



SOUTH AFRICA

## Ripe with Abuse

Human Rights Conditions in South Africa's  
Fruit and Wine Industries

HUMAN  
RIGHTS  
WATCH



## **Summary and Key Recommendations**



A vineyard in Stellenbosch, Western Cape.



# RIPE WITH ABUSE

Photographs by Marcus Bleasdale/VII for Human Rights Watch

**Every year, millions of consumers around the world enjoy South African fruits and the renowned wines that come from its vineyards. Yet the farmworkers who produce these goods for domestic consumption and international export are among the most vulnerable people in South African society: working long hours in harsh weather conditions, often without access to toilets or drinking water, they are exposed to toxic pesticides that are sprayed on crops. For this physically grueling work, they earn among the lowest wages in South Africa, and are often denied benefits to which they are legally entitled. Many farmworkers confront obstacles to union formation, which remains at negligible levels in the Western Cape agricultural sector. Farmworkers and others who live on farms often have insecure land tenure rights, rendering them and their families vulnerable to evictions or displacement—in some cases, from the land on which they were born.**

Out of South Africa's nine provinces, the greatest number of farmworkers—121,000—live in the wealthy and fertile Western Cape. Despite their critical role in the success of the country's valuable fruit, wine, and tourism industries, farmworkers

benefit very little, in large part because they are subject to exploitative conditions and human rights abuses without sufficient protection of their rights. These abusive practices, which occur to varying degrees on a wide array of farms, are





Farmworkers in Stellenbosch collect grapes during harvest time.



An informal settlement near a farming area. Many farmworkers do not live on farms, but in nearby townships or informal settlements. When workers live on farms, they and their families are vulnerable to eviction or displacement without adequate compensation or suitable alternative accommodations. With no savings and little assistance from farmers or the government, evicted farm dwellers often end up in worse housing conditions.

perpetrated by farm owners or farm managers who are subject to regulation by the South African government. Yet the government has failed to protect the rights of farmworkers and farm dwellers, or to ensure that farmers throughout the province comply with national law.

This report—based on interviews in 2010 and 2011 with over 260 people, including 117 current or former farmworkers and an additional 16 farm dwellers—illustrates the precarious position in which many workers and farm dwellers continue to find themselves. The problems that farmworkers and farm dwellers face are not unknown to the South African government, farmers, or retailers who purchase their products. In 2003 and 2008, for example, the South African Human Rights Commission documented the same types of abuses, and civil society campaigns regarding South African products have led to some private sector efforts to improve farm conditions. Human Rights Watch also spoke with farm owners; this report presents their perspectives, and discusses some of the better practices found on some farms. However, the steps taken to date, whether by the government or by private actors, have not been sufficient to bring overall conditions in the Western Cape agricultural sector in line with the basic standards set forth in South African law and industry codes of conduct.

South Africa's Constitution guarantees a range of rights for every person in the country, as well as several rights that apply only to citizens. Under international law, South Africa is obligated to respect, protect, and fulfill human rights, particularly those contained in international covenants it has



ratified. In addition, farmworkers and dwellers are legally protected by specific domestic legislation, as well as by codes of conduct embraced by farmers' associations, industry bodies, and retailers.



A resident of Stofland township returns home.





This former farmworker lives in a "Wendy" house in a squatter camp in Citrusdal. The structure was given to her by the farmer who forced her, her husband, and her small children to leave the on-farm home where they had lived for years. Her Wendy house is a one-room wooden structure where her family of five lives. Wendy houses are sometimes sold as children's play houses or tool sheds. Because they are made out of wood, they can often present fire risks; they are not meant to be permanent homes.



This elderly couple has been forced to live for years in this former outhouse (toilet) on a farm near Rawsonville. The husband worked on the farm for approximately 20 years until 2010, when he stopped working due to ill health.

Nevertheless, severe problems persist on Western Cape farms. Farmworkers and others who live on farms, including family members and former farmworkers, routinely confront substandard housing conditions. Although farm owners are not required to provide housing for workers, many have done so historically. Human Rights Watch viewed a range of housing, some of which was clearly uninhabitable. For example, Isaak S., a farmworker, has lived with his wife and children for 10 years in a former pig stall with no electricity, water, or ability to provide adequate shelter from the elements. When he complained to the farmer and manager about these conditions, they said they first must “get rid of” other people living on the farm, and would then provide him with a proper house. Yet, a decade later, the other family has

not left the farm, and Isaak and his family remain in the pig stall.

Evictions from farms are commonplace. A 2005 study estimated that over 930,000 people were evicted from South African farms between 1994 and 2004. Farm dwellers in the Western Cape are no exception. Under current law, farmers must follow the procedure laid out in the Extension of Security of Tenure Act (ESTA) to evict a farm dweller. However, given the expense and time involved, farmers sometimes resort to other eviction tactics, including cutting electricity or water and harassing farm dwellers. For example, Sinah B. explained how farm management severed electricity for more than a year, resulting in terrible cold in winter that her two children found especially hard to bear. She also said that security guards from the farm harassed families in the middle of the night with dogs and guns, presumably to force them off the land. Although it is a crime for owners to illegally evict occupiers from land, the authorities rarely initiate criminal proceedings.

Even when farmers follow the correct legal procedures to evict farm dwellers, the process does not guarantee that



evicted persons have proper alternative housing: often, they have no place to go. In the worst cases, they end up homeless. Although farmers sometimes offer them limited financial compensation to leave, it is usually inadequate to purchase or rent a suitable alternative house. Some farmers give farmworkers “Wendy” houses, wooden structures that are not meant to be permanent houses, but that often end up being used as permanent homes. Municipal governments are generally unprepared to assist evicted farm dwellers, and there is no clear agreement on which government entities are responsible for doing so.

Occupational health and safety conditions on many farms also imperil the health of workers. Around the world, agriculture is one of the most dangerous sectors for workers. In the course of this hazardous work, the majority of farmworkers interviewed by Human Rights Watch about health conditions said they are exposed to pesticides without adequate safety equipment. For example, Dino M., who works with pesticides year round, said he only received overalls and rubber gloves, neither of which adequately protected him

A resident of Stofland township fixes the roof of his home.

from pesticides, in contravention of health and safety regulations. After pleading for a mask, he was given a dust mask, which was not appropriate, as it does not offer protection against chemicals. As a result, he and other workers cover their faces with their caps in an attempt to block the spray of chemicals.

Also, workers often have no access to drinking water, hand washing facilities, or toilets, as required by labor regulations. Labor inspectors have failed to ensure that farmers comply with these health and safety regulations. When farmworkers are ill or injured, as is fairly common, they are often refused legally-required sick leave; they also struggle to obtain timely or affordable health care, given their remote locations and low income.

To remedy these conditions, some farmworkers have attempted to form unions, but they routinely encounter obstacles to union formation and in some cases are denied their right to freedom of association. Farmworkers are some of the most poorly organized workers in the country, with estimates of union “density”—the percentage of workers represented by trade unions—in the Western Cape agricultural sector as low as three percent (compared to 30 percent in the country’s formal sector as a whole). Although this is partly because it is difficult to organize in the agricultural sector, Human Rights Watch found that some farmers try to prevent union formation, despite its protection under constitutional and international law. As a result, some farmworkers explained that they did not join unions because they were afraid of facing discrimination or being fired.

However, not all farmworkers interviewed by Human Rights Watch had encountered rights abuses. In a small number of cases, farms fully complied with the requirements of South African law, and workers and others residing on those farms enjoyed at least the basic protections afforded under national law. Indeed, on a handful of farms, farmworkers and farm owners described full compliance with the law as well as a variety of positive practices by employers that went beyond the minimum that is legally required. In general, however, most farmworkers and farm dwellers interviewed for this report had encountered abuses of their rights to housing, health, or adequate labor conditions.

Despite efforts to regulate conditions on farms, the South African government has largely failed to monitor and enforce legal protections guaranteeing wages, benefits, and safe working and housing conditions for workers and other dwellers. At the time of the research, in March 2011, the Western Cape had 107 labor inspectors, who were responsible for over 6,000 farms and all other workplaces in the province. An agreement between the Department of Labour; Agri South Africa (Agri SA), the main farmers’ association; and other parties, which requires, among other things, that labor inspectors give farmers prior notice of inspections, applies only to farms. This further undermines the inspectors’ capacity to identify violations. The government has also failed to improve substandard on-farm housing or assist evicted farm dwellers. These gaps in protection are exacerbated by farmers’ attempts to block union formation on farms, as well as a lack of agreement between the government and farmers over who is responsible for ensuring the well-being of farmworkers and farm dwellers on certain issues, such as providing decent housing.

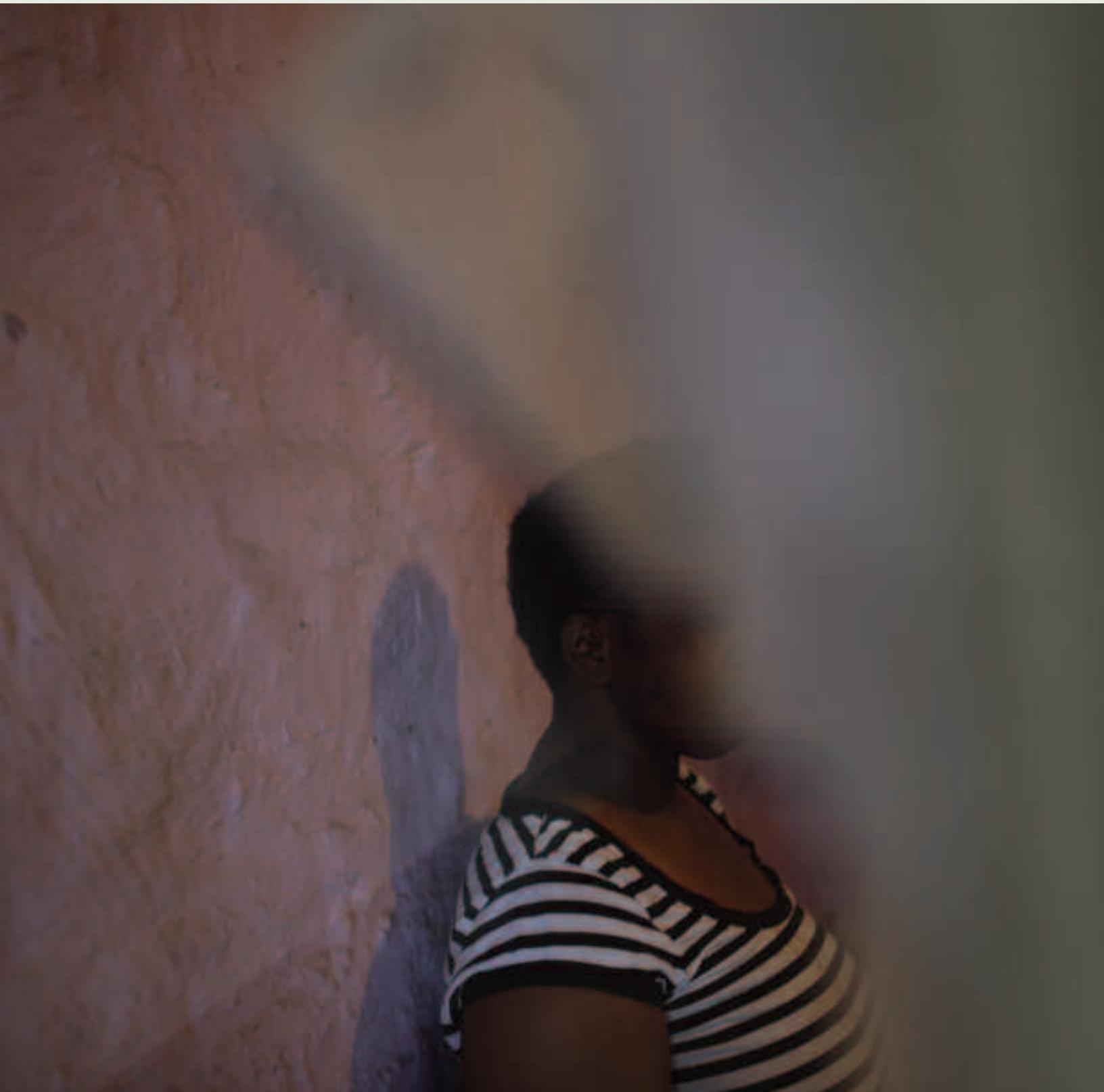
Over the past decade, various private actors, such as farmers’ associations, industry bodies, and retailers, have worked to improve conditions on farms. For example, in 2001, Agri Wes-Cape, the largest farmers’ association in the province and the provincial affiliate of Agri SA, adopted a comprehensive Code of Conduct for its members; in 2002, the



wine industry created the Wine Industry Ethical Trade Association, a multi-stakeholder initiative that audits members; in 2008, the fruit industry began an ethical trade program; and some international retailers have imposed their



Neighbors of two former farmworkers complain about their living conditions. To make the former workers and their family leave, the farmer occasionally cuts off water supply to all the farmworkers who live on the farm. He has told the other workers that he will restore supply if they succeed in harassing the family to the point that they leave.



This 38-year-old woman works in the vineyards on a Fairtrade-certified farm near Rawsonville. She once was beaten by a foreman. She explained that she also has been treated poorly because she joined a union: “[The farmer] doesn’t like unions. He treats union and non-union members different: for non-members, he gives loans [and] paints houses, but he will never help union members.”



own audit requirements and supported other programs within their supply chains. These initiatives have had varying degrees of reach and impact, but have so far failed to dramatically alter conditions across all farms in the Western Cape.

Human Rights Watch's research did not identify the supply chain for the products from each farm visited, and this report does not identify individual farms in order to reduce the risk of retaliation against those who told their story, so it was not possible to match stories of abuse to particular suppliers or retailers. Yet the findings indicate that abuses are common across farms in the Western Cape and that decent conditions that comply with all labor and tenure security laws are the exception rather than the rule.

South Africa's existing legislation and private actors' codes of conduct afford workers much greater labor and housing rights protections than they currently receive. If fully implemented, these rules would drastically improve the situation of farmworkers and farm dwellers. The South African government and other stakeholders should undertake immediate efforts to remedy the denial of farmworkers' rights to adequate labor and housing conditions and protect them from the mistreatment that is prevalent on fruit and wine farms in the Western Cape. The government must greatly improve the enforcement of its applicable labor and land tenure laws, while farmers' associations and other actors need to undertake sustained efforts to ensure that farmers abide by the law and promote best practices throughout the agricultural sector. Their current failure to do so neglects their international and constitutional obligations and responsibilities, and traps farmworkers and farm dwellers in exploitative conditions with little hope of redress.





Farmworkers add fertilizer to the soil on an orange farm in Citrusdal. Occupational health and safety conditions on many farms imperil the health of workers. Farmers often fail to provide the proper safety equipment to mitigate farmworkers' exposure to chemicals, sometimes explicitly denying workers' requests for safer conditions.

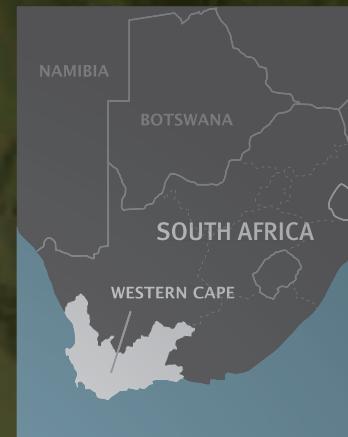


This accountant from Zimbabwe now labors as a farmworker and lives in Stofland township near De Doorns. He described going hungry in order to send even a little money back home to his family. He said that when he is treated unfairly by a farmer, he has no means of redress. Migrant workers who fear losing their job or being deported often do not complain about their working conditions. They are thus particularly vulnerable to abuse.



A dismantled home in Stofland township. Many residents are Zimbabweans who work on nearby vineyards that produce table grapes for export. Conditions in the township are poor, and water and sanitation limited. In 2009, xenophobic violence forced thousands of Zimbabwean farmworkers in the area to flee their homes.

# WESTERN CAPE, SOUTH AFRICA



## NORTHERN CAPE



### LEGEND

- Fruit Farming Areas
- Wine Farming Areas

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# KEY RECOMMENDATIONS

## TO THE DEPARTMENT OF LABOUR

- Take immediate action to enforce compliance with existing labor and health protections, including by filling all labor inspector vacancies and ensuring that labor inspectors always speak with workers when conducting inspections.
- Rigorously enforce the rights of foreign and other migrant farmworkers to benefits to which they are entitled.
- Revise the Protocol for Access to Farms, which was agreed upon by the Department, Agri SA, and others, to ensure that labor inspectors will not set up advance appointments with farm owners.

## TO THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

- Take immediate action to ensure the protection of farm dwellers' rights under existing law, including by prioritizing work by Department employees to support persons facing evictions from farms.
- Create a system to track evictions from farms.

## TO THE NATIONAL GOVERNMENT AND MUNICIPALITIES THAT COVER RURAL AREAS

- Ensure that farmworkers and farm dwellers are included in government housing plans.
- Devise plans that address the short-term shelter needs of evicted farm dwellers.

## TO FARMERS' ASSOCIATIONS

- Create a system to implement and monitor the Agri Wes-Cape Code of Conduct.
- Negotiate an agreement with unions to expand their organizers' access to members' farms before recognition agreements are in place.

## TO RELEVANT INDUSTRY BODIES AND ETHICAL TRADE BODIES

- Promote free access of unions onto members' farms and better working conditions across all farms.

## TO RETAILERS SOURCING FROM WESTERN CAPE FARMS

- Continue to put pressure on suppliers to comply with the law and to improve labor, health, and housing conditions.
- Retailers that adhere to the ETI Base Code should ensure that the standards contained therein are respected on supplying farms.

## TO INTERNATIONAL CONSUMERS

- Inquire into the human rights and labor rights conditions on farms that grow the products they purchase.

# Ripe with Abuse

## Human Rights Conditions in South Africa's Fruit and Wine Industries

Millions of consumers around the world enjoy the fruit and wine that come from South Africa's farms. But the workers who help produce these goods are among the most vulnerable people in South Africa. Farmworkers in South Africa's Western Cape Province work long hours for little pay, often without access to toilets or drinking water. They routinely are exposed to toxic pesticides and are denied proper safety equipment, even after they ask for it. The housing for many farmworkers, where it does exist, is unfit for living; laborers and residents of farms also face the possibility of eviction from their homes by farm owners, and a lack of alternative housing. Many farmworkers who seek to remedy these conditions confront obstacles to union formation.

The Western Cape's fruit and wine industries contribute billions of rand to the country's economy and support its vibrant tourism sector. Yet farmworkers benefit very little from this success, and the government of South Africa and farm owners largely have failed to ensure that workers receive the benefits to which they are entitled. South African legislation provides important protections to farmworkers and farm dwellers, but the limited number of labor inspectors means that the government cannot guarantee that farmers throughout the province comply with national law.

This report—based on more than 260 interviews with a range of actors—shows the precarious position in which many farmworkers and farm dwellers continue to find themselves. The problems that these rural residents face are not new, nor are they unknown to the South African government, farmers, or retailers who purchase their products. South Africa's Human Rights Commission documented the same abuses in 2003 and 2008. But the steps taken to date, whether by the government or private actors, have not been sufficient to bring overall conditions on farms in line with the basic standards required either by South African law or industry codes of conduct.

This report urges the South African government to protect farmworkers from mistreatment, principally by enforcing their rights to adequate labor, housing, and health. The government should press farm owners to promote better conditions on farms, allow inspectors unrestricted access to farms, and honor workers' rights to association. In the absence of such improvements, farmworkers and farm dwellers will remain trapped in an exploitative situation with little hope of redress.

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Marcus Bleasdale/VII for Human Rights Watch*

*A farmworker in Stellenbosch, Western Cape, South Africa, collects grapes during harvest time.*

