

# **SOUTH AFRICA**

**Key human rights concerns in  
South Africa**

*Amnesty International's  
Submission to the UN Universal  
Periodic Review, May-June 2012*

**AMNESTY  
INTERNATIONAL**



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# INTRODUCTION

This document is a public version of Amnesty International's submission in November 2011 to the United Nations Office of the High Commissioner for Human Rights (OHCHR) which highlighted some of the organisation's human rights concerns in South Africa, in advance of the country's Universal Periodic Review (UPR) taking place in May-June 2012.<sup>1</sup> In the submission, Amnesty International comments on the government's implementation of recommendations made to South Africa during its previous UPR in 2008. These include recommendations concerning HIV/AIDS, poverty and access to health care; domestic violence and violence against women; discrimination on grounds of sexual orientation or gender presentation; racism and xenophobia; domestic legislation and international human rights standards; and ratification of the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol.

Amnesty International expresses concern that discrimination is still affecting access to HIV-related health services, particularly in poor rural areas, despite significant progress in general to improve health services for people living with HIV. Rural women and girls continue to experience multiple forms of discrimination which increase the risk of HIV infection and their difficulties in accessing and remaining on treatment. Violent, targeted attacks against lesbian, gay, bisexual and transgender individuals persist, along with a slow state response to these abuses. Since 2008 refugees and asylum-seekers continue to experience targeted and sometimes large-scale violence. They are also facing the impact of recent official measures which will limit access to the asylum-system. Despite constitutional guarantees of the right to life and the right not to be subjected to torture, these rights continue to be violated by law enforcement officials and at an increasing scale. Human rights defenders are experiencing harassment and in some cases criminalization of their peaceful activities.

## FOLLOW UP TO THE PREVIOUS REVIEW

At the time of its first UPR in April 2008, a number of recommendations were made to South Africa by other States, including on HIV/AIDS, poverty and access to health care;<sup>2</sup> domestic violence and violence against women;<sup>3</sup> discrimination on grounds of sexual orientation or gender presentation;<sup>4</sup> racism and xenophobia;<sup>5</sup> domestic legislation and international human rights standards;<sup>6</sup> and ratification of the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol.<sup>7</sup>

Substantial progress has been made since the last review to expand access to antiretroviral treatment, with over 1.4 million people on treatment by June 2011. Physical and economic barriers to access to health services, however, continue to limit the realisation of the right to health for poor and particularly rural households in the context of the HIV epidemic.

Despite the normative framework guaranteeing women's right to equality, discrimination against women and high levels of sexual and gender-based violence persist. Their access to justice, protection and other remedies provided for under progressive statutory law continues to be obstructed by lack of capacity, limited training programs for police and other state service-providers, and allocation of resources for combating other priority crimes.

Similarly, despite the normative framework guaranteeing non-discrimination on these grounds, the persistence of violent, targeted attacks against lesbian, gay, bisexual and transgender individuals remains a serious unaddressed problem.

The draft National Action Plan on Racism, Racial Discrimination, Xenophobia and

Related Intolerance under the Durban Review process is still under development through the Department of Justice and Constitutional Development.<sup>8</sup> An Inter-Ministerial Committee on xenophobia was established in 2010. Despite President Jacob Zuma denouncing targeted violence against refugees and migrants, serious incidents continue to occur across the country. *Refoulement* remains a problem.

Since its previous review South Africa has not adopted legislative measures to prevent, prosecute and punish acts of torture and other ill-treatment, in line with international standards, or ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In its response to recommendations made during its previous review, delivered on 11 June 2008, South Africa expressed support for a recommendation to ratify the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol.<sup>9</sup> However, at the end of November 2011 this was still under discussion.

## **NORMATIVE AND INSTITUTIONAL FRAMEWORK OF THE STATE**

South Africa has an internationally admired Constitution which protects and makes justiciable all the rights it guarantees, including economic, social and cultural rights. Despite some challenges and controversies regarding judicial appointments and criticism of the judiciary by leading political figures, the administration of justice remains overall robustly independent and results in jurisprudence which further promotes human rights. However, the circumstances surrounding the dismissal of the then National Director of Public Prosecutions, Vusi Pikoli, raises serious concerns about political manipulation of high level appointments within the justice system.<sup>10</sup> Moreover, while the legal aid system does allow access to justice for indigent accused, access to the courts for adjudication of constitutional rights issues remains difficult for poorer communities, organizations and individuals. Some statutory oversight bodies, such as the Office of the Public Protector, are increasingly robustly investigating and protecting the rights guaranteed under the Constitution.

## **PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

### **HIV/AIDS, POVERTY, WOMEN'S RIGHTS AND THE RIGHT TO HEALTH**

South Africa has made substantial progress since the last review in improving access to comprehensive treatment, care and support for people living with HIV. By June 2011 some 1.4 million people had access to antiretroviral treatment. The cost of this expansion has been largely borne by the government of South Africa. This progress has been made along with an expansion in the availability of Prevention of Mother to Child HIV Transmission treatment. The roll-out of new guidelines allowing access to antiretroviral treatment at an earlier stage of the disease and increased access to treatment for HIV-positive pregnant women have also been beneficial. The expansion of access to antiretroviral treatment and care at the clinic-level and the promotion of "task-shifting", in response to critical shortages of medical staff, have helped increase access for remote and poor communities.

In late 2011, the country was engaged in an open, co-operative and consultative process across government and non-governmental sectors at national and provincial levels leading to the adoption of a new five-year National Strategic Plan for HIV and AIDS. The new plan, launched on World AIDS Day 1 December 2011, includes as main goals ensuring access to antiretroviral treatment for at least 80 per cent of those needing it, reducing HIV-related social stigma and protecting the rights of people living with HIV.<sup>11</sup>

Amnesty International, in a submission to the South African National AIDS Council in September 2011, highlighted a concern that multiple forms of discrimination continue to affect access to HIV-related health services, particularly in rural areas.<sup>12</sup> According to official data in 2011, infection levels have continued to rise in rural areas.<sup>13</sup> There are both physical and economic barriers to access, including the apparent lack of improvement in transport systems and road infrastructure in rural communities over the past three years. Amnesty International's own research and information from wider consultations indicate that decision-making by people living in poverty regarding seeking or keeping medical appointments remains influenced by factors such as:

- The cost of transport for households who rely on welfare grants or have precarious 'informal sector' income;
- The poor conditions of subsidiary roads which are impassable under certain weather conditions and not in general accessible to emergency vehicles or group taxi vehicles; and
- The infrequency and unreliability of the transport systems.<sup>14</sup>

These circumstances continue to require the borrowing of money for transport costs where repayment is often unfeasible.

Food insecurity in rural areas is also undermining the ability of people living with HIV to maintain their health.<sup>15</sup> Good nutrition is essential for them and improves the benefits of taking antiretrovirals. In poor rural communities adherence to treatment appears to be threatened by the lack of availability of adequate food daily and a belief that antiretroviral drugs should not be taken without food.<sup>16</sup> Arbitrary processes and decision-making regarding eligibility for disability grants appears also to affect adherence to treatment. Such grants continue to be relied upon for the most basic needs in poor rural households affected by HIV and AIDS.<sup>17</sup>

Rural women and girls continue to experience multiple forms of discrimination which increase the risk of HIV infection and their difficulties in accessing and remaining on treatment. Residents of rural areas, in particular black women, are disproportionately represented amongst the poor and unemployed. This economic disadvantage in turn increases the impact of distances and transport costs for their access to services. Moreover, the persistence of patriarchal attitudes affects women's autonomy of decision-making on their sexual and reproductive health.<sup>18</sup> Another manifestation of the problem is seen in context of persistently high levels of maternal mortality in South Africa. According to recent data from the UN no progress has been made in the reduction of maternal mortality in South Africa and the maternal mortality ratio remains at a high of 410 per 100,000 live births.<sup>19</sup> 42.5 per cent of these maternal deaths according to the UN were due to HIV.<sup>20</sup>

## **DISCRIMINATION ON THE GROUNDS OF SEXUAL ORIENTATION AND GENDER IDENTITY**

Violent, targeted attacks against lesbians, gay men, and bisexual and transgender individuals remain a persistent problem, despite a constitutionally-entrenched right to equality on the grounds of sexual orientation and progressive jurisprudence from South African courts. Their rights continue to be undermined by prejudice, socially conservative and patriarchal attitudes and discriminatory practices. Similar attitudes and practices on the part of many law enforcement officials create barriers to access to justice for victims and contribute to a climate of impunity for crimes of sexual violence, assault and murder against members of this community. An inadequate criminal justice framework also hampers the effective investigation

and prosecution of these crimes in the context of the motivations of the perpetrators and the impact of these crimes on the victim and wider community.

In 2011 civil society campaigning led to the establishment of a joint government-civil society “task team” to identify and implement solutions. The Department of Justice in late 2010 had also began a process of developing a ‘hate crimes’ legislative framework following the recommendations of a cross-sector civil society hate crimes working group and similar initiatives. In December 2011 a magistrate’s court, for the first time, allowed expert evidence to be heard during the sentencing phase of a criminal trial on the impact of homophobic hate crimes on victims and the wider community.<sup>21</sup>

On 17 July 2011, the UN Human Rights Council passed an historic resolution on Human Rights, Sexual Orientation and Gender Identity, sponsored by South Africa, which affirmed the existing rights of lesbian, gay, bisexual and transgender individuals. The resolution also commissioned a study on discrimination and violence on the grounds of sexual orientation and gender identity, published by the UN High Commissioner for Human Rights in December 2011, and called for a panel discussion to be held at the Human Rights Council to discuss the findings of the study in a constructive and transparent manner.

## REFUGEE AND MIGRANTS’ RIGHTS AND XENOPHOBIA

Human rights abuses against foreign nationals, whether recognized refugees, asylum-seekers or migrants, have continued to occur since the large-scale violence in 2008. Despite periodic public denunciations by President Jacob Zuma of incidents of targeted violence against this community, incidents of violence, including looting of small businesses and property destruction, continue to occur across the country. These incidents sometimes result in loss of homes and displacement. In some of these attacks, the passive or active complicity of law enforcement officials has been evident. In addition, there is a continuing lack of a more systematic country-wide and effective police response to prevent or de-escalate the violence. This gap persists despite the strenuous efforts of humanitarian and civil society organizations in collaboration with committed senior police officials over the last two years.

While the factors behind specific attacks often have a localised dynamic, taken overall the incidents have common features such as the perpetrators appearing to have targeted the victims on the basis of their actual or perceived nationality or other related characteristics, and a perception of their vulnerability. This aspect is exacerbated by the conduct of the police who sometimes display overt prejudice and effectively refuse to offer assistance, leaving the victim without any access to protection, justice or other remedies. Incidents have happened sometimes on a large-scale and caused substantial losses, for which in the majority if not all of the cases no compensation has been awarded or restitution made.<sup>22</sup>

In a disturbing incident in October 2011 in Nyanga, Cape Town, the police, who allegedly used excessive force while conducting mass arrests of “suspected illegal foreign nationals”, verbally abused them as unwanted foreigners who should go “home”. Those abused included recognised refugees who had documents attesting to their status. The incident happened soon after derogatory comments against foreign nationals reportedly had been made by the then national commissioner of police, remarks which appeared to have been used by the police in the Nyanga operation as justification for their actions. One refugee, who required medical treatment for his injuries, was actively obstructed from lodging a formal complaint against the police.<sup>23</sup>

The policy of the authorities on access to asylum determination procedures appears also to be becoming more restrictive, and with an increased risk of fines, detention and direct or constructive *refoulement* for refugees or asylum-seekers unable to access services. The Immigration Amendment Act (no. 13 of 2011), for instance, has reduced to five days the period in which an asylum-seeker entering the country can travel “lawfully” to the nearest Refugee Reception Office (RRO) to apply for asylum. When the period expires, the holder of the five-day

visa becomes “an illegal foreigner” and subject to arrest. In 2011 the Department of Home Affairs closed the Johannesburg (Crown Mines) RRO and the RRO in Port Elizabeth in the Eastern Cape. The RRO in Cape Town reportedly will close in 2012 and most likely the RRO in Durban. It appears that the only centres remaining will be in Musina on the border with Zimbabwe and in Pretoria, although legal challenges to these decisions were still being heard in late 2011.<sup>24</sup> In late November 2011, the Cabinet decided to “review” the minimum rights of immigrants, including the rights of refugees and asylum seekers to work and study.

The manner of the execution of the government’s decision in September 2011 to end the suspension of deportation of Zimbabweans who did not succeed in regularising their immigration status has been associated with incidents of *refoulement* and unaccompanied minors being deported without proper measures to protect them.<sup>25</sup>

## THE PREVENTION AND INVESTIGATION OF TORTURE AND EXTRA-JUDICIAL EXECUTIONS

Despite constitutional guarantees of the right to life and the right not to be subjected to torture, these rights continue to be violated by law enforcement officials and at an increasing scale. The statutory police oversight body, the Independent Complaints Directorate (ICD), reported that from April 2009 to March 2010 it had received five direct complaints of torture and 920 complaints of assault with intent to cause grievous bodily harm. The ICD reported 860 deaths in custody and “as a result of police action” in the same period. Although they noted a seven percent decline in the following reporting year ending March 2011, KwaZulu-Natal Province continued to have a high rate of such incidents, with more than one-third of the recorded national total of 797 deaths.<sup>26</sup>

The context is primarily the “war against crime”, with the human rights violations being committed particularly by the police “organized crime” and other specialized units. It is a matter of concern also that a climate of impunity has been fostered by public statements by senior politicians and officials, including national commissioners of police over the last three years.<sup>27</sup>

The ICD, which is responsible for investigating allegations of torture and unlawful killings by police, was re-established on the basis of its own independent legislation in 2011. Its original mandatory investigation obligations were expanded to include incidents of torture and rape by police. Also welcome were the provisions making criminal offences police failure to report suspected incidents or obstructing the ICD’s investigations. However, Amnesty International is concerned that it is still not sufficiently independent and is under-resourced in relation to the scale of abuses to be investigated.<sup>28</sup>

The inclusion in the new legislation of an explicit obligation to investigate allegations of torture, in addition to the existing obligation to investigate all incidents of deaths in custody and as a result of police actions, is an important and welcome step. However, torture is still not criminalized under statutory law, due to slow progress in bringing the ‘criminalization of torture’ bill before Parliament. South Africa has also not ratified the Optional Protocol to the Convention against Torture, despite the matter being under discussion with statutory and non-governmental civil society bodies for a number of years.<sup>29</sup>

## THREATS AND HARASSMENT OF HUMAN RIGHTS DEFENDERS AND INFRINGEMENTS OF FREEDOM OF EXPRESSION

There is increasing harassment or criminalization of the activities of human rights defenders and government critics. They include individuals, journalists, the staff of statutory human rights bodies and also community-based organizations promoting access to economic and social rights, such as the Abahlali baseMjondolo (shackdwellers) movement.

In July 2011, 12 supporters of the housing rights movement, Abahlali baseMjondolo, were acquitted of all charges in the state’s case against them. These included murder, attempted

murder and assault relating to violence in the Kennedy Road informal settlement in September 2009. In its ruling the court noted “numerous contradictions and discrepancies in the state’s case” and the lack of any reliable evidence to identify the accused. The court also found that police had directed some witnesses to point out members of Abahlali-linked organizations at the identification parade. At the end of the year, Abahlali supporters who were displaced after their homes were looted and destroyed in 2009 were still unable to return safely and rebuild their homes.<sup>30</sup>

The Protection of State Information Bill, which in November 2011 was passed by the lower house of Parliament, will criminalize the possession or publication of classified information. The bill has been opposed by a campaign involving hundreds of civil society organizations, including media. Its provisions include minimum prescribed terms of imprisonment of from three to 25 years for a range of offences, including collecting or communicating or receiving classified state information or “harbouring” someone with such information. The bill, which was referred to the upper house of Parliament for consideration, does not include an explicit defence on the grounds of public interest, although a court could impose a lesser sentence if “substantial and compelling circumstances” existed. In response to the campaign, some changes were made to the bill before it was passed by the National Assembly, including making punishable the classification of state information deliberately to conceal unlawful acts by officials. Other concerns remained unaddressed, including the wholly opaque and uncertain remedy to the reclassification of documents intended to prevent public knowledge of official corruption or other maladministration. The bill also further shields the state security establishment from scrutiny and accountability.

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

### **Amnesty International calls on the government of South Africa:**

#### *HIV/AIDS, poverty, women’s rights and the right to health:*

- To remove discriminatory barriers to access to prevention, treatment and care for HIV;
- Ensure that all government departments, including the Department of Transport, are involved in developing and implementing plans aimed at reducing physical and cost barriers to access to HIV-related health services in rural areas;
- To facilitate the collection of data, disaggregated on the basis of gender and other groups identified as facing discrimination, to assist identification of discriminatory factors affecting a person’s ability to access and remain on treatment;
- To ensure that the work of community-level home-based carers, who assist the most marginalized individuals in rural areas, is recognized and strengthened through training, capacity-building, risk management and linking them to the formal health system;
- To ratify the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol allowing the right of individual petition, and opting into the inquiry mechanism under that Protocol.

#### *Discrimination on the grounds of sexual orientation and gender identity:*

- To unambiguously denounce crimes of violence targeting members of the LGBT community as a violation of their right to equality and other rights;



- To ensure sufficient resources to conduct comprehensive public awareness campaigns on homophobia, and on the rights of lesbian, gay, bisexual and transgender individuals to equality, non-discrimination and the right to be free from torture and inhumane or degrading treatment;
- To rapidly develop monitoring capacity and legislation to enhance the prevention, investigation and prosecution of crimes of violence against individuals on the grounds of their sexual orientation or gender identity;
- To ensure that the police and the prosecution service are adequately trained to investigate and prosecute hate crimes on the basis of sexual orientation and gender identity.

*Refugee and migrants' rights and xenophobia:*

- To fulfil its international, regional and domestic legal obligations to protect the rights of refugees, asylum-seekers and migrants, including the right without distinction as to national origin to security of the person and to protection by the state against violence or bodily harm from either public or private sources;
- To ensure, in collaboration with civil society, implementation of legislation, plans and directives which increase the prevention, investigation and prosecution of property destruction and crimes of violence against refugees, asylum-seekers and migrants;
- To urgently reconsider the plans to close the majority of refugee reception offices which will substantially reduce access to asylum determination in South Africa;
- To ensure that no actions, direct or indirect, lead to a violation of the principle of *non-refoulement*, including with respect to Zimbabweans.

*Torture and extra-judicial executions:*

- To make rapid progress towards bringing a comprehensive 'criminalization of torture' bill before Parliament by 2012 and to ensure its implementation once signed into law;
- To take all necessary steps towards ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment by 2012;
- To ensure that investigators involved in investigating alleged incidents of torture, extra-judicial executions and related abuses are able to conduct their work without intimidation and receive full co-operation from law enforcement officials;
- To publicly and unambiguously denounce acts of torture and extra-judicial executions as human rights violations unjustified under any circumstances.

*Threats and harassment of human rights defenders and infringements of freedom of expression:*

- To ensure that human rights defenders are allowed the space to undertake their non-violent advocacy, campaigning, reporting and investigative work without fear of harassment, threats, raids, arbitrary arrest or criminalization of their activities;
- To urgently reconsider the Protection of State Information Bill and to take into account the results of wider public consultation on its purpose and content.

## ENDNOTES

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- <sup>1</sup> This public version of the November 2011 submission has been updated in certain respects.
- <sup>2</sup> Report of the Working Group on the Universal Periodic Review on South Africa, 23 May 2008 (A/HRC/8/32), recommendation 67.12 (Canada), recommendation 67.13 (Romania), recommendation 67.14 (Algeria) and recommendation 67.17 (Mauritania).
- <sup>3</sup> A/HRC/8/32, recommendation 67.4 (The Netherlands), recommendation 67.5 (Switzerland), recommendation 67.6 (Canada) and recommendation 67.11 (Canada).
- <sup>4</sup> A/HRC/8/32, recommendation 67.20 (United Kingdom), recommendation 67.21 (Belgium) and recommendation 67.22 (Belgium).
- <sup>5</sup> A/HRC/8/32, recommendation 67.19 (Jordan), recommendation 67.9 (Canada).
- <sup>6</sup> A/HRC/8/32, recommendation 67.1 (Slovenia).
- <sup>7</sup> A/HRC/8/32, recommendation 67.7 (Romania, Germany, Zimbabwe and South Africa).
- <sup>8</sup> The Action Plan had not been circulated for public discussion by November 2011.
- <sup>9</sup> Consideration and adoption of the outcome of the UPR of South Africa in the Human Rights Council plenary, 11 June 2008. See the report of the eighth session of the Human Rights Council, A/HRC/8/52, paragraph 575.
- <sup>10</sup> Amnesty International Report 2010, <http://www.amnesty.org/en/region/south-africa/report-2010>; Amnesty International Report 2009, <http://www.amnesty.org/en/region/south-africa/report-2009>. In December 2011 the Supreme Court of Appeal ruled as invalid the appointment by President Zuma of Menzi Simelane as National Director of Public Prosecutions after the dismissal of the previous national director, Vusi Pikoli.
- <sup>11</sup> National Strategic Plan for HIV and AIDS, STIs and TB, 2012-2016, South Africa, 1 December 2011.
- <sup>12</sup> Submission to the SANAC Secretariat on Draft Zero of the National Strategic Plan for HIV and AIDS, STIs and TB, 2012-2016 (NSP) From Amnesty International (including Amnesty International- South Africa) 07 September 2011.
- <sup>13</sup> Draft Zero for Consultation - the National Strategic Plan for HIV and AIDS, STIs and TB, 2012-2016, 5 August 2011.
- <sup>14</sup> Amnesty International, "*I am at the lowest end of all*" - Rural women living with HIV face human rights abuses in South Africa (Index: AFR 53/001/2008), <http://www.amnesty.org/en/library/info/AFR53/001/2008/en> ; Submission to the SANAC Secretariat on Draft Zero (note 12 above); South Africa: Hidden from view: Community carers and HIV in rural South Africa: Background information (Index: AFR 53/005/2011), <http://www.amnesty.org/en/library/info/AFR53/005/2011/en> .
- <sup>15</sup> In the preliminary report of the UN Special Rapporteur on the Right to Food, Mr Olivier De Schutter, after his mission to South Africa in July 2011, it was noted that "tremendous disparities in food security persist, linked strongly to inequality in terms of geography, gender and race". The report also referred to the vulnerability of over 2.5 million households residing mainly in the rural, former 'homeland' areas involved in small-scale subsistence farming, largely intended to complement other types of income sources and livelihood strategies. (Mandate of the Special Rapporteur on the Right to Food – Mission to South Africa from 7 to 15 July 2011, Pretoria, 15 July 2011 – Preliminary observations and conclusions, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11243&LangID=E>)
- <sup>16</sup> This belief was evident in testimonies to Amnesty International from members of rural households and community-based carers when referring to the problem of food shortages in these households (see references above in endnote 14).
- <sup>17</sup> The UN Special Rapporteur on the Right to Food commented that whereas some 15 million people in 2011 were benefiting from cash-transfer programs, "protection gaps remain". While "90 per cent of the people would be eligible for support in some rural areas, the take-up rates are much lower". (See reference in endnote 15 above.)
- <sup>18</sup> See references in endnote 14.
- <sup>19</sup> WHO, UNICEF, UNFPA and The World Bank, *Trends in Maternal Mortality 1990-2008*, 2010, Annex 1.
- <sup>20</sup> *Trends in Maternal Mortality 1990-2008*; South African Government (2010), Development Indicators Mid-Term Review, Office of the Presidency, where it is noted that "maternal mortality is on the increase largely due to HIV/AIDS,

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hypertension and obstetric haemorrhage". The impact of the HIV epidemic on the level of maternal deaths is also acknowledged in Department of Health, The 2010 National Antenatal Sentinel HIV & Syphilis Prevalence Survey in South Africa (November 2011). The same source notes that the national prevalence estimate among antenatal women in 2010 was 30.2 per cent, against a WHO/UNAIDS model estimate for the general population of 17.9 per cent.

<sup>21</sup> PRESS STATEMENT, OUT LGBT Well-Being leads evidence in the sentencing of a hate crime, 26 January 2012.

<sup>22</sup> See South Africa: "Talk for us please": Limited Options Facing Individuals Displaced by Xenophobic Violence (Index: AFR 53/012/2008); South Africa: Human rights concerns in South Africa: Memorandum sent to the South African government, August 2009 (Index: AFR 53/008/2009) and South Africa: Grave concern at continuing violence against refugees and migrants (Index: AFR53/004/2010); South Africa: Police failure to protect human rights activist Jean-Pierre Lukamba is symptomatic of wider failure to respect the rights of refugees and migrants (Index: AFR 53/002/2011).

<sup>23</sup> In an unrelated development, the national commissioner of police was later suspended from his duties pending the outcome of an investigation into alleged corruption.

<sup>24</sup> South Africa: Call for South Africa to fulfil its international and domestic obligations in the protection of the rights of refugees and asylum seekers (Index: AFR 53/007/2011).

<sup>25</sup> According to information from monitoring and assistance organizations, including IOM, the Consortium for Refugees and Migrants in South Africa and Lawyers for Human Rights (South Africa).

<sup>26</sup> ICD Annual Report 2010/11 (<http://www.icd.gov.za/documents>).

<sup>27</sup> The exposure of evidence indicating the existence of a possible assassination squad within the ranks of the Organized Crime Unit led to a special ICD investigation (ICD HAS SET UP A TASK TEAM TO REVIEW CASES INVOLVING MEMBERS OF THE CATO MANOR ORGANISED CRIME UNIT, Media Statement, PRETORIA – 15 December 2011) and a higher level police-led investigation by January 2012; <http://www.timeslive.co.za/local/2011/12/11/shoot-to-kill-inside-a-south-african-police-death-squad>; Amnesty International Report 2010 (<http://www.amnesty.org/en/region/south-africa/report-2010>).

<sup>28</sup> The ICD was previously established as a statutory body under the South African Police Services Act of 1995. It has been re-established through the Independent Police Investigative Directorate Act in 2011, although the new Act had not been implemented by the end of the year.

<sup>29</sup> Amnesty International Report on South Africa: 2009, 2010 and 2011, and Memorandum sent to the South African government, August 2009 (AFR 53/008/2009).

<sup>30</sup> South Africa: Failure to conduct impartial investigation into Kennedy Road violence is leading to further human rights abuses (Index: AFR 53/011/2009), <http://www.amnesty.org/en/library/info/AFR53/011/2009/en>; Amnesty International Report 2010 (<http://www.amnesty.org/en/region/south-africa/report-2010>) and 2011 (<http://www.amnesty.org/en/region/south-africa/report-2011>).



