



South Africa

Country Reports on Human Rights Practices - [2003](#)

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South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the President and the Parliament. President Thabo Mbeki led the African National Congress (ANC) party, which increased its seats to 275 in the 400-seat National Assembly after defections from opposition parties in March. Parliament was elected in free and fair elections in 1999; Parliament, in turn, elected the President. The country continued to consolidate the democratic transformation initiated by the 1994 elections. The Government included ministers and deputy ministers from the Inkatha Freedom Party (IFP), a predominantly Zulu-based party whose support is concentrated in KwaZulu-Natal, the Azanian People's Organization (AZAPO), and the New National Party (NNP), but was dominated by the ANC. The judiciary, including the Constitutional Court, was independent but overburdened.

The South African Police Service (SAPS) has primary responsibility for internal security, and the South African National Defense Force (SANDF) is responsible for external security but also has domestic security responsibilities. The SANDF and the SAPS border control and policing unit shared responsibility for border control. The Government continued to train and organize the Directorate of Special Operations (DSO), dubbed the Scorpions, to coordinate efforts against organized crime and corruption. The civilian authorities maintained effective control of the security forces. Members of the security forces committed serious human rights abuses.

The country has a market-based economy. The Government continued a restructuring effort to reduce its equity holdings and to increase competition in the telecommunications, transport, energy and defense sectors. According to the 2001 census, the country had a population of approximately 44.8 million. The manufacturing and services (including government) sectors, accounted for approximately 38 percent and 51 percent of GDP respectively, while the agricultural and mining sectors represented approximately 3 percent and 8 percent respectively. The economy grew at a rate of 3 percent in 2002. Average monthly wages rose by 10 percent while the average consumer inflation rate in 2002 was 9.2 percent. The distribution of income and wealth remained highly skewed along racial lines and between urban and rural citizens. Approximately 60 percent of the black African population and approximately 3 percent of the white population lived below the poverty line. Official unemployment remained high at approximately 30 percent. The country suffered from a significant shortage of skilled workers, and many black African citizens were poorly educated, ill housed, and unemployed.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. Deaths due to use of excessive force by security forces and deaths in police custody were serious problems. Some members of the police beat, raped, tortured, and otherwise abused suspects and detainees. The Government took action to investigate and punish some of those involved. Prisons were overcrowded, and some prison employees and other prisoners abused some inmates. The judiciary was overburdened, and lengthy delays in trials and prolonged pretrial detention were problems. Legislation posed a potential threat to the independence of the media, and self-censorship existed. Xenophobia continued to be a problem. Violence against women and children remained serious problems, and discrimination against women and persons with disabilities also remained problems. Child labor, including forced child labor, was a problem. Child prostitution and trafficking in persons were serious problems. Vigilante violence and mob justice continued throughout the country.

The Truth and Reconciliation Commission (TRC), created to investigate apartheid-era human rights abuses, made recommendations for reparations for victims, and granted amnesty in return for full disclosure of politically motivated crimes. The TRC concluded its activities at the end of 2001 and released its final report on March 21. On November 21, the Government began allocation of \$4,600 (R30,000) reparations to individual apartheid victims identified by the TRC. By year's end, payments had been made to more than 9,000 persons.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no political killings by security forces; however, police use of lethal force during apprehensions resulted in significant number of deaths, and deaths in police custody were a problem. The Government investigated and punished some abusers and worked to prevent future abuses. The Government's Independent Complaints Directorate (ICD) investigated deaths in police custody and deaths as a result of police action. During the year, there were 217 deaths in police custody and 311 deaths as a result of police action. The ICD's report listed subcategories under deaths in police custody, which included natural causes, suicide, injuries in custody, injuries prior to custody, and possible negligence. The ICD's relationship with the SAPS improved during the year and cooperation increased.

The ICD investigated a number of incidents during the year (see Section 1.d.). On February 19, Inspector Frans Duba was convicted of murder and sentenced to 21 years imprisonment for the December 2001 killing of Elias Morudu, who allegedly had an extra-marital affair with Duba's wife. On July 15, Inspector Shozi was convicted of murder and attempted murder in the Port Shepstone Regional Court and sentenced to 5 years and 2 years, respectively, for the killing of his brother, whom he accused of having an affair with his wife, and the injuring of his wife during the shooting. The sentences would run concurrently.

In September 2002, SAPS Sergeant Ishmael Hendricks was sentenced to incarceration in a maximum-security mental institution for life for the June 2002 shooting death of five gas station attendants.

A SAPS member was charged with assault with intent to do grievous bodily harm for the June 2002 torture and killing of Inspector Leonard Hlagala while in police custody in Polokwane. The trial was still pending at year's end.

The trial of three police officers charged with murder, assault, and related crimes in the 2000 killing of a 14-year-old boy in Barkly East, Eastern Cape Province was scheduled for December 2; however, the case was remanded and had not been heard by year's end.

Racial tensions in the military between white commanding officers and their black African subordinates continued; however, there were no killings during the year.

A peace process continued between the IFP and the ANC, the two parties most closely associated with political violence in KwaZulu-Natal in previous years. Although political violence and farm attacks have decreased in KwaZulu-Natal during the past 3 years, other forms of violence such as faction fighting and taxi feuds remained higher than in other provinces, resulting in dozens of deaths during the year. The nongovernmental organization (NGO) South Africa Institute for Race Relations (SAIRR) ended its monitoring of political killings, due to the country's changed political conditions. There was a notable increased level of tolerance of political activity attributable to the IFP-ANC peace process, as well as an increased police presence.

On November 17, four men were sentenced for the January 21 killing of Prince Mazwi Zulu, son of Prince Gideon Zulu, a prominent member of the IFP, in an attack near Ulundi in KwaZulu-Natal. Bongzi Nene was convicted and sentenced to 20 years for armed robbery and possession of unlicensed firearms. Mlungisi Zulu was sentenced to life in prison for murder and 20 years for armed robbery; he received a further 20 years for two counts of attempted murder, 15 years for possession of unlicensed firearms, and another 2 years for unlawful possession of ammunition. Bhekisisa Kunene and Lucky Thwala were sentenced to life imprisonment for murder, 20 years for armed robbery, and 10 years for two counts of attempted murder. The other three persons arrested were subsequently released.

There were no further developments in the 2001 kidnapping and killing of two members of the Zulu royal family.

Unlike in the previous year, the ANC reported no politically motivated deaths in KwaZulu-Natal during the year. There were no convictions in the 2002 cases of politically motivated deaths in KwaZulu-Natal by year's end.

Reports of politically motivated killings between the United Democratic Movement (UDM) and the ANC in Western Cape continued, but it was uncertain whether politics or general crime was the motivating factor.

There were no developments in 2001 killings of UDM and ANC members.

Factional and intra-party rivalry and violence in the Nongoma, Bergville, and Mandini areas increased during the year. Violence was mainly taxi-related but had political overtones as Sbu Ndebele, the Member of the Executive Council (MEC) for Transport and KwaZulu-Natal ANC leader, attempted to transform and formalize the IFP-dominated taxi industry. Approximately 9 taxi owners and 14 passengers, including 2-year-old Minihle Cele, were killed in taxi-related shootings.

There were no developments in the 2002 and 2001 taxi-related killings.

There continued to be reports that xenophobia led to a number of violent attacks on foreigners. In September, Catholic social workers in Cape Town claimed that xenophobia was a major contributing factor in the deaths of as many as 28 refugees during the previous 18-month period. At year's end, detectives continued to investigate the case of three Angolans and one citizen killed in January 2002 in clashes between locals and refugees in the Joe Slovo area in Milnerton, a Cape Town suburb.

No incidents of domestic terrorism occurred during the year. On May 19, the trial began against the 22 right-wing Afrikaners, charged with murder, high treason, terrorism, and sabotage in the October 2002 Soweto bombings. The court postponed the trial a number of times to resolve legal aid matters. During August, the prisoners brought a number of pretrial applications before the court, claiming violations of their human rights. Most of the applications were turned down, and the trial was ongoing at year's end.

On May 26, right-wing Afrikaners Leon Peacock, Hercules Viljoen, and Alan Rautenbach, who plotted to blow up the Vaal Dam in 2001, were convicted of sabotage. The court sentenced Peacock and Viljoen to 8 years in prison, of which 3 were conditionally suspended. Rautenbach received a 5-year sentence, of which the court conditionally suspended 3 years. Peacock received an additional fine of \$154 (R1,000) or 30 days imprisonment, as well as a further 3 years for the illegal possession of a firearm and ammunition. He was to serve 1 year of this sentence concurrently with his 8-year term, with the rest conditionally suspended. On July 15, the court granted the three men bail, and their release was pending the outcome of an appeal at year's end.

Vigilante action and mob justice continued during the year. The Institute for Security Studies (ISS) reported that mob justice was an increasing problem, although no figures were available. Vigilante attacks were particularly prevalent in Gauteng, the Western Cape, and KwaZulu-Natal. In May, a mob stoned to death two youths accused of terrorizing community members in Chesterville, outside of Durban. On July 27, a mob attacked, set alight and killed three young men from Inanda; police arrested five suspects in connection with the incident. In 1 week in June, five persons died in separate vigilante attacks in Gauteng. In some of the incidents, between 50 and 100 community members were involved in the attacks. On July 27, approximately 50 persons participated in the hacking and necklacing of the three men, who allegedly were involved in criminal activities in Kwa Mashu, north of Durban.

Three men arrested in 2002 for hacking to death seven men faced charges of murder and attempted murder. No updates were available at year's end.

A vigilante group called Mapogo A Mathamaga has grown in membership and reportedly has more than 90 branches and 50,000 members throughout the country, including offices in at least nine cities. Mapogo targeted persons they suspected of property crimes against their members, tortured suspected criminals, and beat persons with clubs and whips.

In December 2002, Bertrams Pringle, Willie Skhosana, and Mapogo member Robert Van der Colff were charged with murder for beating Adam Potgieter and Samuel Moletsane to death for allegedly stealing construction equipment. The trial was pending at year's end.

Numerous court cases involving People Against Gangsterism and Drugs (PAGAD) continued throughout the year. There were hundreds of cases under investigation against suspected members of PAGAD and scores of trials pending based on charges that included murder, attempted murder, possession of explosives, possession of an unlicensed firearm, armed robbery, and conspiracy to commit murder. The courts released only one PAGAD member on bail by year's end and there were no cases of bail denial during the year; however, the Muslim community protested the infrequent availability of bail to PAGAD members and staged periodic small-scale protests, criticizing the treatment as unfair compared with the judicial treatment of non-Muslims.

There were no reports that People Against Drugs and Violence (PADAV), the Eastern Cape counterpart to PAGAD, killed persons during the year; however, cases from previous years continued. PADAV is an Islamic-oriented, community-based organization with a mandate calling for stronger action against crime and drugs. The trial of 12 PADAV members for a series of vigilante crimes committed in 2000 and 2001 was underway at year's end.

Unlike in previous years, there were no reports that witnesses who were testifying against PAGAD members were intimidated or killed.

In September, PAGAD members Ebrahim Jeneker, Mogamat Isaacs, and Faizel Samsodien were placed on trial during the year for escaping from court holding cells in 2002. The trials were ongoing at year's end. On April 22, Ebrahim Jeneker was found not guilty of the 1999 murder of a top Western Cape police investigator, Bennie Lategan. Cape High Court acting judge Cecile Williams stated that the evidence against Jeneker and co-accused Ismail Edwards had been unreliable. Edwards is serving a jail sentence for the bombing of the Lansdowne police station in 1998.

Abubakar Jacobs, arrested in December 2002, was in police custody awaiting trial for his suspected role in the death of four persons. PAGAD leader Salie Abader filed a suit against authorities for "wrongful arrest and malicious prosecution;" he was acquitted in 2002 after being detained for more than a year for the killing of a gang leader. Also in the Western Cape, in November, two PAGAD members began serving 15-year prison sentences for the killing of a young girl in a November 1998 gang shoot-out.

Killings of farm families in rural parts of the country continued. There was widespread concern among white farmers that they were targeted for racial and political reasons; however, according to police and academic studies of farm attacks, the perpetrators reportedly were common criminals motivated by financial gain. It also was reported that in the majority of cases, the perpetrators were not farm workers. According to Agriculture South Africa (AgriSA), 631 farm attacks and 64 killings took place between January and October, and there were 901 farm attacks and 148 killings during 2002. The Independent Committee on

Motives for Farm Attacks conducted an investigation into farm attacks and its report was due for release on August 20; however, the Minister for Safety and Security referred it back to the committee for clarification. Priority Committees, consisting of the SAPS, SANDF, and farming communities, worked to address violent crime on farms; however, security forces actions largely were viewed as responding to attacks, not preventing them.

There was at least one report that a white employer killed a black African farm laborer during the year. On February 11, a white employer, Gerrit Maritz, allegedly killed a farm worker, Jotham Mandlaki, in Komatipoort for failing to show up for work. The accused appeared in court in February, and was released on bail of \$2,308 (R15,000). The case was postponed for further investigation and had not been heard by year's end.

In Limpopo Province, where traditional beliefs regarding witchcraft remained strong, there were occasional reports of attacks on persons accused of witchcraft by their rural communities. Traditional leaders cooperated with Ministry of Safety and Security programs and reported threats against persons suspected of witchcraft to the police. Occasional witchcraft-related incidents occurred during the year in KwaZulu-Natal and Limpopo Provinces (see Section 1.f.). For example, on February 20, a 35-year-old man was killed in the Osebeni area in KwaZulu-Natal for suspected involvement in witchcraft; police arrested 10 suspects. No additional information was available on the case at year's end.

Muti killings--killing to obtain body parts for traditional healing--continued during the year. In July, the head of a woman was found floating in a dam near Johannesburg, and it was speculated that it was a muti-related killing. Although no official statistics were available, SAPS estimated that there were between 150 and 300 such killings each year.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution's Bill of Rights prohibits such practices; however, some police officers beat, raped, tortured, and otherwise abused suspects and detainees. Some incidents of torture and ill-treatment by police and SANDF occurred during interrogation, arrest, detention, and searches of persons' homes.

In September, the ICD reported 23 incidents of torture and 16 rapes committed by police officers between April 2002 and March. During the year, the Government investigated these allegations and prosecuted some offenders (see Section 1.a.). For example, in November 2002, a SAPS member allegedly assaulted a pregnant woman and solicited a bribe to stop the case against her minor son, whom he was investigating. The ICD investigated charges of assault with intent to do grievous bodily harm and instructed the SAPS to open a case of defeating the ends of justice against the suspected officer. The complaint was still under investigation when the ICD released its annual report in September.

There were no developments in the 2001 shooting between residents and police in Avilla Park in Vredendal, Western Cape Province. An investigation was ongoing at year's end.

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

On July 10, a police dog in Secunda, Mpumalanga mauled a crime suspect, Titus Mahlatse. The police officer accused the man of theft, allegedly handcuffed him, and then set the dog on him. After an ICD investigation, the Directorate of Public Prosecutions (DPP) decided to prosecute the police officer on assault with intent to do grievous bodily harm. The DPP also reversed an earlier decision not to prosecute the same police officer in a similar incident that occurred in 2000.

In March, a court convicted Dino Guiotto and Kenneth Loubser, two former members of the North East Rand Dog Unit, on three charges of assault with intent to do grievous bodily harm and attempting to defeat the ends of justice. They had set their police dogs on three illegal immigrants in 1998. The court sentenced Loubser to 5 years in jail, with 3 suspended, on three assault charges, and sentenced Guiotto to a 5-year prison sentence, of which 2 years were suspended.

The 2001 trials of two police officers from the Pretoria SAPS dog unit, who pleaded not guilty to using their dogs to attack two Mozambican immigrants, were pending at year's end.

There were credible reports of beatings by security personnel in detention centers; overcrowded, unhygienic detention facilities; and the theft of money and personal possessions from refugees by security personnel (see Section 2.d.). There were reports of police abuse of detainees awaiting deportation.

Unlike in the previous year, police did not use excessive force during strikes.

The trial of the suspect in the 2001 shooting of ANC councilor Wandile Nkwele was ongoing at year's end.

There were no reports of bombings during the year. The case against Boeremag members accused of bombings in 2002 was ongoing (see Section 1.a.).

Vigilante action and mob justice resulted in attacks on suspected criminals and drug dealers, some of whom were killed (see Section 1.a.).

Xenophobia continued during the year. Xenophobia was expressed in institutional and social interactions with foreigners, and poor, black African immigrants were particularly vulnerable to victimization from fraud to crimes of violence. Many of those attacked were hawkers and street vendors. There were a number of unconfirmed reports of violent attacks on foreigners, including refugees and asylum seekers (see Section 2.d.).

There were incidents in which white employers abused their black African farm laborers (see Section 6.e.). NGOs claimed that rural police and courts refused to arrest or prosecute whites in many cases.

Unlike in the previous year, there were no reports that illegal strikes resulted in worker violence.

Prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. Severe overcrowding in some prisons led to poor health; as many as 75 inmates may occupy a cell designed to hold 40 inmates. The Department of Correctional Services (DCS), which manages prisons, reported that in March there were 131,604 prisoners in custody, with 58,144 awaiting sentences, in facilities designed to hold only 111,241. According to DCS and ISS in July, overcrowding was at 71 percent. Prisoners often were required to sleep in shifts because of a lack of space. AIDS was the leading cause of natural death in prisons; in 2002, there were 1,087 deaths, 90 percent AIDS-related. In the first 7 months of 2001, 1,101 inmates died of HIV/AIDS. The natural death cases in country's prisons have increased 500 percent since 1995 and continued to grow.

Prison employees and other prisoners abused and assaulted prisoners physically and sexually. Press reports indicated that some detainees awaiting trial contracted HIV/AIDS through rape. Food frequently was of poor quality and insufficient quantity. Unlike in the previous year, there were no reports that prison employees stole food from prisoners. There were also improvements in prisoners' access to health care during the year with 24-hour health care service available to all offenders.

The Special Investigating Unit established the Jali Commission to investigate allegations of corruption and sexual abuse in prisons. The Commission began in 2002 and reported finding widespread irregularities involving prisoners leaving the premises illegally, nepotism, drug trafficking, irregular appointments of personnel, and massive medical aid fraud. The Commission also highlighted evidence of extortion, abuse of parole procedure, abuse of disciplinary enquiries and appeal procedures, and educational qualifications fraud. On January 21, the Inter-Ministerial Security Committee (IMSC) on the implementation of recommendations of the Jali Commission reviewed a report submitted by the Minister of Correctional Services, which listed the measures taken by the Department in response to the Commission's reports. From April 2002 to March 31, 270 reports of corruption in prisons were received; DCS dismissed 55 officials for corruption, and disciplined 175 officials; 23 officials were criminally convicted and 17 cases are not yet finalized. No further information was available on the nature of the discipline at year's end. Further investigation and verification followed in a number of cases. One officer resigned and one absconded. Some officers tried to appeal in court the disciplinary measures the Department took against them.

The hearings of 17 employees at the Grootvlei prison in Bloemfontein caught on camera in 2002 for violating prison rules and criminal dereliction of duty were pending at year's end.

Problems remained at the Lindela Repatriation Center, the largest detention facility for undocumented immigrants in the country, particularly as a result of occasional overcrowding. Home Affairs conducted sweeps of squatter camps and sent illegal immigrants to Lindela to await repatriation. Some of the refugees alleged that Home Affairs employees assaulted them and requested bribes.

C-MAX prisons were designed to hold the country's most dangerous criminals. Human rights groups have raised serious concerns regarding C-MAX facilities, including the Government's criteria for transferring prisoners from other prisons to a C-MAX facility and the restrictive, solitary conditions of the prisons.

Male and female prisoners were held separately; however, female prison wards often were on the same grounds as male wards, and Amnesty International reported that male prisoners raped women prisoners. DCS statistics from March 2002 documented that there were 28,347 youth offenders (prisoners under age 21), 4,111 of whom were 17 years of age or younger. Juveniles normally were not housed with adults; however, on occasion they were detained together. There were credible reports that youths from juvenile wards were sold to adult prisoners for sexual exploitation, including rape. Juveniles between the ages of 14 and 18 accused of serious crimes, including murder or rape, sometimes were placed in pretrial detention in prisons with adult offenders. Pretrial detainees were generally held separately from convicted prisoners.

Immigrant children detained in the Lindela Repatriation Center received the same general treatment as adult detainees, were not provided with separate sleeping facilities from adults, and were not always provided with food and clothing.

A Child Justice Section existed within Sexual Offences and Community Affairs (SOCA) to ensure fair and rehabilitative

management of child offenders. Between 1999 and 2002, diversion services were provided to approximately 40,994 children through prosecutor's referrals to programs provided by the Department of Social Development and NGOs. Diversion practices were introduced in at least 14 areas throughout the country during the year.

The Government generally permitted independent monitoring of prison conditions, including visits by human rights organizations; however, only those organizations that were able to send lawyers were allowed to visit prisons. Other prisoners' rights organizations routinely were denied access. The Judicial Inspectorate visited all prisons during the year.

d. Arbitrary Arrest, Detention, or Exile

The Bill of Rights prohibits detention without trial; however, prolonged pretrial detention continued to be a problem.

SAPS is the primary instrument of state policing, with a presence throughout the country. The SAPS, under the Ministry of Safety and Security, continued its major restructuring and transformation from a primarily public order security force to a more accountable, community service-oriented police force; however, it remained ill-equipped, overworked, and undertrained. There were 102,354 police officers and 20,337 civilians working in SAPS. The majority of police resources remained focused on former white areas and business districts, and police service was unevenly distributed across the provinces, ranging from 313 residents per police officer in the Free State to 669 residents per police officer in Limpopo Province. The civilian to police officer ratio was 461:1 in 2001. Corruption in the police force was a problem, and police were regularly convicted of crimes and prosecuted (see Section 1.a.).

The ICD received 1,002 allegations of criminal offences by police. The majority of these allegations concerned serious assaults (35.2 percent), and attempted murder (12.6 percent). Corruption accounted for 10.5 percent of all allegations reported to the ICD, which was a 253 percent increase from the previous year. The ICD received reports of 2,913 cases of police misconduct; most cases were for neglect of duty. The other cases related to failure or refusal to perform duties, gross discourtesy, ill treatment of a lower-ranking employee, and misappropriation or misuse of public property. For example, on March 17, three accused persons were being escorted from the court to the cells by a SAPS member. One of the detained, who was unarmed at the time, attempted to flee. The SAPS escort shot and killed the detainee. The results of the ICD investigation were unavailable at year's end.

The Government made efforts to address abuses with an official anti-torture policy and training programs for police and SANDF officers that included human rights. Broad efforts to reform police practices continued, and the ICD investigated reports of police misconduct and corruption (see Section 1.a.); however, the number of reported incidents of abuse increased. In particular, the number of corruption cases increased from 30 in 2002 to 106 during the year.

The SAPS continued to create partnerships between local police forces and the communities they served. Municipalities also established metropolitan police forces in major cities with local control; however, SAPS continued to have deficiencies in mid-level leadership and institutional memory that were harmful to its overall performance.

The Bill of Rights provides that every detained person has the right to be informed promptly of the reasons for their detention; to be advised promptly of the right to remain silent and the consequences of waiving that right; to be charged within 48 hours of arrest; to be detained in conditions of human dignity; to consult with legal counsel at every stage of the legal process; to communicate with relatives, medical practitioners, and religious counselors; and to be released (with or without bail) unless the interests of justice require otherwise. Courts and police generally respected these rights; however, there continued to be a problem with prison conditions and bringing detainees to trial expeditiously.

The law states that any child under the age of 14 must be released within 24 hours into the custody of a parent or guardian when possible. In February, the Department of Justice introduced the Child Justice Bill to Parliament designed to protect the rights of child offenders. The legislation was still pending at year's end.

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

According to the South African Human Rights Commission (SAHRC), prisoners waited an average of 6 months to be tried in the regional courts and 6 months to 1 year in the high courts; however, in extreme cases detention may extend up to 2 years. This problem primarily was the result of an understaffed, underfunded, and overburdened judiciary (both magistrates and prosecutors) (see Section 1.e.).

The Court Process Project (CPP), initiated in 2001, was designed to control criminal cases in a more structured way--from the police stations where they originated through the adjudication process until the convicted person was handed over to the appropriate prison or welfare/health authorities. This process included electronically storing the fingerprints and picture of the accused, which assisted authorities in minimizing the incidence of mistaken identity or deliberate identity switching by detainees. The system also was designed to prevent docket thefts and to curtail the activities of corrupt police and court officials. Since its launch, the CPP reduced from 145 to 74 the average number of days to conclude a case. The project was still in the pilot phase at year's end.

There were reports that authorities abused detainees awaiting deportation. Under the provisions of the law, an illegal immigrant may be detained for 48 hours pending the determination of his or her status. A person declared illegally in the country may be detained for an additional 30 days pending his or her removal from the country. In practice persons may be held in detention for several days before being declared as an illegal immigrant or released, and those declared as illegal regularly were held for more than 30 days.

The Constitution does not prohibit forced exile; however, there were no reports of forced exile during the year.

e. Denial of Fair Public Trial

The Constitution provides for an independent and impartial judiciary, and the Government generally respected this provision in practice; however, the judiciary was understaffed, underfunded, and overburdened.

The Constitutional Court is the highest court for interpreting and deciding constitutional issues, while the Supreme Court of Appeal is the highest court for interpreting and deciding other legal matters.

Judges and magistrates hear criminal cases, and determine guilt or innocence. There is a presumption of innocence for criminal defendants. The law requires that a panel of lay assessors, along with a magistrate, hear cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in bail applications and sentencing.

The Bill of Rights provides for due process, including the right to a fair, public trial within a reasonable time after being charged, and the right to appeal to a higher court. It also gives detainees the right to state-funded legal counsel when "substantial injustice would otherwise result;" however, a general lack of information for accused persons regarding their rights to legal representation and the Government's inability to pay for these services were continuing problems.

The Government has opened 39 justice centers in the country, composed of the Departments of Justice, Correctional Services, Welfare and Health, and the SAPS, to speed up the administration of justice, free up the court rolls, and alleviate overcrowding in prisons. There were serious backlogs in the numbers of cases that have gone to trial.

Saturday Courts and privately contracted Additional Courts, which operated in specific districts where there were significant backlogs and where space was available in existing court buildings, were used to address the backlog of cases in the courts. The Additional Courts used private sector employees or retirees with judicial experience. The Saturday and Additional Courts completed 17,073 cases at the end of July and 61,340 cases since its inception in 2001. From January to September, the regional and district courts finalized 64,011 cases; there were 168,123 cases outstanding and the backlog of cases was 104,112.

The Promotion of Equality and Prevention of Unfair Discrimination Act provides for the establishment of Equality Courts within magistrates' courts and High Courts to adjudicate complaints. All High Courts were Equality Courts for their areas of jurisdiction. There were 47 Equality Courts in the country at year's end.

There was public concern regarding the capacity of the criminal justice system to deal with the high level of crime, and the increasing incidence of vigilante justice reflected this concern (see Section 1.a.).

The National Directorate of Public Prosecutions (NDPP) was preparing cases against persons who were denied amnesty, failed to apply for amnesty, or were implicated in human rights abuses during the TRC process (see Section 4).

There were no reports of political prisoners.

The Land Claims Court settled cases previously screened and evaluated by the Commission on Restitution of Land Rights. Claims only could be filed for land dispossessions that occurred after the promulgation of the Natives Land Act of 1913, not including dispossessions that occurred in 1913, the year of the former Government's most significant land redistribution. Compensation offered to claimants were the return of the original land, a deed to another piece of land, financial remuneration, or preferential access to government housing. The Commission ceased accepting applications after 1998, but the cases have moved slowly, which has caused increasing tension and frustration and has resulted in some land occupations by squatters. In 2001, the Commission began determining which claims were valid, and the process was 95 percent complete by January. At the end of March, 36,940 of 37,838 claims were verified. The Ministry of Land Affairs was authorized to offer settlements without first going to court, which has expedited the resolution process. At the end of June, 37,551 restitution claims, involving 90,543 households and 491,201 beneficiaries had been settled. The Land Claims Commission received a budget increase of \$76,923,076 (R500 million) to \$131,384,615 (R854 million) for the year, but the Chief Land Claims Commissioner reported in August that \$184,615,384 (R1.2 billion) was required to settle outstanding claims for the year.

On September 19, the National Assembly passed the Restitution of Land Rights Amendment Bill, which allows the Minister of Agriculture and Land Affairs to "purchase, acquire in any other manner or expropriate land" to speed up the restitution process. Before land could be expropriated, the Minister would have to give adequate notice of the intention and expropriated land would

be compensated fairly. The bill allows landowners recourse through the courts if they feel the compensation amount received is not adequate. There were no expropriations during the year.

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

The Constitution prohibits such practices, and the Government generally respected these prohibitions. Violations generally were subject to effective legal sanction.

Unlike in the previous year, there were no reports of police abuses during sweeps and home searches. No action was taken against officers responsible for abuses during home searches and sweeps in 2002.

In November 2002, Parliament passed the Regulations of Interception and Provision of Communication-Related Information Bill, which provides for state monitoring of all telecommunications systems for criminal investigations, including cell phones, the Internet, and e-mail. The Bill requires an order from a judge in most cases; however, in some cases, high-ranking police or army officers were authorized to grant permission. The President signed the legislation into law on December 2002, but it had not been enforced by year's end.

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

There were reports that farmers illegally evicted farm residents; however, the Department of Land Affairs could not substantiate some alleged illegal evictions and many evictions apparently were not reported.

There were reports that persons accused of witchcraft were attacked and driven from their villages in rural communities (see Section 1.a.). Some survivors of attacks and their families were living in "witch villages" for safety in Limpopo Province. The villages had no running water or electricity. Although some persons returned to their homes, many persons remained in the villages and requested government assistance for schools and basic infrastructure, some of which was provided. During the year, the homes of persons accused of practicing witchcraft were burned down. For example, on February 19, an estimated 100 youths accused a 74-year-old woman of witchcraft and set her house on fire at Mohodi village in Senwabarwana in Limpopo Province.

In August 2002, three men were charged with arson of the house of a woman they believed to be practicing witchcraft in Ezibeleni in northern KwaZulu-Natal. Two of the accused failed to return for the trial in September 2002, and were still at large. No additional information on the case was available at year's end.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, these rights can be limited by law in some circumstances. Several apartheid-era laws that remained in force posed a potential threat to media independence.

The Constitution bans the advocacy of hatred based on race, ethnicity, gender, or religion that constitutes incitement to cause harm. In July, the SAHRC ruled on a petition by the Freedom Front that the slogan "Kill the Boer, kill the farmer," chanted by the ANC Youth League on two separate occasions in 2002, was hate speech, and a violation of the law. No action was taken against those responsible.

The media were active and expressed a wide variety of views; however, some journalists expressed concern that the Government wanted to control the media.

All newspapers were owned by conglomerates. One of the prominent companies, New Africa Media, was a black African-owned consortium that controlled the country's largest circulated daily newspaper, The Sowetan, as well as a larger publishing business, Times Media Limited. Print media reached approximately only 20 percent of the population, due to high levels of illiteracy, the lack of newspapers in rural areas, and the cost of newspapers. The majority of the population received the news through radio broadcasts from the national broadcaster (SABC) and community radio stations.

The government-owned SABC continued to own and control the majority of the television and radio outlets. The SABC was managed by black African executives, provided broadcasting in the country's main African languages, and offered news coverage of the Government and the leading opposition parties. The SABC maintained editorial independence from the Government, although the balance between editorial independence and national interest remained a delicate topic with government officials. Critics alleged that the ANC wants greater control over the SABC. On November 19, Parliament approved a new SABC board; however, opposition parties and other critics expressed criticism that the management was chosen for political reasons without regard for media expertise or relevant experience. SABC-TV, which broadcasts in seven languages,

captured approximately 85 percent of viewership.

SABC dominated the radio scene with its 11 stations, including 9 broadcasting in African languages and Afrikaans, and several commercial radio stations, although there were a large number of low-power, not-for-profit community radio stations. Many of these stations had talk shows that carried lively debate on government policies and practices. Government broadcast regulators regularly issued community radio licenses.

The only commercial television station, e.tv, reaches 75 percent of the population; however, its share of the viewership was only approximately 10 percent. Most of e.tv's schedule consisted of newscasts and foreign-produced programs; the Government urged e.tv to meet its licensing conditions, which required programming to include at least 30 percent local content. Midi Television, a black-owned consortium composed of a number of associations and syndicates representing workers, women, and persons with disabilities, held majority ownership of e.tv. In addition to e.tv, the SABC competes with two pay-per-view broadcasters, M-NET (encoded UHF transmissions) and MultiChoice (satellite broadcasts). Pay-per-view stations reached approximately 5 percent of viewers.

In October, the Government granted Radio Islam a 4-year license.

There were several government agencies with media-related responsibilities, such as the Independent Communications Authority of South Africa (ICASA). The ICASA is not completely independent from the Ministry of Telecommunications. A bill that included further limits to the power of ICASA and gave greater authority to the Minister of Communications had not been signed into law by year's end.

The Minister of Communications has a direct role in the awarding of telecommunication-service licenses.

The Government and media owners established the Media Development and Diversity Agency (MDDA) in 2002 to encourage ownership and control of, and access to, media by historically disadvantaged communities and historically diminished indigenous language and cultural groups; to channel resources to community and small commercial media; to develop human resources and capacity in the media industry; and to research media development and diversity. The beneficiaries were community media and small commercial media.

High-ranking government officials on occasion reacted sharply to media criticism of government programs and problems and at times accused journalists, particularly black African journalists and editors, of disloyalty and white journalists and editors of racism. A large number of journalists believed that the Government's sensitivity to criticism caused self-censorship in the media.

Several laws remained in effect that permitted the Government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions. While these laws were not used often, journalists perceived them to be a threat to constitutional rights. These laws were not invoked during the year.

The Foreign Publication Board reviewed and judged written and graphic materials published in or imported into the country. The Board had the power to edit or ban books, magazines, movies, and videos, and it regularly exercised that power, mostly regarding pornographic material.

Internet access was unrestricted for persons with the ability to pay for the service. The number of Internet users continued to expand quickly. All major newspapers maintained Internet sites, most of which were updated daily with the latest news and features. In 2001, Parliament passed a bill that provides for state monitoring of telecommunications, including the Internet and e-mail (see Section 1.f.).

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedoms of assembly and association, and the Government generally respected these rights in practice. Unlike in previous years, there were no reports that police used excessive force to disperse strikes.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Bill of Rights prohibits the State from unfairly discriminating directly or indirectly against anyone on religious grounds, and it states that persons belonging to a religious community may not be denied the right, with other members of that community, to practice their religion and to form, join, and maintain religious associations. Cases of discrimination against a person on the grounds of religious freedom can be taken to the Constitutional Court.

On August 4, the national and provincial Ministers of Education adopted a policy that calls for Religion Education in public

schools; the curriculum includes instruction on the religions of the world with particular attention to the religions of the country, a focus on worldviews, and an emphasis on values and moral education. Religious instruction in one particular religion is no longer permissible at public schools.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

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

The Constitution provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of asylum and refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol and has a system for implementing such law. In practice, the Government provided protection against refoulement and granted refugee status or asylum; it also provided temporary protection to certain individuals who do not qualify as refugees or asylees. The President signed the new Immigration Act into law in May 2002 that regulates general admission of persons to, their residence in, and their departure from the country. The Refugee Act deals specifically and exclusively with refugees and asylum seekers.

The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. During the first 4 months of the year, the Department of Home Affairs received 7,501 new asylum applications; the Department only decided a few hundred applications during the same period. As of March 31, there were approximately 27,500 persons with refugee status and 71,800 files were pending a decision. The majority of recognized refugees came from Somalia, the Democratic Republic of the Congo (DRC), and Angola; there also were refugees from Rwanda, Burundi, and the Republic of the Congo.

The UNHCR assisted the Government in processing asylum applications. Human rights groups criticized the Department of Home Affairs for not following the provisions of the Immigration Act. Applicants for asylum and NGOs assisting refugees reported abuse and assaults by immigration authorities and requests for bribes to process applications for permits to remain in the country. Human rights groups also reported asylum seekers being turned away at borders or repatriated immediately upon arrival at airports without benefit of formal asylum processing. At year's end, there was no additional information available on the SAHRC lawsuit against the Department of Home Affairs to compel it to process all applications by asylum seekers.

On August 18, the Constitutional Court heard an application for confirmation of an order of the Pretoria High Court, which declared sections of the Immigration Act unconstitutional. The challenged provisions allowed immigration officers to declare persons at ports of entry illegal foreigners and have them detained. The Constitutional Court upheld the Pretoria High Court's decision and declared that the challenged sections unjustifiably limit the rights contained in the Constitution not to be deprived of freedom arbitrarily or without just cause and not to be detained without trial.

Despite numerous procedural safeguards, efforts to combat a growing illegal immigration problem occasionally resulted in the Government wrongfully deporting aliens who were in the country legally; however, there were no reports of the forced return of persons to countries where they feared persecution.

Xenophobia led to a number of violent attacks on foreigners. In the Eastern Cape, the SAHRC was involved in re-housing Somali refugees after locals looted their shops and assaulted them, alleging that the refugees caused citizens to lose jobs.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage. In 1999, national elections were held that observers deemed to be free and fair. There was an improved level of overall tolerance during the campaigning and voting period compared with the 1994 elections, attributable to IFP-ANC talks, as well as to an increased police presence. Complaints primarily concerned posters being removed or defaced, individuals being threatened because of political affiliation, and other incidents of intimidation. A commission appointed to study possible electoral system alternatives for the 2004 general elections recommended significant changes in a majority report. The Cabinet decided to maintain the current system, recommended in a minority report.

The country has a bicameral parliament, an executive state presidency, and an independent judiciary, including a Constitutional Court.

The two houses of Parliament are the National Assembly, with 400 members, and the National Council of Provinces (NCOP), consisting of 6 permanent and 4 rotating delegates from each of the 9 provinces. The NCOP, created to give a greater voice to provincial interests, was mandated to approve legislation that involved shared national and provincial concerns according to a schedule in the Constitution and to concur on other legislation. There was an 18-member Council of Traditional Leaders, which the Constitution accords an advisory role in matters of traditional law and authority.

Four parties--the ANC, the IFP, AZAPO, and the NNP--shared executive power. The ANC dominated the Government and gained in parliamentary strength in the 1999 elections. ANC members occupied 24 of the 27 ministerial positions. In 1999, the

ANC leader, Thabo Mbeki, succeeded Nelson Mandela as President and Head of State. In 2001, the NNP reached an agreement to cooperate in government with the ANC at national, provincial, and local levels.

A 2002 Constitutional Court ruling allowed elected officials at the municipal and local levels of government to defect to another party without losing their seats on city or municipal councils. The court also ruled that defections at provincial and national levels satisfied constitutional requirements; however, the court held that a procedural flaw in the legislation necessitated a constitutional amendment to permit defections at the provincial and national levels. A subsequent constitutional amendment allowed for a 15-day period in March during which members of the NA and provincial legislatures were allowed to defect to other parties or establish new parties. As a result, a number of additional parties are represented in Parliament, including the African Independent Movement, Alliance for Democracy and Prosperity, Independent Democrats, National Action, and the Peace and Justice Congress. The ANC increased its seats from 266 to 275 and obtained a two-thirds majority. The official opposition, the Democratic Alliance (DA), increased its seats from 38 to 46. The Afrikaner Unity Movement ceased to exist.

There continued to be reports of inter-party rivalry and violence during the year (see Section 1.a.). Both the ANC and IFP reported incidents of political intimidation in some rural areas of KwaZulu-Natal during several by-elections during the year.

On November 26, the National Council of Provinces approved the Traditional Leadership and Governance Framework Bill. The legislation defines and regulates the role of traditional leadership within the new system of democratic governance, and brings the institution in line with the Constitution. The Bill was pending the President's signature at year's end. Although the relationship between traditional leaders and Government remained strained, there were fewer reports that leaders actively hindered government activities.

There were no legal impediments to women's participation in government or politics. There were 120 women in the 400-seat National Assembly, and there were 21 women among the 54 permanent delegates of the NCOP. Women occupied three of four parliamentary presiding officer positions (speaker and deputy speaker of the National Assembly, and chair of the NCOP). Women held 9 of 27 ministerial positions, as well as 8 of 16 deputy ministerial slots.

There were approximately 136 members of minorities in the National Assembly. There were 8 members of minorities in the cabinet.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Many organizations participated in governmental bodies that gathered public input and tried to fashion policies related to human rights.

The UNHCR, the National Consortium on Refugee Affairs, and the SAHRC continued their "Roll Back Xenophobia" campaign to raise public awareness of the situation and rights of refugees and the difference between refugees and economic migrants. The campaign produced publications, organized several public relations events, and trained police officers on the need to protect refugees and to deal properly with foreign nationals.

The government-created SAHRC was responsible for promoting the observance of fundamental human rights at all levels of Government and throughout the general population. The SAHRC also has the power to conduct investigations, issue subpoenas, and hear testimony under oath. On September 2, the SAHRC released results of its investigation into allegations of abuse of black farm workers, local justice system prejudice against farm workers, and violence against white farm owners (see Section 1.a. and 6.e.). The results indicated that farm attacks were in general criminally and not politically motivated. The SAHRC undertook a number of other activities during the year, including a national action plan and strategy to combat racism, the "Roll Back Xenophobia" campaign, a study of socio-economic rights, and educational rights.

The Office of the Public Protector investigated abuse and mismanagement by the Government, and acted as an office of last resort to which citizens reported unfair treatment by government entities. Such complaints generally took the form of concerns over lost pension checks or unfair hiring practices. The office handled an increasing number of complaints but was hampered by severe resource constraints.

The TRC was empowered by legislation to investigate apartheid-era gross human rights abuses committed between 1960 and 1994, to grant amnesty to perpetrators of a broad range of politically motivated crimes, and to recommend compensation for victims of human rights abuses. The amnesty committee concluded its proceedings in June 2001. On March 21, the TRC released the last two volumes of the seven-volume report to the President following an out of court settlement reached by TRC and the IFP that allowed for limited changes to its content.

Volume six contained the final reports of the amnesty, reparation and rehabilitation, and human rights violations committees, and volume seven contained the victim findings, with a complete list of victims of human rights violations. On April 15, Parliament debated the TRC report. The President announced a 1-time payment of \$4,600 (R30,000) to 22,000 apartheid victims identified through the TRC. The Department of Justice was finalizing the reparation policy in August to facilitate payment

to victims. On November 21, the first reparations were paid from the President's fund at the Department of Justice.

The Khulumani Victims Support Group continued to lobby the Government for additional reparations following the Government's decision in April to grant reparations to approximately 22,000 individuals and families. In October, supporters of the Khulumani group staged a small, peaceful rally in Cape Town, coinciding with its release of its reparations policy document.

The Human Rights Investigative Unit has authority to prosecute persons who failed to ask for amnesty or to whom amnesty had been denied. The unit scrutinized all human rights abuses addressed by the TRC's amnesty committee. In 2001, the TRC's amnesty committee submitted its final report; it was estimated that no more than 20 cases potentially could be prosecuted, which could take up to 5 years. The Amnesty Committee recommended against an additional general amnesty for apartheid perpetrators; however, the President announced that perpetrators who did not apply for amnesty through the TRC were eligible for immunity from criminal prosecution if they provided new information to assist the Human Rights Investigative Unit with investigations. According to the Special National Projects Unit responsible for the TRC-related cases, 30 apartheid perpetrators came forward with new information by May, and the investigations are ongoing.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination on the grounds of race, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, or marital status; however, entrenched attitudes and practices, as well as limited resources, restricted the practical effect of these protections in some cases. The Promotion of Equality and Prevention of Unfair Discrimination Act places a responsibility on the State and any person in the public domain to promote equality. The Act addresses discrimination in a broad context in the workplace, health care, education, services, pensions, and other socio-economic areas. Although no official discrimination against persons with HIV/AIDS existed, social stigma associated with HIV/AIDS remained a general problem. There were occasional reports of human rights abuse of individuals by their families and communities.

Women

There was a high rate of domestic violence, including physical, sexual, emotional, and verbal abuse, as well as harassment and stalking of former partners. The law defines victims of domestic violence, facilitates the serving of protection orders on abusers, requires the police to take victims to a place of safety, and allows police to seize firearms at the scene and arrest abusers without a warrant. The law extends legal protection from domestic abuse to persons who are not in legal or common-law marriages. Violating a protection order is punishable by a prison sentence of up to 5 years, or 20 years if additional criminal charges are made.

Societal attitudes and a lack of infrastructure, resources, and training for law enforcement officials hampered the implementation of domestic violence legislation, and it was difficult for women's cases to be prosecuted effectively. It was believed that the number of women who filed complaints represented only a fraction of those who suffered abuse, and doctors, police officers, and judges often treated abused women poorly. Statistics on prosecution and conviction of domestic abusers were not available at year's end.

The Medical Research Council released a study in 2002, based on data collected in 1998, on the prevalence and sources of violence against women by intimate partners in the three provinces of the Eastern Cape, Mpumalanga, and Limpopo. The findings showed that lack of education, alcohol abuse, and exposure to domestic violence as a child played a significant role in the abuse. The study, based on a sample of 1,306 women, showed in the Eastern Cape 33.8 percent experienced violence; in Mpumalanga 37.9 percent; and in Limpopo Province 28.3 percent. The study stated that as many as five women are estimated to be killed each week by an intimate partner.

Domestic violence and rape was the subject of extensive media coverage, much of which was focused on the need to improve implementation of domestic violence legislation and to impose longer sentences on convicted abusers.

The Government financed 25 shelters for abused women. This number was inadequate, particularly in the rural areas. The SAPS operated 33 Child Protection Units and 45 Family Violence, Child Protection, and Sexual Offenses (FCS) Units, which dealt specifically with these problems. FCS Investigating Officers and other police officers were trained annually, including in gender sensitivity training. The Government conducted domestic violence awareness campaigns, such as the annual 16 Days of Activism.

Rape, including spousal rape, is illegal; however, it remained a very serious problem. The extremely high incidence of rape occurred in part due to a poor general security climate and societal attitudes condoning sexual violence against women. According to ISS, 119 persons per 100,000 of the population were raped in the 2001/2002 fiscal year. Rape, sexual assault, and sexual harassment of black African female farm workers by farm owners, managers, and by other farm workers were common. In the large majority of rape cases, the women knew their attacker and the perpetrator went unpunished. A study by the South African Law Commission during the year reported that only 5 percent of rape cases ended with a conviction. Although judges in rape cases generally followed statutory sentencing guidelines, women's advocacy groups occasionally criticized judges for using questionable criteria, such as the victim's behavior or relationship to the rapist, as a basis for imposing lighter sentences.

The Government established 40 sexual offense courts throughout the country, designated waiting rooms for victims, established

counseling, installed more than 2,000 intermediary facilities at courts, and trained judicial officers. According to the SOCA unit within the NDPP, the conviction rate for sexual offences cases managed specifically by the Sexual Offences Courts rose to 65 percent in 2002. The Sexual Offences Courts reduced the average period of cases from 2 years to between 6 and 8 months. The SOCA established four rape-care centers, known as Thuthuzela centers, which specialized in rape care management and streamlined a network of existing investigative, prosecutorial, and medical and psychological services in the hospital where it was located.

On December 13, a group of men raped Lorna Mlosana in Khayelitsha, outside of Cape Town. When Mlosana, an AIDS activist, told them that she had HIV/AIDS, the men beat her to death. A friend of the woman who attempted to intervene was also beaten by the men. Police had detained two men in case, and the investigation was ongoing at year's end.

Female genital mutilation (FGM) was practiced in some rural areas of the Eastern Cape and KwaZulu-Natal; however, it was not considered to be widespread and was confined to isolated cases. The law specifically prohibits FGM as unfair discrimination.

Prostitution is illegal, but it was widespread and practiced rather openly. The Constitutional Court ruled in October 2002 that the sections of the Act prohibiting prostitution were constitutional and confirmed unanimously the High Court's 2001 decision that the prohibition of brothels was constitutional. The provisions of the Sexual Offences Act were not discriminatory. There were reports of harassment by policemen demanding sexual favors of prostitutes under threat of penalizing them for lewd conduct or public loitering.

There were reports that women were trafficked into the country for prostitution (see Section 6.f.).

Although no official statistics were available, reports indicated that sexual harassment was a widespread problem. An attorney from the Women's Legal Center, an NGO, estimated in 2001 that 76 percent of women had experienced some form of sexual harassment; 40 percent of these women had left their jobs or changed jobs as a result of the harassment. Perpetrators of sexual harassment can be prosecuted under a number of laws; however, there were few successful prosecutions.

Discrimination against women remained a serious problem despite equal rights under family law and property law with regard to inheritance, divorce, and custody of children, and equal legal rights under the judicial system. In July, the South African Law Commission released a report containing recommendations and a proposed draft Bill to recognize Islamic marriages as valid; however, Parliament had not tabled specific legislation by year's end.

On September 28, the Cape High Court found that provisions of the Black Administration Act--that prevents black African women, girls, younger male children, and illegitimate children from inheriting their parents' estates if there was no legal will--are discriminatory and unconstitutional. The finding came after two Khayelitsha girls were almost forced out of their father's house after he died. In accordance with customary law, the house went to the grandfather, who wanted to sell it, and evict the two girls.

Polygyny continued to be practiced by several ethnic groups. Exacting a bride price ("lobola") also was a traditional practice of some ethnic groups.

Discrimination against women in the workplace was prohibited under the law; however, in practice women experienced economic discrimination in areas such as wages, extension of credit, and access to land. For example, township housing transfer schemes favored existing titleholders who tended to be men. Rural areas are often administered through traditional structures that do not typically grant land tenure to women, which was a precondition for access to housing subsidies. Women, especially black African women, typically had lower incomes and less job security than men. Most women were engaged in poorly paid domestic labor and micro-enterprises, which did not provide job security or benefits (see Section 6.e.).

Female farm workers often experienced discrimination. Female farm workers' access to housing often was dependent on their relationship to male farm workers. Women generally occupied the less well-paid farming jobs or received lower wages than men who performed the same type of work. Many female farm workers were denied maternity leave in violation of the law or were allowed only the minimum time to give birth and return to work.

In 2002, the Department of Labor reported--based on data supplied by employers with 150 or more employees--women currently hold 18 percent, while men hold 82 percent of senior management positions. Women are best represented in the health and welfare sectors with 76 percent and least represented in the mining sector (4 percent). Approximately 19 percent of women who worked were domestic laborers; the majority of these workers were black African women with little or no education.

The Department of Trade and Industry provided incentive grants to promote the development of small and medium businesses and micro-enterprises for women, young persons, and persons with disabilities.

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

Children

The Government remained committed to providing for children's rights and made some progress toward delivering them, including improvements in the provision of education, a focus on reducing the incidence of fetal alcohol syndrome, and a campaign against child abuse; however, the demand for such services far exceeded the resources available.

The law provides greater educational opportunities for disadvantaged children--traditionally black African children--through a uniform system for the organization, governance, and funding of schools. It mandated compulsory education from ages 7 to 15 and ensured that children cannot be refused admission to public schools due to a lack of funds. According to the Department of Education, approximately 90 percent of 7- to 15-year-olds and 83 percent of 16- to 19-year-olds were enrolled in school. While in general, there were comparable attendance numbers for boys and girls, a number of factors, including unplanned pregnancies, domestic responsibilities (particularly in rural areas), and gender stereotypes contributed to high drop-out rates and lower secondary school pass rates for girls.

Approximately 60 percent of nonpersonnel resources were devoted to the 40 percent most needy schools. Each of the nine provincial departments of education had responsibility for the schools in their provinces, which resulted in the uneven distribution of educational facilities. The disparity affected the areas of Eastern Cape, the Limpopo Province, and KwaZulu-Natal most severely. The availability and quality of primary schooling still was a problem, especially in rural areas where schools may not be easily accessible or where children worked (see Section 6.d.). Most schools in rural and urban KwaZulu-Natal reportedly faced many problems of inadequate learner support materials, long-vacant teaching posts, overcrowding, late pupil registration, and vacation time vandalism. To address this problem, the Government continued to build new schools and introduced basic skills development and prevocational training into the curriculum.

Although the law prohibits corporal punishment in schools, there were reports that teachers used physical violence to discipline their students. In addition, there continued to be racially motivated violence among students in schools. On November 6, a white mother (Shannon Ferreira), her 16-year-old daughter (Michelle Ferreira), and the daughter's boyfriend (Byron Shaw) were charged with assault and defamation against Nosipho Mkhize, a black African school girl in Cape Town. Mkhize alleged that she was brutally assaulted and defecated on after she confronted the mother for accosting another pupil. The case was still pending at year's end. On November 28, the case against the three whites was heard by the Goodwood Magistrates Court, but was subsequently postponed and was still pending at year's end. On December 3, Mkhize also formally applied for a separate Equality Court hearing into the incident, as the three accused allegedly shouted racial insults at her. The case had not been heard at an Equality Court by year's end.

There were a number of governmental social welfare programs for children, known as "Presidential Initiatives," including free health care for pregnant women and children under 6 years of age and school meal programs for primary school children; however, in practice it sometimes was difficult for persons in rural areas to obtain access to health care facilities and other social welfare programs.

HIV/AIDS activists, physicians and opposition parties continued to widely criticize the Government for failing to protect adequately young children from HIV/AIDS transmission through the provision of anti-retroviral (ARV) medication to pregnant and breast-feeding women. Although the Government responded positively to a Constitutional Court finding that they must provide programs to prevent the transmission of HIV from mothers to children by expanding the number of antenatal clinics providing nevirapine to HIV-positive mothers to prevent HIV transmission to their children, it has not been able to implement that program in all provinces in a timely way; however, significant improvements were achieved in three provinces and programs were being developed in other provinces during the year. The Government was unable to provide for the rapidly growing number of children who were affected by HIV/AIDS, including both infected children and AIDS orphans. NGOs pursued legal action to impose the implementation of a public sector comprehensive HIV/AIDS treatment strategy that uses anti-retroviral drugs.

On August 8, the Government announced that it would make ARV medication accessible for the treatment of AIDS in public health facilities. Although an operational plan was developed, its implementation was delayed throughout the country, except in Western Cape Province.

Violence against children, including domestic violence and sexual abuse, remained widespread. While there was increased attention to the problem, a lack of coordinated and comprehensive strategies to deal with violent crimes continued to impede the delivery of needed services to young victims. In August, the Government tabled the Criminal Law (Sexual Offences) Amendment Bill in Parliament. Among other things, the Bill criminalizes committing a sexual act within the view of a child below the age of 16. The crime of incest has been made gender neutral with the introduction of a new definition of sexual penetration. The Bill also places an obligation on a person convicted of a sexual offence to disclose this if he applies for employment that would place him in a position of authority over children. The bill was still pending with Parliament at year's end.

There continued to be numerous reports of child rape during the year. Between January 2000 and June 2001, the police reported 31,780 cases of rape and attempted rape of children; however, observers believed that these figures represented a small percentage of the actual incidents of child rape, because most cases involved family members and were not reported. The country had a low conviction rate for rape and child abuse. The minimum sentence for rape of a child was life in prison, but judges have the discretion to grant more lenient sentences.

There has been a series of rapes of baby girls that continued during the year. In July 2002, a man was arrested and convicted for the 2001 rape of a 9-month-old girl in Upington. He received a life sentence for rape and an additional 18 years for indecent assault. There were reports that the rapes were linked to a belief, which the Government and NGOs tried to correct through education campaigns during the year, that sex with virgins cured diseases such as HIV/AIDS (see Section 6.f.).

There continued to be reports of widespread rape, sexual abuse, sexual harassment, and assaults of girls at school by teachers, students, and other persons in the school community. The Minister of Education reported that in 2002 more than 12 teachers were removed from their positions and determined ineligible to teach for having sex with students. The law requires schools to disclose sexual abuse to the authorities; however, administrators often disregarded the obligation by concealing sexual violence or delaying disciplinary action. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted pregnancies. The Government introduced initiatives to address school violence, including awareness campaigns and providing police contact information to facilitate the reporting of incidents; however, it does not have a national policy to address sexual violence and harassment in schools. In April, the Minister of Education launched the Girls' Education Movement (GEM) in Parliament to bring about positive changes in girls' lives.

Virginity testing on young girls and traditional male circumcision still were prevalent in various parts of the country. The law prohibits virginity testing; however, the law was not enforced. In June, virginity testing and certification ceremony was held at the Qawukeni Great Place in the Eastern Cape and more than 500 virgins were certified. Masimanyane Women's Organization and the SAHRC severely criticized the practice. KwaZulu-Natal Department of Health, while not encouraging virginity testing, provided test kits to inspectors to use the platform as an entry point for promoting HIV/AIDS awareness.

Several teenage boys died or were mutilated and hospitalized as a result of unsafe practices during traditional circumcision rituals in Eastern Cape and KwaZulu-Natal. In June, at least 23 initiates died following circumcisions. Five persons were arrested in the Eastern Cape after 20 initiates died. During the initiation season between May and July, hospitals treated 105 initiates in hospitals in the Eastern Cape. In Limpopo, authorities closed down 15 illegal initiation schools.

FGM still was performed on young girls in some rural areas of the Eastern Cape and KwaZulu-Natal (see Section 5, Women).

Child prostitution and trafficking was a problem (see Section 6.f.).

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

In May, the Children's Institute of the University of Cape Town released a poverty study. According to the report, an estimated 11 million children younger than 18 were living in poverty in 2002. Between 57 percent and 75 percent of children were living in poverty of varying degrees. Children younger than 8 who were living in poverty had the right to assistance through social grants. In October 2002, only 42 percent were benefiting from the Child Support Grant.

Persons with Disabilities

The Constitution prohibits discrimination on the basis of disability; however, in practice government and private sector discrimination against persons with disabilities in employment existed. Society increasingly was open to the protection of the rights of persons with disabilities. The law mandates access to buildings for persons with disabilities; however, such regulations rarely were enforced, and public awareness of them remained minimal. The law requires employers with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for persons with disabilities. The National Environmental Accessibility Program, an NGO comprising persons with disabilities as well as service providers, established a presence in all nine provinces to lobby for compliance with the regulations and to sue offending property owners when necessary. A new code provides persons with disabilities with protection from harassment and, in conjunction with the Employment Equity Act, also provides guidelines on the recruitment and selection of persons with disabilities, reasonable accommodation for persons with disabilities, and guidelines on proper handling of employee medical information; however, enforcement of the code was limited. It was estimated that persons with disabilities constituted only 0.02 percent of the public service workforce, compared with 5.9 percent of the general population.

Indigenous People

The Khoikhoi were the first indigenous people in the country, and lived mainly in the south-western Cape. The Khoikhoi were nomadic herders of cattle and sheep.

The numbers of the Khoikhoi decreased over the years, and they were displaced during the apartheid years. This led to social disintegration, and had a severe impact on their culture and traditions. Only a few thousand Khoikhoi remained, some of whom worked as farmers or as laborers on farms. Although by law the Khoikhoi have similar political and economic rights as other citizens, their participation was limited, due to limited opportunity, minimal access to education, and relative isolation.

In recent years, various initiatives were launched to restore the rights of the Khoikhoi, and revive the culture and language, which is also reflected in the country's new coat of arms. The SABC launched a Khoikhoi radio show during the year.

On October 14, the Constitutional Court returned the land and mineral rights owned by Alexkor, the state diamond mining company, to the Richtersveld Khoikhoi community, ending a 5-year battle with the company. The court confirmed an earlier order by the Supreme Court of Appeal, that the Richtersveld Khoikhoi community had been removed from their land in 1923 under racist laws and practices, and were therefore entitled to have the land, and the mineral rights, returned to their exclusive use and benefit.

National/Racial/Ethnic Minorities

The law prohibits discrimination on 19 grounds and requires employers with 50 or more employees to ensure that previously disadvantaged groups--defined for legal purposes as blacks (including "Africans," "Colored," and "Asians"), women, and persons with disabilities--are represented adequately at all levels of the workforce. However, these previously disadvantaged groups remained underrepresented in the workforce, particularly at the professional and managerial levels. The Government continued efforts to reorganize and redesign the educational, housing, and health care systems to benefit all racial and ethnic groups in society more equally. In 2002, the Department of Labor reported that black African employees represent 20 percent of all senior management positions, while whites constitute 80 percent. The employers cited a lack of training and development, poor recruitment processes, and an antagonistic corporate culture as the main impediments to affirmative action. The armed forces have struggled with the process of integrating black Africans into the predominantly white officer corps (see Section 1.a.). Reports of tension and racism among SANDF troops in the DRC continued during the year.

Xenophobia led to attacks on foreigners (see Section 2.d.). Foreigners faced harsh reactions from anti-immigrant groups such as the Unemployed Masses of South Africa, which criticized immigrants for job losses.

The continued killings of mostly white farm owners by black African assailants created concern among white farmers that they were being targeted for racial and political reasons (see Section 1.a.). There also were reports that white employers abused and killed black African farm laborers but avoided penalty due to collusion with the authorities (see Section 1.a.).

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Relations Act (LRA) provide for freedom of association, and workers exercised this right in practice. All workers in the private sector, and workers in the public sector, with the exception of members of the National Intelligence Agency (NIA) and the Secret Service, were entitled to join a union. Members of the SANDF were allowed to join a union, but they were prohibited from striking. Union membership in the private sector continued to decline steadily, as a result of job layoffs and declining formal sector employment. The largest trade union federation, the Congress of South African Trade Unions (COSATU), lost approximately 200,000 members in the past 5 years, bringing its membership down to 1.7 million. Total union membership was approximately 3.9 million persons, which constituted approximately 26 percent of the economically active population, with a total of 485 registered unions.

COSATU was formally aligned with the ANC and the South African Communist Party (SACP). COSATU's largest rival, the Federation of Unions of South Africa (FEDUSA), was a nonpartisan labor federation. A relatively minor labor federation, the National Council of Trade Unions (NACTU), was independent of any political grouping.

In March, a labor federation, the Confederation of Southern African Workers Union (CONSAWU), was established. CONSAWU consisted of 28 unions, claimed membership of 330,000 workers, and was independent of any political grouping. Although its members represent a variety of sectors, its main constituent union is the predominantly Colored teachers' union, the National Professional Teachers Organization of South Africa (NAPTOSA). CONSAWU's objective was to recruit non-affiliated unions across the racial and political spectrum.

No employee may be fired or discriminated against because of membership in or advocacy of a trade union.

Although labor laws protected farm workers, the COSATU-affiliated South African Agricultural, Plantation and Allied Workers Union (SAAPAWU), and the NACTU-affiliated National Union of Farmworkers have encountered difficulties trying to organize farm workers, because union organizers were considered trespassers on private property. In addition, farm workers or farm residents who attempted to organize were harassed, dismissed, and evicted. The Department of Labor (DOL) and unions have enlisted the cooperation of Agri-SA, the national farmers' organization, to educate farmers about workers' rights and to improve working conditions. The DOL reported that 4.5 percent of the agricultural labor force was unionized. A 2000 DOL survey found that employment conditions in the agricultural sector were deplorable and the majority of farm workers "live in circumstances of absolute and relative poverty;" the majority of farm workers were not unionized; and they were exploited by employers.

The Government did not restrict union affiliation with regional or international labor organizations. COSATU, FEDUSA, and NACTU were affiliated with the International Confederation of Free Trade Unions (ICFTU).

b. The Right to Organize and Bargain Collectively

The law defines and protects the rights of workers to organize and bargain collectively. The Government did not interfere with union organizing and generally has not interfered in the collective bargaining process; however, some COSATU unions claimed that NIA agents have infiltrated their ranks.

The LRA, which applies to both the public and private sectors, protects workers against unfair dismissal, recognizes their right to form trade unions, provides for the right to strike, and establishes a simple set of procedures that protect striking workers from the threat of dismissal. The LRA also provides for "organizational rights," such as trade union access to work sites, deductions

for trade union dues, and leave for trade union officials, which strengthened the ability of trade unions to organize workers. Essentially, for a strike to proceed, all that was required was that a dispute be referred for conciliation. If conciliation failed to resolve the dispute or lasted more than 30 days, a trade union may advise an employer in writing of its intent to strike as long as it gave 48 hours notice to a private sector employer or 7 days notice if the employer is the Government. The LRA also allows employers to hire replacement labor for striking employees, but only after giving 7-days' notice to the striking trade union. Employers have the right to lock out workers if certain conditions were met. Strikes by workers in essential services, such as police and hospital workers, were prohibited. If disputes between workers in essential services and their employers cannot be resolved through collective bargaining or conciliation, they were referred to arbitration.

Organized labor also had the right to engage in "socioeconomic protest," whereby workers may demonstrate, without fear of losing their jobs, to further broader social objectives.

There was an increase in the number of strikes during the year, primarily because a number of long-term wage agreements were renegotiated in the major sectors such as mining, metal, and engineering. This accounted for the 240,000 person days lost during the first half of the year, compared with 130,000 in the first half of 2002.

At the end of March, ZZ2, one of the country's largest agro-businesses located in Tzaneen, Limpopo Province, dismissed approximately 2,000 striking farm workers after refusing to comply with the new minimum wages for farm workers, which came into effect on March 1 (see Section 6.e.). The COSATU-affiliated South African Agricultural Plantation and Allied Workers' Union (SAPAWU) challenged the dismissal and was demanding reinstatement of the dismissed workers. In September, following protracted negotiations, SAAPAWU and the ZZ2 reached an out of court settlement under which the company agreed to reinstate the dismissed workers.

On May 26, hundreds of NUMSA members went on a 3-week strike at Iscor, the country's largest steel producer, over a demand for higher wages and a one-time back-payment to cushion the effect of the restructuring process. The strike was legal, but there were reports of isolated incidents of violence and intimidation by striking workers.

There were two examples of illegal strikes during the year. In February, approximately 400 Metrobus drivers went on a strike for 5 weeks over changes to the conditions of work and the shift allocation system. The strike, which caused a major disruption to municipal services, was the first time members of the Cosatu-affiliated South African Municipal Workers Union (SAMWU) and Fedusa-aligned Independent Municipal and Allied Trade Union (IMATU) worked together against the employer. The strike was not violent and there were no reports of intimidation.

In March, a legally unprotected 10-day strike involving approximately 18,000 National Union of Mineworkers (NUM) members at Impala Platinum Mines on the East Rand in Johannesburg, also contributed to the increase in the number of strikes during the year. The company changed its funeral benefit scheme, and workers demanded access to the provident fund. The issue of micro-lending, which exposed workers to huge debts, also lay behind the strike.

Unlike in the previous year, there were no strike-related killings during the year. There were no developments in the strike-related killings during 2002.

Union participation as an equal partner with business and Government in the National Economic Development and Labor Council (NEDLAC), a tripartite negotiating forum, ensured a direct voice for labor in the formulation of economic, social, and labor policy. Through NEDLAC, organized labor has been able to participate in the formation of the country's labor legislation.

The Commission for Conciliation, Mediation, and Arbitration (CCMA) successfully resolved many disputes and gradually was playing an interventionist role in disputes before they deteriorated into full-fledged strikes or lockouts. The CCMA improved its settlement rate for conciliation to 73 percent of cases heard, with an average of 212 arbitrations a day. However, some labor groups and employers complained that many CCMA commissioners render inconsistent judgments and need more specialized training. Labor groups also complained about the use of lawyers by some employers, which it states puts workers at a disadvantage.

There is also a labor court, which has jurisdiction to resolve disputes that the CCMA was unable to mediate to the satisfaction of both parties, and a labor appeals court.

Workplace forums may be established to promote broad-based consultation between management and labor. The forums could be established by trade unions only in businesses with more than 100 employees. A few factories reportedly have established workplace forums; however, these forums were rarely used, with the exception of the Amplats Platinum Mine.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, including by children; however, there were reports that children were forced into prostitution or exploited by their parents to earn money for their families (see Section 6.f.). According to a survey conducted by Statistics South Africa (StatsSA), up to 2,000 children worked to pay off outstanding debts to employers or obligations to their

landlords.

d. Status of Child Labor Practices and Minimum Age for Employment

Child labor remained a problem. The Constitution defines child labor as work by children under 18 years that is exploitative, hazardous, or otherwise inappropriate for their age, or detrimental to their schooling, or social, physical, mental, spiritual, or moral development; it is illegal to employ children under 15 years of age. DOL inspectors enforced this policy effectively in the formal nonagricultural sector and less effectively in other sectors. The violation of the laws regulating child employment was punishable by a maximum prison sentence of 3 years; however, criminal prosecution frequently was reserved for "extreme circumstances," and there were no prosecutions during the year. Many DOL inspectors were so poorly trained that courts often dismissed investigations of cases involving child labor. The inspectors attempted to resolve most problems by counseling employers, child workers, and parents, and by cooperating with the Departments of Welfare and Education. Inspectors often had difficulty gaining access to farms where children may have been employed.

Many children, especially in the rural areas of the country, were expected to help with household chores and school maintenance. According to a survey conducted by StatsSA, 45 percent of children (4.5 million of the 13.4 million children) between the ages of 5 and 17 worked for 1 hour or more per week in an economic activity, 5 hours or more per week in school labor, or 7 hours or more in household chores. The most common economic activity for children was gathering wood and water for domestic use. Of the 2 million children who spent at least 1 hour per week in activities for pay, profit, or family economic gain, 59 percent were involved in agriculture and 33 percent in trade.

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

There were reports that children were forced into prostitution and that some children work in conditions that amount to bondage (see Section 6.f.).

The Government prepared a draft Child Labor Action Program (CLAP) after months of consultations with civil society, unions, government departments, and other interested parties, including children. The draft plan identified numerous policy reforms to enhance existing anti-child labor efforts and give direction to Child Labor Intersectoral Groups (interagency child labor groups that function throughout the country at all levels of government). The International Labor Organization supported the consultation and drafting process. The draft plan had not undergone a high-level policy and financial review by year's end. The Government also prepared child labor training manuals for labor inspectors and conducted courses on enforcing child labor laws.

e. Acceptable Conditions of Work

There was no legally mandated national minimum wage. Unionized workers in the formal sector of the economy set wage rates on an industry-by-industry or plant-by-plant basis through annual negotiations with employers or employer organizations. Such wages generally were sufficient to provide a decent standard of living for a worker and family. In those sectors in which workers were not organized sufficiently to engage in the collective bargaining process, the law gives the Minister of Labor the authority to set wages, including for farm laborers and domestic workers; however, income disparities between skilled and unskilled workers and the income distribution gap between rural and urban workers meant that many unskilled or rural workers were unable to provide a decent standard of living for themselves and their families.

In March, the Minister of Labor introduced a minimum wage for farm workers and in November increased the minimum wage from \$123 (R800) to \$132.60 (R861.90) a month in urban areas and from \$100 (R650) to \$107.70 (R700.05) a month in rural areas. Minimum hourly rates for domestics came into effect in November 2002. The hourly rates for domestics depended on the number of hours worked and could range from \$0.55 (R3.59) to \$0.75 (R4.87) an hour. The Government also extended the Unemployment Insurance Fund (UIF) benefits to vulnerable workers such as domestics and farm workers, which increased their security in the workplace. A DOL survey found that an estimated 25 percent of domestic employers complied with the new dispensation on minimum wages and conditions of work. DOL inspectors conducted home visits to check whether employers were complying with the Domestic Worker Sectoral Determination and the UIF Act.

The law standardizes time-and-a-half pay for overtime, establishes a 45-hour workweek, and authorizes 4 months of maternity leave for women. A ministerial determination exempted businesses employing fewer than 10 persons from certain provisions of the Act concerning overtime and leave.

Occupational health and safety issues were a top priority of trade unions, especially in the mining, construction, and heavy manufacturing industries and the country's industrial and mining processes were dangerous and sometimes deadly. The law provides for the right of mine employees to remove themselves from work deemed dangerous to health or safety. In addition, a tripartite mine health and safety council and an inspectorate of mine health and safety were responsible for enforcing the act and monitoring compliance with its provisions. The law specifically made it an offense for a company to discriminate against an employee who asserted a right granted by the law (for example, to leave a hazardous work site) and required mine owners to file annual reports that provided statistics on health and safety incidents for each mine being worked. DOL reported that 147 persons were killed during the year in mine accidents.

Some white farmers still give the predominantly black farm workers cheap alcohol (a system of payment known as "tot") in lieu of wages, according to a SAHRC report released on September 2. Following a 2-year investigation, the SAHRC found that illegal evictions were still being carried out; farmers were setting their dogs on their employees; there was lack of access to service delivery; lack of compliance with labor legislation; lack of information on HIV/AIDS; and that there was unacceptable levels of violence and crime against farm workers and farm owners.

Working conditions on farms generally were poor. Many farmers did not accurately measure working hours, and they often required their laborers to work 11 hours per day and 6 days per week. In addition, 12-hour days were common during harvest time, and few farmers provided overtime benefits. Human Rights Watch reported low wages and the absence of basic services in farm workers' housing. There were reports that farmers ignored laws relating to health and safety and other labor rights for their workers. Health and safety regulations often were not observed during the use of chemicals in agricultural work.

In June, an employee died while cleaning an underground tank at a wine farm in the Western Cape. DOL inspectors found that "despite working in a closed environment with no ventilation, workers were not issued with respiratory equipment," and referred the matter to the police. The investigation was ongoing at year's end. In August, DOL inspectors issued a prohibition notice against the company that was responsible for erecting a stage that collapsed during a Women's Day celebration; one person was paralyzed in the incident.

There were no laws or regulations in other industries that permitted workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment; however, the law protects employees from retaliation who with "reasonable belief that the health or safety of an individual has been, is being, or is likely to be endangered," disclosed dangerous workplace conditions to the appropriate authorities.

Illegal foreign workers had no protection under the LRA. They often were underpaid and forced to work long hours in very poor, unsanitary, and unsafe conditions. DOL conducted several "blitz" inspections during the year and several businesses, including "sweatshop" type locations, were fined and forced to shut down or improve safety and health conditions. A guilty verdict carries either a \$11,538 (R75,000) fine or a 2-year prison term. In January, DOL inspectors issued 12 prohibition notices and 139 contravention notices during a raid on factories in KwaZulu-Natal. DOL recommended the prosecution of five employers during a raid in Durban factories, and the matter was before the courts at year's end. DOL carried out similar raids in the Free State and Mpumalanga Provinces.

There were no accurate numbers on Zimbabweans entering the country and working on farms; however, the Department of Home Affairs reportedly deported an estimated 30,000 illegal Zimbabweans during the year.

f. Trafficking in Persons

The law does not specifically prohibit trafficking in persons, and trafficking in persons was a problem. The country does not have a comprehensive anti-trafficking law; however, the Government inserted an anti-child trafficking provision into the Child Welfare Act and DOL had a comprehensive plan in its National Child Labor Action Program for dealing with trafficking. The Government was prosecuting a high profile case against a prominent brothel and several child prostitution cases in Cape Town at year's end.

The country has laws that can be applied to prosecute offenses related to trafficking and various entities of the Government investigated trafficking cases on an ad hoc basis. The 2001 criminal case against the owner of brothel in Johannesburg and various civil cases were pending at year's end. The courts generally dealt with trafficking through deportations and fines, rather than exacting criminal penalties; however, with increasing knowledge of trafficking, prosecutors were pursuing different options.

The country was a transit and destination point for the trafficking of persons from other countries in Africa, Asia, Eastern Europe, and the states of the former Soviet Union for prostitution and forced labor. Women and children were trafficked into the country by domestic and international organized crime syndicates for the sex industry. The extent of trafficking operations was not known. In May, the International Organization for Migration (IOM) published a report on the trafficking of women and children in southern Africa and found nine distinct trafficking operations: trafficking of women from refugee-producing countries to the country; trafficking of children from Lesotho to towns in the Eastern Free State; trafficking of women and girls from Mozambique to Gauteng and KwaZulu-Natal; trafficking of women from Malawi to Northern Europe; trafficking of girls and boys from Malawi to Northern Europe; trafficking of women and girls from Malawi to the country overland; trafficking of women from Thailand to the country; trafficking of women from China to the country; and trafficking of Eastern European women to the country.

Domestic and international organized crime syndicates were responsible for trafficking children into the country for the sex industry. Child prostitution increased, primarily in Cape Town, Durban, and Johannesburg. The NGO Molo Songololo estimated that there were 28,000 children working as prostitutes in the country. Along trucking routes, child prostitutes were sought after because of the belief that they were more likely to be disease-free or that, if they were virgins, sex with them cured diseases such as HIV/AIDS. The child sex industry increasingly has become organized, with children either forced into prostitution by gangs or exploited by their parents to earn money for the family. The law prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, and permitting a female under 16 to stay in a brothel for the purpose of prostitution. The Government established a task force to develop a plan of action to combat the sexual exploitation of children and created training courses for the police force and the judiciary regarding the problem; however, the 33 SAPS Child Protection Units lacked the capacity to deal adequately with the problem of child prostitution.

Although there is considerable variation in the profiles of trafficked women and children and their traffickers, in most cases, traffickers lured women and children with promises of employment or educational opportunities abroad.

According to the IOM, there were four major criminal syndicates in the country that trafficked women: The Chinese Mafia, Bulgarian syndicates, the Russian Mafia, and African criminal groups, mainly from Angola, Nigeria, and the DRC. There were also ad hoc traffickers including white South African men and African refugees.

Trafficked women who worked in the sex industry lived with other trafficked victims in segregated areas; were under constant surveillance; had no money or identifying documents; were indebted to the agents who arranged their travel; worked up to 18 hours each day; worked double shifts, on weekends, and when ill; were fined for infractions of strict rules; and had little communication with other workers. If in transit, they were provided with documentation and accommodation before being moved to final destinations.

The Government established an anti-trafficking unit at Johannesburg International Airport, and border police incorporated protection of women and children into their training curriculum. Police and judicial officials received training on the commercial sexual exploitation of children, and labor inspectors were trained and performed inspections of businesses and agricultural farms throughout 2002. The country cooperated with neighboring countries, but police units handling trafficking problems were understaffed and information sharing with neighbors was sometimes hindered by corruption. The country uses its 40 Sexual Offenses courts to handle trafficking cases, but relied heavily on NGOs to provide witness protection. NGOs provided shelter, medical, and legal assistance for child prostitutes and a hotline for victims of child abuse. The Government donated land and buildings for various shelters for victims of sexual abuse, street children, and orphans.

There were no reported government anti-trafficking awareness campaigns to prevent trafficking. Terre D'Homme, an NGO working in the trafficking field, conducted a media campaign to promote awareness of trafficking in persons in southern Africa. In addition, magazines and local newspapers published several articles on the subject during the year.