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Freedom House (Author)

Freedom in the World 2023 - South Africa

FREE

79

/ 100

Political Rights 33 / 40

Civil Liberties 46 / 60

LAST YEAR'S SCORE & STATUS

79 / 100 Free

Global freedom statuses are calculated on a weighted scale. [See the methodology.](#)

Overview

South Africa is a constitutional democracy. Since the end of apartheid in 1994, it has been regarded globally as a proponent of human rights and a leader on the African continent. However, reports of corruption among government officials often emerge, and in recent years, the ruling African National Congress (ANC) has been accused of undermining state institutions to protect corrupt officials and preserve its power as its support base has begun to wane. Gender-based violence is a severe challenge.

Key Developments in 2022

- Raymond Zondo, chair of an inquiry into high-level corruption and state capture that began in 2018, was appointed chief justice in April. Zondo submitted the commission's final report, which recommends that the government investigate and prosecute several high-level ANC politicians, to President Cyril Ramaphosa in June.
- President Ramaphosa was implicated in numerous corruption cases during the year, including in June, when a former intelligence officer claimed that the president had unlawfully hidden at least \$4 million in cash—the origin of which is unknown—at his Phala Phala farm, as

well as covered up the theft of the money in 2020. Several corruption investigations involving Ramaphosa were ongoing as of December.

- In September, the Constitutional Court ruled that officials in senior executive positions in government, including cabinet ministers and the president, should disclose the receipt of intraparty campaign funding. This ruling comes as part of ongoing transparency-enhancing reforms.

Political Rights

A Electoral Process

A1 0-4 pts

Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4

The National Assembly, the main legislative house of South Africa's bicameral Parliament, elects the president to serve concurrently with its five-year terms, and can vote to replace him or her at any time. Presidents can serve a maximum of two terms of five years each.

In 2018, the National Assembly selected Cyril Ramaphosa, who had replaced former president Jacob Zuma as head of the African National Congress (ANC), to serve as acting president. In the most recent national elections, held in May 2019, the ANC won 57.5 percent of the vote, and the National Assembly selected Ramaphosa to serve a full term as president later that month.

A2 0-4 pts

Were the current national legislative representatives elected through free and fair elections? 4 / 4

The 400-seat National Assembly is elected by party-list proportional representation. The 90 members of the upper chamber, the National Council of Provinces, are selected by provincial legislatures. Parliamentary and provincial elections were concurrently held in May 2019. The ANC won 230 National Assembly seats with 57.5 percent of the vote. The opposition Democratic Alliance (DA) won 84 seats with 20.8 percent of the vote and maintained control over Western Cape Province. The Economic Freedom Fighters (EFF) won 44 seats, the Inkatha Freedom Party (IFP) won 14, Freedom Front Plus (FF+) won 10, and smaller parties won the remaining 18 seats.

Municipal elections are held separately from the national and provincial elections. The November 2021 municipal elections were declared credible

by independent observer missions. The ANC recorded its worst outcome since the end of apartheid, taking only 46 percent of the vote.

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 4 / 4

The Independent Electoral Commission (IEC) is largely considered independent, and the electoral framework is considered fair. In October 2022, President Ramaphosa appointed elections manager Mosotho Simon Moepya as the IEC's new chairman after the previous chairman's term expired.

In recent years, concerns have been raised about the integrity of the IEC's leadership and internal biases. Due to the COVID-19 pandemic, the IEC proposed that the November 2021 municipal elections be postponed to 2022. The ruling ANC agreed to the postponement, as they had not yet submitted their list of candidates. However, the Constitutional Court upheld a court challenge by the opposition requiring the elections to be held by the originally scheduled date. The DA also initiated an unsuccessful court challenge to prevent the ANC from fielding candidates after the deadline, which they claimed was only allowed because of bias within the IEC.

In 2020, the Constitutional Court ruled that electoral laws preventing individuals from contesting legislative elections without belonging to a political party were unconstitutional. The parliament was given until June 2022 to amend the laws to comply with the ruling. In June 2022, the court approved the government's request to extend the deadline to December. That month, the parliament requested that the deadline be extended again, and the court moved the deadline to early 2023.

B Political Pluralism and Participation

B1 0-4 pts

Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 3 / 4

The ANC, which is part of a tripartite governing alliance with the Congress of South African Trade Unions (COSATU) and the South African Communist Party (SACP), has won every national election since 1994. Nevertheless, the political environment is generally free from formal constraints, and opposition parties, including newer political groups, have gained ground in recent elections.

Violent incidents in some parts of the country affected the process of choosing candidates for the ANC list in the 2021 municipal elections. That

September, an ANC incumbent candidate in Pretoria, Tshepo Motaung, was shot and killed by unknown gunmen suspected to be linked to a rival faction. Three ANC supporters were shot and killed during a meeting to nominate candidates in KwaZulu-Natal. Killings linked to corruption and ANC intraparty factional battles to access state contracts continued after the elections and into 2022. There are strong indications that the August 2021 murder of whistleblowing civil servant Babita Deokaran was linked to corruption within the party.

B2 0-4 pts

Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 3 / 4

Though the ANC has won every national election since 1994, it recorded its poorest performances since the end of apartheid in the May 2019 national elections and the November 2021 municipal elections. Opposition parties continued to gain traction in 2022, and the ANC again lost voter support in the December municipal by-elections. In its May 2022 policy discussion document, the ANC stated that the party faces the prospect of losing its majority in the 2024 national elections.

B3 0-4 pts

Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means? 3 / 4

People's political choices in South Africa are largely free from domination by external actors, and the military generally stays out of politics. However, there is widespread corruption within the ANC; party officials have been accused of buying delegates' votes to the party conference and paying bribes to influence political appointments. There have also been reports of individuals buying party membership cards in bulk to hold full control of specific branches of the party.

In September 2022, the Constitutional Court ruled that it was unconstitutional for officials in senior executive positions, including the president and government ministers, not to declare funding they had received for intraparty campaigns. Some observers say that the ruling has the potential to enhance transparency and reduce excessive spending within political parties. Amendments to the Executive Ethics Code in line with the ruling had not been made before year's end, but according to the court must be made by September 2023.

B4 0-4 pts

Do various segments of the population (including ethnic, racial, religious, gender, LGBT+, and other relevant groups) have full political rights and electoral opportunities? 4 / 4

The constitution prohibits discrimination and provides full political rights for all adult citizens. Women are well represented in government, holding 46 percent of seats in the National Assembly and 3 of 9 provincial

premierships. South Africa has one of the world's most liberal legal environments for LGBT+ people. However, discrimination and the threat of violence can discourage LGBT+ people from political participation in practice.

C Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4

Pervasive corruption and apparent interference by nonelected actors have hampered the proper functioning of government, particularly during the Zuma administration. In 2018, Zuma was forced by the High Court to appoint a Judicial Commission of Inquiry into state capture (external influence held over an administration). When he came into power, President Ramaphosa amended the terms of the state capture inquiry to enable the evidence gathered by the Commission—headed by then deputy chief justice Raymond Zondo and commonly known as the Zondo Commission—to be used in prosecutions. Zuma has since been waging a legal fight to fend off the Commission's demands after he had been implicated by over 30 witnesses in several instances of wrongdoing. Zuma was arrested in July 2021 for failing to appear before Commission meetings.

President Ramaphosa testified twice at the Judicial Commission of Inquiry, first in his capacity as ANC president and secondly as president and former deputy president of the republic. He admitted in his testimony that there had been significant state capture during Zuma's presidency.

The final report of the Zondo Commission was released in June 2022, and recommends that the government investigate and prosecute several high-level ANC politicians on criminal corruption charges. According to the report, the governing ANC enabled corruption on a large scale during the Zuma administration, especially through the awarding of government contracts to businesses owned by or linked to the Gupta business family. Among other things, the report also found that numerous political actors had participated in the theft of state resources during the Zuma administration, and that Zuma had awarded government appointments in return for protection from investigations.

C2 0-4 pts

Are safeguards against official corruption strong and effective? 2 / 4

Comprehensive anticorruption laws and several agencies tasked with combating corruption exist, but enforcement has historically been inadequate. Several former and current government officials accused of corruption have not been prosecuted. The Auditor General has outlined in past annual reports that accountability failures have not been addressed. The August 2021 murder of Babita Deokaran, a whistleblower who tipped

off the Special Investigations Unit (SIU) to corruption in the Gauteng health department, suggests that protection measures for whistleblowers are weak. A 2022 media investigation into Deokaran's death revealed extensive corruption within the public procurement processes of the local government in Gauteng, the country's wealthiest province.

In October 2022, partially in response to the findings of the Zondo Commission, President Ramaphosa announced that his administration plans to introduce far-reaching reforms to combat corruption within the government, including establishing an independent public procurement agency and creating new mechanisms to protect whistleblowers.

President Ramaphosa was the subject of a number of corruption-related investigations during 2022, including by the country's Public Protector's office, which investigates complaints of government misconduct. In June, public protector Busisiwe Mkhwebane began an investigation into claims made by former intelligence officer Arthur Fraser that Ramaphosa had unlawfully hidden at least \$4 million in cash—the origin of which is unknown—at his Phala Phala farm, as well as covered up the theft of the money in 2020. One day after the investigation was announced, the president suspended Mkhwebane on grounds of her alleged “incapacity and misconduct.” Mkhwebane's suspension was lifted in September by a High Court ruling that it could “reasonably be seen as retaliation” for her investigation into the so-called Phala Phala scandal. Investigations into Ramaphosa were ongoing as of December; he has repeatedly denied any wrongdoing.

C3 0-4 pts

Does the government operate with openness and transparency? 3 / 4

Section 32(1) of the South African constitution states that everyone has the right to access “any information held by the state” and requires that private bodies release information necessary for the exercise and protection of rights. The 2000 Promotion of Access to Information Act created a framework for access to information procedures in both public and private entities. However, in practice the procedure of accessing information is laborious and bureaucratic. A lack of transparency and a lack of competitive bidding have affected the awarding of government contracts. President Ramaphosa promised to reform the government's procurement system after evidence of wide-scale corruption emerged during the coronavirus pandemic in 2020; he again promised reforms in 2022 in response to the findings of the Zondo Commission on state capture.

Civil Liberties

D Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media? 3 / 4

Freedoms of expression and the press are constitutionally protected and generally respected in practice. South Africa features a vibrant and adversarial media landscape, including independent civic groups that help expose government malpractice and efforts to encroach on freedom of expression. However, journalists face harassment for critical reporting and occasional attacks, with ruling and opposition parties exerting pressure on both state-run and independent outlets.

In September 2022, former president Zuma launched a private criminal prosecution against journalist Karyn Maughan, who had published information about Zuma's health that he later claimed was accessed unlawfully. However, several reports identify the information published by Maughan as having been filed in court during Zuma's corruption trial, making it public information; the matter was pending as of year's end. Media freedom groups have condemned the proceedings, saying that prosecuting Maughan for her work could have a chilling effect on South African journalism more broadly. The South African National Editors' Forum (SANEF), which has condemned Zuma's attempt to intimidate journalists, applied to join the proceedings in support of Maughan in December.

D2 0-4 pts

Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4

Freedom of religion is constitutionally guaranteed and actively protected by the government. Religious leaders are largely free to engage in discussions of a political nature without fear of adverse consequences.

D3 0-4 pts

Is there academic freedom, and is the educational system free from extensive political indoctrination? 4 / 4

Academic freedom in South Africa is constitutionally guaranteed and actively protected by the government.

D4 0-4 pts

Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 4 / 4

South Africans are generally free to engage in private conversations of a political nature without harassment. In September 2019, the High Court found that parts of the Regulation of Interception of Communications Act (RICA), the law governing surveillance, were unconstitutional because it did not, among other things, have sufficient safeguards against state organs abusing intercepted private communication between citizens. The National Assembly was given two years to rectify the defects. In February 2021, the Constitutional Court declared that the provisions of RICA regarding the bulk interception of data for surveillance purposes were unlawful and invalid.

E Associational and Organizational Rights

E1 0-4 pts

Is there freedom of assembly? 4 / 4

Freedom of assembly is constitutionally guaranteed and generally respected. South Africa has a vibrant protest culture. Demonstrators must notify police of events ahead of time, but are rarely prohibited from gathering; in 2018, the Constitutional Court ruled that a failure to notify authorities of intent to protest could not be classified as a crime. Protests over the government's shortcomings in the provision of public services are common in South Africa, though they sometimes turn violent. Police have faced accusations of provoking some protest violence.

E2 0-4 pts

Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 4 / 4

South Africa hosts a vibrant civil society. Nongovernmental organizations (NGOs) can register and operate freely, and lawmakers regularly accept input from NGOs on pending legislation.

E3 0-4 pts

Is there freedom for trade unions and similar professional or labor organizations? 4 / 4

South African workers are generally free to form, join, and participate in independent trade unions, and the country's labor laws offer unionized workers a litany of protections. Contract workers and those in the informal sector enjoy fewer safeguards. Strike activity is very common, and unionized workers often secure above-inflation wage increases. Union rivalries, especially in mining, sometimes result in the use of violent tactics to recruit and retain members and to attack opponents.

F Rule of Law

F1 0-4 pts

Is there an independent judiciary? 3 / 4

The constitution guarantees judicial independence, and courts operate with substantial autonomy in practice. Courts have ruled against the government in several high-profile cases, including in September 2022, when the High Court ruled against the government to order that Ramaphosa's June suspension of the public protector, who had been investigating several corruption allegations made against the president, could "reasonably be seen as retaliation" and must be lifted.

However, prosecutorial independence in South Africa has been undermined in recent years, with the National Prosecuting Authority (NPA) experiencing a string of politically motivated appointments and

ousters. In 2018, President Ramaphosa appointed a new NPA head who has worked to reform the institution. In October 2019, the NPA further bolstered its capacity when it hired several private lawyers to prosecute state capture cases.

In April 2022, President Ramaphosa appointed Raymond Zondo, head of the state capture inquiry that found extensive evidence of corruption within the government and the ruling ANC, as Chief Justice of South Africa.

F2 0-4 pts

Does due process prevail in civil and criminal matters? 2 / 4

Shortages of judicial staff and a lack of financial resources undermine defendants' due process rights, including the right to a timely trial and state-funded legal counsel. Many detainees wait months for their trials to begin, and some are held beyond the legal maximum of two years.

F3 0-4 pts

Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 2 / 4

Despite constitutional prohibitions, police torture and use of excessive force during arrests, interrogations, and detention are commonly reported. The Independent Police Investigative Directorate (IPID) is legally required to investigate allegations of police offenses or misconduct. In its report for 2021–22, the IPID reported 633 cases of death either in police custody or as a result of police action, 99 cases of rape by police officers, 192 incidents of torture, and 3,407 cases of assault. Official statistics released in 2022 continued to show a high rate of violent crimes in some parts of the country.

In July 2021, riots and looting broke out in KwaZulu-Natal and Gauteng provinces, sparked by the jailing of former president Zuma. Though security forces were largely restrained in their response, more than 350 people were killed in the violence.

F4 0-4 pts

Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4

The constitution prohibits discrimination based on a range of categories, including race, sexual orientation, and culture. State bodies such as the South African Human Rights Commission (SAHRC) and the Office of the Public Protector are empowered to investigate and prosecute discrimination cases. Affirmative-action legislation has benefited previously disadvantaged racial groups in public and private employment and in education, but racial imbalances in the workforce persist. White people, constituting a small minority, still own a majority of the country's business assets. The Khoikhoi and Khomani San peoples suffer from social and legal discrimination.

The constitution guarantees equal rights for women, which are actively promoted by the Commission on Gender Equality. Nevertheless, women are subject to wage discrimination in the workplace and are poorly represented in top management positions.

Xenophobic violence against immigrants from other African countries has broken out in recent years. The government's 2019 National Action Plan to Combat Racism, Racial Discrimination, Xenophobia, and Related Intolerance (NAP) has largely failed to improve accountability for perpetrators of xenophobic abuse and provide justice for their victims. Political leadership on countering xenophobic violence has been lacking, and in some cases political leaders have blamed foreign nationals for their own failure to deliver on political promises. Then state security minister Ayanda Dlodlo announced in July 2021 that authorities were investigating attacks on foreign nationals during the violence in Gauteng and KwaZulu-Natal that month.

South Africa's asylum system is hampered by delays and administrative errors, leading to a backlog of hundreds of thousands of applications. Asylum seekers living in the country often lack official documentation that guarantees access to local services, and asylum applications are almost always rejected when they are processed.

Services and accommodations for disabled people remain generally inadequate, especially in the education sector. Human Rights Watch (HRW) has reported that disabled schoolchildren are often excluded from the mainstream education system and are instead enrolled in special schools that do not consistently support their developmental needs.

G Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3 / 4

While there are no official restrictions on housing, employment, or freedom of movement for most South Africans, travel and some other personal freedoms are inhibited by the country's high crime rate. For many foreigners, the threat of xenophobic violence impedes freedom of movement as well. The legacy of apartheid continues to segregate the population and restrict nonwhite opportunity for employment and education. Rising crime rates compromise citizens' safety when traveling.

G2 0-4 pts

Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 3 / 4

The state generally protects citizens from arbitrary deprivation of property. However, the incidents of looting in July 2021 suggests that

authorities lack the capacity to protect private property from violent responses to tense political moments. The vast majority of farmland remains in the hands of White South Africans, who make up some 9 percent of the population. Illegal squatting on White-owned farms is common, as are attacks on White farm-owners.

In a 2017 party conference, the ANC resolved there was a need to expropriate land without compensation for redistribution purposes, on the condition that such expropriation should not negatively affect the economy or compromise food security. In September 2022, the National Assembly passed the Expropriation Bill, which would enable the expropriation of property with “nil compensation” where it is in the “public interest” to do so. The government contends that the bill, which had not been signed into law before year’s end, does not violate property rights provided in the constitution.

G3 0-4 pts

Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4

Despite a robust legal framework criminalizing domestic violence and rape, gender-based violence remains a grave challenge in South Africa. The South Africa Police Service (SAPS) reported 36,330 rapes during the agency’s 2020–21 reporting period. The police recorded 20,106 cases of rape between April and September 2022. There are frequent reports of physical attacks against LGBT+ people, including instances of so-called corrective rape, in which men rape lesbians, claiming that the action can change the victim’s sexual orientation. Sexual harassment is common, and reports of forced marriages persist.

Femicide is also a severe problem, with government statistics reporting that more than 1,800 women were murdered between April and September 2022; many were raped or sexually assaulted before their deaths. In April 2020, police minister Bheki Cele reported that the police had received more than 2,300 complaints of gender-based violence in the first week that COVID-19 restrictions were implemented. Cele reported in 2022 that there were more than 25,100 reports of gender-based violence against women made between April and September 2022. In January 2022, President Ramaphosa enacted numerous legal reforms intended to fight gender-based violence; among other things, provisions in the reforms include introducing “sexual intimidation” as a criminal offense.

Same-sex couples have the same adoption rights as heterosexual married couples, and same-sex marriage is legal.

G4 0-4 pts

Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

South Africa's deteriorating economic position has triggered some politicians to consider limiting the involvement of foreigners in some business sectors. In September 2020, the province of Gauteng published a draft provincial ordinance, the Gauteng Township Economic Development Bill, to curtail foreigners from establishing certain types of businesses. The bill triggered intense public debate, but was passed by the Gauteng legislature and signed by the provincial premier in April 2022. In recent years, some opposition parties—notably the EFF and the Patriotic Alliance—have initiated unauthorized searches at restaurants in an attempt to enforce regulations governing the employment of foreign nationals.

Inequality levels in South Africa are among the highest in the world. Only a small percentage of the population benefits from large state industries, and the economy is controlled by a relatively small number of people belonging to the political and business elite.

South Africans—predominantly those from rural regions—as well as foreign migrants, are vulnerable to sex trafficking and forced labor. Organized criminal syndicates are responsible for the bulk of trafficking.

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