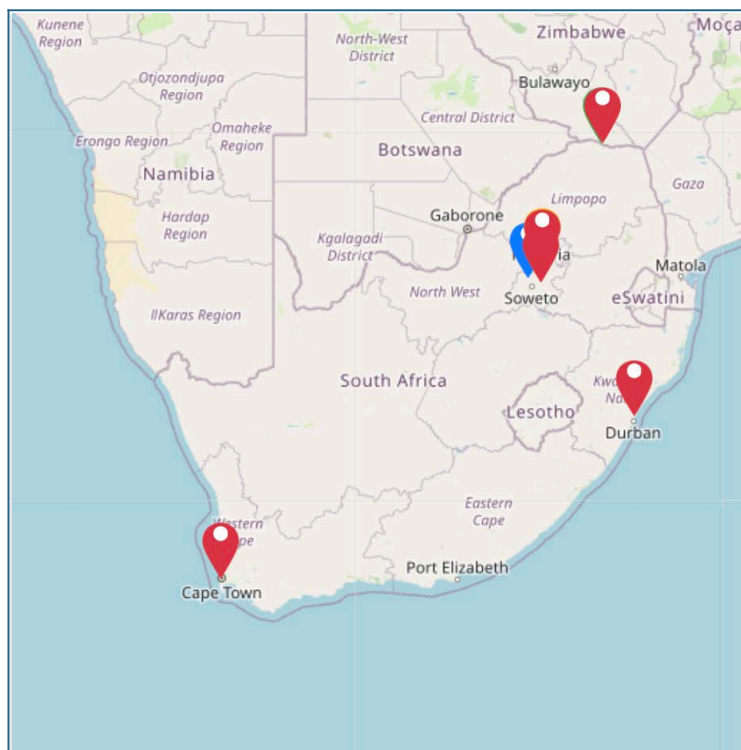


South Africa Immigration Detention Data Profile



Quick Facts	
Immigration detainees (2017)	Not Available
Detained asylum seekers (2017)	Not Available
Detained minors (2017)	Not Available
Immigration detention capacity (2018)	Not Available
International migrants (2019)	4,224,256
New asylum applications (2019)	48,419
Number of immigration detainees on a given day (2017)	Not Available

NOTES ON USING THIS PROFILE

- Sources for the data provided in this report are available online at: <https://www.globaldetentionproject.org/countries/africa/south-africa>
- "Observation Dates" indicate the timeframe statistical data correspond to or other data were last validated. More than one statistical entry for a year indicates contrasting reports.

STATISTICS

Detention, expulsion, and incarceration statistics

		Observation Date			Observation Date
Total number of immigration detainees by year	Not Available	2017	Number of immigration detainees on a given day	Not Available	2017
Top nationalities of detainees	Malawi, Zimbabwe, Mozambique, Tanzania, Nigeria	2014	Number of detained asylum seekers	Not Available	2017
Total number of detained minors	Not Available	2017	Number of detained accompanied minors	Not Available	2017
Number of detained stateless persons	Not Available	2017	Immigration detainees as a percentage of total international migrant population	Not Available	2017
Estimated total immigration detention capacity	Not Available	2018	Number of dedicated long-term immigration detention centres	1	2018
Estimated capacity of dedicated long-term immigration detention centres	4,000	2017	Number of dedicated medium-term immigration detention centres	443	2017
Number of ad hoc facilities	1	2018	Number of deportations/forced returns only	15,033	2017
Percentage of persons removed in relation to total number of people placed in removal procedures	Not Available	2017	Criminal prison population	161,984	2016
				157,394	2014
				156,370	2013
				164,793	2010
				161,639	2007
				187,640	2004
				170,959	2001
				146,435	1998
				118,205	1995
				104,790	1992
Percentage of foreign prisoners	6.3	2015	Prison population rate (per 100,000 of national population)	291	2016
	5.3	2010		294	2014
				294	2013
				331	2010
				339	2007
				403	2004
				386	2001
				349	1998
				301	1995
				285	1992

Demographics and immigration-related statistics					
		Observation Date			Observation Date
Population	59,300,000	2020	International migrants	4,224,256	2019
	54,500,000	2015		3,142,500	2015
	50,700,000	2012		2,399,200	2013
International migrants as a percentage of the population	5.8	2015	Refugees	89,285	2019
	4.5	2013		89,285	2018
				88,694	2017
				90,958	2016
				121,645	2015
				114,512	2015
				65,881	2014
Ratio of refugees per 1000 inhabitants	1.66	2016	Total number of new asylum applications	48,419	2019
	2.08	2014		35,329	2016
	1.27	2012		71,914	2014
				117,188	2012
Refugee recognition rate	12.2	2014			

DOMESTIC LAW				
LEGAL TRADITION				
Legal tradition	Name		Observation Date	
	Common law		2018	
LAWS AND REGULATIONS				
Constitutional guarantees?	Yes/No	Constitution and Articles	Year Adopted	Last Year Amended
	Yes	Constitution of the Republic of South Africa, 1996, as amended in 2013. Chapter 2 - Bill of Rights Section 10, Section 27 and Section 35 on human dignity and rights specific to detention.	1996	1996
LAWS AND REGULATIONS				
Core pieces of national legislation	Name		Year Adopted	Last Year Amended
	Refugees Act of 1998, as amended by the Refugees Amendment Act 10 of 2015		1998	2015
	Immigration Act 13 of 2002, as amended by Act 19 of 2004		2002	2004

LAWS AND REGULATIONS			
Regulations, standards, guidelines	Name		Year Published
	Annexure B of the Regulations to the Immigration Act sets out the Minimum Standards of Detention.		2015
GROUNDS FOR ADMINISTRATIVE IMMIGRATION-RELATED DETENTION			
Immigration-status-related grounds	Name		Observation Date
	Detention to establish/verify identity and nationality		2015
	Detention to effect removal		2015
CRIMINALIZATION OF IMMIGRATION-RELATED OFFENCES			
Does the country provide specific criminal penalties for immigration-related violations?	Fines	Incarceration	Observation Date
	Yes	Yes	2018
CRIMINALIZATION OF IMMIGRATION-RELATED OFFENCES			
Grounds for criminal immigration-related detention/incarceration and maximum potential duration of incarceration	Grounds for Incarceration	Maximum Number of Days of Incarceration	Observation Date
	Unauthorised stay	90	2018
CRIMINALIZATION OF IMMIGRATION-RELATED OFFENCES			
Has the country decriminalized immigration-related violations?	Has the country decriminalized immigration-related violations?		Observation Date
	No		2018
LENGTH OF DETENTION			
Maximum length for administrative immigration detention in law.	Number of Days		Observation Date
	120		2015
LENGTH OF DETENTION			
Maximum length of time in custody prior to issuance of a detention order	Number of Days		Observation Date
	2		2018
LENGTH OF DETENTION			
Maximum length of detention for asylum-seekers	Number of Days		Observation Date
	2		2015
LENGTH OF DETENTION			
Maximum length of detention for persons detained upon arrival at ports of entry	Number of Days		Observation Date
	120		2018

PROCEDURAL STANDARDS				
Provision of basic procedural standards	Name	In Law	In Practice	Observation Date
	Information to detainees	Yes	infrequently	2018
	Right to legal counsel	Yes	infrequently	2018
	Access to free interpretation services	Yes	No	2018
	Access to consular assistance	Yes	Yes	2018
	Access to asylum procedures	Yes	No	2018
	Independent review of detention	Yes	infrequently	2018
	Right to appeal the lawfulness of detention	Yes	Yes	2018
	Complaints mechanism regarding detention conditions	Yes	infrequently	2018
	Compensation for unlawful detention	Yes	infrequently	2018
	Access to free interpretation services	Yes		2015
	Right to legal counsel	Yes		2015
Independent review of detention	Yes		2015	
NON-CUSTODIAL MEASURES (ALTERNATIVES TO DETENTION)				
Types of non-custodial measures	Name	In Law	In Practice	Observation Date
	Supervised release and/or reporting	Yes	infrequently	2018
	Electronic monitoring	No	No	2018
	Electronic monitoring	No	No	2018
	Electronic monitoring	No	No	2018
	Release on bail	Yes	No	2018
	Registration (deposit of documents)	Yes	infrequently	2018
	Home detention (curfew)	No	No	2018
Release	Yes	infrequently	2018	
VULNERABLE PERSONS				
Is the detention of vulnerable persons provided in law? Are they detained in practice?	Name	In Law	In Practice	Observation Date
	Asylum seekers	Prohibited	Yes	2015
	Unaccompanied minors	Prohibited		2015
	Persons with disabilities	Prohibited		2015
MANDATORY DETENTION				
Mandatory detention	Filter	Name	Observation Date	
	No	No	2018	
EXPEDITED REMOVAL AND RE-ENTRY BAN				
Expedited/fast track removal	Name		Observation Date	
	Yes		2018	

EXPEDITED REMOVAL AND RE-ENTRY BAN

Re-entry ban	Name	Observation Date
	Yes	2018

COVID-19 UPDATES

	Update Status	Observation Date
	<p>Since the onset of the COVID-19 pandemic, there have been widespread concerns about the spread of infection in prisons and amongst vulnerable migrants and asylum seekers (see the 30 March update). An article published in the International Journal for Equity in Health highlights how the restrictive measures implemented by the South African government early on in the pandemic failed to take into account the “economic and health impact of the pandemic on asylum-seekers, refugees, and undocumented migrants.” The article, titled “Unspoken inequality: how COVID-19 has exacerbated existing vulnerabilities of asylum-seekers, refugees, and undocumented migrants in South Africa,” was authored by several South Africa health experts, including from the South African Medical Research Council. It concludes that the COVID-19 “containment measures adopted by the SA government through the lockdown of the nation have tremendously deepened the unequal treatment of asylum-seekers and refugees in SA. This can be seen through the South African government’s lack of consideration of this marginalized population in economic, poverty, and hunger alleviation schemes.” According to the authors: “Organizations working with foreign-born migrants during the COVID-19 pandemic containment measures have raised concerns regarding the arrest and detention of foreign-born migrants, their placement in, and subsequent repatriation from camps and shelters. There are also reports that foreign-born migrants are more likely to be arrested for minor offenses during the lockdown period and less likely to be released on bail because of expired documentation. The closure of the Department of Home Affairs, which is responsible for renewing and issuing refugee permits, asylum permits, and residence permits, has made many foreign-born migrants vulnerable to harassment and extortion by law enforcement agents who are likely to ignore the moratorium on arrests of all those whose permits expired during the lockdown. Migrants are consequently less willing to seek testing or care for COVID-19 symptoms as they are afraid of being detained or deported. These repatriation centers and prison stations are also prone to overcrowding, making it challenging to practice social distancing and recommended hygiene measures. Under such conditions, these foreign-born migrants are at heightened risks of contracting COVID-19 but tend not to seek care when they notice the signs and symptoms of COVID-19, which makes them more likely to spread or die from the disease.” Among the key issues highlighted by NGOs has been the ongoing closure of the country’s Refugee Reception Offices (RRO’s), responsible for migrant permit renewals as well as birth registrations, which have been closed since March. One impact of this closure has been that access to places of detention by lawyers has become more limited, according to experts from Lawyers for Human Rights. The group points to severe overcrowding in prisons and detention facilities, which were reportedly at 200-300 percent capacity when the pandemic began. The group indicates that while almost 20,000 inmates have been released in South Africa during the pandemic, immigration detention has increased. They also denounce the lack of accountability mechanisms for law enforcement misconduct.</p>	2020
<p>Latest Update</p>	<p>Despite some positive steps announced by the South African government, including regarding the non-penalisation of migrants and asylum seekers whose visas expire during the pandemic (see 6 May update), migrants have continued to be arrested throughout the crisis. Some politicians have publicly celebrated these arrests - including Faith Mazibuko, a member of the Executive Council in the Guateng Provincial Government. Reportedly, migrants have been arrested for violating lock-down measures. While the country has launched a food aid programme, providing supplies to vulnerable citizens in an attempt to mitigate the impacts of the two-month lockdown, the programme requires recipients to possess a national ID card. This has prevented refugees and migrants from accessing supplies. Human Rights Watch reported in a statement on 20 May, “The South African authorities should ensure that essential goods and services are provided to everyone in need without discrimination. ... Special arrangements should be made to protect the rights of vulnerable groups, including refugees, asylum seekers, and the homeless, who may not normally have access to basic goods, including food, water - potable and washing - and health care.” Other countries, like Ireland (see our 29 April update on the country), have put up “firewalls” between agencies to enable undocumented people to access social services during the crisis without risking enforcement measures. As well as the denial of food aid to non-nationals, many have been unable to access health care. This was highlighted in a joint statement from the University of Pretoria’s Centre for Human Rights and the University of Witwatersrand’s Centre for Applied Legal Studies. Together, they point to section 27(3) of South Africa’s Constitution, which provides that “no one may be refused emergency medical treatment,” but note that a lack of solidarity with migrants and refugees has been displayed in the government’s response to the virus. “It is not in the best interest of the country if people from a segment of the society are prosecuted when they present themselves for screening, testing and treatment, or if they are excluded from medical and other essential services.” Significant numbers of migrants in South Africa are reportedly homeless. At the start of the crisis, police rounded up hundreds of homeless persons, transferring them to Strandfontein Camp - a tented facility set up by Cape Town authorities in response to the pandemic. Conditions in this camp were quickly flagged by the South African Human Rights Commission and MSF, both of which documented severe movement restrictions, poor quality bedding, insufficient hygiene levels, and the inability to social distance. Although the facility closed on 20 May, a group of 180 who had been confined in the facility were reportedly moved at night to an un-serviced site under a highway overpass in Culemborg, central Cape Town.</p>	2020
	<p>South Africa’s main dedicated immigration detention centre is Lindela, located near Johannesburg. However, the country also uses police stations and prisons routinely to hold undocumented immigrants and asylum seekers. There are some 237 prison and jail facilities in the country, and severe overcrowding is common. As of 5 May, there 69 cases of confirmed infections amongst prison detainees, and 90 cases amongst prison staff. On 23 April, the Inspecting Judge of Correctional Services suggested that “the number of people remanded to custody be restricted and, so far as possible and justifiable, alternatives to incarceration be considered.” Protests erupted in correctional centres across the country in recent weeks as detainees demand to be released from overcrowded prisons. The unrest has come on the heels of concerns that the Ministry of Justice and Correctional Services staged misleading video-recorded visits to prisons, including an early April visit to the Johannesburg prison which holds some 9,000 inmates, that appeared to demonstrate that proper safety procedures were being implemented, including pre-visit tests, wearing of masks, and use of hydroalcoholic gel dispensers. However, on 10 April, journalists visited the prison without any sanitary control, leading to accusations that the Ministry of Justice and Correctional Services was not forthcoming about actual operations at the prison. Staff members at the Johannesburg prison said that the sanitizer “is water and fake.” They also reported that no one was wearing masks or gloves, even when making physical contact with inmates to take their fingerprints. On 25 March, the government announced that asylum seekers whose visas expire after 16 March would not be penalized or arrested. However, officials continued to deport undocumented migrants, justifying this as a measure to contain the spread of the coronavirus. In order to be tested for Covid-19, individuals need to fill a form (Covid-19 specimen submission) from the National Institute for Communicable Diseases. This form requires a South African identification or passport number, which makes it impossible for undocumented migrants to access the test.</p>	2020
	<p>On 20 March 2020, the Justice Minister, Ronald Lamola, advised that criminal prisons in South Africa would undergo deep cleaning in a bid to prevent coronavirus infections. In addition, visits to offenders are suspended for 30 days and testing measures are being rolled out. A local NGO, Sonke Gender Justice, has urged the government to take measures to protect prisoners from the Covid-19 crisis including releasing non-violent detainees, older prisoners or prisoners with existing illnesses. There are currently 162,875 prisoners for just 118,572 places in South Africa. The GDP has been unable to find any reports indicating that authorities have taken measures to assist migrants and asylum seekers, including those in detention.</p>	2020

INTERNATIONAL LAW

Relevant international treaties and date of ratification

International treaties	Name	Ratification Year
	OPCAT, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	2019
	ICESCR, International Covenant on Economic, Social and Cultural Rights	2015
	CRPD, Convention on the Rights of Persons with Disabilities	2007
	CTOCTP, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	2004
	CTOCSP, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	2004
	ICCPR, International Covenant on Civil and Political Rights	1998
	ICERD, International Convention on the Elimination of All Forms of Racial Discrimination	1998
	CAT, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	1998
	CRSR, Geneva Convention Relating to the Status of Refugees	1996
	PCRSR, Protocol to the Geneva Convention Relating to the Status of Refugees	1996
	CEDAW, Convention on the Elimination of All Forms of Discrimination against Women	1995
	CRC, Convention on the Rights of the Child	1995
	VCCR, Vienna Convention on Consular Relations	1989
	Ratio of relevant international treaties ratified	13/19

Relevant international treaties and date of ratification

Individual complaints procedure	Name	Acceptance Year
	ICERD, declaration under article 14 of the Convention	1998
	ICCPR, First Optional Protocol to the International Covenant on Civil and Political Rights, 1966	2002
	CEDAW, Optional Protocol to the Convention on the Elimination of Discrimination against Women, 1999	2005
	CAT, declaration under article 22 of the Convention	1998
CRPD, Optional Protocol to the Convention on the Rights of Persons with Disabilities	2007	

Relevant international treaties and date of ratification

Ratio of complaints procedures accepted	Number	Observation Date
	5/6	2017

Relevant international treaties and date of ratification			
Relevant recommendations issued by treaty bodies	Name	Recommendation Excerpt	Recommendation Year
		Human Rights Committee	37. The State party should ensure that detention pending deportation is applied as a last resort only, with special regard being given to the needs of particularly vulnerable persons, and that individuals detained for immigration-related reasons are held in facilities specifically designed for that purpose. The State party should also strengthen its efforts to ensure adequate living conditions in all immigration centres by reducing overcrowding, providing adequate health-care services and ensuring proper sanitary conditions.
Regional treaties, regulations, and directives			
Regional legal instruments	Name		Year of Ratification (Treaty) / Transposed (Directive) / Adoption (Regulation)
	ACHPR, African Charter on Human and Peoples Rights		1996
	ACRWC, African Charter on the Rights and Welfare of the Child		2000
	APRW, Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (Maputo Protocol)		2004
Non treaty-based international human rights mechanisms			
Relevant recommendations of the UN Universal Periodic Review	Recommendation Issued	Year Issued	Observation Date
	No	2008	2017
	Yes	2012	2017
	Yes	2017	2017

INSTITUTIONAL INDICATORS				
Governing structures				
Federal or centralized governing system	Federal or centralized governing system			Observation Date
		Centralized system		
Governing structures				
Centralized or decentralized immigration authority	Centralized or decentralized immigration authority			Observation Date
		Centralized immigration authority		
Institutions responsible for immigration detention				
Custodial authority	Agency	Ministry	Ministry Typology	Observation Date
	Immigration Inspectorate Division	Department of Home Affairs	Interior or Home Affairs	2018
	Immigration Service	Home Affairs	Interior or Home Affairs	2009
		South African Police Service		2009

Institutions responsible for immigration detention															
Apprehending authorities	Name					Agency		Ministry		Observation Date					
	South African Police Services					Police		Ministry of Justice		2018					
	Immigration Inspectorate Division of Home Affairs					Immigration agency				2018					
Institutions responsible for immigration detention															
Detention Facility Management	Entity Name					Entity Type					Observation Date				
	Bosasa Operations (Pty) LTD					Private For-Profit					2018				
	Bosasa/Leading Prospects Training					Private For-Profit					2009				
	South African Police Service					Governmental					2009				
	Department of Correctional Services					Governmental					2009				
Institutions responsible for immigration detention															
Formally designated detention estate?	Formally designated immigration detention estate?					Types of officially designated detention centres					Observation Date				
	Yes					Dedicated immigration detention facilities					2018				
	Yes					Police stations					2018				
Institutions responsible for immigration detention															
Types of detention facilities used in practice	Immigration detention centre (Administrative)	Immigration field office (Administrative)	Transit centre (Administrative)	Reception centre (Administrative)	Offshore detention centre (Administrative)	Hospital (Administrative)	Border guard (Administrative)	Police station (Criminal)	National penitentiary (Criminal)	Local prison (Criminal)	Juvenile detention centre (Criminal)	Informal camp (Ad hoc)	Immigration detention centre (Ad hoc)	Surge facility (Ad hoc)	Observation Date
	Yes		Yes					Yes					Yes		2018
															2015
Detention monitoring institutions															
Authorized monitoring institutions	Institution					Institution Type					Observation Date				
	South African Human Rights Commission					National Human Rights Institution (or Ombudsperson) (NHRI)					2018				
Detention monitoring institutions															
Does NHRI carry out visits?	Does NHRI carry out visits in practice?					Observation Date									
	infrequently					2018									
Detention monitoring institutions															
Do NGOs publish reports on immigration detention?	Do NGOs publish reports on immigration detention?					Observation Date									
	Yes					2018									
Detention monitoring institutions															
Do parliamentary organs publicly report on their detention findings?	Do parliamentary organs publicly report on their detention findings?					Observation Date									
	No					2018									
Outsourcing and privatisation															
Detention contractors and other non-state entities	Name of entity	Type of entity	Detainee transport	Food services	Health care	Social services	Laundry services	Legal counselling	Management	Owner of detention facility	Recreation	Security	Telephone service	Translation services	Observation Date
	Bosasa Group	For profit		Yes	Yes	Yes	Yes		Yes		Yes	Yes			2016

More information about immigration detention in South Africa is available at the website of the Global Detention Project
(www.globaldetentionproject.org)

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