

# **SOUTH AFRICA 2019 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

South Africa is a multiparty parliamentary democracy in which constitutional power is shared among the executive, judiciary, and parliament branches. In May the country held a largely credible national election in which the ruling African National Congress (ANC) won 58 percent of the vote and 230 of 400 seats in the National Assembly. On May 25, ANC president Cyril Ramaphosa was sworn in for his first full term as president of the republic.

The South African Police Service (SAPS) has primary responsibility for internal security. The police commissioner has operational authority over 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. Civilian authorities maintained effective control over the security forces.

Significant human rights issues included: arbitrary detention by the government, widespread official corruption, trafficking in persons, crimes involving violence targeting foreign nationals, crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, and the worst forms of child labor.

Although the government investigated and prosecuted officials who committed abuses, there were numerous reports of impunity.

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

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were several 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 nongovernmental organizations (NGOs).

Watchdog groups noted deaths in custody often resulted from physical abuse combined with a lack of subsequent medical treatment or neglect (see section 1.c.).

Officials at the highest levels of government recognized the prevalence of political killings, especially in KwaZulu-Natal Province, needed to be addressed. Courts convicted few perpetrators of political violence. Although interparty killings took place, media and NGOs claimed the vast majority of killings resulted from intra-ANC disputes at the local level. Killings often occurred in the context of a competition for resources or positions or of whistleblowers targeted for uncovering corruption.

In 2018 the Moerane Commission, which KwaZulu-Natal Province premier Willies Mchunu established to investigate political killings, published a report that identified ANC infighting, readily available hitmen, weak leadership, and ineffective and complicit law enforcement agencies as key contributing factors to the high rate of killings.

There were numerous reported killings similar to the following example. In May a KwaZulu-Natal ANC member believed to be a witness in the murder trial of the party's former Newcastle mayor was shot and killed.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

Although the constitution and law prohibit such practices, there were reports police torture and physical abuse occurred during house searches, arrests, interrogations, and detentions and sometimes resulted in death. The NGO Sonke Gender Justice reported that almost one-third of sex workers interviewed responded they had been raped or sexually assaulted by police.

Since 2015 the United Nations has counted 33 allegations of sexual exploitation and abuse against peacekeepers from South African units deployed in the UN Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). As of October 24, the United Nations reported five allegations against South African peacekeepers during the year, a reduction from 10 in 2018. All allegations involved peacekeepers deployed in MONUSCO. Most cases alleged sexual

exploitation (e.g., exploitative relationships, involving one peacekeeper and one victim and transactional sex, involving three peacekeepers and three victims). One case alleged rape of a minor. All UN investigations into these allegations were pending at year's end. Two allegations were substantiated against a peacekeeper who was repatriated by the United Nations. Interim action was taken in two other cases. Investigations by South Africa authorities were pending at year's end. In December, Minister of Defense and Military Veterans Nosiviwe Mapisa-Nqakula stated publicly the government's priority to completely eliminate the incidence of abuses by South African peacekeepers. The minister stated offenders faced stiffer penalties, including loss of employment, benefits, and jail time. In August 2018 the cabinet approved the Military Discipline Bill that aligns the SANDF peacekeeper disciplinary procedures with those of the United Nations. The bill requires National Assembly and National Council of Provinces approval before enactment. It was under National Assembly consideration at year's end.

### **Prison and Detention Center Conditions**

Prison conditions were harsh due to overcrowding, poor sanitation, inadequate medical care, disease (particularly tuberculosis), inmate-on-inmate rape, and physical abuse, including torture.

Physical Conditions: According to civil society groups, gross overcrowding of prisons was a problem. In September the Department of Correction Services (DCS) deputy commissioner told a parliamentary committee the country had approximately 43,000 more inmates than beds in correctional facilities. According to DCS staff, 77 of the country's 243 facilities exceeded capacity by more than 150 percent. The *Department of Correctional Services Annual Report 2017/18* noted many prisoners had less than 13 square feet each in which to eat, sleep, and spend 23 hours a day. The report noted prisons held 121 individuals younger than 18.

Prisons generally held pretrial detainees with convicted prisoners, although in some large urban areas dedicated pretrial facilities were available.

From April 1, 2017, through March 31, 2018, the Judicial Inspectorate of Correctional Services (JICS) received 231 complaints of assaults on prisoners by correctional officers. Media and NGOs continued to report instances in which prisoners were seriously abused.

There were reports of shortages of prison doctors, inadequate investigation and documentation of prisoner deaths, inadequate monitoring of the prison population,

and high suicide rates among prisoners. The DCS required doctors to complete and sign reports of inmate deaths to lessen the likelihood a death caused by neglect would be reported as a result of natural causes. Nevertheless, the DCS failed to investigate many deaths due to an insufficient number of doctors.

According to JICS, there were 569 prison deaths from April 1, 2017, through March 31, 2018, a 55 percent decrease from the prior 12 months. Natural causes accounted for 487 deaths, a 5 percent decline from the prior 12 months. The JICS report drew a correlation between overcrowding and deaths, noting less crowded conditions would likely result in a decrease of deaths from natural causes. Inmate violence sometimes resulted in deaths.

In February JICS launched an investigation into a violent incident at St. Albans Prison Correctional Center (Eastern Cape) that left an inmate dead and a prison guard injured. The investigation continued at year's end.

General health care in prisons was inadequate. In 2018 a total of 7,574 inmates filed health-care complaints. Prisons provided inmates with potable water, but supplies and food were occasionally inadequate, and sanitation was poor, according to JICS. Prisons provided 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.

NGOs reported some mentally ill inmates who had committed no crime or other infraction were incarcerated instead of being put in a mental health facility. They also were often denied medical services. According to the Commission for Gender Equality, some mentally ill female prisoners were straitjacketed and kept in solitary confinement.

In 2017 Lawyers for Human Rights and Doctors without Borders filed a complaint with the health ombudsman regarding conditions at the Lindela Repatriation Center, the country's largest immigrant detention facility. The complaint stated detainees were subject to 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, and lack of procedural safeguards such as legal guidelines governing long-term detention. The health ombudsman had not responded to the complaint by year's end.

Administration: Authorities did not always conduct proper investigations of credible allegations of mistreatment. In 2018 JICS recommended the DCS establish an ombudsman to address juvenile confinement and improve procedures to make confinement unnecessary, but the DCS had not implemented the change by year's end.

Independent Monitoring: The government usually permitted independent monitoring of prison conditions, including visits by the International Committee of the Red Cross.

Improvements: According to the Department of Justice, the government reduced overcrowding during the year by converting prison sentences to community correctional supervision, paroling prisoners, and distributing inmates among correctional centers.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of arrest or detention in court. The government generally observed these requirements.

#### **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); and permit them to communicate with relatives, medical practitioners, and religious counselors. The government often did not respect these rights. 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.

Arbitrary Arrest: During the year there were numerous cases of arbitrary arrest, particularly of foreign workers, asylum seekers, and refugees. Human rights activists condemned the arrests and complained some of the individuals were undocumented because the Department of Home Affairs (DHA) failed to reopen a refugee center in Cape Town, despite a court order. On October 8, hundreds of refugees and asylum seekers encamped outside the Office of the UN High

Commissioner for Refugees (UNHCR) in Cape Town bearing signs reading, “We are not safe in South Africa” and “Refugees need a safe place to go outside South Africa.” Media reported that on October 30, police fired rubber bullets and used water cannons to remove the encamped protesters and arrested more than 100 of them.

Legal aid organizations reported police frequently arrested persons for minor crimes for which the law stipulates the use of a legal summons. 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 alongside hardened criminals, which created opportunities for physical abuse.

NGOs and media outlets reported security forces arbitrarily arrested migrants and asylum seekers--including 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 obtain quick adjudication of their cases. The law prohibits the detention of unaccompanied migrant children for immigration law violations, but NGOs reported the DHA and SAPS nevertheless detained them.

Pretrial Detention: Lengthy pretrial detention was common. According to the *Department of Correctional Services Annual Report 2017-18*, there were 46,168 pretrial detainees in the prison system, a number equal to 29 percent of the inmate population. According to the DCS, detainees waited an average of 176 days before trial. Observers attributed the high rate of pretrial detention to arrests based on insufficient evidence, overburdened courts, poor case preparation, irregular access to public defenders, and prohibitive bail amounts. Police often held detainees while prosecutors developed cases and waited for court dates. Legal scholars estimated less than 60 percent of those arrested were convicted. The law requires a review of pretrial detention of more than two years.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality. There were numerous reports legal documents used in trials were “lost,” particularly when the accused was a government official. NGOs stated judicial corruption was a problem.

Government agencies sometimes ignored orders from provincial high courts and the Constitutional Court.

### **Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. Criminal defendants enjoy the right to a presumption of innocence; to be informed promptly of the charges; to a fair, timely, and public trial; to be present at their trial; to communicate with an attorney of their choice or have one provided at public expense if unable to pay; to have adequate time and facilities to prepare a defense; to free assistance of an interpreter; to confront prosecution or plaintiff witnesses and present their own witnesses and evidence; and not to be compelled to testify or confess guilt. Police did not always inform detainees promptly and in detail of the charges against them, nor did they always accurately complete corresponding paperwork. Provision of free assistance of an interpreter depended on the availability and cost of interpreters. Limited access to qualified interpreters sometimes delayed trials. According to civil society groups, interpretation standards were low and sometimes compromised the veracity of exchange between the defendant and the court. Judges sometimes transferred cases from rural to urban areas to access interpreters more easily.

Although detainees and defendants have the right to legal counsel provided and funded by the state when “substantial injustice would otherwise result,” this right was limited due to a general lack of information regarding rights to legal representation and inadequate government funding of such legal services. There is no automatic right to appeal unless a convicted individual is younger than 16, but courts may give defendants permission to do so. Additionally, the law provides for the High Court to review magistrate court sentences exceeding six months.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals and organizations may seek civil remedies for human rights violations through domestic courts, including equality courts designated to hear matters relating to unfair discrimination, hate speech and harassment, and the South African Human Rights Commission, but the government did not always comply

with court decisions. Individuals and organizations may not appeal domestic court decisions to the African Court on Human and Peoples' Rights, because the government does not recognize the competence of the court.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions. Unlike in prior years, there were no reports the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution and law provide for freedom of expression, including for members of the press, and the government generally respected this right. An independent press, a generally effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press. Nevertheless, several apartheid-era laws and the Law on Antiterrorism permit authorities to restrict reporting on security forces, prisons, and mental institutions.

In August the Equality Court ruled that the gratuitous display of the apartheid-era national flag constituted hate speech. The Nelson Mandela Foundation argued the flag was a symbol of white supremacy. The Afrikaner-rights organization AfriForum argued that the use of the flag should not be considered hate speech, because "a flag is not a word," but even if it were considered speech, it should be protected under the constitution's freedom of speech provisions.

Violence and Harassment: Unlike in previous years, there were no reports journalists were subjected to violence, harassment, or intimidation due to their reporting.

Censorship or Content Restrictions: Government and political officials often criticized 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 increased media self-censorship.

### **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 email, for national security reasons. The law requires all service providers to register on secure databases the identities, physical addresses, and telephone numbers of customers.

### **Academic Freedom and Cultural Events**

There were no reports of government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provide for freedom of assembly and association, and the government generally respected these rights. Nevertheless, NGOs reported many municipalities continued to require protest organizers to provide advance written notice before staging gatherings or demonstrations.

### **Freedom of Peaceful Assembly**

In prior years protest organizers could be legally required to notify local authorities before staging gatherings or demonstrations. In November 2018 the Constitutional Court ruled unanimously against this requirement. Legal experts welcomed the decision as an advance for civil liberties; however, they noted the ruling did not address the question of assuring security by local authorities during protests.

Despite the court ruling, NGOs reported many municipalities continued to require protest organizers to provide advance written notice, especially in small rural communities where organizers were often unaware of their rights. The NGO Right2Protest reported the city of Johannesburg classified protests as “special events” like marathons, and thus charged protest organizers fees to cover police security expenses. The NGO contended this practice violated the law on public gatherings. On February 20, videos posted to Twitter showed police firing on peaceful protesters in Cosmo City (Johannesburg). According to media, police used tear gas, stun grenades, and rubber bullets against a peaceful march demanding a local councilor step down.

### **c. Freedom of Religion**

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

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

### **e. Internally Displaced Persons**

Not applicable.

### **f. Protection of Refugees**

Abuse of Migrants, Refugees, and Stateless Persons: Refugee advocacy organizations stated police and immigration officials physically abused refugees and asylum seekers. Xenophobic violence was a continuing problem across the country, especially in Gauteng Province. In August and September, a spate of looting and violence in Johannesburg and Pretoria targeted foreign nationals, principally Nigerians and refugees from Somalia, Ethiopia, and the Democratic Republic of the Congo. Those targeted often owned or managed small, informal grocery stores in economically marginalized areas that lacked government services. Police stated four individuals died and at least 27 suspects were arrested and charged with offenses ranging from disorderly conduct to illegal possession of firearms and homicide. By year's end no trial dates had been set.

On social media immigrants were often blamed for increased crime and the loss of jobs and housing. The NGO Xenowatch reported 569 incidents of xenophobic violence occurred from January to August. According to researchers from the African Center for Migration and Society, perpetrators of crimes against foreign nationals were rarely prosecuted.

The government cooperated with 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, limited locations at which to request status, and corruption and abuse. Despite

DHA anticorruption programs that punished officials found to be accepting bribes, NGOs and asylum applicants reported immigration officials sought bribes from refugees seeking permits to remain in the country.

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. According to local migrants' rights organizations, the DHA rejected most refugee applications. According to civil society groups, the system lacked procedural safeguards for seeking protection and review for unaccompanied minors, trafficked victims, and victims of domestic violence. Government services strained to keep up with the caseload, and NGOs criticized the government's implementation of the system as inadequate.

The DHA operated only four processing centers for asylum applications but refused to transfer cases among facilities. The DHA thus required asylum seekers to return to the office at which they were originally registered to renew asylum documents, which NGOs argued posed an undue hardship on those seeking asylum. NGOs reported asylum seekers sometimes waited in line for days to access the reception centers.

Employment: According to NGOs, refugees and asylum seekers were regularly denied employment due to their immigration status.

Access to Basic Services: Although the law provides for asylum seekers, migrants, and refugees to have access to basic services, including educational, police, and judicial services, NGOs stated health-care facilities and law enforcement personnel discriminated against them. Some refugees reported they could not access schooling for their children. They reported schools often refused to accept asylum documents as proof of residency. NGOs reported banks regularly denied services to refugees and asylum seekers because they lacked government-issued identification documents.

Durable Solutions: The government accepted some refugees for resettlement and, in collaboration with the International Organization for Migration, assisted some individuals in returning voluntarily to their countries of origin. In late 2018 the Supreme Court of Appeal extended citizenship to children born to foreign national parents who arrived in South Africa on or after January 1, 1995.

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

who applied for asylum to stay in the country while their claims were adjudicated and if denied, to appeal.

### **g. Stateless Persons**

Not applicable.

## **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

Recent Elections: In May the country held National Assembly, National Council of Provinces, and provincial legislature elections. The ANC won 58 percent of the vote, the leading opposition Democratic Alliance (DA) Party 21 percent, and the Economic Freedom Fighters (EFF) Party 11 percent. According to the Electoral Institute for Sustainable Democracy in Africa, voter turnout was 66 percent, the lowest turnout for national elections since the end of apartheid. The institute stated the elections were transparent, fair, credible, and in line with the constitutional and legal framework for elections.

The ruling ANC won 230 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 elections as largely credible. The government, however, restricted diplomatic missions from assigning more than two election observers each, effectively excluding diplomatic missions from broad observation of the elections. The DA won 84 parliamentary seats, the EFF won 44 seats, the Inkatha Freedom Party (IFP) won 14 seats, and the Freedom Front Plus (FF+) won 10 seats. The remaining 27 seats were allocated to nine other political parties based on a proportional vote-count formula. In the National Council of Provinces, the upper house of parliament, the ANC won 29 seats, the DA 13 seats, the EFF nine seats, the FF+ two seats, and the IFP one seat. On May 25, ANC leader Cyril Ramaphosa was sworn in for his first full term as president of the republic.

The ANC won control of eight of the nine provincial legislatures.

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

Opposition parties claimed the ANC used state resources for political purposes in the provinces under its control. Prior to the elections, the DA accused ANC Secretary General Ace Magashule of vote buying. ANC membership conferred advantages. Through a cadre deployment system, the ruling party controls and appoints party members to thousands of civil service positions in government ministries and in provincial and municipal governments.

There were reports government officials publicly threatened to boycott private businesses that criticized government policy.

Participation of Women and Minorities: No laws limit the participation of women or members of minorities in the political process, and they did participate. Cultural factors, however, limited women's political participation.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides for criminal penalties for conviction of official corruption, and the government continued efforts to curb corruption, but officials sometimes engaged in corrupt practices with impunity.

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. 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.

According to the *National Prosecuting Authority (NPA) 2018-2019 Annual Report*, from April 2018 through March, the NPA recovered 172,000 rand (\$11,900) against a target of 2.5 million rand (\$173,000) from government officials involved in corruption, a 92 percent decrease from the prior 12 months. Courts convicted 210 government officials of corruption during the period.

Corruption: Official corruption remained a problem in prisons. After substantive and widespread bribery allegations surfaced against the firm African Global Operations (formerly the Bosasa group), the Department of Corrective Services canceled multiple contracts it had with it, including a prison catering contract worth more than 200 million rand (\$13.9 million). The DHA also canceled its contract with Bosasa to manage its migrant repatriation center.

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 and regulations, but some failed to comply, and departments filed the majority of their reports late. The declaration regime clearly identifies the assets, liabilities, and interests that public officials must declare. Government officials are required to declare publicly their financial 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. Public-service regulations prohibit employees of departments from doing business with the state, a prohibition not always respected. Annual disclosure of financial interests may be submitted electronically through the eDisclosure system to simplify the process of disclosure of financial interests.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

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

Government Human Rights Bodies: Although created by the government, the South African Human Rights Commission operated independently and was responsible for promoting the observance of fundamental human rights at all levels of government and throughout the general population. The commission has the authority to conduct investigations, issue subpoenas, and take sworn testimony. Civil society groups considered the commission only moderately effective due to a large backlog of cases and the failure of government agencies to adhere to its recommendations.

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

### Women

Rape and Domestic Violence: The law criminalizes domestic violence and rape of men or women, including spousal rape, but the government did not effectively enforce the law. The minimum sentence for conviction of rape is 10 years' imprisonment. Under certain circumstances, such as second or third offenses, multiple rapes, gang rapes, or the rape of a minor or a person with disabilities, conviction requires a minimum sentence of life imprisonment, 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.

In most cases of rape and domestic violence, attackers were acquaintances or family members of the victim that, together with societal attitudes, contributed to a reluctance to press charges. There were numerous reported abuses similar to the following example. In August a postal worker attacked, raped, and killed a 19-year-old woman in a post office after it was closed. The postal worker had previously been convicted of armed robbery and had been accused of raping another woman. He was convicted of rape and murder and sentenced to three consecutive terms of life in prison.

From April 1, 2018, through March 31, 2019, 42,091 cases of rape were reported. According to the *National Prosecuting Authority 2018-2019 Annual Report*, the conviction rate for sexual offense crimes was 74.4 percent based on a sample of 4,716 cases that were "finalized" or investigated first as rape cases before being passed to the NPA and tried. A 2017 Medical Research Council study on the investigation, prosecution, and adjudication of reported rape cases concluded that only 18.5 percent of cases reported went to trial and only 8.6 percent of cases resulted in a verdict of guilty. Prosecutors chose not to prosecute many cases due to insufficient evidence. Inadequate police training, insufficient forensic lab capacity, a shortage of rape kits, and overburdened courts contributed to low prosecution and conviction rates.

The Department of Justice operated 74 dedicated sexual offenses courts throughout the country. 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.

The NPA operated 55 rape management centers, or Thuthuzela Care Centers (TCCs). All TCCs were located at hospitals. Reports of sexual offenses received by TCCs increased 1.7 percent to 34,558 (64 percent of which were rape cases). The TCCs reported a conviction rate of 73.5 percent of rape cases tried.

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 requires police to protect victims from domestic violence, but police commanders did not always hold officers accountable. Conviction of violating a protection order is punishable by a prison sentence of up to five years, and up to 20 years' imprisonment if additional criminal charges apply. Penalties for conviction of domestic violence include fines and sentences of between two and five-years' imprisonment.

The government financed shelters for abused women, but NGOs reported a shortage of such facilities, particularly in rural areas, and that women were sometimes turned away from shelters. On March 28, then president Ramaphosa signed a declaration against gender-based violence against women (GBVAW) and femicide (the killing of a girl or woman, in particular by a man and on account of her gender) that provided for the establishment of the GBVAW Council and *National Strategic Plan for Gender-Based Violence and Femicide*. In April the Department of Higher Education published its GBVAW Policy Framework. In September President Ramaphosa addressed the GBVAW crisis at an emergency joint session of parliament to address xenophobic and gender-based violence, at which he pledged one billion rand (\$693 million) to combat GBVAW.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C of girls and women, but girls in isolated zones in ethnic Venda communities in Limpopo Province were subjected to the practice. The government continued initiatives to eradicate the practice, including national research and sensitization workshops in areas where FGM/C was prevalent. For additional information, see Appendix C.

Sexual Harassment: Although prohibited by law, sexual harassment remained a widespread problem. Sexual harassment is a criminal offense for which conviction includes fines and sentences of up to five years' imprisonment.

Enforcement against workplace harassment is initially left to employers to address as part of internal disciplinary procedures. The Department of Labor issued guidelines to employers on how to handle workplace complaints that allow for remuneration of a victim's lost compensation plus interest, additional damages, legal fees, and dismissal of the perpetrator in some circumstances.

NGOs reported widespread sexual harassment of women in the major political parties. There were numerous reported abuses similar to the following example. Based upon allegations of sexual harassment and rape, in February the ANC suspended the party's official spokesperson, Pule Mabe, and one of its acting spokespersons (and head of the presidency within the party) Zizi Kodwa. Only two of the seven major parties have policies against sexual harassment.

Coercion in Population Control: There were no reports of forced abortion or involuntary sterilization. For additional information, see Appendix C.

Discrimination: Discrimination against women remained a serious problem despite legal equality in family, labor, property, inheritance, nationality, divorce, and child custody matters. Women experienced economic discrimination in wages, 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. Women could challenge traditional land tenure decisions in courts, but access to legal counsel was costly.

According to the Employment Equity Amendment Act, any difference in the terms or conditions of employment among employees of the same employer performing the same, substantially similar, or equal value work constitutes discrimination. The act expressly prohibits unequal pay for work of equal value and discriminatory practices, including separate pension funds for different groups in a company.

## **Children**

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

access to financial grants for their children. For additional information, see Appendix C.

Education: Public education is compulsory and universal until age 15 or grade nine. Public education is fee based and not fully subsidized by the government. Nevertheless, the law provides that schools may not refuse admission to children due to a lack of funds; therefore, disadvantaged children, who were mainly black, were eligible for financial assistance. Even when children qualified for fee exemptions, low-income parents had difficulty paying for uniforms and supplies. In violation of law, noncitizen children were sometimes denied access to education based on their inability to produce identification documents, such as birth certificates and immunization documents.

Child Abuse: The law criminalizes child abuse. The penalties for conviction of child abuse include fines and up to 20 years' imprisonment. Violence against children, including domestic violence and sexual abuse, remained widespread.

There were numerous abuses similar to the following example. In September the Gauteng High Court convicted a man of raping a seven-year-old girl in a restaurant bathroom. He was convicted on two counts of rape and sentenced to life imprisonment.

There were reports of abuse of students by teachers and other school staff, including reports of assault and rape. The law requires schools to disclose sexual abuse to authorities, but administrators sometimes concealed sexual violence or delayed taking disciplinary action.

Early and Forced Marriage: By law parental or judicial consent to marry is required for individuals younger than 18. Nevertheless, *ukuthwala*, the practice of abducting girls as young as 14 and forcing them into marriage, occurred in remote villages in Western Cape, Eastern Cape, and KwaZulu-Natal Provinces. The law prohibits nonconsensual *ukuthwala* and classifies it as a trafficking offense. For additional information, see Appendix C.

Sexual Exploitation of Children: The law prohibits commercial sexual exploitation, sale, and offering or procurement of children for prostitution and child pornography. Conviction includes fines and 10 years' imprisonment. The Film and Publications Board maintained a website and a toll-free hotline for the public to report incidents of child pornography. On October 31, Johannes Oelofse

of Alberton in Gauteng Province was sentenced to life imprisonment for conviction of repeatedly raping his mentally disabled daughter over the course of eight years.

International Child Abductions: The country is a party to the 1980 Hague Convention on Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The South African Jewish Board of Deputies (SAJBD) estimated the Jewish community at 60,000 persons. The SAJBD recorded 62 anti-Semitic incidents in 2018, compared with 44 in 2017. There were reports of verbal abuse, hate speech, harassment, and attacks on Jewish persons or property.

Twin brothers Brandon Lee Thulsie and Tony Lee Thulsie, arrested in 2016 for allegedly planning to set off explosives at Jewish establishments, continued to await trial at year's end. They were charged with contravening the Protection of Constitutional Democracy against Terror and Related Activities law and with having ties to a foreign terrorist organization.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The law prohibits discrimination based on physical, sensory, intellectual, and mental disability in employment or access to health care, the judicial system, and education. The law, however, prohibits persons identified by the courts as having a mental disability from voting. Department of Transportation policies on providing services to persons with disabilities were consistent with the constitution's prohibition on discrimination. The Department of Labor ran vocational centers at which persons with disabilities learned income-generating skills. Nevertheless, government and private-sector employment 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.

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 *2017-2018 Annual Report of the Department of Basic Education* stated there were numerous barriers to education for students with disabilities, primarily a policy of channeling students into specialized schools at the expense of inclusive education. Separate schools frequently charged additional fees (making them financially inaccessible), were located long distances from students' homes, and lacked the capacity to accommodate demand. Human Rights Watch reported that children with disabilities were often denied tuition waivers or tuition reductions provided to other children. Children often were housed in dormitories with few adults, many of whom had little or no training in caring for children with disabilities. When parents attempted to force mainstream schools to accept their children with disabilities--an option provided for by law--schools sometimes rejected the students outright because of their disabilities or claimed there was no room for them. Many blind and deaf children in mainstream schools received only basic care rather than education.

Persons with disabilities were sometimes subject to abuse and attacks, and prisoners with mental disabilities often received no psychiatric care. According to the *2016 Optimus Study*, children with disabilities were 78 percent more likely than children without disabilities to have experienced sexual abuse in the home.

### **National/Racial/Ethnic Minorities**

Incidents of racism continued. There were numerous reports of racially motivated abuses similar to the following examples. In June the Council on Medical Schemes launched an investigation into alleged discrimination against black and Indian medical professionals in the private health-care sector who stated that medical insurance companies denied payment of their medical-services claims on racial grounds. During the year the SABC revealed allegations that the FNB bank charged black homebuyers up to 40 percent more for mortgages than they charged whites.

Some advocacy groups asserted white farmers were racially targeted for burglaries, home invasions, and killings, while many observers attributed the incidents to the

country's high and growing crime rate. According to the Institute for Security Studies, "farm attacks and farm murders have increased in recent years in line with the general upward trend in South Africa's serious and violent crimes." According to SAPS *National Crime Statistics 2018/2019*, farm killings represented only 0.2 percent of all killings in the country (47 of 21,022).

Local community or political leaders who sought to gain notoriety in their communities allegedly instigated some attacks on African migrants and ethnic minorities (see section 2.d., Abuse of Migrants, Refugees, and Stateless Persons). The government sometimes responded quickly and decisively to xenophobic incidents, sending police and soldiers into affected communities to quell violence and restore order, but responses were sporadic and often slow and inadequate. Civil society organizations criticized the government for failing to address the causes of violence, for not facilitating opportunities for conflict resolution in affected communities, for failing to protect the property or livelihoods of foreign nationals, and for failing to deter such attacks by vigorous investigation and prosecution of perpetrators.

### **Indigenous People**

The NGO Working Group of Indigenous Minorities in Southern Africa estimated there were 7,500 indigenous San and Khoi in the country, some of whom worked as farmers or farm laborers. By law the San and Khoi 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 indigenous communities. Indigenous groups complained of exclusion from land restitution, housing, and affirmative action programs. They also demanded formal recognition as "first peoples" in the constitution. Their lack of recognition as first peoples excluded them from inclusion in government-recognized structures for traditional leaders. Their participation in government and the economy was limited due to fewer opportunities, lack of land and other resources, minimal access to education, and relative isolation.

In August the president signed into law the Protection, Promotion, Development and Management of Indigenous Knowledge Bill that established the National Indigenous Knowledge Systems Office, which is responsible for managing indigenous communities' rights.

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

The constitution prohibits discrimination based on sexual orientation. The law prohibits discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons in housing, employment, nationality laws, and access to government services such as health care. In March the High Court of Gauteng ruled that the Dutch Methodist Church's ban on solemnizing same-sex marriages was unconstitutional.

Despite government policies prohibiting discrimination, there were reports of official mistreatment or discrimination based on sexual orientation or gender identity. For example, there were reports of security force members raping LGBTI individuals during arrest. A 2018 University of Cape Town report underscored violence and discrimination, particularly against lesbians and transgender. The report documented cases of "secondary victimization" of lesbians, including cases in which police harassed, ridiculed, and assaulted victims of sexual violence and gender-based violence who reported abuse. LGBTI individuals were particularly vulnerable to violent crime due to anti-LGBTI attitudes within the community and among police. Anti-LGBTI attitudes of junior members of SAPS affected how they handled complaints by LGBTI individuals.

### **HIV and AIDS Social Stigma**

HIV and HIV-related social stigma and discrimination in employment, housing, and access to education and health care remained a problem, especially in rural communities. In June Deputy President David Mabuza stated, "We are not doing well in preventing new (HIV) infections. It is estimated that there are approximately 250,000 new infections annually, and our target is to get below 100,000 new infections by December 2020. This gap is big, and it must be closed." For additional information, see Appendix C.

### **Other Societal Violence or Discrimination**

There were reports 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.

Persons with albinism faced discrimination and were sometimes attacked in connection with ritual practices.

In August a court convicted a teacher in Mpumalanga of murdering and dismembering a teenage student with albinism. The suspect was convicted and sentenced to imprisonment of two life terms. Several alleged accomplices pled not guilty and are scheduled for trial in 2020.

Ritual (*muti*) killings to obtain body parts believed by some to enhance traditional medicine persisted. Police estimated organ harvesting for traditional medicine resulted in 50 killings per year.

Discrimination against members of religious groups occurred. In June a female SANDF member was ordered to remove her religious headscarf from beneath her military beret. She refused the order. SANDF authorities instituted a review of the dress code and provided her with relief from removal of her headscarf during the review. The review continued at year's end.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law allows all workers, except for members of the National Intelligence Agency and the Secret Service, to form and join independent unions of their choice without previous authorization or excessive requirements. The law allows unions to conduct their activities without interference and provides for the right to strike, but 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 service, the interruption of which endangers the life, personal safety, or health of the whole or part of the population; parliamentary service; and police services.

The law allows workers to strike due to matters of mutual interest, such as wages, benefits, organizational rights disputes, socioeconomic interests of workers, and similar measures. Workers may not strike because of disputes where other legal recourse exists, such as through arbitration. Labor rights NGOs operated freely.

The law protects collective bargaining and prohibits employers from discriminating against employees or applicants based on 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 that includes

procedures for determining the “substantive fairness” and “procedural fairness” of dismissal. The law includes all groups of workers, including illegal and legally resident foreign workers.

The government respected freedom of association and the right to collective bargaining. Labor courts and labor appeals courts effectively enforced the right to freedom of association and the right to collective bargaining, and penalties were sufficient to deter violations.

Worker organizations were independent of the government and political parties, although the Congress of South African Trade Unions (COSATU), the country’s largest labor federation, is a member of a tripartite alliance with the governing ANC Party and the South African Communist Party. Some COSATU union affiliates lobbied COSATU to break its alliance with the ANC, arguing the alliance had done little to advance workers’ rights and wages. In 2017, COSATU’s breakaway unions, unhappy with the ANC alliance, launched an independent labor federation, the South African Federation of Trade Unions.

The minister of labor has the authority to extend agreements by majority employers (one or more registered employers’ organizations that represent 50 percent plus one of workers in a sector) 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 not party to bargaining disputed this provision in court. Employers often filed for and received Department of Labor exemptions from collective bargaining agreements.

If not resolved through collective bargaining, independent mediation, or conciliation, disputes between workers in essential services and their employers were referred to arbitration or the labor courts.

Workers frequently exercised their right to strike. Trade unions generally followed the legal process of declaring a dispute (notifying employers) before initiating a strike. Sectors affected by strikes during the year included transportation, health care, academia, municipal services, and mining. Strikes were sometimes violent and disruptive.

During the year there were no cases of antiunion discrimination or employer interference in union functions, although anecdotal evidence suggested farmers routinely hampered the activities of unions on farms.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits forced labor. The penalties were insufficient to deter violations, in part because inspectors typically levied fines and required payment of back wages in lieu of meeting evidentiary standards of criminal prosecution.

The government did not always effectively enforce the law. Boys, particularly migrant boys, were forced to work in street vending, food services, begging, criminal activities, and agriculture (see section 7.c.). Women from Asia and neighboring African countries were recruited for legitimate work, but some were subjected to domestic servitude or forced labor in the service sector. There were also reports by NGOs of forced labor in the agricultural, mining, and fishing sectors.

Also see the Department of State's Trafficking in Persons Report at <https://www.state.gov/trafficking-in-persons-report/>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits employment of children younger than 15. The law allows children younger than 15 to work in the performing arts, but only if their employers receive permission from the Department of Labor and agree to follow specific guidelines. The law also prohibits children between the ages of 15 and 18 from work that threatens a child's wellbeing, 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 attending school may not work more than 20 hours in any week.

The law prohibits children from performing hazardous duties, including lifting heavy weights, meat or seafood processing, underground mining, deep-sea fishing, commercial diving, electrical work, working with hazardous chemicals or explosives, in manufacturing, rock and stone crushing, and work in gambling and alcohol-serving establishments. Employers may not require a child to work in a confined space or to perform piecework and task work. Penalties for violating child labor laws were sufficient to deter widespread violations.

The government enforced child labor laws in the formal sector of the economy that strong and well-organized unions monitored, but enforcement in the informal and agricultural sectors was inconsistent. The Department of Labor deployed

specialized child labor experts in integrated teams of child labor intersectoral support groups to each province and labor center.

In 2017 Department of Labor inspectors opened 22 cases of child labor against a broker who recruited seasonal workers from poverty-stricken villages in North West Province on behalf of farmers in Wesselsbron, Free State Province. Prosecution of the broker was pending at year's end. Cases of the worst forms of child labor were rare and difficult to detect, and neither the Department of Labor nor NGOs confirmed any cases during the year. The Department of Labor investigated a number of complaints but was unable to develop enough evidence to file charges. According to the department, the government made significant progress in eradicating the worst forms of child labor by raising awareness, instituting strict legal measures, and increasing penalties for suspected labor violators.

Children were found working in domestic work, street work, and garbage scavenging for food items and recyclable items. Boys, particularly migrant boys, were forced to work in street vending, food services, begging, criminal activities, and agriculture. Although the government did not compile comprehensive data on child labor, NGOs and labor inspectors considered its occurrence rare in the formal sectors of the economy.

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

#### **d. Discrimination with Respect to Employment and 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. 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, differ directly or indirectly based on any of the grounds listed above. Employees have the burden of proving such discrimination. Penalties for violating antidiscrimination laws were sufficient to deter widespread violations. 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.

The government did not consistently enforce the law and penalties were insufficient to deter violations. Discrimination in employment and occupation occurred with respect to race, gender, disability, sexual orientation, HIV status, and country of origin (see section 6).

Discrimination cases were frequently taken to court or the Commission for Conciliation, Arbitration, and Mediation.

In its 2018-19 annual report, the Commission for Employment Equity cited data indicating discrimination by ethnicity, gender, age, and disability in all sectors of the economy. The implementation of the Black Economic Empowerment law, which aims to promote economic transformation and enhance participation of blacks in the economy, continued. The public sector better reflected 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 foreign nationals was common in society and the workplace.

#### **e. Acceptable Conditions of Work**

On January 1, the country's first national minimum wage came into effect, replacing a patchwork of sectoral minimum wages set by the Department of Labor. The minimum wage was above the official poverty line. The law protects migrant workers, and they are entitled to all benefits and equal pay. The minimum wage law also established a commission to make annual recommendations to parliament for increases in the minimum wage.

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 employees may not work be more than 10 overtime hours a week. The law stipulates rest periods of 12 consecutive hours daily and 36 hours weekly and 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 applies to all workers, including workers in informal sectors, foreign nationals, and migrant workers, but the government did not prioritize labor protections for workers in the informal economy.

The government set appropriate occupational health and safety standards through the Department of Mineral Resources for the mining industry and through the Department of Labor for all other industries.

There are harsh penalties for violations of occupational health laws in the mining sector. Convicted 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. 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 a mining 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. Conviction of violation of the mining health and safety law is punishable by two years' imprisonment, and the law empowers the courts to determine a fine or other penalty for perjury. The Department of Mineral Resources was responsible for enforcing the mining health and safety law.

The government set separate standards for compensation of occupational diseases for the mining industry and for other industries. The Department of Health reported only 33,045 former mineworkers were certified as having silicosis as of 2014, but it added that the final figure could be between 50,000 and 100,000. The fund provided for by the Occupational Diseases in Mines and Works Act set aside 3.7 billion rand (\$256 million) to former mineworkers.

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 Department of Labor that used employee complaints as a basis for prioritizing labor inspections. Penalties were sufficient to deter widespread violations. The Department of Labor is responsible for enforcing safety laws outside the mining sector.

The Department of Labor is responsible for enforcing wage standards outside the mining sector, and a tripartite Mine Health and Safety Council and an Inspectorate of Mine Health and Safety enforced such standards in the mining sector. Penalties for violations of wages and workhour laws outside the mining sector were not sufficient to deter abuses.

The Department of Labor employed an insufficient number of labor inspectors to enforce compliance. Labor inspectors conducted routine and unannounced inspections at various workplaces that employed vulnerable workers. Labor inspectors investigated workplaces in both the formal and informal sectors. Labor inspectors and unions reported having difficulty visiting workers on private farms.

The government did not effectively enforce the law in all sectors. Occupational safety and health regulations were frequently violated in the mining sector, and compensation for injuries was erratic and slow. Penalties were not sufficient to deter violations. Unions in the agriculture sector noted their repeated attempts to have the Department of Labor fine farms that failed to shield workers from hazardous chemicals sprayed on crops. Although labor conditions improved on large commercial farms, COSATU and leading agricultural NGOs reported 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 workdays were common during harvest time, and few farmers provided overtime benefits. Amendments to the Basic Conditions of Employment Act attempted to address some labor abuses at farms. For example, changes prohibited farms from selling goods from farm-operated stores to farm employees on credit at inflated prices.

Farm workers also reported health and sanitation concerns. In a 2017 report, the NGO Women on Farms Project stated that 63 percent of the female farm workers surveyed did not have access to bathroom facilities and were forced to seek a bush or a secluded spot. The report also included the responses of female farm workers and their children who reported suffering from health problems such as skin rashes, cholinesterase depression, poisoning, harmful effects on the nervous system, and asthma due to the pesticides to which they were exposed.

Mining accidents were common. Mine safety improved from prior decades, however. In 1995, a total of 553 miners lost their lives in the country. In the first half of the year, only 13 mining deaths were reported, a 46 percent decrease compared with 24 deaths during the same period in 2018.

In July the Constitutional Court ruled employees assigned to workplaces via a labor broker (“temporary employment service”) are employees of the client and entitled to wages and benefits equal to those of regular employees of the client.

In August the Gauteng High Court expanded statutory workers' compensation coverage to domestic workers for injuries suffered in the course of their employment.