

South Africa

South Africa continues to grapple with corruption, growing social and economic inequalities, and the weakening of state institutions by partisan appointments and one-party dominance. Attacks on freedom of expression, particularly attempts by the ruling African National Congress (ANC) to tamper with media independence, raised serious concerns about the government's commitment to the protection of basic civil and political rights. In April 2011, images of the brutal, public murder by the police of Andries Tatane during a peaceful protest in Ficksburg to demand better service delivery elicited public ire regarding police brutality. Despite these concerns, institutions of democracy, among them the South African Human Rights Commission and the Public Protector, remain highly active.

The Foreign Policy White Paper, published in late May, fails to clarify the thrust of South Africa's international agenda, dashing hopes that a country with strong constitutional protections of rights at home is ready to assume a leadership position on the realization of rights worldwide.

Freedom of Expression

Following year-long deliberations, the Ad-Hoc Committee on the Protection of Information Bill tabled a new draft for parliamentary approval in September 2011. The bill is designed to regulate classification procedures of state information and proposes prison sentences of 15 to 20 years for publishing information deemed to threaten national security. Public engagement on the bill has been vociferous, with civil society arguing that, if promulgated, the bill would silence the media and whistleblowers and condone overreaching state secrecy. Despite improvements to the bill—such as the establishment of an independent Classification Review Panel and limitations on institutions that can classify information—it remains flawed. The absence of a public interest defense, permitting the publication of information that serves the public, is its most notable weakness. Public pressure—coordinated through the Right2Know Campaign, a civil society network of organizations opposed to the Protection of Information Bill—forced the ANC's bill on September 20 to allow for further consultation.

Concerns regarding the ANC's attempts to curtail freedom of media persist. The party periodically invokes the spectre of a media appeals tribunal, which would see statutory regulation of the media. Also of concern is ANC's growing hold over the country's public broadcaster, the South African Broadcasting Corporation.

Vulnerable Workers

Despite legislation protecting the rights of workers and being highly organized, workers in various sectors of the economy continue to face severe challenges; farmworkers are particularly vulnerable. The failure of the government to enforce labor and tenure laws renders them defenseless against powerful employers. Human Rights Watch's research in the Western Cape, the second-richest province with the largest number of farmworkers in South Africa, uncovered a number of exploitative conditions under which farmworkers interviewed work and live. These range from occupational health and safety hazards, including exposure to harmful pesticides; evictions without access to short-term shelter and poor housing conditions on farms; difficulties in forming or joining unions; and unfair labor conditions, such as pay below minimum wage. In response to a report that was the outcome of the Human Rights Watch research, and the efforts of other civil society organizations, several South African government officials committed to addressing abuses and enforcing labor laws, in spite of negative reactions from farm owners.

Women's Rights

South Africa's maternal mortality ratio has more than quadrupled in the last decade, increasing from 150 to 625 deaths per 100,000 live births between 1998 and 2007, with HIV playing a role in many of the deaths. The United Nations estimates that 4,500 women die each year in South Africa due to preventable and treatable pregnancy-related causes. This is despite South Africa's wealth, reasonably good health infrastructure, and strong legal and policy framework, which includes a constitutional guarantee of the right to health.

Generally poor health outcomes—especially maternal and child mortality—are a result of various factors, including fragmentation; inequalities between the public and private health sectors regarding the availability of financial and human resources; the accessibility and delivery of health services; and a high disease burden, particularly HIV/AIDS. The government's failure to provide effective oversight for the implementation of existing reproductive and sexual health-related laws and policies contributes to South Africa's high and increasing maternal death rate, as does a lack of accountability for recurrent problems in the health system, including abuses committed by health personnel.

The country's women and girls continue to live with insecurity despite efforts to curb violence against women, specifically sexual violence, which has been on the rise. Several studies indicate that the failure of the criminal justice system to investigate and punish sexual violence has created a culture of impunity for rape. The rulings of magistrates and judges sometimes trivialize the gravity of rape. Judge Mogoeng Mogoeng's nomination and subsequent appointment as chief justice by President Jacob Zuma could erode the gains that have been made in addressing violence against women. Many civil society groups have accused Mogoeng of undermining the rights of women and girls by issuing lenient sentences in cases of rape and domestic violence, and invoking in his rulings myths about rape that often blame the victims and excuse perpetrators.

Sexual Orientation and Gender Identity

During the 17th UN Human Rights Council session, South Africa successfully pushed through the adoption of the first-ever UN resolution on sexual orientation and gender identity. This action affirmed South Africa's endorsement of the rights of lesbian, gay, bisexual, and transgender (LGBT) people worldwide, but does not address the concerns of the LGBT community at home. A 2011 Human Rights Watch report found that, despite the country's progressive legislation, discrimination on the grounds of sexual orientation and gender identity is widespread in the society and evident in the behavior of government officials, including the police and teachers. Black lesbians and transgender men are especially vulnerable and live under constant threat of verbal, physical, and sexual violence from acquaintances and strangers. Civil society pressure following recent cases of rape, torture, and murder of black lesbians and transgender people has prompted the Department of Justice and Constitutional Development to form a multi-sectoral task team to formulate legal and judicial responses to violence against members of the LGBT community.

Refugee Rights

In 2011 South Africa prevented Zimbabwean asylum seekers from entering the country, and forcibly returned registered Zimbabwean asylum seekers because they did not possess "travel documents," an unlawful requirement under international law. On June 1 South Africa closed its largest refugee reception office in Johannesburg. Local groups and Human Rights Watch raised concerns this would further exacerbate registration problems faced by refugees and asylum seekers, lead to increased unlawful deportation, and further increase the backlogs in a system already struggling to process over 250,000 cases.

Some South African officials indicated that the country was considering moving refugee reception offices to its borders with Mozambique and Zimbabwe and detaining all asylum seekers while their cases were being considered. Local civil society voiced concerns this would bring chaos and possibly a humanitarian crisis to the South Africa-Zimbabwe border area in particular and lead to a sharp deterioration of already poor decision-making, which would likely lead to increased refoulement of genuine refugees.

International Role

South Africa's role as a non-permanent member of the UN Security Council has been mixed. In Cote d'Ivoire, for example, as forces loyal to former President Laurent Gbagbo were killing Ivorians known or suspected of supporting rival and current President Alassane Ouattara, South Africa chose to focus on the validity of the contested November 2010 elections, which it claimed were inconclusive. That foot-dragging stalled international and regional efforts to resolve the electoral crisis and protect civilians under siege.

In the case of Libya, South Africa surprised its critics by voting in favor of UN Security Council Resolutions 1970 and 1973; the latter permitted military action against to protect civilians Muammar Gaddafi's regime. Zuma was harshly criticized by his African Union peers, as well as some within his administration and the ANC, for this vote. Zuma later backtracked, claiming that South Africa was misled into supporting a NATO-led, Western regime-change agenda. Afterward the Zuma administration failed to criticize the abusive actions of the Libyan regime, as the human rights situation in the country deteriorated. Since then the government of South Africa has used the Libya situation to explain its failure to support UN Security Council action on country situations such as Syria.

In an unprecedented development President Zuma's more assertive leadership as Southern African Development Community (SADC) mediator on Zimbabwe saw SADC taking a tougher stance against President Robert Mugabe's continued repressive rule. At a SADC meeting in Livingstone, Zambia, in March SADC leaders challenged Mugabe on his failure to institute agreed reforms under the Global Political Agreement. Later Mugabe launched a scathing attack against Zuma and his mediation panel for interfering in Zimbabwe's affairs.