

SOUTH AFRICA 2014 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

South Africa is a multi-party parliamentary democracy in which constitutional power is shared between the executive, judiciary, and parliament branches. On May 7, the country held a largely free and fair election, in which the ruling African National Congress (ANC) won 62.2 percent of the vote and 249 of 400 seats in the National Assembly, which then elected ANC President Jacob Zuma as the country's president. Authorities maintained effective control over the security forces.

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

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

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

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

a. Arbitrary or Unlawful Deprivation of Life

There were reports that the government or its agents committed arbitrary or unlawful killings.

Police use of lethal and excessive force, including torture, resulted in numerous deaths and injuries, according to the Independent Police Investigative Directorate (IPID), Amnesty International, and other NGOs. Politically motivated killings by ANC members and members of opposition political parties also occurred. The country had a high crime rate, and criminals were often well armed. The

government recorded 47 murders per day during the 12-month period ending March 31. The National Prosecuting Authority (NPA) did not publish statistics on the number of murderers prosecuted, but watchdog groups estimated the conviction rate for all crimes reported was as low as 10 percent.

According to the 2013-14 IPID annual report, 624 persons died in police custody or due to police action during the 12-month period ending March 31; IPID recommended prosecution in 91 of the 624 cases. During the same period, IPID received 5,745 complaints, ranging from killings to assault, and recommended prosecution in 1,470 cases. Of the cases recommended for prosecution, the NPA prosecuted 16, declined to prosecute 41, and did not finalize 1,413 by year's end. IPID referred 884 disciplinary cases to the South African Police Service (SAPS); 135 cases referred resulted in convictions. A death resulting from police action was defined as a death that occurred while a police officer attempted to arrest, prevent an escape, or defend himself/herself or another. It also covered collisions involving one or more SAPS and/or municipal police vehicles as well as mass actions where police were present.

On July 9, six members of the SAPS Alexandra Police Station's Tactical Squad allegedly assaulted 21-year-old Aphiwe Zweni while questioning her about her boyfriend's possible criminal activities. She was seriously injured and died at a local clinic July 11. SAPS suspended the six police officers involved pending criminal charges. IPID opened an investigation which continued at year's end.

On July 4, Police Commissioner Riah Phiyega confirmed nine police officers involved in the February 2013 death of Mozambican taxi driver Mido Macia were terminated and due to stand trial for murder in February 2015. Onlookers at the incident filmed Macia as police handcuffed him to the back door of a SAPS van and dragged him approximately one-third of a mile to a police station in a township near Daveyton, Ekurhuleni, where he subsequently died.

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

Government officials and observers considered seven killings during the year to be politically motivated. Many more individuals survived assassination attempts. According to press reports, since 2011 at least 47 ANC members, at least 17 members combined from the Inkatha Freedom Party (IFP) and National Freedom Party, and one member of the Agang SA party were killed in politically linked violence.

For example, Nohlanhla Biyela, an IFP women's brigade branch chairperson in Ward 40, Kwa Mashu, was killed outside her home February 20. Three other killings occurred in the same neighborhood between rival party members prior to the May 7 election. Willies Mchunu, the provincial community safety representative for Kwa-Zulu Natal, claimed a group of political opponents was responsible for the shootings. Police made no arrests. An investigation continued at year's end.

The investigation into the August 2013 killing of Makhosonke Msibi, Ulundi ANC branch chairperson, continued. The court released the original suspect due to a lack of evidence. In March police arrested another suspect, IFP member Mdu Khanyile, who was on trial in the Kwazulu-Natal High Court at year's end.

The trial of Xolani Zulu, arrested in 2012 in connection with the 2011 killing of ANC eThekweni regional leader Sbu Sibiyi, ended when prosecutors withdrew charges. During the year the state's only witness committed suicide, and police killed several other potential witnesses in a shootout while attempting to arrest them.

During the night of December 31, 2013, unidentified assailants killed former Rwandan intelligence chief, Patrick Karegeya, in a Johannesburg hotel room. Karegeya received political asylum in South Africa in 2009 and resided in the country at the time of his death. In March the government expelled three diplomats from Rwanda and one from Burundi in connection with Karegeya's killing and a March attack on the home of another prominent Rwandan government critic.

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

Xenophobic attacks on foreign African migrants resulted in deaths, injuries, and displacement (see section 6).

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

Ritual ("muthi") killings, to obtain body parts believed to enhance traditional medicine, persisted (see section 6).

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and law prohibit such practices, but police officers reportedly tortured, beat, raped, and otherwise abused suspects. Amnesty International corroborated cases of torture, including the use of electric shock and suffocation. Police also assaulted detainees with batons, fists, and booted feet. To force confessions, police sometimes moved a nonviolent suspect under interrogation into the cell of violent criminals. Police allegedly ignored activities in the cell as the violent criminals intimidated, beat, or raped the suspect, after which police continued the interrogation. Police torture and physical abuse allegedly occurred during house searches, arrests, interrogations, and detentions and sometimes resulted in death.

For example, in October 2013 SAPS officers arrested two suspected car thieves in Springs, a suburb in Ekurhuleni, east of Johannesburg. Police interrogated the two suspects at the Springs Police Station. When interrogation produced no results, police separated the two men, tied and muzzled the main suspect in the back of a van, beat him with batons and a piece of rubber, and shocked him with an electric cattle prod. Police did not release the victim until February, after which he reported the incident to investigators, who subsequently claimed the report was “lost.” The victim filed a civil suit in South Gauteng High Court, claiming damages from the assault, infringement of his liberty, and malicious prosecution. Proceedings continued at year’s end.

The 2013 murder case of Major General Tirhani Maswanganyi continued at year’s end. Nditsheni Nefolovhodwe and Ndaedzo Vele, suspects in the case, alleged they confessed under torture.

According to IPID, reported assaults by police decreased from 4,131 cases in 2012-13 to 3,916 cases in 2013-14. Suspects in several cases were interrogated and assaulted while being detained by police, without any record of their arrest. IPID reported 78 torture cases in its 2013-14 annual report, up from 50 cases the previous year. Qualitative studies by monitoring organizations found victims in many communities did not report police abuse due to a “normalization” or public acceptance of police torture and brutality.

Police reportedly raped persons during the year. IPID received 140 complaints of rape in 2013-14. Of the 140 complaints, 121 were against SAPS members, while the remaining 19 were against civilians in police custody. Of the 121 cases against SAPS members, 35 were against on-duty SAPS members, and the remaining 86 were against off-duty SAPS members.

For example, on July 2, police arrested a warrant officer from the Belville Police Station for allegedly raping two teenaged boys over a period of four years, sometimes in the police station bathroom. The boys were age 14 when the rapes started. Upon arrest, the accused attempted suicide. At year's end he awaited trial in the Blue Downs magistrate's court.

In May 2013 police arrested a warrant officer from the Mamelodi East police station and charged him in three rape cases involving minors that occurred between 2008 and 2013. The trial continued at year's end.

The IPID's investigation into the alleged police beatings and killings in 2012 of protesters at the Marikana mine continued, as did an investigation conducted by the Farlam Commission of Inquiry (see section 7.a.).

On August 29, the Kagiso Regional Court near Johannesburg convicted four of the six men accused of the attempted murder in 2010 of former Rwandan General Faustin Kayumba Nyamwasa. The court sentenced Rwandan national Amani Uriwane and Tanzanians Hassan Mohammedi Nduli, Sady Abdou, and Hemedi Dengengo Sefu to eight-year prison terms and acquitted the other two defendants.

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

The hearing of the lawsuit against Minister of Police Nathi Mthethwa for the alleged 2011 torture of Chinenye Jehu Onuegbu, a Nigerian citizen, was postponed

indefinitely due to Onuegbu's inability to obtain a South African visa to return for the trial.

Prison and Detention Center Conditions

According to the Department of Correctional Services (DCS), many of the 243 operational prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. In June a government re-organization integrated the DCS into the Department of Justice and Constitutional Development. While the DCS retained its name, the minister for correctional services became one of two deputy ministers of justice.

Physical Conditions: In February, Vincent Smith, chairperson of parliament's Portfolio Committee on Correctional Services, criticized the DCS for "inhumane conditions not compatible with the country's constitution." Smith specifically cited the high number of juvenile detainees in the system, the setting of bails for persons with no assets, remand detention, poor medical treatment, prison overcrowding, abuse of inmates, and high recidivism (estimated in a 2006 DCS study to be approximately 24 percent, although civil society organizations claimed the figure was much higher). Smith claimed the poor performance was not for lack of resources, noting a large portion of the DCS budget was unspent in the previous fiscal year.

The Judicial Inspectorate of Correctional Services (JICS) received 4,203 complaints of assaults on prisoners by correctional officers for the 2013-14 reporting period. There were reports of shortages of prison doctors, inadequate investigation and documentation of prisoner deaths, inadequate monitoring of the prison population, high suicide rates among prisoners, and a lack of financial independence for JICS. Some detainees awaiting trial reportedly contracted HIV/AIDS through rape.

Media and NGOs also reported prisoners were tortured. For example, on March 2, wardens at St. Albans Prison in Port Elizabeth, Eastern Cape Province, allegedly forced inmates to lie naked on the floor with their faces in other inmates' buttocks while being kicked in the groin, hit with shields, and shocked with electric cattle prods by prison guards. The prison warden, area commissioner, and regional commissioner all allegedly watched the proceedings. A private civil rights lawyer filed a class action suit under the 2013 Prevention and Combatting of Torture of Persons Act for criminal and civil penalties on behalf of the more than 100 inmates allegedly tortured.

According to the 2013-14 DCS annual report, the country's correctional facilities housed 157,170 prisoners in facilities designed to hold 119,890; the correctional system was 29 percent over capacity during the year, up one percentage point from the previous year. Many prisoners had less than 13 square feet in which to eat, sleep, and spend 23 hours a day. To reduce overcrowding, the government transferred prisoners to facilities that were not at capacity. JICS reported the prisoner transfer program resulted in a reduction in the number of prisons rated as "critically overcrowded" (prisoner population at more than 200 percent of capacity).

In some prisons overcrowding and poor living conditions, including lack of ventilation, contributed to the spread of disease, particularly tuberculosis (TB) and HIV/AIDS. In 2012 Robin Wood of the Desmond Tutu HIV Center characterized communal cells, which held more than 20 prisoners, as a "total disaster" in terms of allowing the spread of communicable disease. An NGO active in lobbying for prisoner rights called prisons a breeding ground for TB and a risk to public health nationwide as discharged prisoners infected their families. NGOs also considered prisons a major source of multidrug-resistant TB since prisoners did not--or could not--always comply with treatment procedures.

On May 21, Dudley Lee, who successfully sued the prison system after contracting TB during his four-year incarceration at Pollsmoor Prison, died at age 68. In 2013 Lee was awarded 270,000 rand (\$23,400) after suing the prison system for not segregating infected prisoners.

According to its 2013-14 annual report, DCS tested 67.8 percent of prisoners for HIV, exceeding its testing target of 50 percent. Prisons dispensed antiretroviral (ARV) therapy, and 95.7 percent of HIV-positive prisoners received such therapy. In areas where prisons did not have an ARV dispensary, authorities took prisoners to local clinics to receive their medication. There were no HIV screening programs on intake or discharge of prisoners, but the DCS conducted HIV prevention programs in prisons, including condom distribution and awareness sessions. The DCS annual report noted HIV awareness sessions took place in prisons throughout the country during the year. NGOs such as the Aurum Institute, Society for Family Health, and South Africa Partners provided correctional centers with HIV testing and ARV therapy.

General health care in prisons remained problematic. A total of 52,647 inmates filed complaints about health care during the year, compared with 39,380 in 2012-

13. Prisons provided inmates with potable water, but supplies were occasionally inadequate, and plumbing problems occurred, according to JICS. There were reports of food shortages.

According to the JICS 2013-14 annual report, prisons held 416 children, of whom 235 were sentenced and 181 were in pretrial detention. Of the 235 sentenced children, 233 were male and two were female; of the 181 pretrial detainees, 176 were male and five were female. Prisons sometimes held juveniles with adults, particularly in pretrial detention. Prisons generally held pretrial detainees with convicted prisoners, although in some large metropolitan areas specific pretrial facilities were available.

According to the JICS report, there were 634 prison deaths during the 2013-14 reporting period, a decrease from the 709 deaths reported in the previous year. Of these, 588 were from natural causes, including HIV/AIDS; the remaining 46 deaths were the result of suicides, assaults, or accidents (a decrease from 57 reported in the previous year). Inmate violence sometimes resulted in deaths.

An investigation by the South African Human Rights Commission (SAHRC) into the January 2013 riot at the Groenpunt Correctional Centre in Free State concluded prison officials violated prisoners' human rights. It found prison management had not taken adequate steps to prevent the riots, which it attributed to poor living conditions. The SAHRC gave prison officials one year to improve conditions under SAHRC supervision. The unrest took two days to control, during which two prisoners were killed, and 104 prisoners and nine officials were injured.

The DCS requires medical doctors to complete and sign reports of inmate deaths to lessen the likelihood that a death caused by neglect is reported as "natural." Nevertheless, the DCS failed to investigate many deaths due to an insufficient number of doctors.

Prisons provided all detainees in cells with felt mattresses and blankets. Most cells had toilets and basins but often lacked chairs, adequate light, and ventilation. Food, sanitation, and medical care in detention centers were similar to those in prisons.

Prisoners with mental illness sometimes failed to receive psychiatric care. A 2012 study on the prevalence of psychiatric disorders in Durban prisons found approximately 55 percent of those surveyed had a psychiatric disorder; the most

common was alcohol addiction, at 44 percent. Of those with a disorder, only one in nine claimed during interviews to have received care for their disorder in prison.

Administration: Prisoners and detainees had reasonable access to visitors and religious observances. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhuman conditions. One NGO, however, accused the DCS of moving prisoners between facilities to prevent them from reporting abuse; the DCS countered the inmates were members of rival gangs and needed to be separated. Authorities investigated and documented the results of investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions.

The DCS did not have an ombudsman to consider such matters as alternatives to incarceration for nonviolent offenders; status and circumstances of confinement of juvenile offenders; or improvement in pretrial detention, bail, and recordkeeping procedures to ensure prisoners did not serve beyond maximum sentences for charged offenses.

Corruption among prison staff remained a problem. In testimony to parliament in February, former corrections minister Sibusiso Ndebele disclosed the DCS and SAPS charged more than 3,000 DCS staff members with corruption or misconduct in 2013. Of those, the DCS dismissed 251 and internally disciplined 2,850. According to the DCS 2013-14 annual report, 103 DCS officials were dismissed for corruption; JICS investigated 1,048 complaints of corruption.

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

JICS was the primary monitoring group for prisons but was not autonomous because the DCS controlled its budget. Analysts argued the government should fund JICS directly to ensure its independence from the DCS. JICS drafted an annual report to parliament summarizing prison conditions and abuses. In addition to monitoring by its own employees, JICS appointed an independent correctional center visitor (ICCV) for each correctional center to monitor prison conditions.

Authorities recorded and verified monthly ICCV visits in official registers kept at all correctional centers. The ICCVs submitted monthly reports to the inspecting judge, listing the number and duration of visits, the number of inmates interviewed, and the number and nature of inmate complaints. The 237 ICCVs in 2013 collectively handled 450,916 cases. In October 2012 the chairperson of the parliamentary portfolio committee claimed it was “physically impossible” for the then 238 ICCVs to monitor adequately approximately 150,000 inmates and to respond to prison complaints. The chairperson added the lack of sufficient ICCVs left prisoners vulnerable to abuse and dehumanizing conditions.

Local NGO Lawyers for Human Rights (LHR), considered highly independent, criticized conditions at the Lindela Repatriation Centre, the country’s largest detention facility for undocumented immigrants. According to the LHR, detainees were subject to the following abuses: physical and verbal abuse, corruption and demands for bribes, insufficient food, lack of reading and writing materials, lack of access to recreational facilities or telephones, lack of access to and poor quality of medical care, indefinite detention without judicial review, detention of legally registered asylum seekers, and lack of procedural safeguards such as legal guidelines governing long-term detention.

On September 18, the SAHRC released a report on health care at Lindela. The investigation revealed a lack of TB testing and the lack of isolation of infected persons; limited availability of condoms; unavailability of tetanus vaccines; overcrowding in rooms; and inadequate intervals between the evening meal and breakfast despite regulations governing mealtimes in the Immigration Act. The SAHRC gave the Department of Home Affairs (DHA) a list of specific remedies, each with its own timeline for implementation. Several refugee and migration advocacy groups noted, however, that conditions in Lindela were generally acceptable and that the government was generally responsive when NGOs identified problems.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, but security forces arbitrarily arrested numerous persons during the year.

Role of the Police and Security Apparatus

SAPS has primary responsibility for internal security. The police commissioner has operational authority for police. The president appoints the police

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

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

During the 2013-14 reporting period, IPID received 5,745 complaints against police, compared with 6,728 complaints the previous year, including allegations of killings, assaults, and other misconduct. IPID worked on 9,055 cases during the year (a combination of current and prior year cases) and concluded 5,045 in the year. Police arrested 89 SAPS members, and IPID referred 1,470 cases to the NPA for potential prosecution. Of the 1,470 cases referred, the NPA declined to prosecute 41 and prosecuted 16. The remainder were pending. During the year 84 police officers were convicted of a crime, and 30 were acquitted; many cases spanned multiple reporting years. IPID referred a further 884 cases to SAPS for misconduct, such as unauthorized use of state vehicles, leaking information, or dereliction of duty; 98 cases resulted in disciplinary action, and 96 cases resulted in acquittals. Sentences for officers found guilty of misconduct ranged from verbal warnings to fines and dismissal from service.

The law provides IPID with additional enforcement powers and requires SAPS and metropolitan police departments (MPDs) to report any suspected legal violations by their own officers to IPID. The law criminalizes the failure to report wrongdoing, and IPID recorded 95 cases in 2013-14 in which SAPS or MPDs failed to report wrongdoing to SAPS. During the year IPID took the additional step of investigating cases that resulted in civil lawsuits, even if police or the public had not reported those cases to IPID.

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

For example, from June 7 to 11, violence erupted in Mamelodi, a township east of Pretoria. Residents, who were protesting inadequate local services, were further angered by rumors a foreigner had assaulted a South African citizen. The protests devolved into widespread looting of foreign shops. Protesters killed three foreigners, looted 76 shops, and burned several others. The violence displaced more than 300 families and caused substantial financial losses. Witnesses claimed criminal elements coordinated the looting, using groups of young South Africans. Amnesty International criticized the slow and ineffective police response, claiming police did little to protect foreign shops or evacuate affected families. According to witnesses and NGOs, police made no arrests during the incident.

SAPS and MPDs received training in ethics, human rights, and the prevention of corruption, sexual offenses, domestic violence, gender violence, and violence against LGBT persons. Training, however, was inconsistent. While all new officers received training, many officers went years between refresher courses, and human rights training was only added to the curriculum in 2012. SAPS also provided officers with access to social workers, psychologists, and chaplains.

Arrest Procedures and Treatment of Detainees

The law requires that a judge or magistrate issue arrest warrants based on sufficient evidence. Police must promptly inform detainees of the reasons for their detention, their right to remain silent, and the consequences of waiving that right. Police must charge detainees within 48 hours of arrest; hold them in conditions respecting human dignity; allow them to consult with legal counsel of their choice at every stage of their detention or provide them with state-funded legal counsel when “substantial injustice would otherwise result”; and permit them to communicate with relatives, medical practitioners, and religious counselors. The government often did not respect these rights. For example, JICS received 39,109 complaints about access to legal representation, according to its 2013-14 annual report. Police must release detainees (with or without bail) unless the interests of justice require otherwise, although bail for pretrial detainees often exceeded what suspects could pay.

Human rights groups, judges, and judicial scholars continued to express concern about the Criminal Procedure Second Amendment Act, which allows the pretrial

detention of children and prohibits bail in certain cases. Some judges also expressed concern that police and the courts often construed the exercise of the right to remain silent as an admission of guilt.

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

Legal aid organizations reported police frequently arrested persons for minor crimes for which the law stipulates the use of a legal summons. Illegal arrests for offenses such as common assault, failure to provide proof of identity, or petty theft sometimes resulted in the unlawful imprisonment of ordinary citizens with hardened criminals, which created the opportunity for physical abuse (see section 1.c.).

Pretrial Detention: Lengthy pretrial detention was a problem. According to the DCS 2013-14 annual report, there were 44,236 remand (pretrial) detainees in the prison system. Police held approximately 1,889 detainees for more than two years, a substantial improvement over the 3,589 from the previous year. According to the DCS report, detainees waited an average of 176 days before trial. Observers attributed the high rate of pretrial detention to arrests without substantial evidence, poor case preparation, uneven access to public defenders, and unaffordable bails. Police sometimes held detainees while prosecutors developed cases and waited for court dates. Legal scholars estimated prosecutors failed to convict 60 percent of those arrested. The law requires a review of remand detention once it exceeds two years.

Detention of Rejected Asylum Seekers or Stateless Persons: NGOs and the media reported security forces continued to arrest migrants and asylum seekers arbitrarily, even those with documentation, often because police were unfamiliar with asylum documentation. In some cases police threatened documented migrants and asylum seekers with indefinite detention and bureaucratic hurdles unless they paid bribes to ensure quick adjudication of their cases. Although the law prohibits the detention of unaccompanied migrant children for immigration violations, there were reports the DHA and SAPS detained unaccompanied minors for immigration violations during the year. In some cases minors reportedly claimed to be adults, preferring deportation to their home country to institutionalization in South Africa. According to the LHR, which regularly visited Lindela and other immigration detention centers, children often were identified only if an ICCV visited the detention center and pressured the facility to release them.

On August 28, the South Gauteng High Court in Johannesburg ruled the long-term detention of migrants at the Lindela Repatriation Centre was unlawful and unconstitutional. In a complaint filed by the SAHRC and other applicant organizations, the court found the DHA contravened Immigration Act 13 of 2002 by detaining persons for more than 30 days without charges or deportation. The court ordered the DHA to ensure no person was detained for a period exceeding 30 days from the date on which that person was first arrested. The case summarized a series of previous judgments favoring individuals detained longer than 30 days.

e. Denial of Fair Public Trial

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

Watchdog groups estimated the true conviction rate for crimes reported was as low as 10 percent. According to official statistics for 2013-14, prosecutors obtained only 1,110 life sentences for 803 individuals despite recording more than 17,000 murders and more than 66,000 rapes during the year; both crimes carry a possible life sentence. Inadequate collection of evidence at crime scenes, insufficient investigation, ineffective police tactics, long trials, and ineffective court processes contributed to this low rate. The government operated 63 justice centers and 51 Thuthuzela Care Centers (TCCs) that provided legal assistance to the poor to expedite legal processes, reduce court rolls, and alleviate overcrowding in prisons, but serious delays continued (see section 6).

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

Trial Procedures

Criminal defendants enjoy a legal presumption of innocence. The constitutional bill of rights provides for due process and equal protection. The law requires

police to inform detainees promptly and in detail of the charges against them, but this neither always occurred, nor did police always accurately complete the charge sheets. The law requires the government to provide interpretation in all 11 official languages, but provision was dependent on the availability and cost of interpreters. Interpretation standards, even for national languages, were low and sometimes compromised the veracity of exchange between the defendant and the court. Judges sometimes transferred cases from rural to metropolitan areas to access interpreters more easily. Limited access to qualified interpreters sometimes delayed trials. Judges and magistrates hear criminal cases and determine guilt or innocence. In lieu of juries, the law requires that a panel of lay assessors and a magistrate hear cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in adjudicating bail applications and sentences.

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

Political Prisoners and Detainees

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

Civil Judicial Procedures and Remedies

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

For example, on June 24, DHA Minister Malusi Gigaba was held in contempt of court for violating an August 2013 court order giving the DHA 30 days to decide on the residency status of a stateless man whose case had been pending since 2011. The court gave Gigaba a five-day grace period before imposing fines or jail time. Gigaba, who complied on the fourth day, rejected the man's residency application.

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

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

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

The 2013 General Intelligence Laws Amendment Bill authorizes the interception of electronic communications known as "foreign signals intelligence" without a warrant. In April 2013 a Toronto University Citizen Lab study found two FinFisher command and control servers (commercially available government spyware platforms) on the country's government-owned telephone network. FinFisher servers can capture "screenshots, key logger data, audio from Skype calls, passwords, and more," but the extent to which the government implemented FinFisher was unclear. Neither Telkom nor government agencies commented on the Citizen Lab study.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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

Press Freedoms: The independent media were active and expressed a wide variety of views without restriction, although state-sponsored media were the most prevalent. Journalists were generally able to criticize the government openly and without fear of reprisal, but some journalists claimed the government increased its efforts during the year to control the media.

In May the government split the Ministry of Posts, Telecommunications and Broadcasting into the Department of Telecommunications and Postal Services and the Department of Communications. The new Department of Communications assumed oversight of the South African Broadcasting Corporation (SABC), the Independent Communications Authority of South Africa (ICASA, a media regulator), and government public relations agencies, including the Government Communications and Information System, Brand SA, and the Media Development and Diversity Agency. For the first time, the government placed the SABC under the direct oversight of a minister also charged with overarching communication policy and strategy, information dissemination, government publicity, and the branding of the country abroad. The Committee to Protect Journalists questioned whether placing the SABC under a minister charged with promoting government policy was compatible with the SABC's stated editorial independence.

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

Most citizens received news through radio broadcasts from the SABC and community radio stations. The SABC, a state-owned enterprise, was the largest and most influential source of news for the majority of the population. It broadcast television and radio programs in the country's 11 official languages and reached an estimated 92 percent of the population. Media watchdogs increasingly criticized the SABC, however, for violating its stated "editorial independence" in favor of pro-government reporting (see section 3).

Nonprofit community radio stations played an important role in informing the mostly rural public, although they often had difficulty producing adequate content and maintaining quality staff. Community activists complained some community radio stations self-censored their programming because they were dependent on government advertising for revenue. Government broadcast regulators regularly issued new community radio licenses and withdrew others for noncompliance with the terms of issuance.

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

Libel Laws/National Security: Libel is not criminalized, but civil cases, sometimes involving large fines, can be brought against members of the press. Unlike previous years, the government did not file any major civil libel cases.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority. The law authorizes state monitoring of telecommunication systems, however, including the internet and e-mail, for national security reasons. The law requires all service providers to register on secure databases the identities, physical addresses, and telephone numbers of new and existing customers. Approximately 49 percent of the population used the internet during the year.

A 2011 investigative report by the *Mail & Guardian* newspaper reported state intelligence agencies had the ability to access citizens' private communications, including chats, e-mails, text messages, and voice conversations. The report found insufficient safeguards in place to prevent illegal access to private data.

Government spokespersons challenged anyone who believed their communications were monitored to file a complaint in court, although citizens would have no way of knowing their communications were monitored unless the government informed them.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly, but police violently dispersed hundreds of demonstrations during the year, which resulted in numerous deaths and injuries. According to the 2013-14 SAPS report, there were 11,601 peaceful protests, and an additional 1,907 illegal, violent demonstrations. The total, 13,508, marked an increase over the 12,399 from 2012-13. Protest action was most common in Gauteng, North West, Western Cape, Mpumalanga, and KwaZulu-Natal provinces. Police used batons, rubber bullets, and water cannons to control demonstrators and quell violence; hundreds of injuries were reported. There were no reports of police firing at demonstrators during licensed, peaceful protests.

On March 13, SAPS officers allegedly fired live ammunition to disperse violent but unarmed demonstrators in Bekkersdal Township, southwest of Johannesburg. The demonstrators had blocked roads, burned tires, and thrown stones at cars to prevent an ANC delegation from campaigning for the May elections. Residents were protesting inadequate public services, such as electricity, sanitation, and water, and the alleged looting by ANC officials of a local economic development fund. Three police armored vehicles subsequently arrived and fired rubber bullets and tear gas to disperse protesters. The *Citizen* newspaper carried photos of a police officer pointing a firearm at close range at apparently unarmed protesters.

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

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

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

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, but the government did not always respect these rights. The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern. Nevertheless, refugee advocacy groups criticized the government's processes for determining asylum and refugee status, citing large case backlogs, low approval rates, inadequate use of country-of-origin information, and susceptibility to corruption and abuse.

Internally Displaced Persons (IDPs)

Rioters regularly targeted foreign-owned shops for looting. Although precise statistics were unavailable, monitoring groups reported these attacks displaced thousands of foreigners during the year (see sections 1.d. and 6).

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum and refugee status, and the government has an established system for providing protection to refugees. The country hosted approximately 65,000 recognized refugees and nearly 232,000 asylum seekers; two-thirds of the asylum seekers were Zimbabweans. Government services strained to keep up with the caseload, but NGOs criticized the government's implementation of the system as inadequate.

In 2009 the DHA moved refugee processing from various provinces to the borders but created no new facilities. Refugee rights NGOs argued that many refugees did not cross a land border, and that returning them to a land border posed undue hardship. Renewing refugee and asylum documents--some of which are valid only for six months--requires travel to the office where a refugee was originally registered, despite a government commitment in June to allow renewal processing at any DHA office in the near future. Refugee rights organizations filed various lawsuits to force the government to reopen the centers in Johannesburg, Cape Town, and Port Elizabeth, arguing the constitutional right of migrants to fair administrative action. The court ruled against the reopening of the Johannesburg and Cape Town centers, and the court did not rule on the Port Elizabeth lawsuit by

year's end. The centers in Cape Town and Port Elizabeth remained open to renew documents of migrants whose files were there. Only the centers in Pretoria, Durban, and Musina (Limpopo Province) accepted new applicants, but the government did not expand remaining reception centers, resulting in large backlogs and long queues.

On June 19, security guards and police at the Marabastad Refugee Reception Office in Pretoria used nightsticks and pepper spray to subdue refugees and asylum seekers attempting to renew their permits. LHR staff witnessed the violence.

Refoulement: There were no specific reports of the government forcibly returning refugees to countries in which their lives would be in danger. Observers reported, however, the government refused entry to asylum seekers who could not show positive identification or who passed through a "safe country of transit."

Refugee Abuse: Refugee advocacy organizations charged police and immigration officials abused refugees and asylum seekers. On August 25, the Khayelitsha Commission of Inquiry released its report on poor policing in Khayelitsha, Western Cape Province. The report documented SAPS discrimination against foreign nationals, including refugees, claiming SAPS officers targeted such individuals and their businesses for extortion.

Xenophobic violence occurred against foreign nationals running small, informal grocery stores known as "spaza" shops in townships and informal settlements; refugees registered and owned many spaza shops. A South African think tank estimated more than 900 foreigners were killed in mob violence since 2008, including approximately 120 in 2011, 140 in 2012, and 150 in 2013. Citizens who blamed immigrants for job and housing losses and increasing crime generally perpetrated such attacks. Attacks on migrant traders resulted in deaths, injuries, arson, and destruction of property (see sections 1.d. and 6).

On June 9, a mob stoned to death a Somali shopkeeper in the Pretoria suburb of Mamelodi. The incident followed reports another foreign shopkeeper had shot a South African boy trying to rob his shop.

In September the Supreme Court of Appeal ruled that the more than 700 foreign-owned shops closed by police in 2012 in Polokwane, Limpopo Province, were illegally targeted for closure because migrants, including refugees and asylum seekers, operated them. The case tested the principle that refugees and asylum seekers are entitled to operate businesses in the country, and the government

cannot discriminate against them in applications for business licenses or the enforcement of business regulations. The court upheld the right of asylum seekers and refugees to operate businesses with a valid license and to apply for business licenses, reiterated the need for the government to meet international obligations, and ordered the government to pay plaintiffs' court costs. Damages for confiscated goods could not be awarded because police did not properly inventory the goods seized from shops when they were shut down. The court noted with "grave concern" police abuse in the case.

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

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

In one case, a 12-year-old Somali girl was initially denied life-saving heart surgery because her family was unable to pay a 250,000-rand (\$21,600) deposit. The girl, who became ill during transit from Somalia, was hospitalized upon arriving in South Africa before she was able to lodge an asylum claim. The hospital later disputed requesting a deposit, but still denied her treatment. The LHR, which represented the girl before the High Court, successfully argued she had a constitutional right to medical care despite her inability to pay. On July 18, the LHR reached a settlement with the Ministry of Health, and the girl underwent heart surgery in August.

Temporary Protection: The government also offered temporary protection to some individuals who may not qualify as refugees. Persons who apply for asylum, even

if they may not qualify prima facie, were allowed to stay in the country while their claims were adjudicated and their appeals (if lodged) finalized.

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

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

Elections and Political Participation

Recent Elections: On May 7, the country held a largely free and fair national election in which the ruling ANC won 62.2 percent of the vote and 249 of 400 seats in the National Assembly, the dominant lower chamber of parliament. Election observers, including the African Union and the Southern African Development Community, characterized the election as generally free and fair. The government, however, for the first time restricted diplomatic election observers to chiefs of mission only, effectively prohibiting diplomatic missions from observing elections. Following the general election, parliament elected ANC President Jacob Zuma as the country's president. The Democratic Alliance (DA), the leading opposition party, won 89 parliamentary seats, the Economic Freedom Fighters (EFF) won 25, and the IFP won 10. The remaining 27 seats in parliament were allocated to nine other political parties based on a proportional vote count formula. In the National Council of Provinces (NCOP), the upper house of parliament, the ANC held 33 seats, the DA 13, and the EFF six. The remaining two seats were allocated to two other parties.

Although violence occurred, the Independent Electoral Commission (IEC) called the election the most peaceful on record. The election coincided, however, with a record number of protests over poor government services and local grievances. The government preemptively deployed a record 20,000 police and army personnel to potential trouble spots to maintain order. There were reports of electoral irregularities, including attempted vote rigging, but the IEC responded quickly to incidents, and political parties had an opportunity to challenge results in wards where incidents occurred.

The most notable case of electoral violence occurred in the township of Alexandra, Johannesburg, where the EFF accused the ANC of rigging the vote and forced polling stations to close early. Community members held IEC staff hostage until

the next day and burned down an IEC tent. Police restored order, and the IEC conducted absentee voting the following week.

Political Parties and Political Participation: Opposition parties accused the SABC, the state-owned public broadcaster, of favoring the ruling party in its news coverage and advertising policies. Prior to the May 7 election, smaller political parties criticized the SABC for not covering their events. SABC regulations, however, dictate coverage should be proportional to the percentage of vote won in the previous election, and independent observers did not find the SABC had violated this regulation.

In April the SABC and ICASA banned two paid political advertisements by political parties, alleging they incited violence. One party alleged ICASA intentionally delayed approval for a third advertisement, preventing it from reaching the airwaves in a timely manner. Free speech advocates criticized the rationale for the decisions and the manner in which ICASA implemented them, saying they stifled public debate and limited voter information.

Opposition parties claimed the ANC and DA used state resources for political purposes in the provinces under their control. The ANC reportedly handed out government food parcels to potential voters at political rallies, tied social grants to voting records, and created temporary government jobs just before elections. The country also has a cadre deployment system, in which the ruling party controls and appoints party members to thousands of civil service positions in government ministries, and provincial and municipal governments. During the year the ANC also requested campaign contributions from all civil servants.

Opposition parties accused ANC members of interference in or interruption of opposition party meetings, assaults and threats of assault, and punishing opposition party members by denying jobs, contracts, services, and development opportunities. Intimidation allegedly included aggressive taunting chants and dances (toyi-toying) outside opposition party meetings to disrupt proceedings. This sometimes devolved into threats against persons entering and exiting meetings, mock charges, and, in rare cases, assault or murder. In some cases local ruling party leaders denied opposition parties permission to rent public facilities for political meetings. In one case an opposition party booked a venue, paid the deposit, and signed the contract, only to have the contract revoked later.

There were reports government officials publicly threatened to boycott private businesses that criticized government policy. For example, in January 2013 the

ANC threatened a government boycott of the First National Bank (FNB) after the FNB produced an advertisement in which school pupils discussed problems in their communities. The ANC, which referred to the advertisement as an act of treason, demanded the FNB remove the advertisement from circulation, which it did. FNB's chief marketing officer said it was removed due to fear of reprisals against the students featured.

Participation of Women and Minorities: Women held 14 of 35 ministerial positions, including foreign affairs and defense, and 17 of 38 deputy ministerial positions. There were 164 women in the National Assembly and 20 women among the 54 members of the NCOP. Women occupied two of four parliamentary presiding officer positions, including the speaker of the National Assembly and chairperson of the NCOP.

There were an estimated 89 minority (non-black) members in the National Assembly. There were 15 minority members among the 54 permanent members of the NCOP and 12 minority members in the 69-member cabinet.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, and the government continued efforts to curb corruption, but officials sometimes engaged in corrupt practices with impunity. The World Bank's most recent Worldwide Governance Indicators reflected that corruption remained a problem.

Corruption: During the year the Office of the Public Protector, a constitutionally mandated body designed to investigate government abuse and mismanagement, investigated thousands of cases, some of which involved high-level officials, and one of which implicated President Zuma. The public and NGOs considered the Office of the Public Protector independent and effective, despite limited funding.

On March 19, the Office of the Public Protector issued a report into the 249 million rand (\$21.5 million) of government money spent upgrading security at the private home of President Zuma. The report identified several upgrades that were not security requirements but had personally benefited the Zuma family. The public protector concluded the Zuma family should repay a portion of the nonsecurity upgrade expenses, despite the absence of evidence indicating the president had personally directed the upgrades. An internal government report directed by the ministries implicated in the public protector's report noted contracting irregularities but claimed all upgrades were security requirements. A report by the

police Special Investigatory Unit, overseen by the Presidency, found the architect for the project liable for the excessive expenditures. The public protector claimed her report superseded the others since the Office of the Public Protector is independent and constitutionally mandated, while the other reports were drafted by departments implicated in the affair.

President Zuma deferred to the internal reports, refused to accept “all findings” in the public protector’s report, and directed the minister of police (a cabinet official who answers directly to the president) to determine whether he should pay back a portion of the cost. ANC officials publicly denounced the public protector, while opposition members and commentators charged ruling-party officials were undermining governmental checks and balances. Parliament created an ad-hoc committee to investigate the matter, but opposition members of parliament boycotted the committee when the committee chair refused to allow expert legal witnesses to testify or to call President Zuma to testify, leaving the committee to deliberate on state evidence only. The remaining ANC committee members (a quorum due to the ANC’s majority in parliament) found the president did not request or direct the upgrades, could not be forced to pay for them, and consequently was absolved of responsibility. An ANC majority in the National Assembly voted to accept the ANC committee report, despite a rare filibuster attempt by the opposition. Following the vote, opposition MPs refused to vacate the speaker’s podium. The speaker of the house called SAPS into parliament to remove the opposition members, four of whom claimed they were assaulted in the process and subsequently filed charges against police.

On September 23, the Gauteng North High Court reinstated corruption charges against Richard Mdluli, the head of SAPS Crime Intelligence Division. Mdluli appealed the decision but lost at the Supreme Court of Appeal. The NPA reintroduced charges and continued preparations to try Mdluli for allegedly using state funds to pay for his private automobile and registering his relatives, girlfriends, and their families as covert intelligence operatives in order to pay them.

Corruption remained a problem within prisons. According to the 2013-14 DCS annual report, the department conducted 2,960 misconduct and disciplinary hearings for various offences and dismissed 121 staff members. According to the 2013-14 JICS report, there were 1,048 complaints of corruption during the annual reporting period. At least 10 agencies, including the SAPS Special Investigation Unit, Public Service Commission, Office of the Public Prosecutor, and Office of the Auditor General, were involved in anticorruption activities.

Financial Disclosure: Public officials including members of national and provincial legislatures, all cabinet members, deputy ministers, provincial premiers, and members of provincial executive councils, are subject to financial disclosure laws, but some failed to comply, and departments filed the majority of their reports late. The declaration regime clearly identifies which assets, liabilities, and interests public officials must declare. Government officials are required to declare publicly their interests when they enter office, and there are administrative and criminal sanctions for noncompliance, but no defined unit is mandated to monitor and verify disclosures of government officials. The government made public declarations by government officials, but not those of their spouses or children.

Tender awards continued to be a problem for the national government. On March 13, the auditor general's annual report revealed government departments awarded contracts worth 438 million rand (\$37.9 million) to companies in which senior employees of the department had personal financial interests. Moreover, government departments awarded contracts worth 141 million rand (\$12.2 million) to suppliers with which family members of senior department officials had interests. In 75 percent of these cases, the conflict of interest was not disclosed.

Public Access to Information: The law provides for access to government information, although the government did not always comply with the law. The government operated a public access website for interested persons to obtain all laws, speeches, parliamentary proceedings, and other official information. If a government department refuses to respond to a specific information request, the requester is entitled to launch a formal appeal. If this also fails, the requester may appeal to the High Court, a lengthy and expensive process. The Open Democracy Advice Center continued to report the government was late in responding to many requests for information or failed to answer entirely.

In November 2013 parliament passed the South African Protection of State Information Bill, commonly referred to as the Secrecy Bill, but it remained unsigned at year's end. The controversial bill aims to regulate the classification, protection, and dissemination of state information. Observers criticized the bill's broad definition of national security and severe penalties for leaking documents, which include jail terms of up to 25 years. They also criticized the lack of a "public interest defense" to exempt from prosecution individuals in possession of classified documents that reveal state ineptitude or poor performance, or otherwise contain information vital to public interest.

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

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

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

No parliamentary committees dealt exclusively with human rights, although some parliamentary committees looked into human rights problems for their constituencies.

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

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

Women

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

On January 19, a man raped a nine-year-old girl from the town of Delft, Western Cape Province, on the side of a highway, set her on fire, and left her for dead. A passerby found her alive and took her to a hospital, where she recounted that her attacker laughed as he doused her with gasoline. On March 18, the victim died in the hospital. Police arrested her attacker and charged him with multiple counts, but prosecutors withdrew the charges when the girl died, as they predicated the case on her testimony. Prosecutors said they would recharge the suspect once additional forensic evidence was processed, but had not filed charges at year's end. Suspects sometimes burned rape victims to destroy forensic evidence.

According to the 2012-13 SAPS annual report, 197,877 reported crimes were committed against women; SAPS did not provide a gender breakdown in the 2013-14 report. SAPS recorded a decrease in total sexual crimes (perpetrated against men and women), with 62,649 cases reported compared with 66,387 cases in the previous year.

A 2009 Medical Research Council (MRC) report stated that more than 25 percent of men interviewed in KwaZulu-Natal and Eastern Cape provinces admitted committing at least one rape, and more than half of those persons admitted raping more than one person. In a 2011 study conducted in Gauteng Province by the MRC and Gender Links, 37.4 percent of men admitted to having committed one or more rapes, and 25 percent of women admitted being a victim of sexual violence in their lifetime.

In most cases attackers were acquaintances or family members of the victim, which contributed to a reluctance to press charges, as did a poor security climate and societal attitudes. According to the 2013-14 NPA annual report, the conviction rate for sexual offense crimes was 67.1 percent, although watchdog groups claimed the rate was lower because it did not include the many credible cases that never made it to trial. Prosecutors chose not to prosecute many cases with insufficient evidence, and many watchdog groups estimated that the real conviction rate in rape cases was 4 percent. Poor police training, insufficient forensic lab capacity, a lack of trauma counseling for victim witnesses, and overburdened courts contributed to the low conviction rate. The NPA did not track the length of time required to bring cases to trial, but, according to media reports, it could take between six months and three years for a rape case, depending on the complexity and the plea of the accused.

The Department of Justice operated 19 dedicated sexual-offense courts throughout the country. Sexual-offense courts included facilities such as private waiting

rooms, court preparation rooms, and closed circuit television rooms for victims, all in an attempt to provide additional privacy and prevent secondary victimization. Although judges in rape cases generally followed statutory sentencing guidelines, women's advocacy groups criticized judges for using criteria such as the victim's behavior or relationship to the rapist as a basis for imposing lighter sentences. According to the 2013-14 annual report of the NPA's Sexual Offenses and Community Affairs Unit, dedicated sexual-offense courts recorded a 65.9 percent conviction rate; 49.2 percent of cases were referred for prosecution.

The government operated 51 rape centers, or TCCs (see section 1.e.). All TCCs were located at hospitals, either within the hospital or in a mobile unit on hospital grounds. Of rape cases brought to TCCs, 75 percent went to trial and were terminated--either by conviction or by acquittal--within nine months from the date a victim reported the case.

Domestic violence was pervasive and included physical, sexual, emotional, and verbal abuse, as well as harassment and stalking. The government prosecuted domestic violence cases under laws governing rape, indecent assault, damage to property, and violating a protection order. The law facilitates protection orders against abusive individuals, requires police to take victims to a place of safety, and allows police to seize firearms at the scene and to arrest abusers without a warrant. The law requires police to protect victims from domestic violence, but police commanders did not always hold officers accountable. Violating a protection order is punishable by a prison sentence of up to five years, or up to 20 years if prosecutors bring additional criminal charges. Penalties for domestic violence include fines and sentences of between two and five years' imprisonment.

According to NGOs an estimated 25 percent of women were in abusive relationships, but few reported it. A 2009 MRC report stated more than two-fifths of men interviewed in KwaZulu-Natal and Eastern Cape provinces had been physically violent toward an intimate partner. According to the 2011 report conducted by the MRC in Gauteng Province, 51 percent of women experienced some form of violence (economic, physical, sexual, or emotional) in their lifetime, and 78 percent of men admitted to perpetrating some form of violence against women. TCC counselors also alleged that doctors, police officers, and judges often treated abused women poorly.

The government financed shelters and rape support centers for abused women, but more were needed, particularly in rural areas. The government continued to conduct rape and domestic violence awareness campaigns. In honor of Women's

Month, the government hosted numerous events focused on empowering women in business, government, health, sports, and the arts. During the internationally observed 16 Days of Activism Against Gender Violence, the government hosted a number of roundtable discussions.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C, but girls in isolated zones in Venda communities in the northeast were subjected to the practice.

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

Reproductive Rights: Couples and individuals have the right to decide freely the number, spacing, and timing of their children, and to have the information and means to do so. They have the right to attain the highest standard of reproductive health free from discrimination, coercion, and violence. Contraception was widely available and free at government clinics. Emergency health care was available for the treatment of complications arising from abortion.

According to the Department of Health, the antenatal care coverage rate was 98.5 percent. According to the country's 2010 Millennium Development Goal Report posted by the UN Development Program, the maternal mortality ratio was 269 per 100,000 live births. The government and numerous international organizations continued efforts to reduce the maternal mortality rate through a variety of pilot projects. Primary challenges included low awareness among mothers of available antenatal care, the high HIV/AIDS rate, poor administrative and financial management, poor quality of care, and lack of accountability in the health-care system.

Discrimination: Discrimination against women remained a serious problem despite legal equality in inheritance, divorce, and child custody matters. Women experienced economic discrimination in wages (see section 7.d.), extension of credit, and ownership of land.

Traditional patrilineal authorities, such as a chief or a council of elders, administered many rural areas. Some traditional authorities refused to grant land tenure to women, a precondition for access to housing subsidies.

The Employment Equity Act, which aims to promote equality in the workplace, does not expressly prohibit unequal pay for work of equal value, but it does prohibit discriminatory practices, including unequal pay and separate pension funds for different groups in a company (see section 7.d.).

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

According to the 2013-14 Employment Equity Report (EER) produced by the Commission for Employment Equity at the DOL, women held only 20.6 percent of top-level management positions and 29.9 percent of senior management positions, rates significantly lower than the government-mandated target of 44.4 percent management positions filled by women. The EER statistics showed 52.3 percent of top managers in private companies were white men, while black women constituted only 6.3 percent, and coloured (a heterogeneous, mixed-race ethnicity recognized by the government) and Indian women made up only 1.6 percent and 1.9 percent, respectively. The percentage of women in top management positions continued to increase but "at a snail's pace," according to the EER.

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

A number of government bodies, particularly the Commission for Gender Equality, the EER, and the minister of women in the Presidency, monitored and promoted women's rights, as did numerous NGOs.

Children

Birth Registration: The law provides for citizenship by birth (if at least one parent is a permanent resident or citizen), descent, and naturalization. Nevertheless, registration of births was inconsistent, especially in remote rural areas or among parents who were unregistered foreign nationals. Some human rights NGOs claimed government inefficiency inhibited birth registration. Authorities blamed late birth registration for irregularities in the population register. In 2013 only 64 percent of births were registered in the prescribed 30-day window, according to the DHA. Children without birth registration had no access to free government services such as education or health care, and their parents had no access to financial grants for their children.

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

Child Abuse: Violence against children, including domestic violence and sexual abuse, remained widespread. According to the 2012-13 SAPS report, 49,550 children were reportedly victims of violent crime; SAPS did not release a breakdown of child victims of crime in their 2013-14 annual report. The country had a low conviction rate for rape and child abuse.

On May 23, police detained a man in Springs, near Johannesburg, for holding captive and abusing his wife and five children over a period of several years. An 11-year-old child escaped and alerted neighbors. On June 22, police also arrested the man's wife and charged her with assaulting her children. The case continued at year's end.

Some teachers and other school staff harassed, abused, and assaulted students in schools, according to reports. The law requires schools to disclose sexual abuse to authorities, but administrators sometimes concealed sexual violence or delayed disciplinary action. The level of sexual violence in schools also increased the risk of contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted pregnancies.

Although the law prohibits corporal punishment in schools, there were reports that teachers used physical violence to discipline students. There were also multiple reports of students physically assaulting teachers.

Student-on-student violence, including racially motivated violence, was a problem.

Early and Forced Marriage: Parental or judicial consent to marry is required for individuals younger than 18. Nevertheless, the traditional practice of “ukuthwala,” the forced marriage of girls as young as 12 to adult men, continued in remote villages in Western Cape, Eastern Cape, and KwaZulu-Natal provinces. In August 2013 President Zuma signed the Prevention and Combating of Trafficking in Persons Bill, which prohibits nonconsensual ukuthwala and classifies it as a trafficking offense. Significantly, the Ministry of Traditional Practices supported the bill. In February the country recorded its first conviction for an ukuthwala violation, which resulted in a 22-year prison sentence for the man who forcibly married the victim. Prosecutors subsequently launched several additional ukuthwala cases.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C, but it reportedly occurred in isolated zones in Venda communities in the northeast. The government continued initiatives to eradicate the practice, including national research and sensitization workshops where FGM/C was prevalent.

Other Harmful Traditional Practices: Ritual (“muthi”) killings, to obtain body parts believed by some to enhance traditional medicine, persisted. Police estimated organ harvesting for traditional medicine resulted in 50 deaths per year.

On August 18, municipal workers found the headless body of prostitute Desiree Murugan at Durban's Shallcross Stadium. Police arrested 18-year-old Falakhe Khumalo and two minors in conjunction with the killing. In court proceedings Khumalo said in June 2013 that his brother took him to see a traditional healer to be treated for a sexually transmitted disease. The traditional healer allegedly offered to pay two million rand (\$173,000) to any person who could bring him the head of a woman. Khumalo and his accomplices lured Murugan to the stadium, decapitated her, and returned the head to the traditional healer. Khumalo pled guilty and was sentenced to life in prison on September 11. The two minors pled not guilty and were awaiting trial. The traditional healer and his assistant were also charged with murder, but their trial had not started by year's end.

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

The practice sometimes resulted in death. An entrenched practice among several cultural groups in the country, circumcision was considered a precondition for adult status and permits marriage, inheritance, and other societal privileges. The Council of Traditional Leaders began a dialogue with medical providers to identify options for the integration of medical circumcision into traditional practices. The government also supported a program to conduct medical circumcisions, but traditional practices continued. Discussing circumcision was taboo in many communities, where it was considered a matter for chiefs to decide. Some traditional leaders criticized government interference in initiation and circumcision practices, while others declared moratoriums on circumcision. Many traditional leaders vocally criticized illegal initiation schools and encouraged the government to punish offenders strictly.

Botched circumcisions leading to hospitalizations and penile amputations were reported in Eastern Cape, Limpopo, and Mpumalanga provinces during the June initiation period. Approximately 40 deaths resulted, compared with 90 deaths during the initiation season in 2013. The media also reported 24 amputations and 300 hospitalizations during the year. The NPA announced more than 30 criminal prosecutions for illegal initiations.

On July 7, a six-year-old boy died at an illegal initiation school in Mpumalanga Province. His aunt allegedly sent him to the school without the knowledge of his parents. Police arrested the leader of the school and rescued 19 other boys.

In March a judge found Ellen Mogwera, the head of an illegal initiation school in Hartswater, Northern Cape Province, guilty of defeating the ends of justice, assault, and culpable homicide. Two others were found guilty of assault with intent to do bodily harm.

Sexual Exploitation of Children: Penalties for the sexual exploitation of a child include fines and imprisonment of up to 20 years. The law defines statutory rape as sexual intercourse between anyone under 18 and an adult more than two years

older. The statutory sentence for rape of a child is life in prison, although the law grants judicial discretion to issue sentences that are more lenient.

The law criminalizes all consensual sexual activity between minors under age 16 and defines sexual activity to include kissing and “petting.” In October 2013, however, the Constitutional Court struck down the provision of law criminalizing sexual contact among minors and gave the Department of Justice 18 months to remedy the law.

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

On August 21, police arrested a Durban high school drama teacher for possession, production, and procurement of child pornography. The teacher allegedly groomed at least two of his pupils, giving them gifts and money in exchange for illicit pictures, videos, and sexual favors. The teacher was previously convicted of child sexual assault in the 1990s but skirted the sexual offender register and continued teaching. One of his previous victims allegedly warned the school in 2007 about his criminal history, but the school took no action. The trial continued at year’s end.

Statistics South Africa’s *Social Profile of Vulnerable Groups in South Africa*, a study conducted from 2002 to 2009, found approximately 95,000 children (0.5 percent of all children) lived in child-headed households, mostly due to the impact of the HIV/AIDS epidemic. These children sometimes turned to prostitution to support themselves and their siblings. Traffickers in the sex trade exploited other children. Children were often recruited from poor rural areas, taken to and moved between urban centers such as Johannesburg, Cape Town, Durban, and Bloemfontein. NGOs provided shelter, medical, and legal assistance for children in prostitution and a hotline for victims of child abuse.

International Child Abductions: The country is a party to the 1980 Hague Convention on Civil Aspects of International Child Abduction. For country-specific information, see the Department of State’s report at <http://travel.state.gov/content/childabduction/english/country/south-africa.html>.

Anti-Semitism

The South African Jewish Board of Deputies estimated the Jewish community at 75,000 to 80,000 persons. There were no reports of attacks on Jewish persons or property. There were, however, reports of verbal abuse, hate mail, and distribution of anti-Semitic literature in the country. Hate speech is illegal, and the government issued statements in support of the Jewish community during the year.

On July 10, ANC Deputy Secretary General Jessie Duarte indirectly compared Israel to Nazi Germany and Gaza to the Holocaust death camps in an ANC-issued statement. The South African Jewish Board of Deputies condemned the statement and demanded the ANC retract it. ANC spokesperson Zizi Kodwa refused to apologize or retract the statement, but in other statements President Zuma and ANC General Secretary Gwede Mantashe condemned anti-Semitic speech.

Trafficking in Persons

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

Persons with Disabilities

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

In 2012, the most recent year for which data was available, there were more than 111,000 students with disabilities in mainstream schools, and the country had 444 specialized schools for students with disabilities. NGOs reported, however, that children with disabilities between the ages of seven and 15 were 20 percent less likely to attend school than children without disabilities. The Department of Basic Education allocated part of its budget for assistive devices, material resources, and assistive technology, but it noted resources were inadequate, and teachers reported insufficient skills in special-needs education. For example, many blind and deaf children in mainstream schools received only basic care rather than education.

The law prohibits harassment of persons with disabilities and, in conjunction with the Employment Equity Act, provides guidelines on the recruitment and selection

of persons with disabilities, reasonable accommodation for persons with disabilities, and guidelines on proper handling of employees' medical information. Enforcement of this law was limited. The law also requires employers with more than 50 workers to create an affirmative action plan with provisions to achieve employment equity for persons with disabilities (see section 7.d.). Nevertheless, persons with disabilities constituted only an estimated 0.9 percent of the workforce. Efforts to link persons with disabilities to civil service positions were ineffective, and the government was far from meeting its goal of filling 2 percent of government positions with persons with disabilities by 2015.

Prosecutors dropped all charges against the six persons accused of filming themselves raping a 17-year-old girl with mental disabilities in 2012. Lacking evidence of rape, the defense attorney argued the girl solicited the boys, who did not know the girl had mental disabilities.

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

There were 15 persons with disabilities in the upper and lower houses of parliament and 218 elected officials with disabilities around the country at the provincial and municipal levels, according to the umbrella advocacy group Disabled People South Africa. The law does not allow persons identified by the courts as mentally disabled to vote.

The president disbanded the Ministry for Women, Children, and Persons with Disabilities during the year and shifted responsibility for disability policy to the Department of Social Development. All provincial and local governments also have offices charged with protecting the rights of persons with disabilities, and there are representatives advocating for persons with disabilities at the Commission for Gender Equality and the SAHRC. NGOs also advocated for the rights of persons with disabilities.

According to the South African Federation for Mental Health, of the 20 percent of citizens with mental disabilities, 75 percent did not receive needed care. There were 80 mental health treatment facilities in the country, and more than half were run by NGOs, well short of the facilities needed.

National/Racial/Ethnic Minorities

The law requires employers with 50 or more employees to ensure that previously disadvantaged groups, legally defined as “blacks” (including “Africans,” “Coloured,” and “Asians,” and collectively constituting more than 90 percent of the population) be represented adequately at all levels of the workforce. Nevertheless, blacks remained underrepresented, particularly at the professional and managerial levels, although the percentage of professional positions filled by blacks increased slightly compared with 2013 (see section 7.d.). According to the EER, blacks held 19.8 percent of top management positions (up from 18.5 percent in 2012-13), 23 percent of senior management positions (up from 12.5 percent in 2012-13), and approximately 38 percent of all professional positions (up from 36 percent in 2012-13). The report also indicated black representation in the skilled-labor sector had increased to 59 percent, up from 57 percent in 2012. Black women remained by far the most disadvantaged group in number and quality of management jobs.

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

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

Attacks on commercial farms and small agricultural holdings continued in rural areas. According to Afriforum, an NGO that tracks farm attacks, 89 attacks during the year resulted in 50 deaths. The deaths included both white farmers and black farm workers. Another NGO representing farmers, the Transvaal Agricultural Union of South Africa, criticized police for not maintaining their own statistics and cited 48 white farmers and black farm workers killed in 186 attacks during the year. The attacks, widely referred to as “farm killings,” targeted farm owners,

residents, and employees. There were reports that employers abused and killed farm laborers, as well as complaints that employers received preferential treatment from authorities.

In a widely reported case, Ekard Schutte, his wife Elizabeth, and son Lutz (all white) were killed on their farm in Richmond, KwaZulu-Natal, on March 1. The attackers killed Ekard in front of Elizabeth, doused his body in gasoline, and set him on fire. They then stabbed Elizabeth and her son to death. Zamokuhle Maduna, Siphesihle Ngubane, and a 17-year-old youth, whose identity was withheld as a minor, pled guilty to the killings and were sentenced to life in prison.

Indigenous People

The NGO Working Group of Indigenous Minorities in Southern Africa estimated there were approximately 7,500 indigenous San in the country, some of whom worked as farmers or farm laborers. By law the San have the same political and economic rights as other citizens, although the government did not always effectively protect those rights or deliver basic services to San communities. Their formal participation in government and the economy was limited due to fewer opportunities, lack of land or resources, minimal access to education, and relative isolation (see section 7.d.).

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

The post-apartheid constitution outlaws discrimination based on sexual orientation, but, according to a 2013 Pew Research Center study, 61 percent of respondents said society should not accept homosexuality. This prevailing cultural attitude influenced service delivery by individual government employees at the local level. NGOs reported the prevailing culture also negatively influenced hiring practices by local firms, particularly for transgender and intersex individuals.

There were reports of official mistreatment or discrimination based on sexual orientation or gender identity despite clear government policies prohibiting discrimination. A 2011 Human Rights Watch report highlighted violence and discrimination, particularly faced by lesbians and transgender persons. The report documented cases of “secondary victimization” of lesbians, including cases in which police harassed, ridiculed, and assaulted victims of sexual- and gender-based violence when they reported crimes. According to the Khayelitsha Commission of Inquiry Report released on August 25, LGBT individuals were

particularly vulnerable to violent crime due to anti-LGBT attitudes within the community and among police. Anti-LGBT attitudes among junior members of SAPS affected how SAPS handled complaints by LGBT individuals, and management did not always address the problem.

During the year the government launched a National Intervention Strategy to provide rapid-response teams from civil society and various government departments to ensure law enforcement officials dealt with crimes against the LGBT community promptly and professionally. At the launch of the strategy for the LGBT sector in April, then justice minister Jeff Radebe said more than 30 LGBT individuals were raped since 2012 and that many more cases had probably been classified incorrectly.

On March 22, in Ceres, Western Cape, a man raped openly gay David Olyn and allegedly invited a group of young men to watch as he beat him to death and burned the body. Police arrested the suspect and charged him with murder. The trial continued at year's end.

On August 15, Stoffel Pule Botlhokwe raped and killed open lesbian Disebo "Gift" Owen in Ventersdorp, Northwest Province. Police acted quickly to collect evidence in the high-profile case, arrested Botlhokwe, and charged him with murder. The trial continued at year's end.

The trial of Lekgoa Lesley Motleleng for the June 2013 killing of Duduzile Zozo, an open lesbian, ended with a conviction and a 30-year jail sentence. Motleleng sexually assaulted Zozo because of her sexual orientation; Zozo subsequently died from internal injuries. In his ruling the judge said he wanted to send a strong message that attacks motivated by bias against someone's sexual orientation would not be tolerated.

HIV and AIDS Social Stigma

The social stigma associated with HIV/AIDS remained a problem, especially in rural communities. Civil society organizations such as the Treatment Action Campaign and government campaigns continued to address the problem.

On September 26, the North Gauteng High Court ruled in favor of the plaintiffs and chastised the SANDF for failing to abide by previous court rulings and its own nondiscrimination policies for allegedly discriminating against HIV-positive military personnel. The three individuals filing the case alleged SANDF dismissed

them from the South African Navy solely because of their HIV status. The court ordered an immediate end to the policy, reinstatement of rank and back wages for the plaintiffs, and punitive fines against SANDF. While military policy allows SANDF to employ HIV-positive persons, SANDF lawyers in the case argued that SANDF should hire and retain the best (healthiest) candidates since recruits were oversubscribed.

In May the South African National Blood Service changed its policy to allow men who have sex with men to donate blood. Previously the National Blood Service considered this group more at risk of contracting sexually transmitted diseases and restricted their blood donations, despite research showing the majority of the HIV-positive population was heterosexual. The policy now prioritizes donors based on the number of partners they claim to have had over a six-month period, not sexual orientation. All blood samples taken were tested for HIV/AIDS and sexually transmitted diseases, and HIV-positive individuals were not permitted to donate blood.

The HIV/AIDS epidemic contributed to the number of households headed by children, according to the 2013 Child Gauge Report. In 2011 there were approximately 3.85 million orphans in the country.

HIV/AIDS remained one of the leading causes of death in the country. UNAIDS estimated that 200,000 individuals died of AIDS-related illnesses in 2013. During the year 81.6 percent of antenatal clients with HIV received ARV treatment. The government continued to improve care for HIV-positive mothers, and the mother-to-child transmission remained below 3 percent during the year.

Other Societal Violence or Discrimination

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

For example, on February 11, community members attacked Mamayila Nkuna, a pensioner in Limpopo Province, and burned her alive. They accused her of witchcraft after three boys who lived near her committed suicide. One family in particular believed she bewitched their son before he committed suicide. Police

arrested 15 community members, including a traditional healer, on charges ranging from public violence to murder. The case continued at year's end.

Incidents of vigilante violence and mob killings continued, particularly in Gauteng, Mpumalanga, Eastern Cape, and KwaZulu-Natal provinces.

For example, in June an onlooker captured a video of a mob beating Sibusiso Mtsweni to death after he allegedly stole a cell phone from a shop. Police were unable to make arrests in the case because they were unable to identify the suspects from the video, and community members refused to cooperate.

A judge found Angy Peter and three codefendants guilty of premeditated murder for the 2012 killing of Rowan Du Preez. The court found the defendants guilty of killing Du Preez for allegedly stealing their television. Police in Mfuleni, Cape Town, found the severely beaten body of Du Preez, who Peter and her codefendants burned to death in a practice called "necklacing." Commonly used by vigilantes, "necklacing" involves placing a rubber tire soaked in gasoline around a victim's neck and setting it on fire. The sentencing phase of the case continued at year's end.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law allows all workers, with the exception of members of the National Intelligence Agency and the Secret Service, to form and join unions of their choice without previous authorization or excessive requirements. Twenty-five percent of the workforce belonged to a union, according to the 2012 Statistics South Africa labor force survey (the most recent year for which data was available). The law allows unions to conduct their activities without interference and provides for the right to strike, but it prohibits workers in essential services from striking, and employers are prohibited from locking out essential service providers. The government characterizes essential services as: (a) a service, the interruption of which endangers the life, personal safety, or health of the whole or part of the population; (b) the parliamentary service; or (c) members of the SAPS. Government and labor unions have been unable to agree on a more detailed list of essential services. The law allows workers to strike over issues of mutual interest, such as wages, benefits, organizational rights disputes, socioeconomic interests of workers, and similar measures. Workers may not strike on issues where other legal

recourse exists, such as disputes over rights, which are resolved through arbitration. Labor rights NGOs operated freely.

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

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

The government respected freedom of association and the right to collective bargaining. Worker organizations were independent of the government and political parties, although the Congress of South African Trade Unions (COSATU) is a member of the ANC-led ruling alliance. There were no known cases of government interference in collective bargaining. The law gives the minister of labor the power to extend agreements concluded by majority employers and labor representatives in sector-specific bargaining councils to the entire sector, even if companies or employees in the sector were not represented at negotiations. Companies or employees who were not party to bargaining frequently disputed this provision in court, but typically lost as the law clearly gives the minister of labor the power to extend minimum wage and benefits agreements to the whole sector.

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

Trade unions generally followed the legal process of declaring a dispute (notifying employers) before initiating a strike. Sectors affected during the year were the platinum, steel, postal services, and engineering sectors.

During the year the Marikana Commission of Inquiry held hearings into the 2012 platinum-mining strikes and resulting violence and deaths. Key witnesses during

the year included Police Commissioner Phiyega, former minister of police Mthethwa, deputy president and former Lonmin board member and shareholder Cyril Ramaphosa, and “Mr. X,” a secret SAPS witness and a former striking miner who testified the miners were prepared to fight the police. The final evidence was presented on September 16, and the commission was due to present its report before the end of the year.

The government employed 1,324 labor inspectors for the entire country, which was insufficient to investigate reports of labor abuses, in a total workforce of 18.6 million. For example, 107 government labor inspectors in Western Cape Province had responsibility for more than 6,600 farms as well as other businesses and sectors.

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

Union rivalry and intolerance between unions were common. Five persons died during the five-month Association of Mine Workers and Construction Union (AMCU) strike, including senior AMCU official Bongani “Bhay” Mehlonkomo and four National Union of Mine Workers members.

Violence and intimidation during strikes also was common. For example, during a four-week strike of the National Union of Metalworkers South Africa, SAPS National Commissioner Phiyega reported police arrested 53 persons on charges of public violence during the strike, and employees and business owners reported thousands of cases of intimidation to police.

A few labor NGOs not designated as labor organizations were active and used the country as a base to work on labor issues in the region; they were able to conduct their work without restriction. Labor NGOs did not play a role in the country’s labor movement, due to the strength of traditional unions.

b. Prohibition of Forced or Compulsory Labor

Although the law prohibits all forms of forced or compulsory labor, the government did not consistently or effectively enforce the law. Forced labor occurred, including domestic servitude. There were reports of isolated cases of forced labor involving children and women, primarily in domestic and agricultural labor. Migrant women and girls were subjected to domestic servitude and forced labor in the services sector. Boys, particularly migrant boys, were forced to work

in street vending, food services, begging, criminal activities, and agriculture. Migrant workers endured forced labor in agriculture, especially in cattle herding, in textile production, and aboard fishing vessels.

The Basic Conditions of Employment Act of 1999 prohibits forced labor and provides for penalties ranging from fines to three years in prison for perpetrators of forced labor. The penalty was not sufficiently stringent to deter violations, particularly because the standard of evidence in criminal charges is high. Instead, inspectors typically levied fines and required the payment of back wages in lieu of criminal prosecution. The Prevention and Combatting of Trafficking in Persons Act of 2013, which was signed but has not yet been promulgated, increases the maximum fines to 100,000 rand (\$8,650) and the maximum criminal sentence to life in prison for forced labor.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

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

The law prohibits children from performing hazardous duties, including deep-sea fishing, commercial diving, manufacturing, rock and stone crushing, and work in casinos or other gambling establishments. Employers may not require a child to work in a confined space or to perform piecework (in which remuneration is based on the quantity of work done) and task work (in which remuneration is based mainly on the completion of set tasks). The law allows children under age 15 to work in the performing arts if their employers receive permission from the DOL and agree to follow specific guidelines. Violation of child labor law is punishable by a maximum prison sentence of six years and/or a fine of 15,000 rand (\$1,300).

The government enforced child labor laws in the formal sector of the economy, which strong and well-organized unions monitored. Nevertheless, enforcement of

child labor law in the informal and agricultural sectors was inconsistent. The DOL deployed specialized child labor experts in integrated teams of Child Labor Inter-Sectoral Support Groups to each province and labor center around the country, but the practice continued.

The DOL reportedly conducted 129,259 labor inspections in 2013-14, resulting in findings of noncompliance in 37,733 cases. The number of inspections conducted exceeded the department's target of 90,000. Sixty-six percent of inspections were resolved within 14 days, falling short of the department's target of 75 percent.

The government continued to improve enforcement of laws combating child labor.

Cases of the worst forms of child labor were rare and difficult to detect, and neither the DOL nor NGOs confirmed any cases during the year. The DOL investigated a number of complaints, but was unable to develop enough evidence to bring charges.

An important factor in reducing child labor was the government's Child Support Grant, a direct cash transfer between 310 rand (\$27) and 320 rand (\$28) per month. The government pays the grant to primary caregivers of vulnerable children age 18 and under. To be eligible for the grant, a single caregiver must earn less than 34,800 rand (\$3,010) per year, and the combined income for married caregivers cannot exceed 69,600 rand (\$6,020) per year. A foster-child grant of 830 rand (\$72) per month was also available to a primary caregiver of a foster child whom a court order has placed in their custody. There were no other government efforts to reduce child labor, and penalties were not adequate to deter child labor.

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

See also the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment or Occupation

The Employment Equity Act protects all workers against unfair discrimination on the grounds of race, age, gender, religion, marital status, pregnancy, family responsibility, ethnic or social origin, color, sexual orientation, disability, conscience, belief, political, opinion, culture, language, HIV status, birth, or any

other arbitrary ground. An amendment to the act signed in 2014 protects employees based on employment status: after three months, even as a contractor or part-time employee, the individual must be treated as a full-time employee unless he/she meets a defined list of exceptions. The legal standard used to judge discrimination in all cases is whether the terms and conditions of employment between employees of the same employer performing the same or substantially similar work, or work of equal value, differs directly or indirectly based on any of the grounds listed above. The amendment also increased fines incrementally for noncompliance to 2 percent of company revenue, or 1.5 million rand (\$130,000), for a first offense up to 10 percent of company revenue, or 2.7 million rand (\$233,000), for a fourth offense on the same provision within three years. The government has a regulated code of conduct to assist employers, workers, and unions to develop and implement comprehensive, gender-sensitive, and HIV/AIDS-compliant workplace policies and programs.

Discrimination in employment and occupation was documented with respect to race, gender, disability, sexual orientation, HIV status, and country of origin (see section 6).

Discrimination cases were common and frequently taken to court. Some estimates indicated nearly 50 percent of the SAHRC's cases were labor equity disputes. In a September 2 decision, the Constitutional Court ruled against the Solidarity Union representing Police Lieutenant Colonel Renate Barnard. Barnard sued SAPS for failing to promote her because of her race. Barnard twice applied unsuccessfully for promotion to superintendent, but the national police commissioner did not appoint her to the position despite recommendations by an interview panel and her divisional commissioner, saying it would negatively affect racial representation at the level of superintendent.

The SAHRC and Commission for Employment Equity Discrimination found discrimination by ethnicity, gender, age, country of origin or disability in all sectors of the economy. One academic study found discrimination against women in the mining sector, but other sectors faced similar challenges. Watchdog organizations claimed discrimination was more frequent in the private sector, which was still organized along traditional ethnic and gender lines. The public sector reflected better the country's ethnic and gender demographics. Traditional gender stereotypes, such as "mining is a man's job" and "women should be nurses," persisted. Bias against foreigners was common in society and the workplace, but workers generally treated internal migrants well. During the year DOL officials reviewed 435 companies for compliance with the employment

equity law. The DOL reviewed 158 public institutions and 277 private institutions against the department's target of 340.

e. Acceptable Conditions of Work

There is no legally mandated national minimum wage, although the law gives the DOL authority to set wages by sector. The DOL increased the minimum wage for farm workers to 12.41 rand (\$1.07) per hour. The minimum hourly wage for domestic workers employed more than 27 hours per week was raised from 10.48 to 11.27 rand (\$0.90 to \$0.97) per hour for employers in the urban areas and from 9.03 to 9.80 rand (\$0.78 to 0.84) for employers in semi-urban and rural areas. The law protects migrant workers, and they are entitled to all benefits and equal pay.

Labor and business signed a new agreement in the apparel sector valid from 2013 until 2015. The minister of labor extended the agreement to the entire sector, and companies accepted the extension. Noncompliance with the agreement was a problem, and unions called on the bargaining council for the sector (operated by the DOL) to monitor compliance actively.

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

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

There are harsh penalties for violations of occupational health in the mining sector, which had separate legislation with strict deterrents to protect mineworkers. Employers are subject to heavy fines or imprisonment for serious injury, illness, or the death of employees due to unsafe mine conditions. The law allows mine inspectors to enter any mine at any time to interview employees and audit records.

Outside the mining industry, no laws or regulations permit workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment, although the law provides that employers may not retaliate against employees who disclose dangerous workplace conditions. Employees were also able to report unsafe conditions to the DOL, which used employee complaints as a basis for prioritizing labor inspections.

The DOL is responsible for enforcing wage standards outside the mining sector, and a tripartite Mine Health and Safety Council and an Inspectorate of Mine Health and Safety enforced such standards in the mining sector. Penalties for violations of wages and work-hour standards outside the mining sector were not sufficient to deter violations.

Labor inspectors conducted routine and unplanned inspections at various workplaces that employed vulnerable workers. The government provided free housing for some employees earning less than 3,500 rand (\$303) per month, free health care, and, in some areas, no-fee schooling to assist the children of low-income earners.

While labor conditions improved on large commercial farms, COSATU and leading agricultural NGOs complained that labor conditions on small farms remained harsh. Underpayment of wages and poor living conditions for workers, most of whom were black, were common. Many owners of small farms did not measure working hours accurately, 12-hour days were common during harvest time, and few farmers provided overtime benefits. Amendments to the Basic Conditions of Employment Act passed in December 2013, and activated in September, attempted to address some labor abuses at farms. For example, changes prohibited farms from selling farm employees goods from farm-operated stores on credit at inflated prices.

Mining accidents were common. In February, nine miners died in a fire and subsequent rock fall at Harmony Gold's Doornkop mine. In September, Impala Platinum Mines (Implats) closed their operations in Rustenburg for two days after four underground employees died in four separate incidents.

Industrial accidents were also common. On August 18, seven persons died when a house under construction collapsed. DOL inspectors were still investigating the cause of the accident.

During the year officials audited 35,174 workplaces to determine their compliance with occupational and safety laws; 8,993 were not in compliance.