

SOUTH AFRICA 2013 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

South Africa is a multi-party parliamentary democracy in which constitutional power is shared between the president and the parliament. In 2009 the country held a largely free and fair election, in which the ruling African National Congress (ANC) won 65.9 percent of the vote and 264 of 400 seats in the National Assembly, which then elected ANC President Jacob Zuma as the country's president. Authorities maintained effective control over the security forces. Security forces committed human rights abuses.

Principal human rights problems included police use of lethal and excessive force, including torture; prison overcrowding and abuse of prisoners, including beatings and rape by prison guards; and vigilante and mob violence.

Other human rights problems included: arbitrary arrest; prolonged pretrial detention and lengthy delays in trials; forcible dispersal of demonstrators; abuse of refugees and asylum seekers; corruption; pervasive violence against women and children; sexual harassment and societal discrimination against women; child prostitution; societal discrimination against persons with disabilities and the lesbian, gay, bisexual, and transgender (LGBT) community; trafficking in persons; attacks on foreigners; and child labor, including forced child labor.

Although the government investigated and prosecuted officials who committed abuses, whether in the security services or elsewhere in the government, there were numerous reports of impunity.

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

a. Arbitrary or Unlawful Deprivation of Life

There were reports that the government or its agents committed arbitrary or unlawful killings. The governmental Independent Police Investigative Directorate (IPID) examines all security force killings and evaluates whether they occurred in the line of duty or were otherwise justifiable.

Police use of lethal and excessive force, including torture, resulted in numerous deaths and injuries, according to IPID, Amnesty International, and other nongovernmental organizations (NGOs). Politically motivated killings by

opposition groups and the ANC also occurred. The country had a high crime rate, and criminals were often better armed than the police. Some perpetrators were punished during the year.

According to the 2012-13 IPID annual report, 706 persons died in police custody or due to police action during the 12-month period ending March 31. Of that number, nine South African Police Service (SAPS) members were charged and found guilty. A death as a result of police action was defined as: an attempt to effect an arrest or to prevent an escape; a member's action taken in self-defense or in the defense of another, a motor collision involving one or more SAPS vehicles, mass action where police were present, and any action or inaction that amounts to a criminal offence or misconduct as defined by SAPS disciplinary regulations.

On February 26, onlookers filmed Mozambican taxi driver Mido Macia as police handcuffed him to the back door of a SAPS van and dragged him to a police station in a township near Daveyton, Ekurhuleni, where he subsequently died. Police claimed Macia had caused a traffic jam and resisted arrest. A postmortem report released by IPID found that Macia died in police detention from head injuries and internal bleeding. President Zuma called the incident "horrific" and "unacceptable." The opposition Democratic Alliance (DA) called for a judicial commission of inquiry into police brutality. On February 29, authorities arrested nine police officers involved in the incident on charges of murder. Their trials at the Benoni Magistrate's Court were suspended until 2014 due to funding problems associated with the defense of police and court costs.

The investigation into the 2012 SAPS killing of striking miners continued (see section 7.a.).

Politically motivated killings occurred. According to press reports, since 2011 at least 44 ANC members, one member of the Agang SA party, and at least 13 members of the Inkatha Freedom Party (IFP) and National Freedom Party were killed in politically linked violence; five were killed during the year, and many more survived assassination attempts.

For example, on August 10, Makhosonke Msibi, the ANC branch chairman in Ulundi, was shot and killed in his home. Msibi had just returned from an ANC rally in Nongoma, where the ANC welcomed former IFP members who had defected to the party. A suspect in the killing was arrested, and the court case continued at year's end.

The trial of Xolani Zulu, who was arrested in September 2012 in connection with the 2011 killing of ANC eThekweni regional leader Sbu Sibiyi, continued at year's end.

According to preliminary press reports, during the night of December 31, former Rwandan intelligence chief Patrick Karegeya was killed in a hotel room in Johannesburg. Karegeya had received political asylum in South Africa in 2009 and resided in the country at the time of his death. Members of the Rwandan opposition movement Rwandan National Congress alleged Rwandan government involvement.

Incidents of vigilante violence and mob killings occurred, particularly in Gauteng, Eastern Cape, and KwaZulu-Natal provinces (see section 6, Other Societal Violence or Discrimination).

Xenophobic attacks on foreign African migrants resulted in deaths, injuries, and displacement (see section 6, National/Racial/Ethnic Minorities).

Killings and other violent crimes against white farmers and, on occasion, their families, continued in rural areas (see section 6, National/Racial/Ethnic Minorities).

Ritual ("muthi") killings, especially of children, to obtain body parts believed by some to enhance traditional medicine, remained a problem (see section 6, Children).

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, but police officers tortured, beat, raped, and otherwise abused suspects. Amnesty International corroborated cases of torture, including the use of electric shock and suffocation. Police also assaulted detainees with batons, fists, and booted feet. Police torture and physical abuse allegedly occurred during house searches, arrests, interrogations, and detentions and sometimes resulted in death.

For example, on August 1, two men arrested in connection with the June murder of Major General Tirhani Maswanganyi claimed police repeatedly tortured them after their arrest. One of the accused, Nditsheni Nefolovhodwe, alleged he was suffocated with a plastic bag, strangled with a plastic tube, beaten, and tied. He claimed he did not receive medical treatment while in police custody and that he was not read his rights during detention. Ndaedzo Vele, his coaccused, also claimed police beat and tortured him. An investigation continued at year's end.

According to IPID, reported assaults by police increased from 1,313 cases in 2011-12 to 4,131 cases in 2012-13. Suspects in several cases were interrogated and assaulted while being detained by police, without any record made of their arrest. IPID reported 50 torture cases in its 2012-13 annual report; the 2011-12 annual report did not report the number of torture cases. Qualitative studies by monitoring organizations found that victims in many communities did not report police abuse due to a "normalization" or public acceptance of police torture and brutality.

IPID received 146 complaints of rape in 2012-13. Of the 146 cases, 55 were against on-duty SAPS members, and the remaining 91 were against off-duty SAPS members.

On May 5, police arrested a warrant officer from the Mamelodi East police station for the April 28 rape of a 13-year-old girl. The officer was also charged with the 2008 rape of an eight-year-old girl and the 2009 rape of a 12-year-old girl, for which he was granted bail and continued to work without suspension at the Mamelodi East police station. In the officer's most recent court appearance for the rape of the 13-year-old girl, he was denied bail and remanded to custody. The trial continued at year's end.

IPID's investigation into the alleged torture by police in August 2012 of protesters at the Marikana mine continued at year's end. An investigation conducted by the Farlam Commission of Inquiry also continued (see section 7.a.).

The hearing for the lawsuit against Minister of Police Nathi Mthethwa for the alleged 2011 torture of Chinenye Jehu Onuegbu, a Nigerian citizen, was postponed until August 2014 at the request of the Prosecutor's Office. Onuegbu claimed that five SAPS plainclothes officers attached electrodes to his ears while interrogating him.

On April 11, the Southern Gauteng High Court awarded 180,828 rand (\$18,010) to Richard Ndlovu for his wrongful arrest and torture in 2010. Ndlovu claimed two

officers trussed him with a plank under his knees, put a bag over his head, and attached electrodes to his ear lobes.

Incidents of police harassment of foreigners continued, particularly during coordinated police raids in areas where foreign nationals resided. Refugee and migration advocacy organizations received reports that police confiscated the legal documentation of foreign nationals, threatened them with arrest on spurious charges, and forced them to pay bribes to be released. This was most prevalent among individuals whose legal documentation was not renewed in a timely fashion, according to refugee advocacy organizations including the Office of the UN High Commissioner for Refugees (UNHCR). There were also reports that police required bribes to protect the businesses of foreigners threatened by xenophobic violence.

Prison and Detention Center Conditions

Many of the 242 operational prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements.

Physical Conditions: In October 2012 Vincent Smith, the chairman of parliament's Portfolio Committee on Correctional Services, said inmates in the country's prisons "were still subjected to serious overcrowding, a lack of medical care, and torture." The Judicial Inspectorate of Correctional Services (JICS) received 3,370 complaints of assaults on prisoners by correctional officers for the 2012-13 reporting period. During the year there were reports of shortages of prison doctors, inadequate investigation and documentation of prisoner deaths, inadequate monitoring of the prison population, high suicide rates among prisoners, and a lack of independence in JICS. Some detainees awaiting trial reportedly contracted HIV/AIDS through rape.

According to the 2012-13 Department of Correctional Services (DCS) annual report, the country's correctional facilities housed 150,609 prisoners in facilities designed to hold 119,890; 28 percent of correctional centers were overcrowded, down from 36 percent the previous year. Many prisoners had less than 13 square feet in which to eat, sleep, and spend 23 hours a day. To reduce overcrowding the government transferred prisoners to facilities that were not at capacity. JICS reported the prisoner transfer program resulted in a reduction in the number of prisons rated as "critically overcrowded" (prisoner population at more than 200 percent of capacity).

In some prisons overcrowding and poor living conditions, including lack of ventilation, contributed to the spread of disease, particularly tuberculosis and HIV/AIDS. In 2012 Robin Wood of the Desmond Tutu HIV Center characterized communal cells, which held more than 20 prisoners, as a “total disaster” in terms of allowing the spread of communicable disease.

In December 2012 the Constitutional Court ordered compensation for former prisoner Dudley Lee, who contracted tuberculosis during his four-year incarceration at Pollsmoor prison and sued the prison system for not segregating prisoners infected with the disease. The amount of compensation for Lee, who was acquitted of the charges for which he was imprisoned, had not been determined by year’s end.

According to its 2012-13 annual report, the DCS tested 50 percent of prisoners for HIV, exceeding its testing target of 23 percent. Prisons dispensed antiretroviral (ARV) therapy, and 65 percent of HIV positive prisoners received such therapy. In areas where prisons did not have an ARV dispensary, prisoners were taken to local clinics to receive their medication. There were no HIV screening programs on intake or discharge of prisoners, but the DCS conducted HIV prevention programs in prisons, including a condom distribution program and awareness sessions. The DCS annual report noted that HIV awareness sessions took place in prisons throughout the country during the year. NGOs such as The Aurum Institute, Society for Family Health, and South Africa Partners provided correctional centers with HIV testing and ARV therapy. Despite these measures, 39,380 inmates filed complaints about health care during the year, compared with 34,202 such complaints in 2011-12.

Prisoners were provided with potable water, but supplies were occasionally inadequate, and plumbing problems occurred, according to JICS.

According to the JICS 2012-13 annual report, 398 children were in prison, 148 of whom were in pretrial detention. Juveniles were sometimes held with adults. Pretrial detainees generally were held with convicted prisoners.

According to the JICS report, there were 709 prison deaths during the 2012-13 reporting period, a decrease from the 852 deaths reported the previous year. Of these, 652 were from natural causes, including HIV/AIDS; the remaining 57 deaths were the result of suicides, assaults, or accidents (an increase from 48 reported in the previous year). JICS reported that 15 female inmates and two juvenile inmates

died of natural causes during the year. Inmate violence sometimes resulted in deaths.

For example, on January 7, prisoners at Groenpunt Correctional Centre in the Free State rioted to protest inadequate food and the firing of several wardens. According to media reports, prisoners set fire to three administrative offices and several cells. The unrest took two days to control, by which time nine officials and 104 inmates were injured. Two prisoners, Daniel Khethisi and Kgothatso Mokhele, were killed. Prior to the January 7 riot, prisoners had warned in a memorandum to management that security at the prison was inadequate. They also raised concerns of food shortages, inadequate medical care, and lack of access to the parole board. Following the riot, the DCS suspended the area commissioner, the head of the prison, and an official who allegedly sold cell phones to prisoners. A parliamentary report on the riots highlighted major security failings by prison management. An investigation by the South Africa Human Rights Commission (SAHRC) to determine whether human rights violations occurred during the riots continued at year's end.

The DCS requires that medical doctors complete and sign reports of inmate deaths to lessen the likelihood that a death caused by neglect is reported as "natural." Nevertheless, many deaths were not investigated due to an insufficient number of doctors.

Authorities provided all detainees in police cells with felt mattresses and blankets, and most cells had toilets and basins but often lacked chairs, adequate light, and ventilation. Food, sanitation, and medical care in detention centers were similar to those in prisons. Detainee violence sometimes resulted in death.

Local NGO Lawyers for Human Rights (LHR) indicated immigrants in detention at the Lindela Repatriation Centre, the country's largest detention facility for undocumented immigrants, were subject to the following abuses: physical and verbal abuse, corruption and bribery, insufficient food, lack of reading and writing materials, lack of access to recreational facilities or telephones, lack of access to and poor quality of medical care, indefinite detention without judicial review, detention of legally registered asylum seekers, and lack of procedural safeguards such as legal guidelines governing long-term detention. Several refugee and migration advocacy groups noted, on the other hand, that conditions in Lindela were generally acceptable and that the government was generally responsive when problems were identified.

Administration: Prisoners and detainees had reasonable access to visitors and religious observances. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions.

The DCS did not have an ombudsman to consider such matters as alternatives to incarceration for nonviolent offenders; status and circumstances of confinement of juvenile offenders; or improvement in pretrial detention, bail, and recordkeeping procedures to provide prisoners did not serve beyond maximum sentences for charged offenses. In 2010, however, the DCS signed a bail protocol with the ministers of police and of justice and constitutional development to allow inmates who committed petty crimes and could not afford bail to be diverted through alternative programs. This and other early release programs resulted in a decrease in the prison population, according to the DCS.

Independent Monitoring: The government permitted independent monitoring of prison conditions, including visits by human rights organizations. The government required human rights organizations to apply to the DCS for permission to visit. Organizations could also request permission to visit prisons to conduct specific research. The government permitted the International Committee of the Red Cross (ICRC) to visit prisons on a case-by-case basis, but the ICRC visited only the Lindela Detention Facility during the year.

JICS also appoints an independent correctional center visitor (ICCV) for each correctional center to monitor prison conditions. Authorities recorded and verified monthly ICCV visits in official registers kept at all correctional centers. The ICCVs submitted monthly reports to the inspecting judge, listing the number and duration of visits, the number of inmates interviewed, and the number and nature of inmate complaints. In 2012 the 238 ICCVs collectively held 62,816 private consultations with inmates and handled 530,183 cases. From 2011-12, the ICCVs handled 427,717 cases. In October 2012 the chairman of the parliamentary portfolio committee claimed it was “physically impossible” for the 238 ICCVs to adequately monitor the approximately 150,000 inmates and to respond to prison complaints. The chairman added that the lack of sufficient ICCVs left prisoners vulnerable to abuse and dehumanizing conditions.

Prisoners with mental illness sometimes failed to receive psychiatric care. A study on the prevalence of psychiatric disorders in Durban prisons published in the

January 2012 *African Journal of Psychiatry* (the first of its kind in South Africa) found that eight of nine prisoners with psychiatric disorders claimed during interviews to have received no psychiatric care in prison.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, but security forces arbitrarily arrested numerous persons during the year, including migrants and asylum seekers, striking miners, and trafficking victims.

Role of the Police and Security Apparatus

SAPS has primary responsibility for internal security. The South African National Defense Force (SANDF), under the Department of Defense, is responsible for external security but also has domestic security responsibilities such as patrolling the borders. The SAPS Directorate for Priority Crime Investigation, also known as “the Hawks,” coordinates efforts against organized crime and official corruption. Despite continued efforts to professionalize, SAPS remained understaffed, ill equipped, and poorly trained. Corruption was a problem (see section 4).

The government investigated and prosecuted security-force members who committed abuses, although there were numerous reports of police impunity, including of high-ranking members (see section 4). IPID, an independent and external body, investigates all complaints and makes recommendations to the SAPS inspectorate division that handles disciplinary matters and to the National Prosecuting Authority (NPA) on which cases to prosecute. IPID investigated cases of police abuse. Law enforcement activities remained focused on wealthy residential and business areas.

During the 2012-13 reporting period, IPID received 6,728 complaints against police, compared with 5,869 complaints the previous year, including allegations of killings, assaults, and other misconduct. Of these, IPID investigated 1,088 cases, of which 545 were found to warrant criminal charges and were recommended for prosecution. Police arrested 125 SAPS members, leading to 57 criminal convictions and 21 acquittals. IPID referred a further 1,040 cases to SAPS on issues of misconduct, such as unauthorized use of state vehicles, leaking information, or dereliction of duty; 84 cases resulted in disciplinary action. Sentences for officers found guilty of misconduct ranged from verbal warnings to fines and dismissal from service.

A 2011 law provides IPID with additional enforcement powers and requires SAPS and metropolitan police departments (MPDs) to report any suspected legal violations by their own officers to IPID. Previously there was no such requirement, and most reports came from the public. The law criminalizes the failure to report wrongdoing, and IPID recorded 127 cases in which SAPS or MPDs failed to report wrongdoing to SAPS.

Security forces failed to prevent or respond to societal violence, particularly in response to attacks on foreigners (see sections 2.d. and 6).

From May 23 to 30, in Sebokeng, Gauteng Province, xenophobic violence during a protest against unemployment spread to the neighboring townships of Orange Farm, Evaton, and Lakeside. More than 90 Gauteng Province residents were arrested for protest-related crimes, but Sebokeng shop owners claimed their shops were looted “in full view of police.” A local NGO working in those communities reported that police accepted bribes to stand guard in front of shops that had not yet been looted while shops not protected by bribed police were robbed and vandalized. According to the UNHCR, there was no way to determine how much lost business or property damage occurred as a result of looting.

On June 5, a mob in a village near Mafikeng stoned to death Boikie Molefe after he allegedly stabbed and killed his girlfriend on May 25. Widely circulated cell phone video footage showed two police officers drive by the mob scene. North West Province police commissioner Lieutenant General Zukiswa Mbombo expressed shock after she viewed the video and discouraged community members from taking the law into their own hands. No arrests were made, but an investigation of the officers continued at year’s end.

SAPS and metropolitan police departments received training in ethics, human rights, and the prevention of corruption, sexual offenses, domestic violence, gender violence, and violence against LGBT persons. Training, however, was inconsistent. SAPS also provided officers with access to social workers, psychologists, and chaplains.

Arrest Procedures and Treatment of Detainees

The law requires arrest warrants to be based on sufficient evidence and issued by a magistrate or judge and provides that all detainees be informed promptly of the reasons for their detention, of their right to remain silent, and the consequences of waiving that right. Detainees must be charged within 48 hours of arrest; held in

conditions respecting human dignity; allowed to consult with legal counsel of their choice at every stage of their detention or provided with state-funded legal counsel when “substantial injustice would otherwise result;” and permitted to communicate with relatives, medical practitioners, and religious counselors. The government often did not respect these rights. For example, according to the 2012-13 JICS annual report, 41,420 complaints about access to legal representation were received. Detainees must be released (with or without bail) unless the interests of justice require otherwise, although bail for pretrial detainees often exceeded what suspects could pay.

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

Arbitrary Arrest: There were numerous cases of arbitrary arrest during the year, particularly of foreign workers, asylum seekers, and refugees (see sections 2.d. and 6).

NGOs reported that authorities arbitrarily arrested victims of human trafficking if they were not in possession of appropriate documents detailing their immigration status.

Pretrial Detention: Lengthy pretrial detention was a problem. According to the JICS report, there were 48,379 remand (pretrial) detainees in the prison system. Approximately 3,589 detainees had been held for more than two years. According to the JICS 2012-13 annual report, detainees waited an average of three months before trial. Legal scholars estimated that 60 percent of those arrested were never convicted but held in pretrial detention while prosecutors developed their cases and waited for court dates. Observers attributed the high rate of pretrial detention attributed to arrests without substantial evidence, poor case preparation, and unaffordable bails. The law was recently amended to require a review of remand detention once it exceeds two years.

Detention of Rejected Asylum Seekers or Stateless Persons: The African Centre for Migration and Society, LHR, and the media reported that security forces continued to arrest arbitrarily migrants and asylum seekers, even those with documentation. In some cases documented migrants and asylum seekers were threatened with indefinite detention and bureaucratic hurdles unless they paid bribes to ensure quick adjudication of their cases. Although the law prohibits the

detention of unaccompanied migrant children for immigration violations, there were reports the Department of Home Affairs (DHA) detained unaccompanied minors for immigration violations during the year. In some cases minors reportedly claimed to be adults in order to be deported to their home country and avoid institutionalization in South Africa. According to the LHR, which regularly visited Lindela and other immigration detention centers, children were often identified only if an ICCV visited the detention center and pressured the facility to release them.

e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected judicial independence. Nevertheless, the judiciary was understaffed and underfunded, and there were reports that legal documents used in trials were lost. Judicial corruption was a problem, although there were no reports of corruption during the year. According to the presidentially mandated Criminal Justice System Working Group, composed of ministers and deputy ministers, more than one-half of the estimated two million criminal cases reported annually were never resolved.

Watchdog groups estimated the true conviction rate for crimes reported was as low as 10.3 percent. Inadequate collection of evidence at crime scenes, insufficient investigation, long trials, and ineffective court processes contributed to this low rate. The government operated 63 justice centers that provided legal assistance to the poor to expedite legal processes, reduce court rolls, and alleviate overcrowding in prisons, but serious delays continued to be a problem.

The government sometimes ignored orders from provincial high courts (see section 1.e., Civil Judicial Procedures and Remedies).

Trial Procedures

Criminal defendants enjoy a legal presumption of innocence. The constitutional bill of rights provides for due process and equal protection. The law requires that detainees be informed promptly and in detail of the charges against them, but this did not always occur. The law requires that interpretation be provided in all 11 official languages but was dependent on availability and cost of interpreters for foreign languages. Interpretation standards even for national languages were low and sometimes compromised the veracity of exchange between the defendant and the court. Cases were sometimes transferred from rural to metropolitan areas to

more easily access interpreters. Limited access to qualified interpreters sometimes delayed trials. Judges and magistrates hear criminal cases and determine guilt or innocence. In lieu of juries, the law requires that a panel of lay assessors and a magistrate hear cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in adjudicating bail applications and sentences.

Detainees and defendants have the right to legal counsel provided and funded by the state when “substantial injustice would otherwise result,” but this right was limited due to a general lack of information regarding rights to legal representation and the government’s inability to pay for such services. Defendants have the right to be present in court and can question witnesses in court and present their own witnesses and evidence. Every accused person has a right to a fair public trial, which includes the right to have adequate time and facilities to prepare a defense, within a reasonable time after being charged. Defendants have access to government evidence before going to court and have the right not to be compelled to make any confession or admission that could be used as evidence against them. There is no automatic right to appeal, but courts may give defendants permission to do so. For certain cases, such as when the accused is younger than 16, permission is not required. Additionally, the law provides for an automatic review of all prison sentences longer than three months.

Political Prisoners and Detainees

The IFP maintained that 384 of its members had been imprisoned since 1994 for political reasons, although international human rights organizations did not list such persons as political prisoners or detainees. In 2010 President Zuma announced he had considered and rejected 230 of the 384 IFP applications for pardon. Following Zuma’s announcement, the government considered and rejected an additional six cases. The presidency continued to consider the remaining pardon requests on a case-by-case basis but granted no further pardons.

Civil Judicial Procedures and Remedies

Individuals and organizations may seek civil remedies for human rights violations, although they may not appeal decisions to the African Court on Human and Peoples’ Rights because the government has not made the obligatory declaration to accept the competence of the court. The government did not always comply with court decisions.

For example, the DHA did not implement court orders resulting from three cases regarding closures of refugee reception centers in Johannesburg, Port Elizabeth, and Cape Town (see section 2.d.).

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

The constitution and law prohibit such actions, although search warrants were issued despite inadequate evidence, and there were reports that police abused citizens during sweeps and home searches.

The law authorizes state monitoring of telecommunications systems, including cell phones, the internet, and e-mail, for criminal investigations. Opposition parties and many civil society groups opposed such laws. The law requires that all mobile operators, service providers, and cell phone vendors register the identities, physical addresses, and telephone numbers of new and existing customers on secure databases. All cell phone subscribers were required to show proof of identity and proof of residence to be registered.

The Promotion of Access to Information Act allows any person to access information from the government or any other individual for the exercise or protection of any right. Authorities can also use the act to obtain personal information in connection with criminal investigations. Opposition parties and human rights NGOs objected to its broadly defined provision that enable the government to access an individual's personal information.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, and the government generally respected these rights. Nevertheless, several apartheid-era laws and the 2004 Law on Antiterrorism permit authorities to restrict reporting on the security forces, prisons, and mental institutions.

Press Freedoms: Although journalists were generally able to criticize the government openly without fear of reprisal, some journalists claimed the government increased its efforts during the year to control the media.

According to the South African Advertising Research Foundation, print media reached 48 percent of the population. Despite the number and diversity of publications, the concentration of media ownership in the hands of a few large media groups drew criticism from the government and some political parties, who complained that print media did not always adequately cover their points of view.

Most citizens received news through radio broadcasts from the South African Broadcasting Corporation (SABC) and community radio stations. The SABC, a state-owned enterprise, was the largest and most influential source of news for the majority of the population. It broadcast television and radio programs in the country's 11 official languages and reached an estimated 92 percent of the population.

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

Censorship or Content Restrictions: Government and political officials often criticized the media for lack of professionalism and reacted sharply to media criticism, frequently accusing black journalists of disloyalty and white journalists of racism. Some journalists believed the government's sensitivity to criticism resulted in media self-censorship.

Libel Laws/National Security: Libel is not criminalized, but civil cases, sometimes involving large fines, were brought against members of the press.

On May 3, President Zuma withdrew the remaining 14 defamation lawsuits brought against prominent cartoonist Jonathan Shapiro "Zapiro" and various media outlets between 2006 and 2010. The president's 14 libel claims against the *Sunday World*, *Sunday Independent*, *Rapport*, *The Star*, *The Citizen*, cartoonist Zapiro, and 94.7 Highveld Stereo presenter Darren Simpson totaled 60 million rand (six million dollars). Media lawyers alleged the way the claims were instituted and then neglected constituted an effort to intimidate and control the media. According to one of the attorneys defending several of the accused, "The sheer magnitude of the president's claims sent a signal that was detrimental to freedom of expression." Presidential spokesperson Mac Maharaj said President Zuma felt that "measured against the broader national interest and challenges which the country is faced

with, his personal sentiments, however aggrieved he may feel, must give way.” Zuma paid the legal costs he incurred in bringing the cases against the media.

Internet Freedom

There are no government restrictions on access to the internet, although the law authorizes state monitoring of telecommunications systems, including the internet and e-mail, for criminal investigations. The law requires all service providers to register on secure databases the identities, physical addresses, and telephone numbers of new and existing customers. Despite the law, there were no reports that the government monitored e-mail or internet chat rooms. Approximately 33 percent of the population used the internet during the year.

Academic Freedom and Cultural Events

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

During the year the FPB banned a mainstream film for the first time since the end of apartheid in 1994. The film *Of Good Report* tells the story of a schoolteacher who has a sexual relationship with a 16-year-old student. Censors cited “child pornography” as the reason for banning the film, which was scheduled to be shown at a Durban international movie festival. The film producers subsequently sued the FPB for 28 million rand (\$2.8 million) for damages, revenue, and lost potential earnings for incorrectly associating the film with child pornography.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; nevertheless, police violently dispersed several demonstrations during the year, which resulted in numerous deaths and injuries.

In May security guards used fire hoses, rubber bullets, pepper spray, stun grenades, and warning shots to control foreign nationals and refugees at Cape Town’s Refugee Reception Office (see section 2.d.).

According to the 2012-13 SAPS report, there were 12,399 protests over poor delivery of basic services across the country, including illegal, violent demonstrations in Gauteng, North West, Western Cape, Mpumalanga, and KwaZulu-Natal provinces. Police used batons, rubber bullets, and water cannons to control the demonstrations and quell the violence; scores of injuries were reported.

From August 8 to 12, residents of the Protea South area of Soweto, Gauteng Province, protested the lack of basic services such as electricity and running water. They barricaded streets, looted shops, tore down stoplights, and burned cars. Police responded with rubber bullets and tear gas to restore order.

Investigations continued into the 2012 series of violent incidents between SAPS and striking miners that resulted in the deaths of more than 60 persons at mines across the country (see section 7.a.).

In April prosecutors dropped charges against one of eight SAPS officers charged with murder and assault in connection with the death of Congress of the People (COPE) member Andries Tatane, who died in 2011 after police shot him at close range with a rubber bullet during a demonstration in Meqheleng Township near Ficksburg. On March 28, the Ficksburg Regional Court acquitted the seven remaining SAPS officers accused of killing Tatane. Regional magistrate Hein van Niekerk found the state could not prove its case beyond a reasonable doubt.

Freedom of Association

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

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

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

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, but the government did not always respect these rights. The government cooperated with the UNHCR and other

humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern. Nevertheless, refugee advocacy groups criticized the government's processes for asylum and refugee status determination, citing large case backlogs and susceptibility to corruption and abuse.

Internally Displaced Persons (IDPs)

Rioters regularly targeted foreign-owned shops for looting. Although precise statistics were unavailable, monitoring groups reported these attacks displaced at least 7,000 foreigners during the year. There were no reports of internally displaced South African citizens.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum and refugee status, and the government has established a system for providing protection to refugees. The country hosted approximately 83,000 recognized refugees and nearly 400,000 asylum seekers; two-thirds of the asylum seekers were Zimbabweans. NGOs criticized the government's implementation of that system, however, as inadequate.

In 2009 the DHA decided to move refugee processing from various provinces to the borders, but no new facilities were created. Refugee rights NGOs argued that many refugees did not cross a land border and that returning them to a land border posed undue hardship. Renewing refugee and asylum documents--some of which are valid only for six months-- requires similar travel. Refugee rights organizations filed various lawsuits to force the government to re-open the centers in Johannesburg, Cape Town, and Port Elizabeth, arguing the constitutional right of migrants to fair administrative action.

In July 2012 the DHA closed the reception center to new applicants in Cape Town and was promptly sued by refugee rights advocacy organizations. The Western Cape High Court--in two separate judgments issued in July 2012 and on March 19, found the closure unlawful. The DHA appealed to the Supreme Court of Appeals (the national appeals court) and lost in October. In February 2012 and on June 20, the Eastern Cape High Court found unlawful the 2011 closure of the Port Elizabeth reception center. Despite those judgments, both the Cape Town and Port Elizabeth reception offices remained closed to new applicants and were open for limited

services for renewals only. The Johannesburg office was entirely closed, providing no services to new applicants or old.

On May 27, approximately 1,000 foreign nationals queued for appointments in front of the Refugee Reception Office in Cape Town, which was built to accommodate 150 persons. When office doors opened, the crowd rushed in. Unable to process the applications--due to the number of applicants, an inadequate service delivery system, and the backlog resulting from months of closure--Mafoko Security staff, contracted by the DHA, turned a fire hose on more than 100 refugees.

In a separate incident on May 30, continued long lines led to a violent clash between police and waiting refugees. Police used rubber bullets to disperse queued applicants, who threw stones at the office's staff and guards. Media reported that security guards used pepper spray, stun grenades, and warning shots to control the crowds. According to an Amnesty International report, at the end of May, only women and children were allowed access to Cape Town's Refugee Reception Office, leaving hundreds of male asylum seekers and refugees waiting outside. An inability to process refugee document renewals on appointment dates resulted in expired documents for many refugees, who were then subject to fines, detention, deportation, and forced removal.

Refoulement: Observers reported that during the year the government refused entry to asylum seekers who could not show positive identification or who passed through a "safe country of transit."

Refugee Abuse: Refugee advocacy organizations charged that police and immigration officials abused refugees and asylum seekers (see section 6).

Xenophobic violence in the country was directed at foreign nationals running small grocery stores known as "spaza" shops in townships and informal settlements; refugees registered and owned many spaza shops. Citizens who blamed immigrants for job and housing losses and increasing crime generally perpetrated such attacks. Attacks on migrant traders during the year resulted in deaths, injuries, arson, and destruction of property (see sections 1.d. and 6).

On May 30, a mob beat a Somali shop owner to death in Port Elizabeth. The act, which was caught on camera and posted to YouTube, showed the man helpless in the street as he was pelted with rocks. Sheik Mohammed, the president of Somalia, called on President Zuma to "act immediately" to arrest those

responsible. Authorities arrested 11 persons, but no one was successfully prosecuted. On June 26, Deputy DHA Minister Fatima Chohan announced her department would hold nationwide discussion forums to engage communities affected by xenophobic violence.

The more than 700 foreign-owned shops closed in August 2012 by police in Polokwane, Limpopo, remained closed; registered Somali refugees owned many of the shops. Hangwani Malaudzi, a SAPS brigadier, claimed the raids did not target foreigners, but rather unlicensed shop owners, although SAPS could not name any nonforeign shops targeted by the raid when asked to do so in court. The SAPS regional legal advisor said a refugee's "right to work" did not include the right to own a business, a view upheld by the North Gauteng High Court on October 18. Legal representatives for migrant groups, who were preparing to appeal the decision, countered that the Revenue Service and case law explicitly established that the right to work includes the "right to trade and do business."

Although the DHA had anticorruption programs in place and punished officials or contracted security officers found to be accepting bribes, NGOs and asylum applicants continued to report that immigration authorities sought bribes from those seeking permits to remain in the country, particularly in cases where applicants allowed their documentation to expire.

Access to Basic Services: Although the law provides for access to basic services including education for refugee children, and access to police and courts, NGOs such as Human Rights Watch found that health-care facilities and law enforcement personnel discriminated against asylum seekers, migrants, and refugees. The government cooperated with the UNHCR and the International Organization for Migration to address discrimination against and exclusion of migrants and refugees from the health-care system. The issue was most acute at health-care facilities with scarce financial and human resources. Access to critical care was generally available, but access for chronic illnesses and preventive care operated on a queue system. Refugees and migrants received services after South African citizens, which often resulted in delayed services.

Temporary Protection: The government also offered temporary protection to some individuals who may not qualify as refugees.

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

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

Elections and Political Participation

Recent Elections: In 2009 the country held a largely free and fair national election in which the ruling ANC won 65.9 percent of the vote and 264 of 400 seats in the National Assembly, the dominant lower chamber of parliament. Parliament then elected ANC President Jacob Zuma as president. The DA, the leading opposition party, won 67 parliamentary seats, COPE won 30, and the IFP won 18. The remaining 21 seats in parliament were allocated to nine other political parties based on election results. In the National Council of Provinces (NCOP), the upper house of parliament, the ANC held 35 seats, the DA 10, and COPE seven. The remaining two seats were allocated to the IFP and the Independent Democrats. Electoral violence occurred. In KwaZulu-Natal Province, for example, there were 162 violent incidents in the six weeks prior to the elections, including 25 cases of intimidation, four killings, four attempted killings, one case of arson, and one case of intimidation with a firearm. There were 62 reported cases of election-related violence in the Northern Cape Province and 30 in Limpopo Province. There also were reports of electoral irregularities, including attempted vote rigging.

Participation of Women and Minorities: Women held 13 of 34 ministerial positions, including foreign affairs and defense, and 16 of 28 deputy ministerial positions. There were 175 women in the National Assembly and 18 women among the 54 members of the NCOP. Women occupied two of four parliamentary presiding officer positions, including the deputy speaker of the National Assembly and deputy chair of the NCOP.

There were an estimated 100 minority (non-Black) members in the National Assembly. There were 16 minority members among the 54 permanent members of the NCOP and 17 minority members in the 69-member cabinet.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, and the government continued efforts to curb corruption; nevertheless, the World Bank's most recent Worldwide Governance Indicators reflected that corruption remained a problem.

Corruption: The government took action against corruption during the year.

On September 23, the Gauteng North High Court reinstated corruption charges against Richard Mdluli, the head of SAPS Crime Intelligence Division. Mdluli appealed the decision to reinstate the charges, and the case continued at year's end. Mdluli allegedly used state funds to pay for his private automobile and registered his relatives, girlfriends, and their families as covert intelligence operatives in order to pay them. The NPA's specialized commercial crimes unit in 2011 dropped charges against Mdluli for lack of evidence.

On July 8, former communications minister Dina Pule was fired from her position after failing to declare the interests of her boyfriend Phosane Mngqibisa. Pule was alleged to have funneled several contracts and government resources to her boyfriend through the International Communications Technology indaba (tradeshaw). Pule was removed as communications minister but retained her position in parliament. On August 8, the Parliamentary Ethics Committee found her guilty of breaching the code of conduct, fined her one-month's salary, and suspended her from parliament for 15 days.

In April 2012 the public protector released a report that accused the Moqhaka Municipality in Free State Province of approving a grant of 500,000 rand (\$50,000) to local political parties before the 2009 national election in contravention of the constitution. According to the report, the municipality paid as much as 398,000 rand (\$39,800) of the grant to political parties in proportion to their voter support. A DA member of parliament who had accepted the money, but put it in escrow pending the outcome of the investigation, referred the case to the public protector. The public protector required the municipality to recover the funds and take administrative action against the municipal manager who allotted the funds.

Corruption remained a problem within prisons. According to the 2012-13 DCS annual report, the department conducted 3,101 misconduct and disciplinary hearings for various offences and dismissed 121 staff members. According to the 2012-13 JICS report, there were 1,460 complaints of corruption during the annual reporting period. At least 10 agencies, including the SAPS Special Investigation Unit, Public Service Commission, Office of the Public Prosecutor, and Office of the Auditor General, were involved in anticorruption activities.

The Office of the Public Protector, which collaborated with civil society, investigated government abuse and mismanagement and served as the office of last resort for citizens reporting unfair treatment by government entities. Despite

inadequate funding, the office investigated thousands of cases during the year, including several high-profile cases involving the president, and it was considered independent and effective.

Whistleblower Protection: The law provides for the protection of employees working for the government and private companies who disclose information about unlawful activity by their employer or fellow employees. It was unknown whether these laws were effective because there was no dedicated, independent monitoring body charged with collecting statistics on whistleblowers or investigating complaints of whistleblower harassment. Whistleblowing was common, but most whistleblowers spoke to the press anonymously instead of raising issues within their chain of command.

Financial Disclosure: Public officials were subject to financial disclosure laws, but some failed to comply, and most departments filed the vast majority of their reports late. The declaration regime clearly identifies which assets, liabilities, and interests public officials must declare. Government officials are required to declare publicly their interests when they enter office, and there were administrative and criminal sanctions for noncompliance. No defined unit is mandated to monitor and verify disclosures of government officials. Declarations by government officials were made public but not those of their spouses or children.

Tender awards continued to be a problem for the national government. On March 13, the auditor general's annual report revealed that government departments awarded contracts worth 438 million rand (\$43.8 million) to companies in which senior employees of the department had personal financial interests. Moreover, government departments awarded contracts worth 141 million rand (\$14.1 million) to suppliers with which family members of senior department officials had interests. In 75 percent of these cases, the conflict of interest was not disclosed.

Public Access to Information: The law provides for access to government information, although the government did not always comply with the law. If a government department refuses to provide information, the requester can launch a formal appeal. If this also fails, the requester may appeal a decision to the High Court, a lengthy and expensive process. The Open Democracy Advice Center continued to report that many requests for information were answered after the period provided for in the legislation or went unanswered.

On April 24, parliament passed the South African Protection of State Information Bill, commonly referred to as the Secrecy Bill. On September 12, however, President Zuma referred the bill back to parliament, citing concerns with two sections that he did not believe would pass constitutional scrutiny. The controversial bill, which aims to regulate the classification, protection, and dissemination of state information, remained pending before parliament at year's end. Observers criticized the bill's broad definition of national security and severe penalties for leaking documents, which include jail terms of up to 25 years. They also criticized the lack of a "public interest defense" to exempt from prosecution individuals in possession of classified documents that reveal state ineptitude or poor performance, or could otherwise be said to contain information vital to the interests of the public. The lack of a "public domain" defense for possession of classified information also generated criticism. Despite many provisions being tempered in recent drafts, critical components potentially limiting freedom of speech remain intact. On November 12, the National Assembly again passed the bill with minor adjustments responding to President Zuma's two causes of constitutional concern and returned it to the presidency for Zuma's signature. The bill remained unsigned at year's end.

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

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

Government Human Rights Bodies: Although created by the government, the SAHRC operates independently and is responsible for promoting the observance of fundamental human rights at all levels of government and throughout the general population. The SAHRC also has the authority to conduct investigations, issue subpoenas, and hear testimony under oath. The government reacted positively to the SAHRC reports and was responsive to its views.

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

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and law prohibit discrimination on the grounds of race, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, sexual orientation, or marital status. Nevertheless, entrenched attitudes and practices often resulted in gender-based violence and employment inequities.

Women

Rape and Domestic Violence: Rape, including spousal rape, is illegal but remained a serious and pervasive problem. The minimum sentence for rape is 10 years in prison for the first offense, 15 years for the second, and 20 for the third. Under certain circumstances--such as multiple rapes, gang rapes, or the rape of a minor or a person with disabilities--conviction results in a minimum sentence of life imprisonment (25 years), unless substantial and compelling circumstances exist to justify a lesser sentence. Perpetrators with previous rape convictions and perpetrators aware of being HIV-positive at the time of the rape also face a minimum sentence of life imprisonment, unless substantial and compelling circumstances exist to justify a lesser sentence.

On February 2, Anene Booysen died in Tygerberg Hospital after being gang-raped, beaten, and disemboweled in Bredasdorp, Western Cape Province. Booysen, who was 17 years old, was found alive by a security guard but later died from her injuries. President Zuma condemned the attack as “shocking, cruel, and most inhumane,” and the UN issued a statement strongly condemning Booysen’s rape and murder. The incident triggered a call by the Congress of South African Trade Unions (COSATU) for mass action against rape in the country. Two men, Jonathan Davids and Johannes Kana, were originally arrested in connection with the incident. In May the state dropped charges against Davids due to insufficient evidence, despite the fact that Booysen named him as her assailant. Johannes Kana was charged with the rape and murder, and on November 1, he was convicted and given two life sentences for the crime.

According to the 2012-13 SAPS annual report, 197,877 crimes were committed against women. As in previous years, SAPS did not provide a breakdown of the crime categories. SAPS recorded an increase in total sexual crimes (perpetrated against men and women), with 66,387 cases reported compared with 64,517 cases in the previous year. A 2009 Medical Research Council (MRC) report stated that more than 25 percent of men interviewed in KwaZulu-Natal and Eastern Cape provinces admitted to committing at least one rape, and more than one-half of those persons admitted to raping more than one person. In a 2011 study conducted

in Gauteng Province by the MRC and Gender Links, 37.4 percent of men admitted to having committed one or more rapes.

In most cases attackers were acquaintances or family members of the victim, which contributed to a reluctance to press charges, as did a poor security climate and societal attitudes. According to the 2012-13 NPA annual report, the conviction rate for sexual offense crimes was 65.8 percent, although watchdog groups claimed the rate was lower because it did not include the many credible cases that never made it to trial. Many cases were never referred for prosecution, and many watchdog groups estimated that the real conviction rate in rape cases was 4.1 percent. Poor police training and overburdened courts contributed to the low conviction rate. The NPA does not track the length of time required to bring cases to trial, but according to media reports, it can take between six months and three years for a rape case to be brought to trial depending on the complexity of the case and the plea of the accused. Backlogs in laboratory processing of DNA evidence also caused delays.

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

The government operated six dedicated sexual-offense courts throughout the country that included facilities such as waiting rooms, court preparation rooms, and closed caption television rooms for victims. Although judges in rape cases generally followed statutory sentencing guidelines, women's advocacy groups criticized judges for using criteria such as the victim's behavior or relationship to the rapist as a basis for imposing lighter sentences. Critics also charged that support for dedicated sexual-offense courts had eroded, and that some of the previously dedicated courts were hearing other types of cases. As a result sexual offense cases took longer to resolve, and conviction rates--which were previously the highest in the country--had decreased. According to the 2012-13 annual report of the NPA's Sexual Offenses and Community Affairs Unit (SOCA), dedicated sexual-offense courts recorded a 61 percent conviction rate; 48.7 percent of cases were referred to prosecution. In August the minister of Justice and Constitutional Development announced the re-establishment of 57 dedicated sexual-offense courts, of which 22 were scheduled to be operational by the end of the 2013-14 financial year.

The government operated 86 rape crisis centers, called Thuthuzela Care Centers (TCCs), five of which were added during the year. Of the 86, the NPA operated 35

and SOCA operated 51. Most TCCs were located in hospitals. Seventy-five percent of rape cases brought to TCCs were terminated--either by conviction or by acquittal--within nine months from the date the case was reported.

The government prosecuted domestic violence cases under laws governing rape, indecent assault, damage to property, and violating a protection order. Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking by former partners. The law facilitates the serving of protection orders on abusers, requires police to take victims to a place of safety, and allows police to seize firearms at the scene and to arrest abusers without a warrant. Violating a protection order is punishable by a prison sentence of up to five years, or 20 years if additional criminal charges are brought. Penalties for domestic violence include fines and sentences of between two and five years' imprisonment.

According to NGOs, an estimated 25 percent of women were in abusive relationships, but few reported it. A 2009 MRC report stated more than two-fifths of men interviewed in KwaZulu-Natal and Eastern Cape provinces had been physically violent toward an intimate partner. In a 2011 report conducted by the MRC in Gauteng Province, more than 50 percent of men admitted to being physically violent towards women during their lifetime. TCC counselors also alleged that doctors, police officers, and judges often treated abused women poorly.

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

Female Genital Mutilation/Cutting (FGM/C): (See subsection on Children.)

Sexual Harassment: Although the law prohibits sexual harassment, it remained a widespread problem. The government left enforcement primarily to employers, with criminal prosecution a rare secondary step at the initiative of the complainant. The Department of Labor issued guidelines to employers on how to handle workplace complaints, which allow for remuneration of the victim's lost compensation plus interest, additional damages, legal fees, and dismissal of the perpetrator in some circumstances. Tougher punishments can be generated for

assault, which carries a range of penalties depending on the severity of the act, but only if the complainants press charges.

Reproductive Rights: Couples and individuals have the right to decide freely the number, spacing, and timing of their children, and to have the information and means to do so free from discrimination, coercion, and violence. Contraception was widely available and free at government clinics. According to the Department of Health, 94 percent of women had access to prenatal care, while 84 percent had access to a skilled attendant at birth, except in the poorest communities, where the rate was 68 percent. According to the country's 2010 Millennium Development Goal Report posted by the UN Development Program, the maternal mortality ratio was 300 per 100,000 live births. The government and numerous international organizations continued efforts to reduce the maternal mortality rate through a variety of pilot projects. Primary challenges included low awareness among mothers of available antenatal care, the high HIV/AIDS rate, poor administrative and financial management, poor quality of care, and lack of accountability in the health-care system.

Discrimination: Discrimination against women remained a serious problem despite legal equality in inheritance, divorce, and child custody matters. Women experienced economic discrimination in wages, extension of credit, and ownership of land.

Many rural areas were administered through traditional patrilineal authorities, such as a chief or a council of elders. Such authorities did not grant land tenure to women, a precondition for access to housing subsidies. The Employment Equity Act, which aims to promote equality in the workplace, does not expressly prohibit unequal pay for work of equal value; however, it does prohibit discriminatory practices, including unequal pay and separate pension funds for different groups in a company.

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

According to the 2012-13 Employment Equity Report, women held only 19.8 percent of top-level management positions and 30.7 percent of senior management positions, rates significantly lower than the government-mandated target of having 44.4 percent management positions filled by women. The Commission for Employment Equity released statistics showing that 62 percent of top managers in private companies were white men, while black women constituted only 3 percent and Coloured (a heterogeneous, mixed-race ethnicity recognized by the government) and Indian women made up only 1.4 and 1.6 percent, respectively.

Female farm workers often experienced discrimination, and their access to housing frequently depended on their relationship to male farm workers. Female farm workers on maternity leave who could not obtain timely compensation through the Unemployment Insurance Fund often had to return to work shortly after giving birth, according to NGOs working with farm workers in Limpopo Province.

A number of governmental bodies, particularly the Commission for Gender Equality and the Department of Women, Children, and Persons with Disabilities monitored and promoted women's rights, as did numerous NGOs.

Children

Birth Registration: The law provides for citizenship by birth (if at least one parent is a permanent resident or citizen), descent, and naturalization. Nevertheless, registration of births was inconsistent, especially in remote rural areas or among parents who were unregistered foreign nationals. Children without birth registration had no access to public services such as education, health care, and financial grants.

Education: Public education is compulsory until age 15 or grade nine. Public education was fee-based and not fully subsidized by the government. The law provides that children cannot be refused admission to public schools due to a lack of funds, and disadvantaged children (who traditionally were black) were eligible for assistance. Nevertheless, even when children qualified for fee exemptions, parents who were poor had difficulty paying for uniforms and supplies. According to the 2012 Child Gauge Report, girls faced more difficulties than boys in accessing services, and children with disabilities were at an even greater disadvantage.

Child Abuse: Violence against children, including domestic violence and sexual abuse, remained widespread. According to the 2012-13 SAPS report, 49,550

children were reported to have been victims of violent crime during the reporting period. The country had a low conviction rate for rape and child abuse.

There continued to be reports that teachers, students, and others harassed, abused, assaulted, and raped girls in school. The law requires schools to disclose sexual abuse to authorities, but administrators often concealed sexual violence or delayed disciplinary action. The level of sexual violence in schools also increased the risk of girls contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted pregnancies.

For example, on February 22, at Mzwilili Junior Primary School in Umlazi, eight-year-old Nonjabulo Sabela went missing. On February 28, her body was found in the school with eyes gouged out and evidence of rape. Police arrested a 24-year-old man, who awaited trial at year's end.

On March 1, a staff member at Isithokoziso Junior Primary school reportedly raped a four-year-old girl. Police made an arrest after the child pointed out the attacker, but prosecutors did not file charges due to lack of evidence.

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, was a problem.

Forced and Early Marriage: The age of majority is 18. Anyone under that age could not marry without the consent of the parents or a magistrate judge. Nevertheless, the traditional practice of “ukuthwala,” the forced marriage of girls as young as 12 to adult men, continued in remote villages in Western Cape, Eastern Cape, and KwaZulu-Natal Provinces. In August, President Zuma signed the Prevention and Combating of Trafficking in Persons Bill, which prohibits nonconsensual ukuthwala and classifies it as a trafficking offense. Significantly, the Ministry of Traditional Practices supported the bill.

Harmful Traditional Practices: Although not widespread, FGM/C was reported in isolated zones in Venda communities of the northeastern part of the country. The law prohibits FGM/C, and the government conducted initiatives to eradicate the practice, including national research and sensitization workshops where FGM/C is prevalent.

Ritual (“muthi”) killings, especially of children, to obtain body parts believed by some to enhance traditional medicine, persisted.

On February 13, Stanley Modikane killed and beheaded his wife, Phumeza Madikane, at their home in Daveyton, Ekurhuleni. Modikane was arrested after telling police he had killed his wife to use her head for a muthi that would make him rich. Modikane was charged with murder, and his trial at the Benoni Magistrate’s Court continued at year’s end.

The trials of Songezo Mpitolo, Langa Mbijana, and Phumelele Nodede, who were arrested in January 2012 for the rape and murder of six-year-old Asemahle Ntsabo in Paarl, Western Cape Province, continued at year’s end. The prosecution alleged that Ntsabo was killed and her organs removed for muthi.

Four of the five suspects arrested for the 2011 rape and muthi killing of 74-year-old Maria Maceke Maceke were found not guilty and discharged during the year. The fifth suspect, Solomon Mzamani Mathebula, was sentenced to life imprisonment in September 2012.

Ritual circumcision of young males, often by medically unqualified practitioners, was still a prevalent initiation tradition in several provinces, particularly in Eastern Cape Province. The government regulates initiation schools, but unlicensed schools operated throughout the country for financial gain. In the worst cases, these schools enticed or kidnapped boys to undertake rites of passage and then held them for ransom until their parents paid for their release.

The practice sometimes resulted in death. An entrenched practice among several cultural groups in the country, circumcision was considered a precondition for adult status and permits marriage, inheritance, and other societal privileges. The House of Traditional Leaders began a dialogue with medical providers to identify options for the integration of medical circumcision and traditional practices. The government also began funding a program to conduct medical circumcisions nationwide during the year, but traditional practices continued. Discussing circumcision was taboo in many communities, where it was considered a matter for chiefs to decide. Some traditional leaders criticized government interference in initiation and circumcision practices, while others declared moratoriums on circumcision in parts of Eastern Cape Province after numerous deaths resulted from the practice.

Hospitalizations and penile amputations at the hands of untrained practitioners were reported in Eastern Cape, Limpopo, and Mpumalanga Provinces during the June initiation period, according to press reports. According to media reports, approximately 90 deaths resulted from circumcisions performed at initiation schools--facilities where traditional rituals were performed on boys to mark their passage into adulthood--in the Eastern Cape, Limpopo, and Mpumalanga Provinces, compared with 64 deaths during the initiation season in 2012. The media also reported five amputations and 300 hospitalizations in the Eastern Cape during the year.

In December 2012 personnel at an illegal initiation school in Hartswater, Northern Cape Province, stoned to death a 22-year-old female student at the initiation school. School personnel initially tortured Gabaediwe Motsage with burning coals before killing her when she tried to escape from the school. During the year four women, a man, and nine minors were arrested and charged with murder and assault. Three of the adults were granted bail, two were denied bail, and the children were released. In response to the incident, the district attorney submitted a proposal to the Office of the Premier and Health Department for a new provincial approach to initiation schools. The trial continued at year's end.

Sexual Exploitation of Children: Penalties for the sexual exploitation of a child include fines and imprisonment of up to 20 years. The law states no child under age 12 can consent to any sexual activity and sets 16 as the lowest age for consensual sex with another minor. Statutory rape is defined as sexual intercourse between anyone under 18 and an adult more than two years older. The statutory sentence for rape of a child is life in prison, although the law grants judicial discretion to issue sentences that are more lenient.

The law criminalizes all consensual sexual activities between minors under the age of 16 and defines sexual activities to include kissing and "petting." In May the Constitutional Court heard complaints by child-rights advocacy groups, which claimed the law could prevent pregnant teens from seeking appropriate medical attention for fear of being criminally charged. The groups noted that the law effectively contradicts previous legislation requiring the government to provide free contraceptives to minors. The groups also asserted the law could deter child victims of sexual assault from reporting attacks perpetrated by other minors since, in the event of an acquittal, the victim would technically be considered a criminal for having underage sex. The Constitutional Court's decision was pending at year's end.

The law prohibits child pornography and provides for penalties including fines and imprisonment of up to 10 years. The FPB maintained a website and a toll-free hotline for the public to report incidents of child pornography.

In 2011 approximately 95,000 children (0.5 percent of all children) lived in child-headed households, according to Statistics South Africa's *Social Profile of Vulnerable Groups in South Africa*. These children sometimes turned to prostitution to support themselves and their siblings. Other children were trafficked and forced into prostitution. NGOs provided shelter, medical, and legal assistance for children in prostitution and a hotline for victims of child abuse.

Children were trafficked mainly within the country, from poor rural areas to urban centers, such as Johannesburg, Cape Town, Durban, and Bloemfontein, for prostitution. Nigerian syndicates dominated the commercial sex trade within the country through local criminal rings and street gangs that organized child prostitution in those cities.

Some NGOs claimed the country was a destination for child sex tourism. The Departments of Tourism, Social Development, and Trade and Industry, as well as 50 other tourism industry organizations, were signatories to the Tourism Child Protection Code of Conduct, an international agreement endorsed by the UN World Tourism Organization designed to provide "increased protection to children from sexual exploitation in travel and tourism."

International Child Abductions: The country is a party to the 1980 Hague Convention on Civil Aspects of International Child Abduction. For country-specific information, see the Department of State's report at www.travel.state.gov/abduction/country/country_5783.html.

Anti-Semitism

The South African Jewish Board of Deputies estimated the Jewish community at 75,000 to 80,000 persons. There were no reports of attacks on Jewish persons or property. There were, however, reports of verbal abuse, hate mail, and distribution of anti-Semitic literature in the country.

On August 28, members of the Boycott, Divestment, and Sanctions movement sang a song containing the lyrics "awudubul' ijuda" (shoot the Jew) at a protest against Israeli musician Daniel Zamir's concert at the University of the

Witwatersrand. University vice chancellor Adam Habib condemned the singing of the song, calling it irresponsible and outrageous.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination in employment, access to health care, and education based on physical, sensory, intellectual, and mental disability. Department of Transportation policies on providing services to persons with disabilities were consistent with the constitution's prohibition on discrimination. Nevertheless, government and private sector discrimination existed. The law mandates access to buildings for persons with disabilities, but such regulations were rarely enforced, and public awareness of them remained minimal.

There were more than 100,000 students with disabilities in mainstream schools, and the country had 413 specialized schools for students with disabilities. In 2011, however, UNESCO reported that South African children with disabilities between the ages of seven and 15 were 20 percent less likely to attend school than children without disabilities. The Department of Basic Education allocated part of its budget for assistive devices, material resources, and assistive technology, but it noted resources were inadequate and teachers reported insufficient skills in special needs education. For example, many blind and deaf children in mainstream schools received only basic care rather than education.

The law prohibits harassment of persons with disabilities and, in conjunction with the Employment Equity Act, 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. Nevertheless, persons with disabilities constituted only an estimated 2.3 percent of the workforce. The Ministry for Women, Children, and Persons with Disabilities launched a website linking persons with disabilities to civil service positions, but the government had not met its target of filling 2 percent of government positions with persons with disabilities.

The six persons accused of digitally recording themselves raping a 17-year-old mentally disabled girl in March 2012 were released on bail during the year. One of the six, who was 13 years old when the crime was committed, was declared psychologically unfit to stand trial and the charges were dismissed; the other five were awaiting trial at year's end.

Persons with disabilities were sometimes subject to abuse and attacks, and prisoners with mental disabilities often received no psychiatric care.

There were 19 persons with disabilities in the upper and lower houses of parliament. Tshililo Michael Masutha, born with a visual disability, was appointed deputy minister of science and technology on July 9. The law does not allow persons identified by the courts as mentally disabled to vote.

The Ministry for Women, Children, and Persons with Disabilities is charged with protecting the rights of persons with disabilities, enhancing their development opportunities, and monitoring government departments to ensure that disability issues are addressed in policies, hiring practices, building plans, and other matters. All provincial and local governments also have offices charged with protecting the rights of persons with disabilities, and there are representatives advocating for persons with disabilities at the Commission for Gender Equality and the SAHRC. NGOs also advocated for the rights of persons with specific disabilities such as blindness.

The Mental Health Information Center of South Africa noted that 20 percent of the population had mental disabilities that significantly “impaired living.”

National/Racial/Ethnic Minorities

The law requires employers with 50 or more employees to ensure that previously disadvantaged groups, legally defined as “Blacks” (including “Africans,” “Coloured,” and “Asians” and collectively constituting more than 90 percent of the population) be represented adequately at all levels of the workforce. Nevertheless, Blacks remained underrepresented, particularly at the professional and managerial levels, and the percentage of professional positions filled by Blacks fell slightly compared with 2012. According to the Department of Labor's 2012-13 Employment Equity Analysis, Blacks held 12.5 percent of top management positions (down from 18.5 in 2011-12), 18.4 percent of senior management positions (down from 18.8 in 2011-12), and approximately 34 percent of all

professional positions (down from 36 percent in 2011-12). The report also indicated Black representation in the skilled-labor sector had decreased to 55 percent, down from 57 percent in 2011. Black women remained by far the most disadvantaged group in number and quality of management jobs.

Random xenophobic attacks on foreign African migrants and ethnic minorities occurred and sometimes resulted in death, injury, and displacement. Incidents of xenophobic violence were generally concentrated in areas characterized by poverty and lack of services. According to researchers from the African Center for Migration and Society, perpetrators of crimes against foreigners enjoyed relative impunity. At year's end there continued to be only one conviction stemming from the 2008 riots that resulted in 69 deaths, the majority of which were migrants.

Citizens who blamed immigrants for increased crime and the loss of jobs and housing generally perpetrated such attacks. The government sometimes responded quickly and decisively to xenophobic incidents, sending police and soldiers into affected communities to quell violence and restore order. Nevertheless, civil society organizations criticized the government for failing to address the root causes of the violence, for not facilitating opportunities for conflict resolution in affected communities, and for failing to deter such attacks by vigorous investigation and prosecution of perpetrators.

In November 2012, in Malmesbury Township, Cape Town, three armed gangsters shot and killed Abdikadir Isse Abdullahi, a Somali shop owner. No arrests were made.

Killings and attacks on commercial farms and small agricultural holdings continued in rural areas. According to the Transvaal Agricultural Union of South Africa, which criticized police for not maintaining their own statistics, 68 white farmers were killed during 176 attacks by black perpetrators during the year--an increase of 34 percent over the previous year. These attacks, widely referred to as "farm killings," targeted farm owners, residents, and employees. According to the South African Institute for Race Relations, commercial farmers, who were predominantly white, were twice as likely to be killed as the average citizen. There also were reports that white employers abused and killed black farm laborers, as well as complaints that white employers received preferential treatment from authorities.

In a widely reported case, Ernest van Rooyen, 77, and his wife Annetjie, 76, of the Somerset farm in Free State Province, were killed in the truck shop on their farm in

January. Ernest was stabbed and bled to death; Annetjie suffocated to death after being gagged and stuffed in a freezer by the attackers. Three men were initially arrested, and two of them--Oupa Mokoena and Ezekiele Mguni--were given life sentences for the killings.

On May 7, Moeketsi Hlassa and Nkululeko Mvumvu were found guilty of murder and sentenced to life imprisonment in connection with the September 2012 killings of Johan and Cicile Fourie, whose bodies were found on their farm in Trompsburg, Free State Province. Phinias Mothibi, who also was initially charged with the killing, was released after charges were dropped.

Indigenous People

The NGO Working Group of Indigenous Minorities in Southern Africa estimated there were approximately 6,000 indigenous San in the country, some of whom worked as farmers or farm laborers. By law the San have the same political and economic rights as other citizens, although the government did not always effectively protect those rights or deliver basic services to San communities. Their formal participation in government and the economy was limited due to fewer opportunities, minimal access to education, and relative isolation.

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

The post-apartheid constitution outlaws discrimination based on sexual orientation, but according to a Pew Research Center study released during the year, 61 percent of respondents said homosexuality should not be accepted by society. This prevailing cultural attitude influenced service delivery by individual government employees at the local level. Despite legal protections for LGBT persons and government policies affirming LGBT rights, there were reports of official mistreatment or discrimination based on sexual orientation. A 2011 Human Rights Watch report highlighted violence and discrimination, particularly faced by lesbians and transgender persons. The report documented cases of “secondary victimization” of lesbians, including cases in which police harassed, ridiculed, and assaulted victims of homophobic violence when they reported crimes.

Rights groups reported the LGBT community was subject to hate crimes, gender violence targeting lesbians, and killings. In 2011 the Triangle Project, the country’s largest lesbian and gay rights organization, reported it received a weekly average of 10 new cases of lesbians being targeted for “corrective” rape in Cape

Town, in which men raped lesbians as punishment and to attempt to change their sexual orientation.

There were a number of reported homophobic killings.

For example, on June 30, Duduzile Zozo, an open lesbian, was found dead in the yard of her neighbor's home in Thokoza, Ekurhuleni. According to media reports, Zozo was sexually assaulted and died from internal injuries. While Zozo's mother and LGBT rights groups suspected that Zozo was killed because of her sexuality, police officers were reluctant to connect the incident with homophobic motives. Gauteng premier Nomvula Mokonyane and acting government spokeswoman Phumla Williams, nevertheless, condemned the killing, and Mfanozelwe Shoze, chairperson of the Commission for Gender Equality, called on the justice system to "fast-track the investigation and prosecuting of cases that involve the killing of gays and lesbians," noting "long delays in cases relating to this issue." On October 18, security forces arrested Lekgoa Lesley Motleleng, who appeared in the Palm Ridge Magistrate's court on October 21. The trial continued at year's end.

The trial of Sizwe Jajini, who confessed to the June 2012 killing of Thapelo Makhutle, an openly gay man, continued in the Mothibistad Magistrate's Court.

The government reconstituted a task force during the year on reducing homophobic violence, jointly chaired by the deputy director general of the Department of Justice and a member from civil society. The task force developed a work plan that included the National Intervention Strategy to address gender violence and violence based on sexual orientation targeting the LGBT community.

Other Societal Violence or Discrimination

According to anecdotal reports, the social stigma associated with HIV/AIDS continued to decline as a result of the availability of life-saving ARV treatments. Civil society organizations such as the Treatment Action Campaign and government campaigns also worked to reduce discrimination against persons with HIV/AIDS. Nevertheless, discrimination against such persons continued.

For example, in July the South African Security Forces Union, the South African National Defense Union, and three individuals filed a legal challenge in the North Gauteng High Court against SANDF for alleged discriminatory HIV/AIDS policies; the case is the first to challenge the military law governing the employment of persons with HIV/AIDS. The three individuals filing the case

alleged they were dismissed from the South African Navy solely because of their HIV status. Activist groups Treatment Action Campaign and Section 27 accused the SANDF of perpetuating discriminatory HIV policies. The Employment Equity Act, which protects civilian workers from discrimination, does not apply to active duty military personnel, and SANDF has shifted its policy on recruiting HIV-positive personnel several times over the past decade. Current policy allows HIV-positive persons to enlist in the military.

The HIV/AIDS epidemic contributed to the number of households headed by children, although in its 2010-11 *Child Gauge Report*, the Children's Institute at the University of Cape Town stated there was little evidence of rapid growth in the orphan population due to HIV/AIDS.

HIV/AIDS remained one of the leading causes of death in the country. The UN estimated that 235,000 individuals died of AIDS-related illnesses in 2012. During the year, 83 percent of mothers with HIV/AIDS received ARV treatment. The government continued to improve care for HIV-positive mothers, and the mother-to-child transmission rate dropped below 3 percent during the year.

Incidents of vigilante violence and mob killings continued, particularly in Gauteng, Eastern Cape, and KwaZulu-Natal provinces. According to the SAPS 2011-12 Crime Statistics Report, 5 percent of the 15,609 killings recorded during the year resulted from vigilantism. (SAPS did not track vigilante killings in 2012-13 but focused instead on tracking service-delivery protests.)

For example, on July 7, Orange Farm community members set an alleged rapist on fire and burned the house of his suspected accomplice for kidnapping, raping, and killing nine-year-old Palesa Mahase. No arrests were made in connection with the vigilante killing. Meanwhile, a separate suspect appeared in the Vereeniging Magistrate's Court in connection with Mahase's rape and murder, and his trial continued at year's end.

The trial of Angy Peter and three codefendants, who were arrested in 2012 for the killing of Siphiso Rowan Mbevu, continued at year's end. Police in Mfuleni, Cape Town, found the severely beaten body of Mbevu, who was burned to death in a practice called "necklacing." Commonly used by vigilantes, "necklacing" involves placing a rubber tire soaked in gasoline around a victim's neck and setting it on fire.

In November 2012 Vusi Koza received a three-year suspended sentence for public violence and conspiracy to commit assault in connection with a 2009 mob attack that resulted in the deaths of both a Zimbabwean and a Tanzanian citizen. Codefendant Sean Jacobs, who faced charges of attempted murder and malicious damage to property, was sentenced to five years' imprisonment; codefendant Patricia Ballanyne and Mzokuthoba Mngonyama were acquitted.

There were reports that persons accused of witchcraft were attacked, driven from their villages, and in some cases killed, particularly in Limpopo, Mpumalanga, KwaZulu-Natal, and Eastern Cape provinces. Victims were often elderly women. Traditional leaders generally cooperated with authorities and reported threats against persons suspected of witchcraft.

For example, on May 8, villagers shot and killed Nocupheni Ngoyana at her home in Gotyibeni Village, Eastern Cape Province. Ngoyana was arrested in 2011 after villagers implicated her in a series of witchcraft-related killings. In 2012 prosecutors withdrew the case against Ngoyana due to lack of evidence, and she returned to her home, where she lived until she was killed. The Congress of Traditional Leaders South Africa (Contralesa) president Phathekile Holomisa criticized the killing, and Pemmy Majodina, a member of the Executive Council for Social Development, called on the community to unite in fighting crimes related to suspected witchcraft. An investigation continued.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law allows all workers, with the exception of members of the National Intelligence Agency and the Secret Service, to form and join unions of their choice without previous authorization or excessive requirements. The law allows unions to conduct their activities without interference and provides for the right to strike, but workers in essential services are prohibited from striking, and employers are prohibited from locking out essential service providers. The government characterizes essential services as: (a) a service, the interruption of which endangers the life, personal safety, or health of the whole or part of the population; (b) the parliamentary service; or (c) members of the SAPS. Nevertheless, the government and labor unions were unable to agree on a more detailed list of essential services. Workers are allowed to strike over issues of mutual interest, such as wages, benefits, organizational rights disputes, socioeconomic interests of workers, and similar measures. Workers are not permitted to strike on issues

where other legal recourse exists, including disputes of rights, which are resolved through arbitration.

The law protects collective bargaining and prohibits employers from discriminating against employees or applicants due to past, present, or potential union membership or participation in lawful union activities. The law provides for the automatic reinstatement of workers dismissed unfairly for conducting union activities. The law provides a code of good practices for dismissals, which includes procedures for determining the “substantive fairness” and “procedural fairness” of a given dismissal. The law includes all groups of workers, including legally resident foreign workers.

A labor court and labor appeals court effectively enforced the right of association and the right to collective bargaining.

Freedom of association and the right to collective bargaining were respected. Worker organizations are independent of the government and political parties, although COSATU is a member of the ANC-led ruling alliance. There were no known cases of government interference in collective bargaining.

Workers exercised their right to strike frequently, and strikes were often violent and disruptive. Although essential service providers are prohibited from striking, they participated in strikes throughout the year. Disputes between workers in essential services and their employers that were not resolved through collective bargaining, independent mediation, or conciliation were referred to arbitration or the labor courts.

Fewer violent strikes occurred than in 2012. Trade unions generally followed the legal process of declaring a dispute (notifying employers) before initiating a strike. Sectors affected were the gold and platinum sectors, the automotive industry, the service sector, and the aviation sector.

During the year the Marikana Commission of Inquiry held hearings into the 2012 strikes. The hearings focused on SAPS’ preparation and planning prior to intervening in Marikana and whether SAPS had withheld video and other evidence from investigators. The presiding judge in the hearings indicated that the mandate for the hearings would be extended into 2014 and comprised several phases. The hearings were in phase one at year’s end.

The government employed 1,318 labor inspectors for the entire country, which was insufficient to investigate reports of labor abuses.

During the year there were no credible cases of antiunion discrimination or employer interference in union functions.

During the year four shop stewards of the National Union of Mineworkers (NUM) were killed, including a Lonmin branch chairperson and a female shop steward. A former shop steward who took voluntary retirement from Lonmin also was killed. The killings were allegedly linked to rivalry between the NUM and the Association of Mine Workers and Construction Union (AMCU). AMCU organizer Mawethu Steven was killed along with two other union members. Both unions accused the other of targeted killings of their members. In May the AMCU conducted a two-day wildcat strike at Lonmin following AMCU demands that the NUM vacate company offices after losing majority union status.

In January the mining company Anglo American Platinum (Amplats) announced its intention to lay off about 14,000 workers at several mines in the platinum belt. In response workers began a short, peaceful wildcat strike, which ended after the company promised to consult further on the cuts. After intensive consultations with trade unions, the company reduced the number to 3,300. The AMCU applied for a protected strike, and the NUM approached the Labor Court to interdict the company but lost the case. AMCU members conducted an 11-day strike. At the end of the strike, Amplats offered employees the opportunity to apply for a voluntary separation package and retain approximately 1,250 of the 3,300 dismissed workers for a period of six months to continue reclamation activities at the affected operations--Khuseleka 2 and Khomanani 1 and 2 shafts. While industry sources indicated the layoffs were under consideration for two years, particularly after platinum prices dropped, other observers accused the company of laying off workers in retribution for the massive wildcat strikes at Amplats mines in 2012.

b. Prohibition of Forced or Compulsory Labor

Although the law prohibits all forms of forced or compulsory labor, the government did not consistently and effectively enforce the law.

Forced labor occurred, including domestic servitude. There were reports of isolated cases of forced labor involving children and women, which occurred primarily in domestic and agricultural labor. Migrant women and girls were

subjected to domestic servitude and forced labor in the service sector. Boys, particularly migrant boys, were forced to work in street vending, food service, begging, criminal activities, and agriculture. Migrant men were forced to work in mobile sweatshop factories in Chinese urban enclaves and farms in the country.

See also the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits employment of a child less than 15 years of age. Children between 15 and 18 are also prohibited from work that threatens a child's well-being, education, physical or mental health, or spiritual, moral, or social development. Children may not work more than eight hours a day or before 6 a.m. or after 6 p.m. A child who is not enrolled at school may not work more than 40 hours in any week, and a child who is enrolled in school may not work more than 20 hours in any week during school term.

Children are prohibited from performing hazardous duties, including deep-sea fishing, commercial diving, manufacturing, rock and stone crushing, and work in casinos or other gambling establishments. Employers may not require a child to work in a confined space or to perform piecework (in which remuneration is based on the quantity of work done) and task work (in which remuneration is based mainly on the completion of set tasks.) Children under age 15 were allowed to work in the performing arts if their employers received permission from the Department of Labor and agreed to follow specific guidelines. Violation of child labor law is punishable by a maximum prison sentence of three to six years or a fine of 15,000 rand (\$1,500).

The government enforced child labor laws in the formal sector of the economy, which was monitored by strong and well-organized unions. Nevertheless, enforcement of child labor law in the informal and agricultural sectors was ineffective. The Department of Labor deployed specialized child labor experts in integrated teams of Child Labor Inter-Sectoral Support Groups to each province and labor center around the country.

The Department of Labor reported that 101,792 labor inspections were conducted in 2012-13, resulting in findings of noncompliance in 46,354 cases. The number of inspections conducted exceeded the department's target of 87,795. Sixty-seven

percent of inspections were resolved within 14 days, falling short of department's target of 70 percent.

The government continued to improve enforcement of laws combating child labor. For example, on February 7, police arrested a Chinese national in Free State for engaging in the worst forms of child labor by forcing seven children ages nine to 13 to do dangerous work hauling and packing heavy goods in a supermarket warehouse and delivering goods overnight over long distances during a three-year period. The accused paid the children, who did not attend school, in soft drinks and biscuits. The Department of Labor was actively prosecuting the case at year's end.

Cases of the worst forms of child labor were rare and difficult to detect. In February the labor department arrested a child-labor offender in the town of Zastron for employing a 14-year-old boy in his home as a domestic worker for one week. The boy worked seven-hour days for less than 40 rand (four dollars) a day and was kept out of school. He was returned to the custody of his mother, who tipped off authorities to his situation.

An important factor in reducing child labor was the government's Child Support Grant, a direct cash transfer between 265 rand (\$26) and 280 rand (\$28) per month to primary caregivers for vulnerable children age 18 and under. There were no other government efforts to reduce child labor, and penalties were not adequate to deter child labor.

Child labor occurred in the agricultural, domestic labor, and informal sectors of the economy. Comprehensive data on child labor did not exist but was considered to be rare in the formal sectors of the economy.

See also the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

There is no legally mandated national minimum wage, although the law gives the Department of Labor authority to set wages by sector. The minimum wage for domestic workers was increased from 8.34 to 8.95 rand (\$0.83 to \$0.90) per hour for employers in the urban areas and from 7.06 to 7.65 rand (\$0.71 to \$0.77) for employers in the semiurban and rural areas. The minimum wage for farm workers was increased to 7.71 rand (\$0.77) per hour. The minimum hourly wage for

domestic workers employed more than 27 hours per week ranged from 4.85 rand (\$0.49) to 7.06 rand (\$0.71). Immigrant workers are covered by law and entitled to all benefits and equal pay.

Disputes over the minimum wage often were taken to court. In 2011 five Chinese- and Taiwanese-owned textile companies in KwaZulu-Natal Province, under advisement from the Chinese Chamber of Commerce, submitted an application to the Pietermaritzburg High Court to exempt them from the Bargaining Council, the body charged with union-employer relations and setting minimum wages. In March the court ruled in favor of the five companies, agreeing to exclude them from the Bargaining Council's minimum-wage requirement. On the other hand, 259 noncompliant companies joined the United Clothing and Textile Association, including 70 companies owned by Chinese and Taiwanese nationals, to have a voice on the Bargaining Council and to preserve their employee-employer relationships. Their compliance, as members of the Bargaining Council, with the minimum wage requirement had not been confirmed at year's end.

The law establishes a 45-hour workweek, standardizes time-and-a-half pay for overtime, and authorizes four months of maternity leave for women. No employer may require or permit an employee to work overtime except by agreement, and overtime may not be more than 10 hours a week. The law stipulates rest periods of 12 consecutive hours daily and 36 hours weekly, which must include Sunday. The law allows adjustments to rest periods by mutual agreement. 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 variances from the law by showing good cause. The law equally applies to all workers, including workers in informal sectors, foreigners, and immigrant workers.

The government set occupational health and safety standards through the Department of Minerals Resources for the mining industry and through the labor department for all other industries. The law provides for the right of mine employees to remove themselves from work deemed dangerous to health or safety. The law prohibits discrimination against an employee who asserts a right granted by law and requires mine owners to file annual reports providing statistics on health and safety incidents for each mine.

There are harsh penalties for violations of occupational health in the mining sector, which had separate legislation with strict deterrents to protect mineworkers. Employers are subject to heavy fines or imprisonment for serious injury, illness, or

death of employees due to unsafe mine conditions. Mine inspectors are allowed to enter any mine at any time to interview employees and audit records. Outside the mining industry, there are no laws or regulations that permit workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment, although the law provides that employers may not retaliate against employees who disclose dangerous workplace conditions.

The Department of Labor is responsible for enforcing wage standards outside the mining sector, and a tripartite Mine Health and Safety Council and an Inspectorate of Mine Health and Safety enforced such standards in the mining sector. Penalties for violations of wages and work-hour standards outside the mining sector were not sufficient to deter violations. The government employed 1,318 labor inspectors for all inspections and enforcement of labor laws, which was insufficient. For example, 107 government labor inspectors in Western Cape Province had responsibility for more than 6,000 farms.

Labor inspectors conducted routine and unplanned inspections at various workplaces that employed vulnerable workers. The government provided free housing for employees earning less than 3,500 rand (\$350) per month, free health care, and, in some areas, no-fee schooling to assist the children of low-income earners.

While labor conditions improved on large commercial farms, COSATU and leading agricultural NGOs complained that labor conditions on small farms remained harsh. Underpayment of wages and poor living conditions for workers, most of whom were black, was common. Many owners of small farms did not measure working hours accurately, 12-hour days were common during harvest time, and few farmers provided overtime benefits.

Mining accidents were common. In March a Harmony Gold employee at the Masimong mine in the Free State died in a rockfall. In April the Department of Mineral Resources stopped operations on one level at AngloGold Ashanti's Mponeng mine, near Carletonville, after a locomotive accident killed the locomotive operator and a worker.

On October 14, a fire at the Rolfe Laboratories pharmaceutical laboratory in Middelburg, Eastern Cape, injured 41 workers. An explosion allegedly ignited the fire, and police were investigating a case of arson.

During the year officials audited 26,333 workplaces to determine their compliance with occupational and safety laws; 12,593 were not in compliance.