



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA



THE STATE OF FREEDOM IN SOUTH AFRICA

An overview of findings from reports
measuring human and economic
freedom

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**PARLIAMENTARY
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1. Introduction₁

Saturday, 27 April 2024 marked 30 years since South Africa entered its democratic era.

In his keynote address to commemorate the day, President Cyril Ramaphosa noted that: “The 27th of April 1994 was a victory for non-racialism, for non-sexism, for human dignity and progress. Not just in South Africa, but everywhere.”² While the president referred to many advances and achievements across the last 30 years, there was also an acknowledgement that South Africa remains a highly unequal society and that much is yet to be done to ensure freedom for all South Africans in all aspects of their lives.

Although various freedoms such as freedom and security of the person, the freedom to make political choices, freedom of expression and association and freedom of trade, occupation and profession, are guaranteed in the Bill of Rights in the Constitution of South Africa, these freedoms are not apparent in the lived realities of many. With high rates of crime, high rates of interpersonal violence, high unemployment rates, poor service delivery and increased levels of corruption, the ability to assert guaranteed freedoms is difficult for many South Africans.

Findings on the State of Freedom in South Africa and across the world can be found in a number of recent reports including Freedom in the World 2024, The Human Freedom Index 2023, and the Index of Economic Freedom.



An overview of key findings from these reports is provided below.

2. Human Freedom Index 2023₃

The Human Freedom Index (HFI) presents a broad measure of human freedom, understood as the absence of coercive constraint and uses 86 distinct indicators of personal and economic freedom in the following areas:

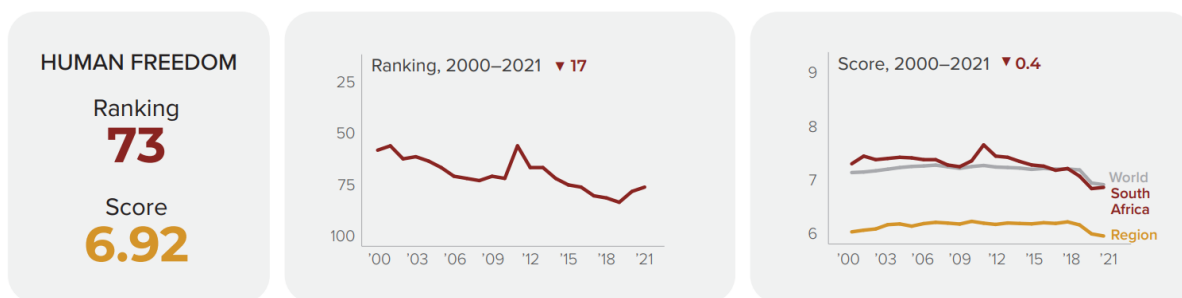
Personal Freedom	Economic Freedom
• Rule of law • Security and safety • Movement • Religion • Association, assembly, and civil society • Expression and information • Relationships	• Size of government • Legal system and property rights • Sound money • Freedom to trade internationally • Regulation

¹ Author: C. Levendale

² <https://www.gov.za/news/speeches/president-cyril-ramaphosa-freedom-day-2024-27-apr-2024>

³ <https://www.cato.org/human-freedom-index/2023>

In the 2023 Report, South Africa is ranked at number 73 out of 165 countries overall, with the ranking generally declining between 2000 and 2021 (from 7.32 to 6.92)



In terms of personal freedom, South Africa is ranked 76th, however when looking at the individual indicators it scores 5.6 out of 10 for implementation of the rule of law and only 4.3 for safety and security, with a 0 out of 10 for the homicide rate and a 6.2 for freedom of movement. It however scores highly for freedoms relating to religion, relationships, association, assembly and civil society and expression and information.

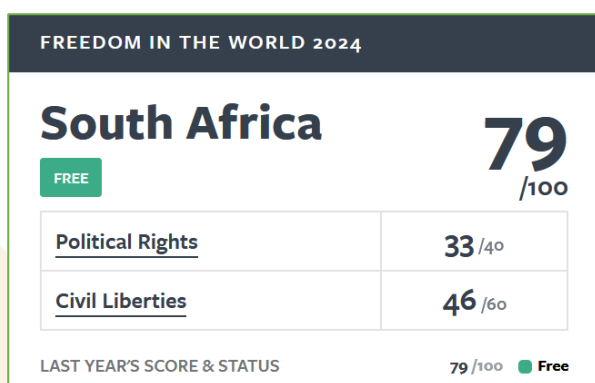
In terms of economic freedom, the country ranks 94th with an overall economic freedom score of 6.53. It scores 5.8 for the legal system and property rights with police and crime scoring the lowest under this category with a score of 2.1 out of 10.

Between 2000 and 2021 the score for rule of law has not reached higher than 5.7, while the highest score for security and safety has been a mere 4.7 during the same period.

These scores are cause for concern as they are an indication that while an array of legislation to advance economic and personal freedom exists, implementation remains a challenge in some areas.

3. Freedom in the World 2024⁴

The Freedom in the World report undertaken by Freedom House, has 3 categories under which countries are classified, i.e. Free, Partly Free and Not Free. South Africa is classified as a free country – 1 of only 9 in Africa according to the report.



⁴ <https://freedomhouse.org/country/south-africa/freedom-world/2024>

Overall scores were high; however, particular areas of concern can be highlighted (scores of 2/4). These include:

- Insufficient safeguards for corruption,
- Lack of due process in civil and criminal matters,
- Lack of protection from illegitimate use of force (high levels of homicide),
- While the Constitution prohibits discrimination, the gender pay gap and lack of women's representation in top management persists,
- Lack of social freedom and protection from domestic violence – high rates of gender-based violence in the country is evidence thereof.
- Equality of opportunity and freedom from exploitation – high levels of inequality persist.

The table below highlights the categories and questions that were considered to develop an overall score and ranking.

Categories and Question	Score out of 4	Selected comments
Electoral process		
Was the current head of government or other chief national authority elected through free and fair elections?	4	Finding that the overall electoral process and framework is considered fair.
Were the current national legislative representatives elected through free and fair elections?	4	
Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?	4	
Political Pluralism and Participation		
Do the people have the right to organise 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	The political environment is generally free from formal constraints, and opposition parties, including newer political groups, have gained ground in recent elections. However, incidents of political violence are a threat to freedom of choice and participation.
Is there a realistic opportunity for the opposition to increase its support or gain power through elections?	3	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.
Are the people’s political choices free from domination by forces that are external to the political sphere, or by political forces that employ extra-political means?	3	People’s political choices in South Africa are largely free from domination by external actors, and the military generally stays out of politics. 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.

Categories and Question	Score out of 4	Selected comments
Do various segments of the population (including ethnic, racial, religious, gender, LGBT+, and other relevant groups) have full political rights and electoral opportunities?	4	The constitution prohibits discrimination and provides full political rights for all adult citizens. Women are well represented in government. 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.
Functioning of Government		
Do the freely elected head of government and national legislative representatives determine the policies of the government?	3	Pervasive corruption and apparent interference by non-elected actors have hampered the proper functioning of government.
Are safeguards against official corruption strong and effective?	2	Comprehensive anti-corruption 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.
Does the government operate with openness and transparency?	3	The 2000 Promotion of Access to Information Act created a framework for access to information procedures in both public and private entities. The Independent Electoral Commission regularly publicises donations that have been disclosed by political parties. 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.
Civil Liberties		
Are there free and independent media?	3	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 are not protected from lawsuits that seek to intimidate and silence critics.
Are individuals free to practice and express their religious faith or non-belief in public and private?	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.
Is there academic freedom, and is the educational system free from extensive political indoctrination?	4	Academic freedom in South Africa is constitutionally guaranteed and actively protected by the government.
Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?	4	South Africans are generally free to engage in private conversations of a political nature without risk of harassment.
Associational and Organisational Rights		
Is there freedom of assembly?	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.

Categories and Question	Score out of 4	Selected comments
Is there freedom for non-governmental organisations, particularly those that are engaged in human rights-and governance-related work?	4	South Africa hosts a vibrant civil society. NGOs can register and operate freely, and lawmakers regularly accept input from NGOs on pending legislation. However, litigation initiated by foreign NGOs has proven aggravating to policymakers, who now see NGOs as political actors capable of blocking policy choices.
Is there freedom for trade unions and similar professional or labour organisations	3	South African workers are generally free to form, join, and participate in independent trade unions, and the country's labour laws offer unionised workers a range of protections.
Rule of Law		
Is there an independent judiciary?	3	The constitution guarantees judicial independence, and courts operate with substantial autonomy in practice.
Does due process prevail in civil and criminal matters?	2	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.
Is there protection from the illegitimate use of physical force and freedom from war and insurgencies?	2	In September 2023, police Minister Bheki Cele reported that approximately 200,000 people had been killed in South Africa in the last 10 years.
Do laws, policies, and practices guarantee equal treatment of various segments of the population?	2	The constitution prohibits discrimination based on a range of categories, including race, sexual orientation, and culture. However, a minority of the population still own the majority of business assets. In addition, women are still subjected to wage discrimination and poorly represented in top management.
Personal Autonomy and Individual Rights		
Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education?	3	For many foreigners, the threat of xenophobic violence impedes freedom of movement. In addition, the legacy of apartheid continues to segregate the population and limits employment and educational opportunities for many, while rising crime rates compromise citizens' safety when travelling.
Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors?	3	The incidents of looting in July 2021 suggests that authorities lack the capacity to protect private property from violent responses to tense political moments.
Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance?	2	Despite a robust legal framework criminalising domestic violence and rape, gender-based violence remains a grave challenge in South Africa.
Do individuals enjoy equality of opportunity and freedom from economic exploitation?	2	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 labour. Organised criminal syndicates are responsible for the bulk of trafficking. In 2023, there was also an increase in illegal mining.

4. Index of Economic Freedom⁵

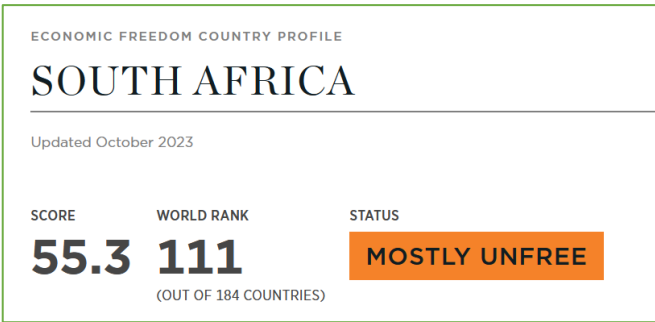
The Index of Economic Freedom measures the impact of liberty and free markets around the globe (in 184 countries).

The 12 aspects of economic freedom measured in the Index are grouped into four broad pillars:

- Rule of law (property rights, judicial effectiveness, and government integrity),
- Government size (tax burden, government spending, and fiscal health),
- Regulatory efficiency (business freedom, labour freedom, and monetary freedom), and
- Market openness (trade freedom, investment freedom, and financial freedom).

In the 2024 index, South Africa is ranked 111th globally and 18th in Sub-Saharan Africa (out of 47 countries).

South Africa’s overall economic freedom score is 55.3, just slightly above the regional average of 52.4 and below the world average of 58.6. This score places South Africa in the “Mostly Unfree” category of the Index.



When looking at the scores of the 12 economic freedoms, the lowest score is 19.7 for fiscal health. The index identifies fiscal health, investment freedom, financial freedom, property rights and government integrity as economic freedoms which are repressed in South Africa. Trade freedom, labour freedom and monetary freedom are the only aspects considered “mostly free”.

12 ECONOMIC FREEDOMS

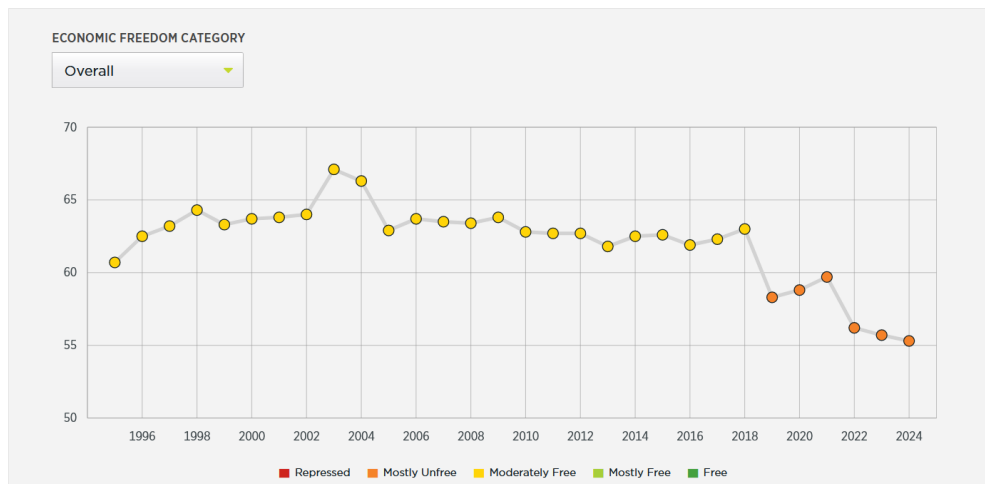


⁵ https://static.heritage.org/index/pdf/2024/2024_indexofeconomicfreedom_south-africa.pdf

Areas of concern noted in the Index include:

- The economy has been stifled by political instability and a weakening rule of law.
- The judicial system has become vulnerable to political interference, and numerous scandals and frequent political infighting have severely undermined government integrity.
- Corruption and the weak rule of law add to the cost of doing business and erode economic competitiveness.
- South Africa's overall regulatory environment is relatively well institutionalised but lacks efficiency.

SCORES OVER TIME



It is clear from the diagram above that the overall economic freedom has declined from moderately free to repressed between 1996 and 2024. Given the need for economic growth and development, this decline in economic freedom must be reversed through greater access to economic empowerment opportunities.

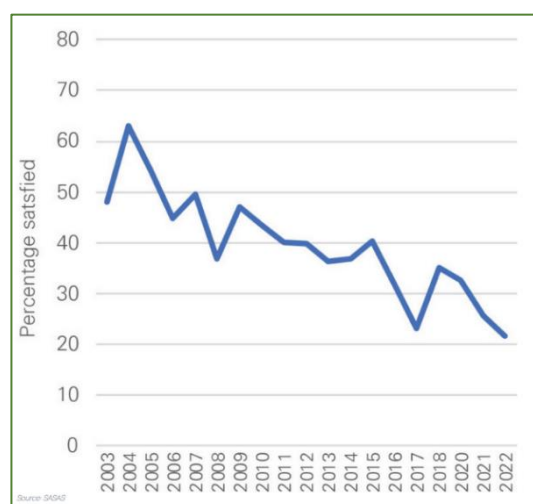
5. Concluding comments

The United Nations states that the values of freedom, respect for human rights and the principle of holding periodic elections by universal suffrage are essential elements of democracy. In turn, democracy provides an environment for the protection and effective realisation of human rights.

The findings from the reports noted above indicate that while all these elements of democracy are evident in South Africa's legislative prescripts, they have not all found expression in the lived realities of society.

The South African Social Attitudes Survey, found that in 2022, only 22 percent of South Africans were satisfied with democracy, compared with 48 percent in 2003.⁶ This is a significant and concerning decline.

Issues of crime, violence, corruption, inequality and economic insecurity threaten personal and collective freedom, and in turn threatens democracy and must be addressed by government as a matter of urgency to ensure the personal, social and economic freedom of all South Africans.



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⁶ <https://hsrc.ac.za/news/latest-news/sasas-charting-sa-attitudes-over-two-decades/>



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