



South Africa

On May 9, 2009, Jacob Zuma was inaugurated as the new president of South Africa, replacing interim president Kgalema Motlanthe, after elections that were widely viewed as free and fair. The new president faces numerous challenges in the midst of an economic recession—including widespread poverty, unemployment, high levels of violent crime, and gender inequality—which continue to undermine the country’s human rights environment, especially for the most vulnerable in society.

South Africa continues to play a prominent role in international affairs, in particular on the African continent, but faces many challenges in addressing the inherent contradictions between enhancing its domestic and regional trade and investment interests, and retaining its post-apartheid reputation as a proponent of human rights and international justice. Unlike former President Thabo Mbeki, President Zuma has proved more willing to publicly criticize abuses in countries such as Sri Lanka, Burma, and Zimbabwe. This is a positive change of tone.

Refugees and Migrants

South Africa’s immigration system has struggled to deal adequately with the millions of asylum seekers and migrants who have entered the country—up to an estimated 1.5 million of whom are Zimbabwean. Thousands fleeing the political and economic crisis in Zimbabwe who have applied for asylum in South Africa have faced unlawful deportation.

On April 3, 2009, then-Minister of Home Affairs Nosiviwe Mapisa-Nqakula announced a positive shift in migrant policy toward Zimbabweans, which included visa-free entry and “special dispensation permits” to legalize Zimbabweans’ stay and give them work rights and access to basic healthcare and education. The Department of Home Affairs at the same time announced an immediate moratorium on the deportation of Zimbabweans from South Africa. However, the government has yet to implement the special dispensation process, which would lessen the vulnerability of Zimbabweans to violence and exploitation both in their homeland and in South Africa.

After xenophobic attacks against foreign nationals in May 2008 left 62 dead and a further 50,000 internally displaced, the government still faces significant challenges in addressing issues of reintegration, resettlement, or xenophobia in local communities. While the government has sought to quickly reintegrate the victims of that violence, some have faced further violence when returning to their communities, and others have been unable to move back for fear of repeat attacks. The government has failed to implement an independent commission of inquiry into the violence, and the pace of holding accountable those responsible for the attacks has been exceedingly slow: According to a report by the Consortium for Refugees and Migrants in South Africa in June 2009, the government had prosecuted only 469 of those responsible for the attacks out of 1,627 originally arrested, and of those prosecuted only 70 were found guilty. Convictions were mostly for the lesser crimes of assault or theft; there were no convictions for murder or rape, despite NGOs documenting many such cases during the attacks.

Health Issues and the HIV/AIDS Epidemic

The progressive realization of socioeconomic rights poses a significant challenge for Zuma's government. A report in 2009 by the South African Human Rights Commission, for example, pointed to poor service delivery in the public healthcare system throughout the country.

People with HIV/AIDS suffer from inequitable access to antiretroviral treatment and a lack of support services, despite the promulgation of a new HIV/AIDS plan adopted in 2007. The AIDS epidemic has fueled South Africa's worsening tuberculosis crisis, as well as a rise in maternal deaths, which also result from the country's inadequate public sector reproductive health services.

For migrants, high rates of HIV both in countries of origin and in South Africa, compounded by the risks related to migration make HIV prevention, diagnosis, and treatment a major public health concern. Human Rights Watch research, as well as reports from other NGOs and media outlets, has identified a striking gap between South Africa's inclusive policies and the reality of access to healthcare for refugees, asylum seekers, and especially undocumented migrants. Barriers to healthcare include lack of information, cultural and linguistic barriers, lack of documentation, user fees, and discrimination.

Women's and Girls' Rights

South Africa has in place legislation and national mechanisms to address gender inequality, including the introduction of a government ministry dedicated to women, youth, children, and disabled people. Yet the gap between the material status of women and the

government's stated commitment remains huge. Levels of violence against women and girls in South Africa are shockingly high.

South Africa has the highest rates in the world of rape reported to the police. A survey released in June by the Medical Research Council of South Africa found that 28 percent of men surveyed had raped a woman or girl; one in 20 said they had raped a woman or girl in the past year. Arrest and conviction rates of rape perpetrators are extremely low, and consequently women and girls who experience these violations are denied justice, factors that contribute to the normalization of rape and violence against women and girls in South African society. Women and girls who have been raped face numerous obstacles in accessing healthcare and other forms of assistance, such as delays in the provision of medical treatment, an absence of counselling services, and lengthy waits for medico-legal examination. Despite the high rates of rape, many health facilities do not provide post-exposure prophylaxis (PEP) services. NGOs working on women's health rights continue to receive reports from healthcare workers and survivors of rape who have been unable to access timely PEP services in the public health system.

Sexual Orientation and Gender Identity

Although South Africa's constitution outlaws discrimination based on sexual orientation, and same-sex marriage has been legalized, gay and lesbian people remain vulnerable. In particular, incidents of violence against black lesbian women, and "corrective rape" in particular, continue to be reported with growing frequency. The South African Human Rights Commission and other NGOs have recommended that the criminal justice system needs to take concerted action to deal with hate crimes in the country, something that the government has yet to do.

International Role

South Africa continues to play a prominent role in international affairs, especially on the African continent. South Africa has a significant peacekeeping presence in the Democratic Republic of Congo (DRC), and is part of the African Union-United Nations Hybrid operation in Darfur (UNAMID). It has played a positive role in the Burundi peace process.

As chair of the Southern African Development Community (SADC), South Africa brokered the recent power-sharing agreement in Zimbabwe. Zimbabwe's proximity to South Africa means that it will remain a top priority for the South African government. President Zuma has been more outspoken than former President Mbeki about the political crisis in Zimbabwe. For example, during a visit to Zimbabwe in August, Zuma publicly acknowledged that progress

in implementing the power-sharing agreement between President Robert Mugabe's Zimbabwe African National Union–Patriotic Front (ZANU-PF) and Prime Minister Morgan Tsvangirai's Movement for Democratic Change (MDC) had been slow and that outstanding issues needed to be addressed, implicitly due to ZANU-PF's failure to honor many of its commitments under the agreement. Zuma also played an active role in introducing the Zimbabwe situation to the agenda of the annual SADC heads of state summit in Kinshasa, DRC. Regrettably, South Africa's partners in the region have failed to ensure that the Zimbabwe power-sharing agreement is fully implemented.

The new international relations ministry under President Zuma has retained South Africa's focus on strengthening regional mechanisms and South-South cooperation. At the same time, unlike under Mbeki, recent statements and actions by the Zuma administration have indicated a shift toward respect for human rights as an important pillar of foreign policy. For example, in 2009 the South African government issued strong statements on Burma and Sri Lanka: it criticised the arrest of Aung San Suu Kyi in Burma and called for her immediate release, and expressed concerns about government actions and the humanitarian situation in Sri Lanka.

South Africa has one of the world's most progressive constitutions and has long been a proponent of international justice and ending impunity for serious international crimes. In July 2009 South Africa showed clear leadership on this issue when the director general in the International Affairs and Cooperation Ministry, Dr. Ayanda Ntsaluba, reiterated South Africa's commitment to the International Criminal Court and stated that South Africa would respect its obligation to cooperate with the ICC, including in carrying out arrest warrants for sitting Sudanese president Omar al-Bashir. As the leading African democracy, South Africa remains well placed to play a positive role in encouraging fellow African Union states that are party to the Rome Statute of the ICC to maintain their support for effective international justice. African and international civil society also looks to South Africa to challenge those African states that continue to push the continent to cease cooperation with the ICC.