse protesters demanding better housing. There were no reported injuries, but 36 persons were arrested and briefly detained. On May 30, in Ocean View, police arrested and briefly detained another 12 persons dispersing a demonstration with tear gas and stun grenades.

On July 12, police used rubber bullets and teargas to disperse a peaceful demonstration against the local hospital's slow provision of ARV therapy; 40 persons were injured, and 10 were treated for gunshot wounds.

During the year three police officers were arrested and charged with murder in the September 2004 killing of a demonstrator in Johannesburg. The trial was ongoing at year's end.

Freedom of Association

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

c. Freedom of Religion

The law provides for freedom of religion; the government generally respected this right.

Societal Abuses and Discrimination

While there were occasional reports of desecration and vandalism or verbal or written harassment, no violent incidents were reported during the year.

There were approximately 90 thousand Jews in the country, and there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the 2005 [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 or 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 Union's Convention on 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. According to incomplete statistics provided by the Department of Home Affairs, the government received 32,558 asylum applications during the year. Asylum seekers faced long delays in the processing of their claims. According to Human Rights Watch (HRW), the government admitted in November to a backlog of approximately 80 thousand to 115 thousand asylum requests. As of September, the government had granted refugee status to 27,683 persons. The majority of recognized refugees came from the DRC, Angola, Zimbabwe, and Somalia; there also were refugees from Rwanda, Burundi, and the Republic of the Congo.

Lawyers for Human Rights, a local NGO, criticized the Department of Home Affairs for 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 requested bribes to process applications for permits to remain in the country. During the year the government dismissed numerous immigration officials for corruption (see section 3).

Despite procedural safeguards, efforts to combat a growing illegal immigration problem occasionally resulted in the government wrongfully deporting illegal aliens, some with potential refugee claims. However, there were no confirmed 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 law provides 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 April 2004. Although largely peaceful, the election was marred by a few incidents of political violence in KwaZulu-Natal that occurred in the weeks before the election. The IFP registered a number of complaints with the Independent Electoral Commission, including large numbers of special votes, 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 April 2004 for a second term as president and head of state. Three parties--the African National Congress (ANC), the New National Party (NNP), and the Azanian People's Organization (AZAPO)--shared executive power. ANC members occupied 26 of the 28 ministerial positions and increased their parliamentary strength from 266 seats to 279. The official opposition, the Democratic Alliance, increased its seats from 38 to 50. Twelve political parties were represented in parliament. In August 2004 the NNP announced that it would merge with the ANC but its elected representatives would continue to hold their seats in the national and provincial legislatures as NNP members until September. After the September floor crossing period, the ANC increased its seats to 293. Five new parties were formed, making a total of 16 parties with parliamentary representation.

There continued to be reports of inter-party rivalry and violence during the year (see section 1.a.).

On June 22, 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 10 of 21 deputy ministerial slots. There were 131 women in the 400-seat National Assembly (NA) and 21 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 NA and chair of the NCOP.

There were approximately 140 members of minorities, i.e. non black South Africans, in the NA. There were approximately 20 minority members among the 54 permanent members of the NCOP. There were 6 members of minorities in the cabinet.

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.

In April 2004 parliament passed the Prevention and Combating of Corrupt Activities Act, which for the first time defines the scope of corrupt activities, as well as complements several existing anticorruption laws. Government anticorruption entities also made significant progress by expanding their operations and working towards greater interagency cooperation. In March the National Anticorruption Forum--a consortium of government, civil society, and business that focused on ways to combat graft--also convened the country's second annual anticorruption summit.

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.

The government continued to prosecute officials involved in "Travelgate," the ongoing scandal involving misuse of official funds by parliamentarians and their travel agents. In March and April seven ANC Members of Parliament (MPs) were fined and given suspended prison sentences in exchange for their guilty pleas. On June 7, 21 MPs, including 18 from the ANC, appeared in court on the same charge of misusing official vouchers; the trial was ongoing at year's end. On May 31, the ANC announced that it would expel from the party, and therefore parliament, any MPs convicted in the scandal; five MPs had lost their seats by year's end.

On June 2, the Durban high court convicted Schabir Shaik, financial advisor to former deputy president Jacob Zuma, of two counts of corruption and one count of fraud, including the payment of bribes to Zuma. On June 14, President Mbeki dismissed Zuma for suspected corruption. On June 20, the NPA arrested and charged the former deputy president for corruption; his trial was scheduled for July 2006.

On July 18, Home Affairs Minister Mapisa-Nqakula announced that 80 ministry officials had been charged with corruption. Between April 2004 and June, at least 66 senior officials from the Department of Home Affairs were dismissed for serious misconduct.

On November 15, Papi Mokoena, the mayor of Mangaung City, and the municipal speaker were suspended after being investigated for fraud and corruption.

The 2000 Promotion of Access to Information Act provides for access to information, and the government generally complied with the act, but there were problems with implementation. A 2003 study indicated that more than two-thirds of requests for information went unanswered or were answered outside the period provided for in the legislation. If a government department refuses to provide information, an internal appeal can be launched. If this also fails, the requestor may appeal a decision to the high court, a time consuming process that excludes groups or individuals who cannot afford it. Results of the study also indicated a bias against media critical of the government. In April the Cape high court ruled that political parties should not be compelled to disclose details of private donations they receive.

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 the year the SAHRC issued reports on the treatment of the Khomani San 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 thousand victims approved by the TRC for a one-time payment of \$4,600 (R30 thousand), 16 thousand received payment in 2004, and 700 received payment during the year after door-to-door campaigns conducted by the government. Remaining victims who had not received benefits by year's end had either not completed applications correctly or were believed to be dead.

In 2004 the NPA prosecuted former security agents Gideon Nieuwoudt, Johannes "Slang" (Snake) van Zyl, and Johannes Koole on charges of kidnapping, murder, and assault to do grievous bodily harm in the 1985 killings of the "Pebco Three," Qaquwili Godolozzi, Champion Galela, and Siphon Hashe. The TRC denied amnesty to Nieuwoudt, Van Zyl, Herman Barend du Plessis, and Gerhardus Johannes Lotz for failure to make a full disclosure. The case was postponed to December, pending the review proceedings of the amnesty re-hearing case, also involving Nieuwoudt. That re-hearing became moot when Nieuwoudt died of natural causes in late August.

During the year Wybrand du Toit and Marthinus Ras were granted amnesty for the so-called Motherwell killings in 1989. Gideon Nieuwoudt, also convicted in connection with the killings, was denied amnesty after his death in August.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits 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 socio-economic areas.

Women

Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking of 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 5 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. During the year SAPS continued to convert Child Protection Units (CPUs) to Family Violence, Child Protection, and Sexual Offenses Units (FCS); by September 15, the number of FCSs had increased from 40 in 2004 to 62. 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 very serious problem. According to the 2004-05 SAPS annual report, the incidence of rape increased 4 percent from the previous year to 118.3 rapes per 100 thousand persons. 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 a third of the estimated number of actual rapes. The 2004-05 SAPS reported 55,104 rapes, 30,915 of which were referred to court. 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 South African female farm workers by farm owners, managers, and by other farm workers were common.

The government operated 54 sexual offenses courts throughout the country that included designated waiting rooms and counseling for victims. The Sexual Offenses and Community Affairs Unit (SOCA) operated five 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.

On December 8, Ncedile Ntumbukane was found guilty of raping Lorna Mlofana and beating her to death in 2003 after discovering that she was HIV/AIDS positive. Vuyelwa Dlove, a second man accused in the case, was found guilty of attempted murder.

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

Prostitution is illegal but was widespread and practiced openly. In the past police demanded sex from prostitutes in return for not arresting them; however, there were no specific reports of such incidents during the year.

There was no further information on the seven police officers who were arrested in 2004 on charges of corruption and extortion for demanding sex from prostitutes in return for not arresting them; the officers were subsequently released on bail.

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

The law prohibits sexual harassment; however, sexual harassment remained a widespread problem. On June 1, the Supreme Court of Appeal reaffirmed a March 2004 Cape high court judgment allowing a woman to sue her employer for failing to protect her against sexual harassment.

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. Rural areas were often 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.

In October 2004 the constitutional court ruled that allowing the eldest male descendant to inherit everything and excluding children whose parents were not married is unconstitutional and invalid. The judgment also provided a formula for calculating inheritances, including for children of unmarried parents and partners in polygynous unions.

Women, particularly black South African 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 14.7 percent of executive- and 7.1 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. Many female farm workers were denied maternity leave in violation of the law or were allowed only enough time to give birth before having to return to work.

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 South African children--through a uniform system for the organization, governance, and funding of schools. It mandates compulsory education from ages 7 to 15 and ensures that children cannot be refused admission to public schools due to a lack of funds. According to the 2003 Statistics South Africa General Household Survey, approximately 97 percent of children between 7 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 facilities. 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 or where children worked (see section 6.d.). HRW reported in 2004 that children attending farm schools, which are public schools on private commercial farms (13 percent of all state-funded schools), were among the poorest in resources and were vulnerable to the farmers on whose land they occupied. Many schools reportedly had problems of 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. In August the *Sunday Times* reported that records of provincial education department disciplinary hearings showed that 49 teachers had been found guilty of raping, sexually abusing, or sexually harassing students during the previous 15 months. 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. Girls were often raped on school premises, and the victims' age generally ranged from 4 to 14.

Although the law prohibits corporal punishment in schools, there were reports that teachers used physical violence to discipline students. There also continued to be racially motivated violence among students in schools.

The HIV/AIDS activists, physicians, and opposition parties continued to widely criticize the government for failing to protect young children from HIV/AIDS transmission through the provision of ARV therapy to pregnant and breast-feeding women. The government responded to a 2004 constitutional court finding that they 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 2004-05 SAPS report, 22,486 children were raped, 1,128 were murdered, 24,189 were assaulted with intention to do grievous bodily harm, and 4,829 were subjected to indecent assault. Observers believed that these figures represented a small percentage of the actual incidents of child rape, because most cases involved family members and were not reported. The country had a low conviction rate for rape and child abuse. The minimum sentence for rape of a child was life in prison; however, judges have the discretion to grant 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 several outreach programs in 2004, traditional male circumcision was still prevalent 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 14 in the previous year to 20, 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, according to the ministry. Child support grants cover children up to the age of 14, but it was sometimes difficult for children, particularly in rural areas, 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

The law does not specifically prohibit trafficking in persons, and trafficking in persons was a problem. 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 law prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, and permitting a female under 16 to stay in a brothel for the purpose of prostitution.

The prosecution of 2004 cases involving child prostitution in Cape Town continued at year's end.

Charges were dropped against members of a Nigerian syndicate implicated in the trafficking of 14 girls in Johannesburg after the girls reportedly refused to testify.

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, safety and security, as well as the NPA, SAPS, and local and international NGOs.

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 in persons activities. Despite this effort, law enforcement units handling trafficking problems were understaffed and sometimes corrupt, which hindered effective enforcement. The country used its 54 sexual offenses courts to handle trafficking cases and relied heavily on NGOs to provide witness protection.

The country was a destination, transit, 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 generally trafficked for agricultural work.

The extent of trafficking operations was unknown, but the International Organization for Migration (IOM) reported there were 12 major routes for trafficking operations, 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 indebted to the agents who arranged their travel; often worked long hours, in some cases up to 18 hours each day, on weekends, and when ill; and sometimes were fined by their trafficker for infractions of strict rules. Young men trafficked for forced agricultural labor often were subjected to violence and food rationing.

Child prostitutes were often highly sought because of the belief that sex with them provided a cure for HIV/AIDS.

According to the IOM, there were several major criminal groups in the country that trafficked women: Bulgarian and Thai syndicates; the Russian and the Chinese Mafia; and African criminal organizations, mainly from West Africa. Traffickers also included male citizens and African refugees.

In most cases traffickers lured 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.

Government agencies did not facilitate trafficking; however, during the past two years, a few immigration officers from the Department of Home Affairs were dismissed for such activities.

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. It was estimated that persons with disabilities constituted only 0.02 percent of the public service workforce, compared with 5.9 percent of the general population.

On May 11, the Compensation Commissioner settled a 2004 class action suit filed by the Legal Resources Center, which represented 50 thousand citizens disabled by work-related accidents in the previous 11 years; the litigants claimed the government reneged on its statutory obligation to provide them with their source of income. Under the agreement the commissioner committed to pursue all outstanding claims within eight months and enact new procedures for these types of cases.

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; however, they remained underrepresented, particularly at the professional and managerial levels. The government continued efforts to reorganize and redesign the educational, housing, and health care systems to benefit all racial and ethnic groups in society more equally.

Notwithstanding the country's antidiscrimination legislation, the Commission for Employment Equity reported in its 2003 annual report that racial imbalances in the workplace still existed, and that only 19 percent of positions at the top management level in 2002 were held by Blacks and approximately 31 percent of professionally qualified employees were Black. The report makes it clear that Black women by far remained the most disadvantaged off in terms of the number and quality of senior 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 83 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.

The armed forces struggled with the process of integrating black South Africans into the predominantly white officer corps.

The continued killings of mostly white farm owners by black South 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 South African farm laborers, and complaints that the white employers received preferential treatment from the authorities (see section 1.a.).

Xenophobia led to attacks on foreigners, and anti-immigrant groups such as the Unemployed Masses of South Africa often blamed immigrants for job losses. In June the African Communities Network claimed that increasing xenophobia in the Western Cape resulted in the shooting and beheading of a Burundian security guard.

No arrests were made in a series of attacks in December 2004 on Somali refugees in the Western Cape, Eastern Cape, and Gauteng; seven refugees were killed.

No action was taken against those responsible for the alleged killings of as many as 28 refugees in 2002 and 2003.

Indigenous People

The Khoikhoi, nomadic herders of cattle and sheep, were the first indigenous people in the country and lived mainly in the southwestern Cape. Only a few thousand Khoikhoi remained, some of whom worked as farmers or 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.

On March 1, the SAHRC issued a report criticizing the government for failing to protect the rights of the Khomani San community, particularly in respect to poor service delivery and the administration of fixed farms.

Other Societal Abuses and Discrimination

There was some official and societal violence and discrimination against homosexuals; however, unlike in the previous year, there were no reports that police raped, beat, or assaulted homosexuals.

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 and declining formal sector employment. Total union membership as of 2003 was approximately 3.3 million persons, 42 percent of persons employed in the formal sector.

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 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 that 4.5 percent of the agricultural labor force was unionized.

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.

In August police reportedly used rubber bullets to disperse a demonstration of strikers, resulting in injuries to strikers and journalists. Leaders of municipal unions were briefly detained without charge. During the demonstration, six union members allegedly beat to death a worker who tried to report to work.

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.

The law prohibits employment of a child who is under 15 years of age; who is under the minimum school-leaving age (where the age is 15 or older); or who is over 15 but under 18 if the work places at risk the child's well being, education, physical or mental health, or spiritual, moral, or social development, or has been prohibited by the minister of labor. 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 those from Zimbabwe and Mozambique, worked in the country on commercial farms, for the taxi industry, or as domestic servants.

There were reports that children were forced into prostitution and anecdotal evidence that some children worked in conditions that amounted to bondage (see section 5, Trafficking).

During the year the DOL recruited and trained inspectors to follow up on transgressors and enforce existing policies. Violation of laws regulating child employment are punishable by a maximum prison sentence of 3 years or a fine of \$2,308 (R15 thousand). DOL inspectors continued to investigate a case of child labor against a Ventersdorp commercial farmer in the North West Province that involved a 13-year-old boy who was seriously injured while allegedly working on the farm. 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 incidents of child labor were reported.

The DOL continued an awareness program aimed at educating farmers about the rights of children.

e. Acceptable Conditions of Work

There was no legally mandated national minimum wage, but the law gives the Minister of Labor the authority to set wages by sector. As of July, minimum wages had been established for the retail sector, farm laborers, domestic workers, and taxi (minibus) drivers. The minimum wage for farm workers was approximately \$141 (R950) a month in urban areas and \$117 (R872) a month in rural areas. The minimum hourly rates for domestics depended on the number of hours worked and could range from \$0.50 (R3.87) to \$0.80 (R5.25). Compliance with the minimum wage rate ranged from 65 to 90 percent, depending on province. These wages did not provide a decent standard of living for a worker and his family.

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, in sectors in which workers were not organized sufficiently to engage in collective bargaining, 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 4 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. These provisions often did not apply to farmers.

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, and the country's industrial and mining 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 specifically prohibits discrimination against an employee who asserted 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.

The investigation into the September 2004 explosion at a Sasol plastics plant that killed 11 and injured 142 persons was ongoing at year's end.

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 6 days per week. Twelve-hour days were common during harvest time, and few farmers provided overtime benefits. HRW reported low wages, a lack of basic services in farm workers' housing, and inadequate education for workers' dependents (see section 5). Some white farmers still gave the predominantly black farm workers cheap alcohol (a system of payment known as "tot") in addition to wages. Mostly white farmers continued to evict workers legally and illegally; however, unlike in previous years, there were no reports that farmers set their dogs on employees (see section 1.f.). There was lack of compliance with labor legislation, lack of information on HIV/AIDS, and unacceptable levels of violence and crime against farm workers and farm owners. Health and safety regulations often were not observed during the use of chemicals in agricultural work.

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