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World Report 2023 - South Africa

South Africa struggled to realize economic and social rights, due to increasing inequality and unemployment, exacerbated by the Covid-19 pandemic and corruption. The high-profile trial of former president, Jacob Zuma for fraud, corruption, money laundering and racketeering continued to suffer delays, with the trial being postponed to early 2023. The country has failed to take concrete steps to address environmental pollution and the dangers posed by toxic wastes to people living close to abandoned mines and dams.

The government's efforts to curb xenophobic violence has yet to yield tangible improvement in the protection of migrants. Anti-foreigner groups perpetuate the unsubstantiated notion that foreigners are responsible for unemployment and crimes in the country. Women and members of the lesbian, gay, bisexual, trans and intersex (LGBTI) community continue to face abuses, including murder, assault, and harassment.

Right to a Healthy Environment

On March 18, the High Court of South Africa in Pretoria issued a landmark judgment declaring that Mpumalanga province's unsafe level of air pollution is in breach of the residents' right to an environment that is not harmful to their health and well-being. This is according to section 24(a) of the Constitution, as well as other relevant sections of the constitution. The court then ordered the government to clean up the environment in the province.

A combination of poor governance and unethical business practices has left many communities living in the shadow of thousands of abandoned mines that litter South Africa. Abandoned coal mines pose grave safety and health risks to local communities, polluting critical water sources and

arable land, and endanger the safety and lives of people, including children, who return to the unsafe mines in the hopes of eking out an income.

The Jagersfontein dam, in the Free State province, containing toxic mine waste that can cause long term environmental damage and health risks, collapsed on September 11, killing at least one person, injuring at least 35 others, and resulting in four people missing. According to media reports, sewage works were destroyed, leaving raw sewage flowing untreated into water sources, together with toxic mine waste.

Rule of Law

Zuma's corruption trial has suffered frequent delays. One of the reasons for the delays was caused by his appeal in June to the Constitutional Court against the Supreme Court's dismissal of

his special plea to remove the lead state prosecutor, Billy Downer, whom he accused of lacking independence and impartiality. The Pietermaritzburg High Court was supposed to resume the trial of the case on October 17 but postponed the trial to January 2023 to allow the presiding judge to consider whether he should still be on the case.

Zuma has also started a private prosecution against Downer and journalist Karyn Maughan, for allegedly publishing documents containing his medical information in possession of the National Prosecuting Authority, without the permission of the National Director of Public Prosecutions.

Police Conduct

Members of the South African Police Services continue to violate rights with little accountability. On July 5, the court acquitted four police officers of killing Mthokozisi Ntumba, a bystander shot and killed during student protests at the University of Witwatersrand on March 10, 2021. In August the Independent Police Investigative Directorate announced an investigation into an incident captured on video footage of police officers assaulting an unnamed man in the Western Cape.

Women's Rights

In January, the government passed new laws, namely the Criminal Law (Sexual Offences and Related Matters) Amendment Act, the Criminal and Related Matters Amendment Act, the Domestic Violence Amendment Act, and the Criminal Law (Forensics Procedures) Amendment Act, to strengthen efforts to address the disturbingly high number of gender-based violence cases in the country. Despite these efforts, Police Minister Bheki Cele reported that between April and June, 855 women were killed,

and over 11,855 cases of gender-based violence against women were reported, including 9,516 cases of rape.

Sexual Orientation and Gender Identity

South Africa's 2019 National Action Plan to combat Racism, Racial Discrimination, Xenophobia and Related Intolerance (NAP), recognizes the need to prevent discrimination and prejudice against LGBTI persons, in line with its constitutional goals of equality and non-discrimination. The National Intervention Strategy, adopted in 2014, and reviewed in 2019, considers the Gender-Based Violence and Femicide National Strategic Plan to ensure that the protection and advancement of LGBTI rights are adequately funded by the government.

In a letter to Human Rights Watch in February, Deputy Minister of Justice and Constitutional Development John Jeffery stated that the National Task Team on Gender and Sexual Orientation-based Violence Perpetrated against Lesbian, Gay, Bisexual, Transgender and Intersex Persons has established, among other initiatives, a Rapid Response Team, which monitors, and tracks hate crimes. The Minister reiterated the South African government's commitment to ensure that the Act is an intersectional, collaborated response to end discrimination, violence, hate, and bias crimes on the grounds of sexual orientation, gender identity, gender expression, and sex characteristics in the country.

Throughout 2022, LGBTI persons continued to face violence, including killings, sexual assault, harassment, and discrimination. The 2022 national census failed to recognize gender diversity by including a gender question that provides respondents with only two options: male or female.

In June 22, a Pretoria Magistrate court sentenced a man to 25 years for the murder of a lesbian woman who rejected his advances in 2021. In August, two men and a child were sentenced to 20- and 10-years' imprisonment respectively, for gang raping a gay man in 2017.

Children's Rights

Between 2021 and mid-2022, 400,000 to 500,000 children dropped out of school in South Africa, bringing the total number of out of school children to 750,000, according to the United Nations Children's Fund (UNICEF). Teenage pregnancy was identified as one of the reasons why children drop out of school in the country. Over half-a-million children with disabilities are excluded from education. On September 21, the South African Constitutional Court declared the Copyright Act unconstitutional because it did not include exceptions that would allow for the reproduction and adaptation of literary materials to meet the needs of persons who had a visual or print disability.

In November 2021, South Africa adopted the Policy on Prevention and Management of Learner Pregnancy in Schools, which recognizes students' right to continue in school during and after their pregnancy. Approximately 33 percent of girls do not return to school after falling pregnant. Since January, schools are compelled to report pregnancies under the age of 16, the age of consent, and as such any sexual activity below that age is statutory rape.

Xenophobia

Amid the economic downturn and unemployment fueled by Covid-19 restrictions, many foreign nationals in South Africa faced xenophobic violence. Vigilante groups such as "Operation Dudula" and "Put South Africa First", conducted door-to-door searches for undocumented foreign nationals, whom they blame for South Africa's high crime and unemployment rates.

In April, an anti-migrant mob killed a 43-year-old Zimbabwean national in Diepsloot, Johannesburg; in June, another mob set fire to the Yeoville market in Johannesburg, where mostly migrant shopkeepers rented stalls; and in September, a group of South Africans burned the homes of two migrant men in Plettenberg Bay, Western Cape.

Xenophobic sentiments in the country were further reinforced by prominent political figures such as Julius Malema, a member of parliament and leader of the Economic Freedom Fighters party. In January 2022, Malema visited restaurants in Johannesburg's Mall of Africa to assess the ratio of South African to foreign nationals employed by businesses there.

In April, acting resident coordinator of the United Nations in South Africa, Dr. Ayodele Odusola, raised concern about xenophobic violence in the country. In July, UN experts condemned the violence and called for accountability against xenophobia, racism and hate speech that was harming migrants, refugees, and asylum seekers.

Despite its strong legal and human rights framework on refugees and asylum seekers, South Africa's asylum management system continued to fail many in need of protection. The UN refugee agency (UNHCR) estimated that South Africa hosted over 240,000 refugees and asylum seekers as of April 2022. However, many others remained undocumented. Refugees and asylum seekers continued to face enormous challenges in applying for asylum and obtaining or renewing documentation.

In mid-2022, some government refugee reception offices reopened for the first time since their 2020 closure. However, many refugees and asylum seekers faced language, access, or technical barriers to using the online system for applications or permit renewals. Despite the

government's extensions of permit renewal deadlines several times between 2020 and 2022, the ongoing barriers to registration and documentation caused asylum seekers and refugees to face risks of evictions, police harassment, and deportation, as well as difficulties opening or maintaining bank accounts, accessing basic services, and enrolling their children in school. and documentation caused asylum seekers and refugees to face risks of evictions, police harassment, and deportation, as well as difficulties in opening or maintaining bank accounts, accessing basic services, and enrolling their children in school.

Climate Change Impacts and Policy

South Africa is among the top 20 emitters of greenhouse gases—and the top emitter in Africa. It is also among the world's top 10 coal producers and fourth biggest exporter, contributing to the climate crisis that is taking a growing toll on human rights around the globe. Although South Africa has included renewable energy in its energy mix, it continues to heavily rely on coal for 70 percent of energy demand, and the government has declared that this will be the case for the foreseeable future.

In the September 2021 update to its Nationally Determined Contribution (NDC), a Paris Agreement-mandated five-year national climate change action plan, the government announced plans for increasing yet still insufficient emission reductions and a plan to reach net zero by 2050 giving the country an insufficient rating by the Climate Action Tracker, and independent scientific analysis that tracks government climate action.

In November 2021, at COP26 (Conference of the Parties) in Glasgow, Scotland, the United States, United Kingdom, European Union, French, and German governments announced that they would set aside \$8.5 billion in funding for South Africa to assist with a more rapid and just transition from coal power.

In February, the government introduced the Climate Change Bill to parliament. The bill seeks to “enable the development of an effective climate change response and a long-term transition to a low-carbon and climate-resilient economy.”

As a water-scarce country, South Africa is particularly vulnerable to the impacts of climate change. Extreme weather events have become more intense because of climate change, such as flooding in the Eastern Cape in January. In April more floods occurred in both KwaZulu-Natal and in the Eastern Cape that killed 448 people, displaced over 40,000 people and destroyed more than 12,000 homes, according to the UN.

Foreign Policy

In March, South Africa presented a draft resolution on the humanitarian situation in Ukraine to the UN General Assembly, which was criticized for

not calling out Russia for its aggression but instead broadly mentioned “parties to the conflict.” The country abstained from a UNGA vote, in April, to suspend Russia from the UN Human Rights Council.

President Cyril Ramaphosa raised objections to a draft Countering Malign Russian Activities in Africa Bill which was passed by the US House of Representatives in April and was pending before the Senate at time of writing. The bill seeks to sanction Africans doing business with Russian entities under US sanctions.

In February, South Africa extended by three months the deployment of 1,495 soldiers as part of its contribution to the Southern African Development Community (SADC) Mission in Mozambique, which the SADC authorized in July 2021 to support Mozambique’s military operation against armed Islamist fighters in its Cabo Delgado province.

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