

Sierra Leone. There was no mechanism set up to monitor the behavior and performance of the soldiers.

## SOUTH AFRICA

### HUMAN RIGHTS DEVELOPMENTS

President Thabo Mbeki continued to head a government dominated by the African National Congress (ANC) without serious challenge to his leadership, though the year saw significant tests of the political status quo. Tensions grew between the ANC and the Inkatha Freedom Party (IFP), a junior partner in the national government. The ANC's alliance partners, the South African Communist Party (SACP) and Congress of South African Trade Unions (COSATU), challenged the government's liberal economic strategy, including by calling a two-day strike in October. In a worrisome trend, several independent-minded members of parliament (MPs) were removed or resigned from positions as chairs of parliamentary portfolio committees during the year. The main opposition party, the Democratic Alliance, incongruously grouping together the former governing party, the New National Party (NNP), with the opposition party of the apartheid era, fell apart in late 2001. Smaller parties also developed splits, and a new party, the Black Consciousness Forum, was created. The Constitutional Court held in October that a "floor-crossing" law, aimed at allowing elected representatives to join other parties without losing their seats, was valid only in the municipal sphere of government, but left the door open to amendments allowing floor crossing in the provincial and national spheres as well. Soon after the decision, control of the Cape Town municipal council passed to a new ANC/NNP alliance. A coup plot by a militant right-wing group was uncovered in August, leading to the indictment of ten people, including three senior army officers. In late October, right-wingers were again blamed for a series of bomb blasts that exploded in Soweto.

In May, President Mbeki pardoned thirty-three convicted prisoners, primarily from the ANC and Pan-Africanist Congress, even though some of them had been denied amnesty by the Truth and Reconciliation Commission (TRC). Other parties protested the pardons or demanded similar treatment for their own members. Human Rights Watch wrote to President Mbeki expressing its concern at the pardons and at the suggestion that a further amnesty for apartheid-era politically motivated crimes might be granted, as well as at the government's failure to make arrangements for reparation payments to approximately twenty-two thousand victims identified by the TRC. South African victims of apartheid brought a multi-billion dollar suit in the United States against U.S., Swiss and German banks as well as the IBM corporation, claiming loans to the apartheid government helped prop it up in defiance of a 1985 to 1993 United Nations (U.N.) embargo.

After finalizing the last two volumes of its report, the TRC was formally dis-

solved in March. Publication of the final volumes was, however, delayed by an IFP court challenge to its findings. The army denied accusations that it had failed to turn over thousands of documents to the commission, and there was concern that TRC documents relating to the previous government's chemical and biological weapons program had disappeared after having been handed to the National Intelligence Agency. Wouter Basson, a chemical weapons expert with the old South African army, was acquitted in April on charges including embezzlement from an apartheid-era defense project, murder, and drug trafficking, after a thirty-month trial. There were suggestions that he might stand trial again in Namibia. In another trial relating to apartheid-era crimes, two former Ciskei Defence Force members charged with the 1992 "Bisho massacre" were acquitted in March.

The Constitutional Court continued to play a prominent role. In July it ordered the government to develop a plan for providing a short course of the drug nevirapine to HIV-positive pregnant women in order to prevent mother-to-child transmission of the virus in childbirth. Controversy surrounding the government's policy on HIV/AIDS continued despite the court ruling, though Mbeki withdrew somewhat from making direct statements on the epidemic. Though several large employers announced their own plans to provide antiretroviral treatment to employees, the vast majority of the approximately five million people living with AIDS were without any treatment. AIDS-related nongovernmental organizations in Mpumalanga continued to battle the province's ban on their supplying free post-rape antiretroviral treatment in state hospitals.

The Constitutional Court also struck down a controversial section of the Criminal Procedure Act that gave immunity from prosecution to officers using deadly force to arrest criminal suspects even when no life was in danger. Despite this ruling, the government had at this writing yet to bring into force a 1998 amendment to the act that would address the constitutional issues, though the police service had issued an instruction that members should comply with the ruling. In September, the court struck down as discriminatory a law that prevented same-sex life partners from adopting children. Lesbian and gay rights activists also won a victory through a settlement granting pension benefits to same-sex partners of state employees. Despite several government defeats, notably on the HIV/AIDS case, Justice Minister Penuell Maduna praised the role of the court in a speech in August.

South Africa's vast internal economic disparities continued to generate human rights abuses. It was estimated that twenty-two million people lived in abject poverty and went hungry almost every day. Although basic access to public schooling for both boys and girls was widely available, there were wide disparities in schools' resources: more than 45 percent of schools had no electricity and more than a quarter no clean water. Access to clean water generally improved, but continuing problems were indicated by an ongoing cholera epidemic; almost 108,000 infections had been reported since August 2000. A new minimum wage regime for domestic workers, among the poorest paid, was set to take effect in November 2002; a proposed minimum wage for farm workers had yet to be finalized.

The slow pace of land reform generated controversy. In May, police in Mpumalanga arrested more than two hundred marching protesters from the Landless People's Movement. Police also arrested around seventy-five protesting land

rights activists on the eve of the World Summit on Sustainable Development, held in Gauteng in August; after two nights in prison, during which one woman allegedly was denied medical treatment and suffered a miscarriage, they were charged with violation of a little-used 1993 law regulating public gatherings, and released. In July, the constitutionally-created South African Human Rights Commission began a major investigation into human rights abuses in rural areas. On June 20, the agriculture and land affairs minister announced that nearly thirty thousand land restitution claims had been settled in the previous financial year, benefiting 332,243 people. In Alexandra township in Gauteng, an urban renewal project resulted in the eviction of hundreds of residents without the necessary support for relocation. Evictions from informal settlements also continued in the Western Cape. In September, the Supreme Court of Appeal ruled that the law preventing illegal eviction protected not only informal settlers but also occupants whose tenancies had expired or who had defaulted on home loans. Protests against electricity cut-offs in Soweto also resulted in the jailing of dozens of protesters.

The South African Human Rights Commission severely criticized the handling of reported rape cases by police, prosecutors and community leaders. The government responded that initiatives had been undertaken to improve the system, including a new program to train police in handling domestic violence cases. Civil society groups launched a "Justice for Women" campaign in April to expand the definition of self-defence to cover women who killed abusive husbands, and to secure presidential pardons for such women who were serving sentences under past laws. In October, the South African Law Commission completed a major consultation process on a new Sexual Offences Bill, designed to completely overhaul the law in this area.

More than twenty thousand rapes of children were reported in 2001. Rapes of infants and very young children continued to be widely reported in the media. Fully one third of children under age eighteen had been victims of sexual abuse, according to an independent medical study released in March. Government investigations continued into widespread sexual abuse of children by educators, reported on by Human Rights Watch in 2001. More than seven hundred thousand children had been orphaned by AIDS, according to a study released in March, increasing their risk of exposure to sexual and other abuse. Domestic and international child trafficking were problems in South Africa. The illegal use of child labor was also widespread; the February conviction of an employer for using child labor was reportedly the first such conviction in South Africa. The U.N. special rapporteur on the sale of children, child prostitution and child pornography visited South Africa in September and recommended the creation of a national agency to coordinate responses to child abuse and neglect.

After a one-year moratorium, the South African Police Service (SAPS) resumed the reporting of crime statistics and said crime levels had stabilized in 2001. The reported murder rate continued its seven-year downward trend. Nevertheless, violent crime remained a major problem, with more than fifteen thousand murders in the first nine months of 2001, the latest period for which statistics were available. Among these deaths were 103 farmers and farm workers; in February 2002, there was a spate of apparently racist murders of blacks in Mpumalanga. The police

"rural protection plan," criticized by Human Rights Watch in 2001, continued to focus more attention on the killings of farm owners and their workers than on other rural residents. The Independent Complaints Directorate (ICD), a statutory body, reported 214 deaths in police custody and 371 otherwise as a result of police action in the year to April 2002, a 12.8 percent decline on the previous year, though complaints to the ICD had increased by 15 percent. The ICD called for greater civilian oversight of police to help discover and prevent torture, and criticized the lack of a legal duty to report incidents of torture.

Prisons remained seriously overcrowded, with the total prison population reaching 175,290 at the end of 2001, outstripping the system's capacity by around sixty-five thousand. About a third of the total prison population consisted of persons awaiting trial, with more than half of incarcerated juveniles (under the age of twenty-one) still awaiting trial, and 40 percent of pretrial prisoners unable to afford relatively low bail. To address these problems, an increase in the number of courts was planned, and the justice minister said measures such as plea-bargaining and modified bail conditions would be considered for non-violent crimes. The national director of public prosecutions reported a 20 percent increase in the volume of criminal court cases heard from 2000 to 2001. Calling for greater volunteerism among attorneys to help reduce court dockets, the Legal Aid Board continued to phase out the use of private lawyers in favor of salaried employees.

Children were particularly ill served by the justice system, though efforts were under way to improve the situation. In September 2002, around 3,960 children (under age eighteen) were being held in custody, of whom 2,157 were awaiting trial. Many were held unsegregated from adults. A Child Justice Bill tabled in September 2002 emphasized alternatives to incarceration for child offenders and would raise the minimum age for criminal capacity from seven years to ten. By October two "one-stop" Child Justice Centers for arrested children had been opened; more were planned for 2003.

The Department of Correctional Services reported that prison assaults increased by 4 percent in the year ending March 2001, and official-on-prisoner assault increased by almost 11 percent. Violence resulted in twelve deaths in prison in the same period, the report said. As part of a national commission investigating prison corruption, investigators uncovered thirty-two cases in one KwaZulu-Natal prison where warders had used prisoners to carry out crimes including robbery and murder. President Mbeki in August authorized the Special Investigation Unit in the office of the national director of public prosecutions to conduct a wide-ranging probe into corruption in prisons procurement and management. The Judicial Inspectorate of Prisons reported that more than half of the prisoners released from jail in South Africa were HIV-positive.

A new Immigration Act was finally passed after heated last-minute debate in May, as the provisions of the old law struck down by the Constitutional Court had to be replaced by June 2002. Controversial provisions of the law were the policing of borders by the defence force rather than the Department of Home Affairs, a quota system for work permits, and the creation of special new immigration courts. The department agreed in late 2001 to temporarily postpone deporting thousands of Zimbabwean farm workers in the Northern Province, in return for farmers'

promises to cease employing foreigners. In January 2002, new guidelines were created for the police in relation to the arrest and detention of undocumented migrants, requiring officers to have “reasonable grounds” to arrest someone on suspicion of being illegally in the country. However, police raids rounding up suspected foreigners on arbitrary grounds continued. Immigrants also continued to be vulnerable to violent xenophobic attacks. An undocumented migrant was beaten to death at a privately-run repatriation center in March. His death led to the suspension of five guards accused of his murder and sparked a riot at the center, which had been criticized in the past by human rights organizations. Human rights lawyers won a court order in March recognizing the right to apply for asylum while in the transit area of an airport, including the right to legal representation. But problems continued: Human Rights Watch wrote to Home Affairs Minister Mangosuthu Buthelezi in May expressing concern at the detention and deportation of foreigners at Johannesburg international airport, in some cases without the opportunity to apply for asylum.

The report of a major investigation into corruption in government arms purchases was released late in 2001, amidst controversy over information omitted from the final report. There were allegations that investment setoffs promised in return for costly government munitions deals had proven far less valuable than originally claimed and were in any case very difficult to enforce. A new Prevention of Corruption Bill was published in April 2002.

A government report in August revealed that South Africa had sold arms to India, Israel, Pakistan, Rwanda, and Zimbabwe, among others, in 2000 and 2001. Critics stated that these sales were in contravention of the government’s stated policy of not selling arms to countries that consistently violate human rights. Parliament and the executive debated the National Conventional Arms Control Bill, with some MPs arguing for increased parliamentary oversight of arms sales, while the Defence Ministry supported greater secrecy. South Africa was a leader in promoting universalization and full implementation of the Mine Ban Treaty in Africa. In September 2002, a bill to enact the Mine Ban Treaty into South African law was introduced to parliament. Joint operations between the police of South Africa and neighboring countries successfully destroyed thousands of guns, ammunition, mortars and mines.

Following the terrorist attacks of September 11, 2001, the South African Law Commission resumed work on revisions to a 1999 draft anti-terrorism bill, releasing a new version for public comment in August 2002. The bill made the commission of a terrorist act punishable by life in prison, and criminalized membership in and the provision of material support to designated terrorist organizations. The bill would require police to obtain written consent from a prosecutor and a judge before detaining a person suspected of having information on terrorist activity, and would require interrogation through judicial hearings. These last provisions replaced previous much harsher proposals allowing a fourteen-day detention period. The President signed the International Convention for the Suppression of the Financing of Terrorism in November 2001, though neither it nor the International Convention for the Suppression of Terrorist Bombings (signed in 1999) had been ratified at this writing. South Africa ratified the OAU Convention on the Prevention and Combating of Terrorism in September 2002.

South Africa ratified the Protocol to the African Charter on the establishment of the African Court on Human and Peoples’ Rights in June, but did not make a declaration allowing South African individuals and organizations to petition the prospective court directly.

## **DEFENDING HUMAN RIGHTS**

The South African Human Rights Commission continued to complain of official indifference to its activities, under-funding and a lack of full independence. In August, National Assembly Speaker Frene Ginwala broached the need for parliamentary oversight of the commission and other independent constitutional bodies, including the Commission for Gender Equality and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities. Civil society in general was strong, with one study finding close to one hundred thousand non-profit organizations in the country, more than half of which had cooperative relationships with the government.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

President Mbeki traveled extensively during the year to promote the New Partnership for Africa’s Development (NEPAD) to world leaders, including at the G8 summit in Canada in June. South Africa hosted the World Summit on Sustainable Development in August. At the 2002 session of the U.N. Commission on Human Rights in Geneva, however, South Africa failed to maintain its previously positive role.

South Africa’s central political and economic role in southern Africa continued, though Mbeki was cautious in criticizing irregularities in the Zimbabwean national elections in March and ongoing harassment of the opposition there. He was active in diplomatic efforts to bring peace to the Democratic Republic of Congo (DRC), agreeing in September to provide 1,500 troops to a U.N. peacekeeping force. South African troops in Burundi since late 2001 to protect the transitional government there extended their stay by another six months in May.

## **European Union**

The E.U. remained South Africa’s largest international aid, trade and investment partner, with €127 million (U.S.\$110 million) available for development cooperation in 2002. South Africa maintained strong diplomatic ties to the E.U. and its member states, with several high-level visits throughout the year. The United Kingdom gave £36.75 million (U.S.\$57.7 million) in development assistance in 2000-01, and Prime Minister Tony Blair “warmly endorsed” NEPAD, recognizing President Mbeki’s leadership. Germany, France, and Denmark also pledged support for various projects including improvement of the justice system, housing in rural areas, and the fight against HIV/AIDS. The E.U. Foundation for Human Rights in South Africa continued to support a large number of human rights initiatives.

## United States

The first meeting of the South Africa-United States Bilateral Cooperation Forum took place in February. The U.S. Trade Representative said that the “next logical step” was a free trade agreement. The U.S. ambassador to South Africa stated that the U.S. endorsed NEPAD and South Africa’s economic policies, and was committed to helping South Africa remain at the “vanguard” of African progress through trade and development assistance. The U.S. Agency for International Development (USAID) spent \$51.3 million in development assistance to South Africa in 2001, and projected \$56.4 million in 2002, with a focus on crime, unemployment, housing, and HIV/AIDS prevention. The United States’ National Institutes of Health also granted R110 million (\$10.57 million) over five years to a South African university for HIV/AIDS research.

## SUDAN

### HUMAN RIGHTS DEVELOPMENTS

The Sudan government and the rebel Sudan People’s Liberation Movement/Army (SPLM/A) made great strides in 2002, on paper, toward respect for human rights and settlement of the nineteen-year civil war. The war, however, heated up as the parties fought over oilfields and key garrisons; it was not brought to a halt until the parties agreed on October 15 to a standstill during peace negotiations. On October 30, Talisman Energy Inc., the Canadian oil company leading the development of the only concession producing oil for export in Sudan, announced that it would sell off its Sudan assets, thus bringing to a successful close a major campaign against the company by nongovernmental organizations in Canada, the United States (U.S.), and Europe.

The first agreements between the warring parties took place between January and March—these were four agreements proposed by U.S. Special Presidential Envoy for Peace in Sudan John Danforth. On July 20 the parties signed initial peace protocols in Machakos, Kenya, agreeing to a referendum in which the south would be able to chose between unity or independence, following a six-month pre-interim and six-year interim period after the signing of a final peace agreement.

The four Danforth agreements were: (1) an internationally monitored cease-fire in the Nuba Mountains for humanitarian access purposes; (2) “zones of tranquility” for polio, rinderpest, and guinea worm health programs; (3) an international commission to investigate slavery; and (4) an internationally monitored end to attacks on civilians and civilian objects.

The Nuba Mountains agreement, concluded first and signed in Switzerland on January 19, resulted in a six-month cease-fire in the Nuba Mountains, extended in July, allowing food drops to neglected areas and permitting free access by civilians to all areas of the Nuba Mountains—access that, however, the government did not