

# South Africa - Human Rights Scorecard <sup>1</sup>

South Africa, officially the Republic of South Africa, is the southernmost sovereign state in Africa. It is bounded on the south by 2,798 kilometers of coastline of Southern Africa stretching along the South Atlantic and Indian Oceans. South Africa is a multiethnic society encompassing a wide variety of cultures, languages, and religions. South Africans underwent a difficult struggle to overthrow the racist apartheid regime in 1994, and are still working towards guaranteeing political, economic, and social equality for all. <sup>2</sup>

**Official language:** English, Afrikaans, IsiZulu, IsiXhosa, Sesotho sa Leboa, Setswana, Northern Sesotho, Tshivenda, Xitsonga, Siswati, IsiNdebele

**Ethnic groups:** 79.2% Black Africans; 8.9% Coloured; 8.9% White; 2.5% Indian/Asian; 0.5% Other

**Government:** Unitary parliamentary democracy

- President: Jacob Zuma

- Deputy President: Cyril Ramaphosa

**Death penalty:** Abolitionist for all crimes

**Population:** 52.98 million

**Life expectancy:** 62.9 years

**Under-5 mortality:** 41 per 1000

**Adult literacy:** 92.9 percent



## Section 1: Respect for the Integrity of the Person

Respect for the integrity of the individual is the most fundamental of human rights groupings. It guarantees protection of the person to ensure the right to life, and freedom from torture. It also prevents arbitrary detention, and disappearances, and ensures the right to a free and fair trial when accused.

### Freedom from arbitrary or unlawful deprivation of life



#### Largely disrespected <sup>3</sup>

There are reports that the government and its agents commit arbitrary or unlawful killings. Police use of excessive force, including torture, is often lethal.

### Freedom from disappearance



#### Respected <sup>4</sup>

There are no reports of politically motivated disappearances.

### Freedom from torture and other cruel, inhuman or degrading treatment or punishment



#### Largely disrespected <sup>5</sup>

While the constitution prohibits such practices, there are numerous reports of police officers torturing, beating, raping, and abusing suspects. Amnesty International has confirmed cases of torture.

### Freedom from arbitrary arrest or detention



#### Largely respected <sup>6</sup>

The law prohibits arbitrary arrest. However, in practice security forces arbitrarily detain many people. Foreign workers, asylum seekers, and refugees are often the targets of these arrests.

### Freedom from denial of fair public trial



#### Partially disrespected <sup>7</sup>

The constitution provides for an independent judiciary that the government generally respects. The judiciary is underfunded, however, and there have been allegations of corruption. In addition, only 10% of crimes result in convictions.

### Freedom from arbitrary interference with privacy, family, home or correspondence



#### Largely disrespected <sup>8</sup>

Despite the law prohibiting such actions, many search warrants are issued without adequate evidence. During these sweeps, police often abuse citizens. The interception of electronic communication without a warrant is perfectly legal.

## Section 2: Respect for Civil Liberties

Civil liberties are a basic category of internationally recognized human rights. They include the freedoms of expression, assembly, association, education, and religion. These are inalienable rights which should not be breached by government, and should ensure the rights of all, including women and minority groups.

### Freedom of speech and press (*Reporters Without Borders Press Freedom Index*)<sup>9</sup>



**Score: 21.92, Rank: 39 / 179 – Mostly free, diverse, and independent**<sup>10</sup>

South Africa's constitution protects its very diverse media. However, there are anti-terrorism and antiquated apartheid laws that limit coverage that threatens "national interests". There have been hostile reactions from authorities to articles about the ruling ANC government.

### Freedom from academic censorship



**Partially respected**<sup>11</sup>

The constitution protects freedom of speech. However, the Film and Publications Board reviews written and graphic materials published in, or imported into, the country. The board has the power to edit or ban whatever it wishes.

### Freedom of peaceful assembly and association



**Largely disrespected**<sup>12</sup>

Police violate the constitution by violently arresting hundreds of demonstrators each year, often resulting in deaths and injuries. Police use rubber bullets, batons, and water cannons to control demonstrators.

### Freedom of religion



**Respected**<sup>13</sup>

The constitution provides for freedom of religion, belief, and opinion, including the right to practice one's religion, and to form, join, and maintain religious associations. Cases of discrimination against religious persons can be taken to the Constitutional Court.

### Protection of refugees and stateless persons



**Largely disrespected**<sup>14</sup>

There are legal systems in place for the granting of asylum and refugee status. However, there are often incidents involving violence against refugees, asylum-seekers and migrants. Often police raids target neighborhoods with high immigrant populations.

### Overall protection of civil liberties (*FreedomHouse Civil Liberties Index*)<sup>15 16</sup>



**2 / 7 – Free**<sup>17</sup>

Freedom of expression and the press are protected in the constitution and generally respected in practice. South Africa has a diverse media and independent civic groups that often critique the government. Nonetheless, concerns about press freedom have grown in recent years.

## Section 3: Respect for Political Rights

Political rights ensure all members of society are able to influence the political process. The assessment of political rights includes an examination of the electoral process and the selection of representatives, the political empowerment of the general public, the tolerance of dissent, the accountability of government, etc..

### Overall protection of political rights (*FreedomHouse Political Rights Index*)<sup>18</sup>



**2 / 7 –Free**<sup>19</sup>

South Africa holds national elections that are declared free and fair by many international observers. Despite the success of these democratic electoral institutions, corruption measures remain inadequate.

## Section 4: Corruption and Lack of Transparency in Government

The civil, political, economic and social rights exercised within a country are often modulated by the degree of transparency and freedom from corruption. Various international metrics assess transparency and corruption, including the OECD anti-bribery convention, the Bribe Payers Index, and the Open Budget Index.

### Transparency and freedom from corruption (*Transparency International Corruption Perceptions Index*)<sup>20</sup>



**Score: 44%, Rank: 61 / 175 – Some corruption**<sup>21</sup>

While the law provides criminal penalties for conviction of corruption, officials often engage in corrupt practices with impunity.

## Section 5: Governmental Response to Criticism

This section deals specifically with the response heads of state have to civil society or international human rights reports.

### Governmental attitudes vis-à-vis independent investigations of alleged human rights violations



#### Respected<sup>22</sup>

Many domestic and international human rights organizations operate without government restriction. Officials are somewhat cooperative and responsive to their reports.

## Section 6: Discrimination and Societal Abuses

Legal and social discriminatory practices related to sex, race, creed or sexual orientation, are violations of human rights. Countries with strong civil liberty traditions should have a fair legal system that ensures the rule of law, allows free economic activity, and ensures equality of opportunity for all.

### Rights of women (World Economic Forum Gender Gap Index)<sup>23</sup>



#### Score: 75.9%, Rank: 17/ 142 – Somewhat unequal<sup>24</sup>

Women in South Africa still face discrimination despite legal equality in family, labour, property, inheritance, nationality, divorce and child custody. HIV remains a significant issue in South Africa, with young women most at risk for new HIV infections.

### Rights of Children (KidsRights Index Overall Score)<sup>25</sup>



#### Score: 68.1%, Rank: 109 / 165 – Somewhat protected<sup>26</sup>

The law provides for citizenship at birth, nevertheless many births go undocumented. Children have mandatory education until the age of 15. Unfortunately, child abuse and early, forced marriage are widespread.

### Rights of persons with disabilities



#### Partially respected<sup>27</sup>

The law prohibits discrimination based on physical, sensory, intellectual, and mental disability. Nevertheless, building codes ensuring handicapped access are rarely enforced. In addition, many disabled children do not attend school due to additional fees that are required of them.

### Rights of national/racial/ethnic minorities (e.g. discrimination, Islamophobia, anti-Semitism etc.)



#### Largely disrespected<sup>28</sup>

The law requires employers to hire across all ethnicities of the country. Nevertheless, Blacks remain underrepresented at the professional and managerial levels. There have also been xenophobic attacks against foreign migrants and anti-Semitic attacks against Jews.

### Freedom from abuse and discrimination based on sexual orientation or gender identity



#### Respected<sup>29 30</sup>

Same-sex relationships, same-sex marriage, and joint-adoption by same-sex couples are all legal in South Africa. The constitution prohibits discrimination based on sexual orientation.

## Section 7: Workers' Rights

Workers' rights are a group of legal rights relating to labour relations between workers and their employers. At their core are things like the ability to negotiate pay, benefits, terms of employment, and safe working conditions. These rights often devolve from the right to unionize and access to collective bargaining.

### Rights to freedom of association and to collective bargaining



#### Partially respected<sup>31</sup>

The law allows nearly all workers to form and join unions, which are allowed to strike, with the exception of essential services. There are allegations of government corruption however, and often disputes and rivalry break out between unions.

### Freedom from forced or compulsory labour



#### Largely disrespected<sup>32</sup>

There are laws prohibiting forced or compulsory labour, but such laws are not often enforced. There are many reports of domestic servitude, forced migrant labour, and child agricultural labour.

## Freedom from forced labour for children, and a minimum age of employment



### Partially respected<sup>33</sup>

The law prohibits employment of children under the age of 15. There are also laws that limit the hours of students, and prevent children from performing hazardous duties. However, enforcement of these laws in the informal and agricultural sector has been inconsistent.

## Right to acceptable conditions of work



### Partially disrespected<sup>34</sup>

There is no minimum wage for workers in South Africa. Occupational, health and safety standards, although guaranteed by law, have been inadequately monitored.

## Right to employment



### 24.88% - Extreme unemployment<sup>35</sup>

The unemployment rate in South Africa has remained a steady, serious problem that hinders the country's overall health and economic success.

<sup>1</sup> A hybrid human rights and freedoms model, leveraging both legal principles and intuitive classifications, has been used for this human rights assessment. The CJPME Foundation has sought to integrate as many independent sources and metrics into its summary analysis as possible. In many cases, for qualitative material pertaining to the respect for a particular right in a country, the CJPME Foundation has drawn on material from Human Rights Watch and the US State Department country reports. Human Rights Watch (HRW) publishes a World Report which assesses the respect for human rights in each country. HRW uses a methodology of local reporting and interviewing, combined with research and analysis to assess the level of respect of human rights. The U.S State Department keeps an updated publication on the state of human rights internationally. Their system of research and accountability draws from the research of official US State Department officials, as well as local civil-society and international human rights organizations.

<sup>2</sup> Commonly-known information on the country is drawn from various Internet sources, including Google country pages, and Amnesty International. For death penalty see: "Death sentences and executions in 2013." Amnesty International. March 24, 2014. Accessed May 15, 2015.

<sup>3</sup> <https://www.amnesty.org/en/documents/act50/001/2014/en/>.

<sup>3</sup> "Country Reports on Human Rights Practices for 2015 South Africa." U.S Department of State. Accessed June 15, 2016.

<http://www.state.gov/documents/organization/252941.pdf>.

<sup>4</sup> Ibid. U.S Department of State. For purposes of the present analysis, a "disappearance" is different than simple arbitrary detention because a "disappearance" is considered permanent.

<sup>5</sup> Ibid. U.S Department of State.

<sup>6</sup> Ibid. U.S Department of State.

<sup>7</sup> Ibid. U.S Department of State.

<sup>8</sup> Ibid. U.S Department of State.

<sup>9</sup> The Press Freedom Index published by Reporters Without Borders ranks the level of freedom of information in 179 countries. This is determined through the polling of local NGOs and freedom of expression civil society organizations across the globe. This index is also determined by local correspondents and follow-up work done on reports of infringement to press freedom where ever it takes place. Their methodology looks at six different indicators: 1) Media pluralism, 2) Media independence, 3) Media atmosphere and self-censorship, 4) the Law around media, 5) Media transparency, and 6) Media infrastructure. The score from these six indicators is combined with a rating for the violence against journalists in the country to create an overall score. The CJPME Foundation classifies the Press Freedom Index as follows: 0 – 14.99 (25 countries), Largely free, diverse and independent; 15 – 24.99 (29 countries), Mostly free, diverse and independent; 25 – 29.99 (32 countries), Partially free, diverse and independent; 30 – 39.99 (49 countries), Partially controlled, limited or intimidated; 40 & higher (42 countries), Highly controlled, limited or intimidated.

<sup>10</sup> "World Press Freedom Index." Reporters Without Borders: For Freedom of Information. Accessed June 15, 2016. <https://rsf.org/en/south-africa>.

<sup>11</sup> "Country Reports on Human Rights Practices for 2015 South Africa." U.S Department of State. Accessed June 15, 2016.

<http://www.state.gov/documents/organization/252941.pdf>.

<sup>12</sup> Ibid. U.S. Department of State

<sup>13</sup> "South Africa 2014 International Religious Freedom Report." U.S. Department of State. Accessed June 15, 2016.

<http://www.state.gov/documents/organization/238474.pdf>.

<sup>14</sup> "Country Reports on Human Rights Practices for 2015 South Africa." U.S Department of State. Accessed June 15, 2016.

<http://www.state.gov/documents/organization/252941.pdf>.

<sup>15</sup> Freedom House is an internationally recognized NGO based in the U.S which documents and rates the quality of democratic practice in a given country. Freedom House splits its grading system between the two areas of civil and political rights in a country. On each scale, the Freedom House rating is 1-2.5 (free), 3-5.5 (partly free) and 6-7 (not free).

<sup>16</sup> Freedom House's Civil Liberties index measures things such as a) freedom of expression and belief, b) associational and organizational rights, c) the rule of law, and d) personal autonomy and individual rights. Freedom House rates countries as 1-2.5 (free), 3-5.5 (partly free) and 6-7 (not free). Accessed Dec. 9, 2014

<https://www.freedomhouse.org/report/freedom-world-2014/methodology#.VldwWzHF98F>

<sup>17</sup> "South Africa." Freedom in the World 2016: South Africa. Accessed June 15, 2016. <https://freedomhouse.org/report/freedom-world/freedom-world-2016>.

<sup>18</sup> See footnote about the Freedom House organization above. The Freedom House Political Rights assessment looks at a) the electoral process, b) political pluralism and participation, and c) the functioning of government. Accessed June 15, 2016. <https://www.freedomhouse.org/report/freedom-world-2014/methodology#.VldwWzHF98F>.

<sup>19</sup> "South Africa." Freedom in the World 2016: South Africa. Accessed June 15, 2016. <https://freedomhouse.org/report/freedom-world/2016/south-africa>.

<sup>20</sup> Transparency International (TI) publishes a "Corruption Perceptions Index" annually, which is based on independent research and polling. The main categories of corruption are broken down within the index to provide particulars on issues including things such as perceptions of corruption, control of corruption, and financial secrecy. A country receives a score on 100; the higher the score, the less corrupt the society. The CJPME foundation has classified them into categories as follows:

80-100 (11 countries): Very limited corruption; 60-79 (27 countries): Limited corruption; 40-59 (41 countries): Some corruption; 20-39 (80 countries): Highly corrupt; 0-19 (15 countries): Extremely corrupt

<sup>21</sup> "South Africa." Corruption by Country. Accessed June 21, 2016. [http://www.transparency.org/country#ZAF\\_DataResearch\\_SurveysIndices](http://www.transparency.org/country#ZAF_DataResearch_SurveysIndices).

<sup>22</sup> "Country Reports on Human Rights Practices for 2015 South Africa." U.S Department of State. Accessed June 15, 2016.

<http://www.state.gov/documents/organization/252941.pdf>.

<sup>23</sup> This metric is based on the World Economic Forum's Gender Gap Index. 0.00 denotes inequality between the sexes, and 1.00 denotes fully equality between the sexes. This index looks at four subdomains: economic participation and opportunity; educational attainment; health and survival; and political empowerment. Each country is given a percentage score; the higher the percentage, the better the protections. The CJPME Foundation classed the percentages as follows: 80-100% (5 countries): Almost equal rights; 70-79% (60 countries): Somewhat unequal rights; 0-69% (77 countries): Very unequal rights

<sup>24</sup> "South Africa." World Economic Forum. Accessed June 15, 2016. <http://reports.weforum.org/global-gender-gap-report-2015/economies/#economy=ZAF>.

<sup>25</sup> This metric is based on the KidsRights Index Overall Score. This index has five subdomains: life expectancy and maternal mortality; health; education; protection; and child rights environment. Each country is given a percentage score; the higher the percentage, the better the protections. KidsRights classes the countries according to these percentages, and the CJPME Foundation has given each class a term as follows: 70-100% (77 countries): Protected; 60-70% (29 countries): Somewhat protected; 45-50% (33 countries): Slightly vulnerable; 30-45% (12 countries): Highly vulnerable; Lower than 30% (11 countries): Extremely vulnerable

<sup>26</sup> "The KidsRights Index: Overall Score." The KidsRights Index. Accessed June 15, 2016. <http://www.kidsrightsindex.org/Index/Overallscore.aspx>

<sup>27</sup> "Country Reports on Human Rights Practices for 2015 South Africa." U.S Department of State. Accessed June 15, 2016.

<http://www.state.gov/documents/organization/252941.pdf>.

<sup>28</sup> Ibid. U.S Department of State.

<sup>29</sup> "ILGA World Map." International Lesbian Gay and Intersex Association. January 1, 2014. Accessed November 25, 2014. <http://ilga.org/>. See also Ibid. U.S Department of State.

<sup>30</sup> ILGA, the International, Lesbian, Gay, Bisexual, Trans and Intersex Association, was founded in 1978 on the principle of highlighting state sponsored homophobia where it exists around the world. ILGA annually publishes a map with an accompanying report on sexual and gender based harassment, which focuses on both the legal and non-legal acts of state sponsored discrimination.

<sup>31</sup> "Country Reports on Human Rights Practices for 2015 South Africa." U.S Department of State. Accessed June 15, 2016.

<http://www.state.gov/documents/organization/252941.pdf>.

<sup>32</sup> Ibid. U.S Department of State.

<sup>33</sup> Ibid. U.S Department of State.

<sup>34</sup> Ibid. U.S Department of State. See also a well-done Wikipedia comparison of wage, income and work week metrics across countries at

[http://en.wikipedia.org/wiki/List\\_of\\_minimum\\_wages\\_by\\_country](http://en.wikipedia.org/wiki/List_of_minimum_wages_by_country)

<sup>35</sup> "Global Employment Trends." International Labour Organization. Accessed June 21, 2016. [http://www.ilo.org/global/research/global-reports/global-employment-trends/2014/WCMS\\_233936/lang--en/index.htm](http://www.ilo.org/global/research/global-reports/global-employment-trends/2014/WCMS_233936/lang--en/index.htm).