South Africa

Country Overview

Politics

South Africa is a multiparty parliamentary democracy in which constitutional power is shared among the executive, judicial and parliament branches.¹ In a May 2014 election generally described as free and fair, the country re-elected Jacob Zuma, and the ruling African National Congress (ANC) won 62.2 percent of the vote and a National Assembly majority 249 of 400 seats.²

Economy

South Africa is classified by the World Bank as an upper middle income economy.³ In 2016, South Africa’s GDP growth was the lowest it had been since 2009 at 0.40 percent but it is projected to rise to 1.8 percent by 2018.⁴ South Africa is considered to be the continent’s most advanced and mature economy with vibrant financial and service sectors and preferential access to export markets in the United States, European Union and southern Africa in general. State-owned enterprises play a significant role in the South African economy in key sectors like electricity, transport and telecommunications, to the extent where the government’s interest in these sectors discourages foreign investment.⁵

Since 2012, the government has proposed a variety of laws, policies and reforms envisioned to transition the employment and ownership of companies to benefit historically disadvantaged, mostly black, South Africans. While the business community reportedly recognizes the need to improve outcomes for those who have remained historically disadvantaged since apartheid, these initiatives and proposals have contributed to uncertainty among investors about the future regulatory and investment climate. This concern notably extends to the extractive industries, security services and agriculture.⁶

Social/Human Development

South Africa is in the medium human development category, according to the UNDP.⁷ South Africa has one of the highest inequality rates in the world which perpetuates both inequality and exclusion, as data shows that the Gini coefficient measuring relative wealth reached 0.65 in 2014 based on expenditure data (excluding taxes), and 0.69 based on income data (including salaries, wages, and social grants). The
poorest 20 percent of the South African population consume less than 3% of total expenditure, while the wealthiest 20 percent consume 65 percent.

According to the World Bank, South Africa has made considerable strides toward improving the wellbeing of its citizens since the transition to democracy in the mid-1990s but progress is reportedly slowing. Poverty was 16.6% in 2011, but World Bank estimates suggest poverty changed little in 2016, dropping just marginally to an estimated 15.9%. High unemployment remains a key challenge: South Africa’s unemployment rate hit a 12-year high in 2016, at 27.3% in the third quarter. The unemployment rate is even higher among youths, close to 50%.

The HIV/AIDS epidemic in South Africa has left thousands of vulnerable children orphaned. A study conducted by the government entity Statistics South Africa from 2009 to 2015 found about 90,000 children lived in approximately 50,000 child-headed households. These children sometimes turn to prostitution to support themselves and their siblings. Traffickers tend to seek out rural areas to recruit children and move them to urban centers in Johannesburg, Cape Town and Durban.


U.S. Department of State TIP Ranking: Tier 2

The Trafficking in Persons Report noted trafficking or trafficking vulnerability in potentially exported supply chains including agriculture and fishing.

Read the full report at: https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271281.htm

Migrant and Other Vulnerable Populations

South Africa has positive net migration, with migrants making up 5.76 percent of the population. The largest source countries for migrants are Zimbabwe, Mozambique, Lesotho, United Kingdom and Namibia. Other migrant source countries include Swaziland, Malawi and Zambia with some migrants coming from East and Central Africa. In 2015, there were a reported 1,217,708 persons of concern in South Africa. This total included 121,645 refugees and 1,096,063 asylum-seekers.
Top destination countries for migrants from South Africa are the United Kingdom, Australia, and the United States.12
Exports and Trade

The top exports from South Africa in 2016 include platinum, vehicles, ores, mineral fuels and iron.13
The top importers of all goods from South Africa are China, the United Kingdom, the United States of America, Germany and India.14
Trafficking in Persons Risk Factors Analysis

Legal/Policy Risk Factors

Level of Legal Protection for Civil Liberties and Workers’ Rights

Freedom of Association

According to the U.S. Department of State, South Africa’s constitution provides for the right of freedom of association and the government respects this right. National Intelligence Agency and Secret Service members are prohibited from joining unions. Overall, according to Statistics South Africa, 3.6 million workers belong to unions across 189 different unions. The law allows unions to operate without interference and provides the right to strike, except those workers in essential services the “interruption of which endangers the life, personal safety, or health of the whole part of the population,” such as the parliamentary service and police force.

Despite decreasing union membership, labor strikes have increased in recent years—most notably by municipal and transport workers and miners. Sectors that were affected by strikes during the year include energy, petroleum, communications, transportation, pharmaceutical and mining.

The Congress of South African Trade Unions (COSATU) is the dominant labor union, but it faces challenges from factionalism and other independent unions. The country’s largest and most influential agriculture-sector union in voted to disaffiliate from COSATU in 2016.

Working Conditions

In South Africa, the Employment Equity Act protects all workers against unfair discrimination on the grounds of race, age, gender, religion, marital status, pregnancy, family responsibility, ethnic or social origin, color, sexual orientation, disability, conscience, belief, political, opinion, culture, language, HIV status, birth, or any other arbitrary ground. However, discrimination in employment and occupation as been reported to occur in practice in relation to to gender, disability, sexual orientation, HIV status and country of origin.

There is no legally mandated minimum wage, although the law provides the Department of Labor with the authority to set wages by sector. The department increased the minimum wage for farm workers and domestic workers to ZAR 14.25 (USD 1.01) per hour and ZAR 11.44 (USD 0.82) per hour respectively. Domestic workers in rural areas are paid less at ZAR 10.23 (USD 0.73) per hour.

The standard workweek is 45 hours and overtime may not be more than 10 hours a week and overtime is only allowed via permit and upon agreement between employer and employee. The law applies to
all workers, including workers in informal sectors, foreigners and migrant workers. However, the government does not provide social protections for workers in the informal economy.27

The mining sector has separate legislation to ensure the occupational health and safety of miners. Safety standards are set by the Department of Mineral Resources whereas the Department of Labor determines them for all other sectors.28 The law strictly punishes employers for the serious injury or illness of their employees due to unsafe mining conditions, yet the government reportedly has failed to effectively enforce the law at times.29

Although mineworkers are granted the right to remove themselves from work situations deemed dangerous to their health and safety without risking loss of employment, there are no laws or regulations that protect against this risk for workers outside of the mining sector.30 The law does stipulate that employers cannot retaliate against employees who disclose poor workplace conditions, however.31

**Discrimination**

In order to foster equality, the law requires employers with 50 or more employees to provide previously disadvantaged groups, legally defined as “Africans or blacks”, “Coloureds,” and “Asians” and collectively constituting more than 90 percent of the population, to be represented adequately at all levels of the workforce. However, it was found that whites occupied 68.9 percent of top management positions as opposed to 14.3 percent of blacks for the same position.

Indigenous people in South Africa, mainly the San and Khoi, face discrimination in land ownership. The indigenous groups have demanded that they be acknowledged as “first peoples” in the constitution, but the government has failed to recognize this claim, which has impacted the San and Khoi’s legal recognition as traditional leaders.32

Although the government prohibits discrimination based on sexual orientation and gender identity, LGBTI persons face mistreatment, violence, and harassment due to the anti-LGBTI attitudes within communities and among police.33 Social stigma associated with HIV/AIDS remains a serious problem, especially for rural communities.

Despite legal equality of women in family, labor, property, inheritance, nationality, divorce and child custody matters, discrimination reportedly remains a serious problem. The law prohibits sexual harassment, yet it remains pervasive.34
Forced Labor

The law in South Africa prohibits all forms of forced or compulsory labor, although the U.S. Department of State has reported that the government has not upheld the law effectively, with reports of forced labor involving children and women in the domestic and agricultural sectors.35

Child Labor

Children under the age of 15 are not allowed to work, however exceptions are made for the performing arts so long as employers receive permission from the Department of Labor and agree to specified guidelines.36 Child labor laws are inconsistently enforced in the informal and agricultural sectors.37

In South Africa, public education is compulsory until the age of 15 or grade nine.38

Civil Society Organizations

NGOs operating in South Africa can register and operate freely.39 According to Freedom House, South Africa’s status is “Free” and scores a 2.0 freedom ranking where one is the “Best” and seven is the “Worst.”40 While NGOs have reported being able to register and operate freely, some civil society organizations complained of harassment and increase surveillance in 2016.41 In its 2016 Report, Freedom House notes that the government is sensitive to media criticism and sought to limit the editorial independence of the South Africa Broadcasting Corporation (SABC) in its efforts to broadcast unfavorable footage of President Zuma.42

Immigration Policies Limiting the Employment Options or Movements of Migrants

In South Africa, unemployment is high and averages 25 percent. Although highly skilled labor is in short supply, the U.S. Department of State reports that importing labor has proven to be challenging due to present immigration laws.43

Draft legislation introduced in June 2016 includes a security-based approach that restricts the rights of asylum-seekers.44 The proposal is to establish detention centers at South Africa’s borders to house asylum seekers while their applications are processed, limiting their rights to work and movement.45
Ratification of ILO Conventions Related to Human Trafficking or Rights of Workers and Migrants

<table>
<thead>
<tr>
<th>Conventions</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>ILO 29 Forced Labor</td>
<td>In force</td>
</tr>
<tr>
<td>ILO 87 Freedom of Association and Protection of the Right to Organize</td>
<td>In force</td>
</tr>
<tr>
<td>ILO 98 Right to Organize and Collective Bargaining</td>
<td>In force</td>
</tr>
<tr>
<td>ILO 100 Equal Remuneration</td>
<td>In force</td>
</tr>
<tr>
<td>ILO 105 Abolition of Forced Labor</td>
<td>In force</td>
</tr>
<tr>
<td>ILO 111 Discrimination</td>
<td>In force</td>
</tr>
<tr>
<td>ILO 138 Minimum Age</td>
<td>In force</td>
</tr>
<tr>
<td>ILO 181 Private Employment Agencies</td>
<td>Not ratified</td>
</tr>
<tr>
<td>ILO 182 Worst Forms of Child Labor</td>
<td>In force</td>
</tr>
<tr>
<td>ILO 97 Migration for Employment</td>
<td>Not ratified</td>
</tr>
</tbody>
</table>

Use of Export Processing Zones (EPZs)

According to the South African Department of Trade and Industry there are five industrial development zones (IDZs) in the country. The U.S. Department of State reported in 2012 that these IDZs are not exempt from environmental or labor laws.

Bilateral Agreements with Migrant-sending Countries

In the period of its transition to a democratic state in 1994 to 2014, South Africa has concluded bilateral agreements and MOUs on labor migration with six of its sub-Saharan African neighbors: Democratic Republic of Congo (DRC), Lesotho, Mozambique, Namibia, Tanzania, and Zimbabwe.

A 2014 review published by the ILO and the South African Development Council (SADC), of which South Africa is a member, indicated that these agreements and MOUs have left gaps in protection for migrant workers and their families. While the agreements differ in some respects, they generally lack the following:

- references to basic, fundamental rights of migrant workers and their families;
- special attention to vulnerable groups such as women and children;
- accessible and effective channels for migrant workers to use to enforce their rights.
The ILO report further indicated that as a whole, the MOUs may require further development of institutional frameworks before they can be fully implemented. The current bilateral instruments, as the ILO refers to them, reportedly emphasize policing and controlling migration through force and sanctions. Although the agreements and MOUs have limitations, the ILO report indicates that a key objective of the agreements is to combat cross-border trafficking.51

Political Risk Factors

Political Instability or Conflict

South Africa scores a 69.9 in the 2016 Fragile States Index, placing it in the “Warning” Category. Additionally, political violence erupted in KwaZulu-Natal Province in the lead-up to elections held in August.52 South Africa is comparatively more politically stable than its main labor supply countries, who are ranked in the “High Alert” and “High Warning” Categories.53

Level of Crime and Violence

In 2015, the government reported more than 20,000 homicides in the 12-month period ending March 31 and the conviction rate for all reported crimes was less than ten percent.54 The World Economic Forum Global Competitiveness Report ranks South Africa 133 out of 138 and 99 out of 138 for business costs of violence and crime and organized crime respectively.55

State Persecution

In April and October of 2015, South Africa was the site of large-scale xenophobic attacks on foreign nationals and their businesses that were estimated to displace close to three thousand people. The targets of the violence were mostly African immigrants from Zimbabwe and Somalia. Human Rights Watch reported that statements by traditional leaders and government officials may have fueled the violence, such as a statement made in March 2015 by Zulu King Goodwill Zwelithini that foreigners should “pack their bags and go home.”56 The mayor of Johannesburg, Herman Mashaba, publicly characterized illegal immigrants as “criminals”, leading NGOs to criticize his remarks and declare them hostile and dangerous in light of previous xenophobic incidents in Johannesburg.57

Principal human rights problems involve the police’s use of lethal and excessive force including torture, abuse, rape and beating of prisoners and vigilante and mob violence. Amnesty International has reported 366 deaths because of police action and 216 deaths in police custody, 145 cases of torture, 51 cases of rape and 3,509 cases of assault by police.58
According to the U.S. Department of State, NGOs and media reported that security forces have arrested migrants and asylum seekers indiscriminately, even those with proper documentation, and threatened migrants with bureaucratic difficulties unless they paid a bribe.\textsuperscript{59} Refugee advocacy organizations claim that police and immigration officials abused refugees and asylum seekers, including foreign nationals in Khayelitsha, Western Cape Province and that individuals were targeted by the South African Police Service and their businesses extorted.\textsuperscript{60}

**Level of Corruption**

The 2016 Transparency International Corruption Perception Index scores South Africa as a 45 out of 100, where a score of zero signals “Highly Corrupt” and a 100 signals “Very Clean.” South Africa is ranked 64 out of 176 countries on the index.\textsuperscript{61} The law provides criminal penalties for conviction of official corruption and the government continues efforts to quell corruption, yet some officials have continued with impunity.\textsuperscript{62}

**Socio-Economic Risk Factors**

**Level of National Economic Development**

South Africa scored in the medium human development category, according to the UN Human Development Index, with a rank of 119 out of 188 countries and a score of 0.666.\textsuperscript{63} South Africa’s 2015 HDI of 0.666 is above average for other countries in the medium human development category, who on average score 0.631, but remains above average for other sub-Saharan African countries at 0.523.\textsuperscript{64} However, when adjusted for inequality, the HDI falls to 0.435—a loss of 34.7 percent. Countries of labor supply, mainly Zimbabwe, Mozambique and Lesotho, have lower HDIs in comparison to South Africa.\textsuperscript{65}

**Level and Extent of Poverty**

According to South Africa’s most recent multidimensional poverty index from household surveys in 2012, 10.3 percent of the population are multidimensionally poor while an additional 17.1 percent live near multidimensional poverty (MP). The intensity of MP, which is the average deprivation score experienced by people, is 39.6 percent.\textsuperscript{66}

**Degree of Gender Inequality**

The UNDP 2016 Gender Inequality Index scores South Africa at 0.394 and ranks 119 out of 188 countries.\textsuperscript{67}
In agricultural labor, especially in coffee plantations, there are substantial gender differences in the type of work and employment relationship. Most women tend to work in low-paying, seasonal or temporary jobs, where workers are paid about one-third the amount that permanent workers receive.68

Men generally hold permanent jobs and secure employment relations compared to the seasonal and temporary nature of women’s work. Because they are generally temporary, single women workers tend to be excluded from housing grants. Also, the employment of women farm workers is often tied to their husbands’ employment, as there is evidence of married women farm workers who work based on contracts signed by their husbands.69 Gender Equity is one of the fundamental principles of South Africa’s land reform but socio-cultural practices impede rural women from holding land titles.70

Customary practices of land tenure are varied depending on the region. For example, some chiefs in the Northwest Province who are politically aligned to the ANC allocated land to married women but not to single women with children.71 Land tenure is a precondition for access to housing subsidies and chiefs do not always grant women land, which impacts their ability to independently access housing.72

Landlessness and Dispossession

According to the U.S. Department of State, land ownership in South Africa is highly uneven as a result of racially discriminatory property laws made during apartheid.73

In South Africa, the Expropriation Act of 1975 and the Expropriation Act Amendment of 1992 entitle the government to expropriate private property for reasons of public necessity or utility. Under these laws, the owner of the land is compensated through negotiation or as determined by a court.74

Environmental Factors

The CIA World Factbook indicates that South Africa faces several environmental issues related to water. The country requires extensive water conservation and control measures; demand for water is outpacing supply; and rivers are polluted from agricultural runoff and urban discharge. In addition, the country is experiencing desertification.75

The National Resource Governance Institute (NRGI) analyzes a country’s endowments and the political climate surrounding them. NGRI scored South Africa a failing score of 31 out of 100 on reporting contracts. This means that there is no public information on mining contracts or environmental impact assessments and the Mineral Resources Department routinely ignores requests for information.76
Documented Trafficking in Persons Risk Factors in Key Commodity Supply Chains

Apparel

Apparel Overview

The textile manufacturing industry in South Africa has suffered a severe downturn in the past decade. The industry used to employ over 200,000 people in the early 2000s, but that number has fallen by over half. There are ongoing efforts to revive the industry, including the introduction of aggressive tariffs (40-45 percent) and widespread marketing campaigns. There are also initiatives to help train new workers in the sector and encourage investments.77

Documented Trafficking in Persons Risk Factors in Apparel

The U.S. Department of State reports that after “downturn in the textile industry [in Swaziland] has led textile workers to follow promises of employment in neighboring countries, potentially increasing their vulnerability to trafficking.”78 Media reports from South Africa confirmed this account, profiling a Swazi migrant worker who, after losing her job in Swaziland, travelled to South Africa in search of apparel sector work. Upon her arrival, she met an informal labor broker who procured a job in a factory. Although the worker felt that she was paid relatively well (as a result of working long hours), Swazi migrant workers in South Africa are vulnerable because most cannot afford to properly maintain their migration documentation status, and thus live in fear of police raids.79 In 2017, 72 people were allegedly trafficked from Mozambique, Swaziland and Lestho to apparel factories in South Africa.80

Diamonds

Diamonds Overview

While South Africa continues to be a major player in the global diamond market, production has dropped off in recent years. There are currently no new mines under construction, and the number of companies currently working in the sector has dropped from 32 (prior to 2008) to nine. Diamond polishing operations have also scaled back in recent years with only 300-600 polishers currently employed (down from 3,000 pre-2008), as the majority of South Africa’s available diamond supply has already been discovered and/or mined.81
Documented Trafficking in Persons Risk Factors in Diamonds

Although much of the diamond mining sector in South Africa is formalized, illegal mining continues to present significant risks to miners. In 2009, 80 miners died after inhaling poisonous gas from a fire in an illegal mine. In 2012, 22 miners were killed by falling rocks.82

Fruits and Nuts

Fruits and Nuts Overview

The fruit and nut industry in South Africa is the highest value agricultural export sector in the country, and accounts for roughly 400,000 jobs throughout the supply chain. Traditional crops like citrus, table grapes, and deciduous fruits still account for the bulk of South African fruit and nut exports. There are other crops on the rise however, such as apples, mandarins, kiwifruit, cashew nuts, walnuts, berries, and macadamia nuts. Growing demand for such products in Southeast Asia is fueling the rise of these new fruits, as growth in South Africa’s fruit and nut export sector is largely driven by rising demand in China, India, Indonesia, Thailand, Vietnam, and the Philippines.83

Documented Trafficking in Persons Risk Factors in Fruits and Nuts

According to the U.S. Department of State Trafficking in Persons Report, “Forced labor is reportedly used in fruit and vegetable farms across South Africa.”84

A 2011 Human Rights Watch report on workers in South African fruit production are frequently exposed to pesticides and have limited access to drinking water.85 The majority of seasonal or casual workers are women – as opposed to permanent workers who receive greater protection and are more likely to be men.86 Human Rights Watch found that most of these casual workers do not receive contracts.87 Even workers who work year-round may be considered temporary or casual workers and denied benefits.88

The migrant labor force in the fruit sector is reportedly growing in South Africa. These workers come from other regions in South Africa, Zimbabwe, Lesotho and Mozambique.89 Some analysis notes that migrant workers living in on-plantation housing is attractive to producers/farm owners because workers living on farms improves worker attendance, particularly during the labor-intensive harvest season, when inadequate labor can lead to rotted fruit and lost profits.90 These migrants reportedly bring their family members with them eventually.91 Human Rights Watch has reported that some of these migrants seek work directly, while others are recruited by third party labor brokers. These brokers may be individuals acting as informal recruiters or registered labor agencies.92
Gold

Gold Overview

South Africa was once the world’s largest producer of gold, with more at 75 percent of global reserves in 1970. The downturn in the South African gold sector has seen a third of the industry’s 180,000 workers fired during the period of 2004-2015. The country’s gold output has fallen by approximately 85 percent since 1980, and South Africa now produces only 6 percent of the global gold supply.93

Documented Trafficking in Persons Risk Factors in Gold

In South Africa, after closures of several commercial mines led to the unemployment of a third of the country’s 180,000 miners, illegal gold mining increased significantly.94 Much of the illegal mining activity is associated with local gangs who control mines.95

Fish

Fish Overview

The primary seafood sectors by volume in South Africa are the sardine and anchovy industries. Additionally, there are a variety of tuna, fish, and lobster species that are produced in the country. The majority of seafood products are wild-caught. Deep-water hake, West Coast Rock Lobster, Indian Ocean Yellowfin tuna, and Southern Bluefin are considered to be “overexploited” in South Africa. The seafood industry is responsible for directly employing 43,000 people, and provides approximately 100,000 indirect jobs for those in related sectors. In 2009, ZAR 4.4 billion (USD) worth of fish was brought to market in South Africa, or approximately 583,000 tons of fish.96

Documented Trafficking in Persons Risk Factors in Fish

According to the U.S. Department of State 2016 Trafficking in Persons Report, forced labor or forced child labor is reported in the fishing/seafood sector in South Africa.97 The 2016 Trafficking in Persons Report states that foreign forced labor victims were found on a fishing boat in South African waters.98 There was a documented case of slave labor on foreign tuna fishing vessels in South African waters where the crew—mainly Indonesian and Taiwanese workers—worked for three to five years without being paid.99 A similar situation involving Cambodian workers was
documented as well, where Cambodian workers were trafficked by a recruitment agency in Cambodia and sent to work on fishing vessels off the coast of South Africa.\textsuperscript{100}

This report was funded by a grant from the United States Department of State. The opinions, findings and conclusions stated herein are those of the authors and do not necessarily reflect those of the United States Department of State.

**Endnotes**

\begin{footnotesize}
\begin{enumerate}
\end{enumerate}
\end{footnotesize}
83 http://www.farmersweekly.co.za/opinion/by-invitation/growing-south-africas-global-fruit-exports/
93 Sieff, Kevin. “South Africa’s gold industry, like it’s economy, is crumbling.” March 7, 2016. https://www.washingtonpost.com/world/africa/south‐africas‐gold‐industry‐like‐its‐economy‐is‐crumbling/2016/03/07/33ae7a26‐cc6f‐11e5‐b9ab‐26591104bb19_story.html
94 Sieff, Kevin. “South Africa’s illegal gold miners forced to scavenge in abandoned shafts in a perilous attempt to survive.” March 8, 2016. http://www.independent.co.uk/news/world/africa/south‐africas‐illegal‐gold‐miners‐forced‐to‐scavenge‐in‐abandoned‐shafts‐in‐a‐perilous‐attempt‐to‐a6919561.html