



Poland Report

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Sustainable Governance
Indicators 2016

Executive Summary

The two national elections held in Poland in 2015 altered the country's political landscape and shifted power relations on the national level between the two major parties, the centrist Civic Platform (PO) and the conservative Law and Justice party (PiS). Whereas PO candidate Bronisław Komorowski surprisingly lost in the May presidential election to his main challenger, PiS candidate Andrzej Duda, the PiS's success in the October elections to both chambers of parliament, the Sejm and Senate, were expected.

Neither a weak economic situation nor paralysis of the incumbent government account for the PiS's electoral success. In fact, the Polish economy performed strongly throughout the period under review, and Ewa Kopacz, confirmed by the Sejm as prime minister in September 2014 when her predecessor Donald Tusk (PO) left office in order to become the president of the European Council in December 2014, sustained a smooth coalition with the Polish People's Party (PSL). The PiS' success can be attributed instead to the party's successful promotion of two narratives that Ewa Kopacz and her team failed to effectively counteract: the first narrative claiming that Poland was in the hands of a corrupt and cynical elite out of touch with the people; the second narrative calling for a change after eight years of PO rule. The call for change was cleverly represented by two rather new PiS politicians, Andrzej Duda and the candidate for the prime minister's office Beata Szydło. This said, however, the change in government was due not so much to significant shifts in voter preferences, but rather to a very high number of wasted votes (more than 16% of active voters), largely among the political left.

In the period under review, the quality of democracy in Poland remained high. Unlike the local elections in November 2013, the presidential and parliamentary elections in 2015 went smoothly. The media and the judiciary are largely independent, party and campaign financing is largely under control, and civil rights and political liberties are broadly respected. Unlike most other countries in the region, media pluralism is not endangered by dubious oligarchs. Calls for national referendums have grown louder, yet their political instrumentalization has undermined rather than increased public involvement in policymaking.

Continuity has also prevailed in the field of governance. Due to the Tusk government's far-reaching reforms, the Kopacz government was able to rely on a well-developed system of strategic planning, interministerial coordination and regulatory impact assessment. Cooperation within the governing coalition worked well, for the most part. Poland's standing in the European Union remained high, but suffered from the country's protectionist stance in terms of climate change policies, and the country's reluctance to take responsibility regarding the distribution of refugees across Europe.

The Kopacz government continued the sound economic and fiscal policies of the previous years. The gradual fiscal adjustment made it possible to exit the EU's excessive deficit procedure one year earlier than expected. As a result of Poland's robust economic growth, unemployment continued to fall. Save for a reform of tax administration, the Kopacz government failed to initiate major new policy reforms. On the one hand, it was absorbed by implementing and fine-tuning the many reforms launched under the Tusk government. On the other hand, it did not dare to initiate unpopular reforms such as a reform of the health care system or a crackdown on the costly special pension systems of miners and farmers in an election year.

Key Challenges

After the PiS won the parliamentary elections in October 2015 with 38% of the votes, it became the first party in Poland's post-communist history to obtain a majority sufficiently large enough to govern alone (235 out of 460 seats). The composition of the Sejm changed insofar as two new parties entered parliament: the electoral committee Kukiz'15, founded by the rock musician Paweł Kukiz who was third in the presidential elections, and the liberal party Modern (Nowoczesna). The Polish People's Party (PSL) lost several seats, coming in fifth place. This means that 44% of all current members of parliament are serving their first term, including 40% of PiS members of parliament. The strong presence of first-time members of parliament could usher in fresh ideas, but given their lack of experience, it could also mean they need more time to learn the ropes of policymaking.

Much more radical than expected by most observers, initial decisions made by the new government have raised strong concerns both within and beyond Poland's borders. Instead of appointing to ministry positions the new faces presented in the election campaigns, a number of controversial PiS hardliners were appointed instead: Zbigniew Ziobro as minister of justice, Antoni Macierewicz as defense minister and Witold Waszczykowski as foreign

minister. Immediately upon assuming office, the new government began placing drastic limitations on media and judiciary independence. PiS leader Jarosław Kaczyński has not concealed his admiration for Victor Orbán and his pursuit of “illiberal democracy.” Within the EU, Poland has taken a more obstructive approach, thereby putting at risk the country’s good reputation and increased role in the EU as well as its good relationship to Germany.

The social-populist statements made by new Prime Minister Beata Szydło in her inauguration speech have also raised concerns about the future course of fiscal and economic policy. The implementation of promised measures such as new child benefits and a renewed lowering of the retirement age or free pharmaceuticals for pensioners are likely to undermine the country’s fiscal stance. The question here is whether or not the Polish economy is so robust as to accommodate such a regime change.

Policy Performance

I. Economic Policies

Economy

Economic Policy
Score: 9

The recovery of the Polish economy from its slowdown in 2012/13 has continued in 2015. The country's strong economic performance has been facilitated by stable domestic consumption, low inflation and a good overall economic framework including low labor costs, a well-functioning financial system, a high degree of continuity in economic policy, and a well-functioning administration by regional standards. Considerable EU-supported infrastructure investment has underpinned the increase in economic activity.

Labor Markets

Labor Market
Policy
Score: 6

Poland's favorable overall economic record has been associated with a marked decline in unemployment. The unemployment rate has fallen by about three percentage points from its peak in early 2013. While employment has grown, the employment rate is still below the EU-15 average. This gap is most pronounced for elderly women, as Poland's employment of women between 55 and 64 years for 2014 was at 32.9% compared with the EU rate of 47.8% for the same year. Regional variations in (un-)employment, both between and within regions (voivodships), have been strong and persistent. Temporary employment contracts represent another problem, as Poland has the highest rate in the EU. The 2014 amendment of the Act on Employment Promotion and Labor Market Institutions introduced measures to better tailor career guidance and counseling toward individual job seekers. Nonetheless, the envisaged strengthening of activation measures has progressed slowly. Public expenditures on labor-market policy are relatively low, and labor-market policies only slowly profit from better monitoring, coordination and an increase in skilled personnel.

Taxes

Tax Policy
Score: 6

Poland's tax system is characterized by a personal-income tax with two rates: 18% up to an income of PLN 85,528 and 32% for those who are above this level. Moreover, the system features a corporate-income tax of 19%, a relatively high standard VAT rate and high social-insurance contributions. Compared to other East-Central European countries, the corporate tax burden and the extent of red tape associated with the taxation of enterprises have been relatively high. Tax reform has not featured very prominently on the agendas of the Tusk and Kopacz governments. The single most important measure adopted by the second Tusk government was a reform of VAT administration that aimed at reducing the administrative burden on enterprises and the extent of tax evasion in January 2014. Under the Kopacz government, a new Tax Administration Act was adopted in July 2015 which reduces the fragmentation of the tax administration, assigns more tax administration staff to inspection and enforcement, and reduces the number of documents required by tax payers.

Citation:

IMF 2015: Republic of Poland - Tax Assistance Report: Tax Administration - Modernization Challenges and Strategic Priorities. IMF Country Report No. 15/112, Washington, D.C.

Budgets

Budgetary Policy
Score: 7

Fiscal adjustment featured prominently in the initial policy declarations of the PO government. Thanks to the combination of robust and steady economic growth with the government exercising restraint in spending, Poland successfully reduced its fiscal deficit from its 2010 level of 7.9% of GDP to less than 3% in 2015. This allowed Poland to exit the EU's excessive deficit procedure one year ahead of schedule. However, the fact that Poland is the only EU country that does not have and does not plan to establish an independent fiscal council has raised some concerns about the country's fiscal framework and the sustainability of fiscal adjustment.

Research and Innovation

R&I Policy
Score: 6

The Polish system for research and development (R&D) has been significantly restructured since 2010. Science and higher-education reforms in 2010 and 2011 have spurred significant changes, including a move toward more competitive funding, the creation of two R&D agencies respectively for applied and basic research, and efforts to tackle fragmentation by focusing funding on the best-performing institutions. In July 2012, the first six national

leading scientific centers (KNOW) were selected. These efforts have gradually shown their results. However, Poland continues to score poorly in the EU's Innovation Union Scoreboard rankings, and there is still some way to go if Poland is to meet its overall R&D spending target of 1.7% of GDP by 2020. In order to help achieve this goal, Poland once again applied for a loan of €940 million from the European Investment Bank to sponsor Polish activities in R&I as of 2015.

Citation:

Gorzela G. (ed.), (2015), 'Growth-Innovation-Competitiveness: Fostering Cohesion in Central and Eastern Europe', GRINCOH Project Final Report, Contr. Nr. 290657

Global Financial System

Stabilizing
Global Financial
Markets
Score: 7

Poland has not been an agenda-setter with regard to the regulation of international financial markets. It has supported the idea of a financial-transaction tax, but opposed the idea of an EU banking union. Poland's financial sector has remained stable despite rapid expansion, as various stress tests have demonstrated. A new act on macroprudential supervision over the financial system went into effect in November 2015 that widens the mandate of the Financial Stability Committee.

II. Social Policies

Education

Education Policy
Score: 7

The first Tusk government launched a number of education reforms that have gradually become effective, and have significantly increased the quality of education in the country. Although education expenditure in Poland is significantly lower than the average expenditure in the European Union more broadly, Polish students now achieve relatively good results at schools. The main aim of the Tusk government's reforms was to reduce the system's lack of synchronization with the labor markets. Reforms have led to a greater emphasis in the curriculum on mathematics, science and technology; a strengthening of vocational education; attempts to attract more students to economically relevant areas; measures to improve the quality of research and teaching at universities; and the adoption of a national strategy for lifelong learning. While Prime Minister Kopacz expressed her commitment to the continuation of education reform and announced the strengthening of vocational education, no major reforms were passed under her leadership.

Social Inclusion

Social Inclusion
Policy
Score: 7

Social inequalities have diminished since the early 2000s. This has partly been due to Poland's strong economic performance. In addition, the PO-PSL government has been successful in mitigating regional disparities through successful regional-development policies. Moreover, government policies have helped improve families' financial conditions, especially those suffering from poverty, and have increased average educational attainments. The most dramatic pockets of poverty have shrunk, and income inequality has fallen substantially since the early 2000s. In-depth sociological studies have shown that poverty in Poland is not inherited across generations.

Citation:

Czapiński, J. & T. Panek, eds. 2015. "Diagnoza społeczna". Warszawa.

Health

Health Policy
Score: 5

Public health insurance covers some 98% of Poland's citizens and legal residents. However, access to health care is highly uneven, as public health insurance covers only a limited range of services, and out-of-pocket payments feature prominently in the system at large. Moreover, the poor quality of some services falls far under citizens' expectations, and for some services, patients must wait for an unreasonable duration. In the period under review, implementation of two reform packages adopted in 2014, the "waiting lists" and "oncology" packages, were initiated. At the same time, the Kopacz government failed to pass more comprehensive reforms that had been announced.

Families

Family Policy
Score: 7

Poland's employment rate among women falls below the OECD and EU averages, and its child-care infrastructure is weak. However, the PO-PSL government put a heavy emphasis on improving women's labor-market integration, and on fostering a more balanced division of labor among the sexes. In his state-of-the-nation address at the opening of his second term, Prime Minister Tusk announced the introduction of a package of five pro-family reforms, including an extension of parental leave from three months to one year, increased public spending for the construction and maintenance of crèches, and a cap on kindergarten fees. Prime Minister Kopacz has stuck to this course, and has announced plans to further expand public spending for child care in 2015, additionally making all parents, including students, farmers and the unemployed, eligible for support. A debate on how to combine

parenthood and work emerged again when the opposition called for a referendum on increasing the school entry age from six to seven to be in October 2015. However, the referendum was not held because Prime Minister Kopacz and her majority in parliament did not support that motion.

Pensions

Pension Policy
Score: 7

Poland introduced a three-pillar pension system following World Bank recommendations in 1999. Starting in 2011, pension contributions were partially redirected from the second – obligatory, but private and funded – to newly created subaccounts in the first, public pillar. In addition, the sustainability of the first pillar was improved in 2011 by the adoption of an increase in statutory retirement ages, which will be phased in between 2013 and 2020 (for men) or 2040 (for women). In the period under review, the government refrained from any introducing any pension policy reform initiatives. Ignoring repeated EU recommendations, it left untouched the costly pension systems for miners and farmers. The government's parliamentary majority rejected an initiative driven by the PiS opposition to hold a referendum on lowering the retirement age at the same time as the parliamentary elections in October 2015.

Integration

Integration Policy
Score: 5

As migration to Poland has been relatively low, issues related to Poland as a sending country have featured far more prominently on the political agenda than have issues related to Poland as a receiving country until recently. Ukrainians and Vietnamese make up the largest group of migrants to the country. In 2012, the Tusk government adopted a new law on migration and integration, as well as a reform of Polish citizenship law. Given impetus by EU law and demographic changes in Poland itself, the reforms have made it easier to acquire Polish citizenship and to apply for a work and residence permit in a single procedure. They also prolonged the period given to foreign graduates to find employment in Poland. However, Poland has not yet signed the U.N. Convention on Migrant Workers' Rights, and the institutional framework for dealing with immigrants is still very weak overall.

Since mid-2015, the European refugee crisis has dominated the debate about migration and integration. In September, the Kopacz government secured a waiver from the EU's mandatory quota system with the help of other central European countries, but in the end agreed to admit 7,000 refugees and to erect two additional refugee camps. In the campaign runup to the October 2015 elections, this decision was heavily criticized by the conservative-national PiS, which pointed to the ways in which the immigration of Muslims threatens

Polish culture and society. Internationally, Poland was criticized for failing to demonstrate sufficient solidarity with its fellow EU member states and with those fleeing civil war or political prosecution.

Citation:

Markowski, R., M. Kotnarowski, M. Wenzel, M. Żerkowska-Balas. 2015. Democratic Audit of Poland 2014. Frankfurt: Peter Lang Edition, section 1.1.3 “Granting protection to refugees”

Safe Living

Safe Living
Conditions
Score: 8

The annual number of homicides and thefts further decreased during the review period, and the feeling of safety among citizens has grown. While men face a greater risk of falling victim to assaults or other violent crimes, women report lower feelings of security than men. The effectiveness of the police forces has increased.

Global Inequalities

Global Social
Policy
Score: 6

Development Cooperation has become a more relevant issue in Poland since EU accession, even though it is still not a priority of the Polish government. While Poland became the 28th member of the OECD Development Assistance Committee (DAC) in October 2013, it remains one of its smallest donors. In October 2015, the Kopacz government agreed to implement its new development program for 2016-2020 and aims primarily to support projects with NGOs in Ukraine, Belarus, Georgia and Moldova, as well as projects in East Africa and South America for a total of 1.5 billion Zloty annually.

III. Environmental Policies

Environment

Environmental
Policy
Score: 6

Poland has enshrined the principle of sustainable development in Article 5 of its constitution, and has broadly adopted EU environmental standards. However, as evidenced once more in the 2015 election campaign, there is a broad political consensus in the country that economic growth should be given priority over protection of the environment. Governments have been especially keen on protecting the domestic coal industry, which is a large employer and reduces the country's dependence on Russian energy, an issue that has taken on even greater prominence since the Ukrainian crisis. With the coal industry in mind, the PO-PSL government sought to obstruct attempts by the European

Union to tighten targets for the reduction of carbon emissions. The government's emphasis on and liberal approach toward the exploration and production of shale gas, as well as its plan to build a nuclear-power station, have generated controversy. In September 2015, the Ministry of Environment conceded that test drillings so far had not been very successful. The share of renewables in Poland still stands at a meager 1%.

Citation:

OECD 2015, Environmental Performance Review: Poland 2015. Paris.

Global Environmental Protection

Global
Environmental
Policy
Score: 4

Poland has largely implemented EU environmental standards. However, it has been one of the primary internal critics of the EU's climate policy and emissions-trading system. Across the political spectrum, large parts of the Polish political elite have feared that ambitious international or European climate-protection regimes will reduce Poland's energy independence and place too heavy a burden on the Polish economy.

Quality of Democracy

Electoral Processes

Candidacy
Procedures
Score: 10

Regulations governing the electoral process were consolidated within the election code in January 2011. Provisions regarding the registration of parties and candidates are liberal and ensure a fair registration procedure. Every Polish citizen has the right to stand for election. Senators need to be at least 30 years old, while presidential candidates must be at least 35. Candidates for the Sejm (the lower house of the Polish parliament) can be proposed by organizations such as parties or by voters themselves. A group of 1,000 individual citizens or more can form a so-called electoral committee by signing the proper documentation and submitting it to the National Electoral Commission. Parties representing ethnic minorities receive favorable treatment, as they are allowed to collect fewer signatures than required of “normal” parties in order to take part in elections. The election code also introduced a gender quota, mandating that men and women each must account for at least 35% of Sejm candidate lists. There were no signs of discrimination against specific candidates and parties in any of the three elections in the period under review - the local elections in November 2014, the presidential elections in May 2015 and the parliamentary elections in October 2015. There are, however, not enough qualified female candidates in local elections.

Citation:

Śledzińska-Simon, Anna Bodnar, Adam, 2013: Gender Equality from Beneath: Electoral Gender Quotas in Poland, in: *Canadian Journal of Law and Society* 28(2): 151-168.

Markowski, R., 2016: The Polish Parliamentary Election of 2015: A Free and Fair Election That Results in Unfair Consequences, in: *West European Politics*, forthcoming.

Markowski, R., M. Kotnarowski, M. Wenzel, M. Żerkowska-Balas. 2015. *Democratic Audit of Poland 2014*. Frankfurt: Peter Lang Edition.

Media Access
Score: 9

Parties and candidates have equal access to public and private media. At least for nationwide candidate lists, the election code requires public TV and radio stations to reserve time for the free broadcasting of campaign materials and for televised candidate debates. Although the government still wields some influence within the National Council on Radio and Television (KRRiT), the country’s main media-oversight body, the partisan bias to public-media

reporting has become substantially weaker than in previous periods. Moreover, the pluralistic nature and quality of private media in Poland allows all parties and candidates the opportunity to reach the public with their messages. As in the past, however, public broadcasters were hesitant to give equal broadcast time to “second-order” candidates in the campaign for the first round of the 2015 presidential elections.

Citation:

Kotnarowski, M., R. Markowski, M. Wenzel, M. Żerkowska-Balas. 2014. Democratic Audit of Poland 2014. (available in Polish at www.dap.swps.pl), pp.114-115

Voting and
Registrations
Rights
Score: 10

The 2011 election code made voting rights more transparent by consolidating provisions for different election levels into a single law. Almost all adult citizens in Poland have the right to vote. While there is no blanket disenfranchisement of convicts or individuals who have been declared incapacitated, existing provisions are not fully in line with the rulings of the European Court of Human Rights. As Polish citizens are automatically registered to vote, there is no need for prior registration before elections. Since August 2014, all citizens, not only the disabled and those living abroad, have been able to vote by mail. In the November 2014 local elections, an information-technology failure led to delays in the reporting of the election results. While an expert commission did not find any evidence of voting-fraud, a series of technical problems might have contributed to moderate bias in the electoral outcome. The 2015 presidential and parliamentary elections went more smoothly.

Party Financing
Score: 8

Party and campaign financing regulation is clear and effective. While party financing is regulated by the 2001 Political Parties Act, the rules governing campaign financing are part of the 2011 election code. Parties depend heavily on public funding, which is provided only to parties that win at least 3% of the vote. Party spending is monitored by the National Election Office, the executive body of the National Election Commission, which consists of nine active or retired judges appointed by the president. Monitoring is strict, but focuses exclusively on spending financed by public funds. According to the election code, only registered electoral committees can finance campaigns, and there is a maximum spending limit for campaign purposes of approximately €7 million. In practice, separating party and campaign financing has sometimes turned out to be challenging. Other problems include the insufficient coverage of pre-campaign spending, the short window of time in which objections can be raised by the National Election Commission, and the lack of detail transparency in commission reports of electoral committee revenues and finances. A 2014 amendment to the Political Parties Act limited parties' risk of losing money as a result of minor accounting mistakes. However, the fact that an election committee's financial and criminal liability rests with its financial officer makes it difficult to find individuals willing to be nominated to the

position. A referendum in September 2015 put the reform of party financing on the public agenda. While the referendum ultimately failed because of a low participation rate of 7.8%, more than 80% of those participating voted to abolish the existing system.

Citation:

Wittman, Florian/Zapart, Thomas, 2015: Ein gescheitertes Referendum ohne Gewinner? Wahlrecht und Parteienfinanzierung im polnischen Parteiensystem auf dem direktdemokratischen Prüfstand, in: Polen-Analysen, Nr. 168.

Adam Sawicki. 2015. Finansowanie partii politycznych i kampanii wyborczych w Polsce. Warszawa: Instytut Spraw Publicznych

Markowski, R., M. Kotnarowski, M. Wenzel, M. Żerkowska-Balas. 2015. Democratic Audit of Poland 2014. Frankfurt: Peter Lang Edition, pp. 144-8

Popular Decision-Making
Score: 7

Polish law provides for various forms of direct democracy. On the local and regional level, a referendum is called when it is supported by 10% of the electorate. On the national level, referendums can be called only by the lower house of parliament (the Sejm), or the president. However, popular initiatives are also possible. A total of 100,000 voters can collectively submit a draft bill, which the Sejm then has to pass or reject. In 2013 and 2014, the number of referendums at the local level increased. While recall referendums aiming at replacing sitting mayors drew the most attention, there were also a number of referendums on substantive issues. In the period under review, referendums featured more prominently on the national level. Various groups succeeded in gathering sufficient signatures for popular initiatives on issues such as penalizing the abolition or ending of state funding for religious classes in school. In September 2015, a referendum to introduce one-member constituencies, abolish the current system of party financing and settle tax law disputes in favor of tax payers failed due to the low participation rate of 7.8%, the lowest ever achieved at a referendum since 1989. Also in September 2015, the Senate declined to approve referendums that would have returned the school entry age to seven, lowered the retirement age and prohibited the privatization of national forests, as suggested by the PiS and the incoming president Andrzej Duda.

Access to Information

Media Freedom
Score: 8

The Polish government largely respects the independence of the media. However, even after a reform in 2010, the National Council on Radio and Television, which oversees the public media, has remained a politicized body. Cases of politically motivated appointments at TVP (Poland's public TV broadcaster) and PR (Polish public radio) continue to emerge. Media freedom is also somewhat impaired by a number of controversial provisions in the Penal Code concerning defamation and giving offence with reference to

religious beliefs; in some cases, these provisions have been used to justify legal action against journalists. As in the case of private media organizations' economic dependence on advertisers, this has prompted self-censorship, especially with regard to investigative journalism. The constitutionality of anti-defamation laws was upheld by the Constitutional Tribunal in two separate decisions issued in September and October 2015.

Media Pluralism
Score: 9

Poland's media market is one of the largest in Europe, offering a diverse mix of public and private media organizations and reflecting a broad spectrum of political opinions. While the public TV station TVP and its four channels claim a large share of the market, and local authorities often publish newspapers and magazines, most Polish print media and radio in general are privately owned. Despite a tendency toward concentration, media ownership remains diversified. Foreign owners still control more than half of the Polish media market. Compared to other countries in East-Central Europe, Poland's media-ownership structures are relatively transparent, and there are no "media moguls" in the market who use their ownership positions to further a political agenda. During the two election campaigns in 2015, the two main parties were each explicitly backed by major media outlets: *Gazeta Wyborcza*, the private TV channel TVN and the weekly magazine *Polityka* favored PO, while *Gazeta Polska* and *Telewizja Republika* sided with PiS.

Citation:

Access to
Government
Information
Score: 8

Access to public information is guaranteed in Article 61.1 of the Constitution of the Republic of Poland, and the Law on Access to Public Information provides for far-reaching access to official information. The law defines public information as information on public matters, and covers trade unions and political parties as well as the government. In response to an EU directive, a September 2011 amendment facilitated the reuse of government information by citizens, and called on public institutions to provide resources enabling citizens to access information. While the Sejm makes a fair amount of information publicly available, many ministries and other administrative bodies render such information difficult to find and work with, even online. As a result, Poland currently trails the OECD's OURdata Index on open, useful and re-usable government data.

Citation:

OECD, Open Government Data Review of Poland. Unlocking the Value of Government Data, 25.09.2015: http://www.oecd-ilibrary.org/governance/open-government-data-review-of-poland_9789264241787-en

Civil Rights and Political Liberties

Civil Rights
Score: 8

State institutions largely respect and protect civil rights. However, inefficiencies in the Polish court system, including lengthy court proceedings, have stymied efforts to adequately uphold civil rights. The European Court of Human Rights has criticized the Polish government several times for unduly lengthy court proceedings and excessive periods of pre-trial custody. In February 2015, the Court eventually rejected the Polish government's appeals against its 2014 decision that Poland had violated international law by hosting secret CIA prisons without any legal basis or review. The government's plans to reduce the debt burden of Polish foreign-currency debtors to the detriment of foreign banks as well as a conflict between the state-owned energy provider Tauron Polska Energia and various foreign wind power generators raised some concerns about the government's respect for private property rights.

Political Liberties
Score: 9

In Poland, political liberties are largely protected. A controversial amendments to the Law on Public Assembly in 2012 had made it more difficult for citizens to organize demonstrations, and rendered it almost impossible to organize two demonstrations in the same place at the same time. Moreover, the amendments complicated spontaneous gatherings by extending the minimum time that must elapse between registration and the event itself. In a number of cases, municipalities have banned controversial demonstrations by invoking concerns over "public safety." Other than these, no new infringements of political liberties were reported in 2015.

Non-discrimination
Score: 8

A comprehensive Anti-Discrimination Act in line with EU directives has been in effect only since the beginning of 2011. The implementation of the Act on Equal Treatment largely rests with the Commissioner for Citizens' Rights (Rzecznik Praw Obywatelskich), which was originally established in 1987. This body's effectiveness has suffered as it has assumed more responsibilities, as the expansion has not included a corresponding increase in resources. In December 2013, the Council of Ministers adopted the first government program to tackle the problem of discrimination in general, focusing on six areas including anti-discrimination, equal treatment on the labor market, the prevention of violence (including domestic violence) and an increase in support for victims, equal treatment in education, equal treatment in the health system, and equality of access to goods and services. An amendment that took force 1 September 2014 enabled the organization of ethics classes for pupils declining to attend religion-instruction classes, as had been demanded by the European Court of Human Rights since 2010. In spring 2015, Poland eventually signed the Council of Europe's Convention on Preventing and Combating Violence Against Women, a move that had been fiercely opposed

by conservative PO members of parliament for some time. According to Women Against Violence Europe, however, Poland does not meet the Council's recommendations on helpline and shelter provision.

Rule of Law

Legal Certainty
Score: 9

Poland offers a high degree of legal certainty. Both the government and its administration act predictably and in accordance with the law. However, legislation is often incomprehensible, incoherent and unstable. One of the reasons for this situation is the fact that lawmaking is most often a bottom-up process involving several amendments introduced by members of parliament along the way, which disrupts the internal logic of bills.

Citation:

Markowski, R., M. Kotnarowski, M. Wenzel, M. Żerkowska-Balas. 2015. Democratic Audit of Poland 2014. Frankfurt: Peter Lang Edition.

Judicial Review
Score: 9

Polish courts are independent from the executive, and are relatively well-financed and adequately staffed. While the Constitutional Tribunal enjoys a good reputation among citizens and experts alike, the lower courts are widely considered to be less effective. The country still lacks a comprehensive system of legal aid for those in need and it takes too long time until a case is presented to court. In July 2015, the European Court of Human Rights released a pilot judgment against Poland demanding long-term efforts to improve the speed with which cases are handled within the judicial system. This decision was made just as a legal reform of Poland's criminal code went into effect on 1 July 2015. This reform makes it easier to use fines and penalties for speeding up lawsuits, but has been criticized for the constraints it places on the independence of courts and judges.

Appointment of
Justices
Score: 7

Supreme Court and Constitutional Tribunal justices are chosen on the basis of different rules. In the case of the Supreme Court, the ultimate decision is made by the National Council of the Judiciary, a constitutional body consisting of representatives of all three branches of power. The 15 justices of the Constitutional Tribunal are by contrast elected individually by the Sejm for terms of nine years, on the basis of an absolute majority of votes with at least one-half of all members present. The president of the republic selects the president and the vice-president of the Constitutional Tribunal from among the 15 justices, on the basis of proposals made by the justices themselves. A controversial amendment to the Law on the Constitutional Tribunal, adopted in June 2015, tightened the deadline for proposing candidates to replace the Constitutional Tribunal judges whose terms were to expire later in the year. This allowed the PO-PSL majority to replace five justices in the final session of the Sejm in advance of the parliamentary elections. Whereas the PO and PSL argued that because the new Sejm would not convene until November 12,

the vote was necessary to preserve the Constitutional Tribunal's continuity, the PiS saw it as a politically motivated attempt to prevent the new majority from electing the judges. President Duda refused to swear in the judges, and one of the first decisions of the new parliament was to provide for the election of new judges.

Corruption
Prevention
Score: 7

Integrity mechanisms have functioned relatively well in Poland, and corruption at the top has been limited. The official anti-corruption strategy for the period from 2014-2019, as adopted in April 2014, strengthened the role of the Ministry of the Interior and placed greater emphasis on education and prevention. Corruption scandals in 2015 included the acting Minister of Justice Cezary Grabarzyk and the influential former interior Minister Krzysztof Janik. The cases identified or prosecuted in 2015 show that bodies tasked with oversight to monitor corruption generally carry out their duties. Three sectors seem to be especially prone to corruption: real estate (partly because of the boom in the construction of motorways during the last decade), the construction of sport stadiums and the health system.

Governance

I. Executive Capacity

Strategic Capacity

Strategic
Planning
Score: 7

Since the inauguration of the first Tusk government, Poland has ambitiously sought to improve its strategic-planning capacity, given impetus by EU demands and partly motivated by the objective of improving its absorption and use of EU funds. The planning capacities of the Chancellery of the Prime Minister (Kancelaria Prezesa Rady Ministrów, KPRM) have been expanded, and the previously uncoordinated assortment of sectoral plans have been replaced with a more systematic approach in which a long-term strategy developed by the Chancellery (Poland 2030: The Third Wave of Modernity) establishes a framework for a limited number of medium-term strategies.

Citation:

OECD, 2013: Public Governance Review Poland: Implementing Strategic-State Capacity. Paris, Chap. 2.

Scholarly Advice
Score: 7

The Kopacz government relied strongly on scholarly advice. A broad range of experts from various academic institutions and non-governmental organizations was consulted, and government officials participated heavily in academic conferences and workshops. The Economic Council, established in March 2010 and composed of scientists and practitioners, served as an important source of advice regarding economic policy. However, the establishment of new expert commissions featured less prominently than in the first term of the PO-PSL government. The consultation of experts has suffered from a lack of transparency, and in some cases, experts have acted primarily as lobbyists.

Interministerial Coordination

GO Expertise
Score: 9

The Tusk government strengthened the policy expertise of the Chancellery of the Prime Minister which has not been changed by Ewa Kopacz. The Chancellery's Council of Ministers Committee Department monitors the

government's legislative work and issues opinions on documents to be submitted to the Council of Ministers.

GO Gatekeeping
Score: 8

The prime minister and his/her Chancellery plays a strong gatekeeping role. The prime minister is formally allowed to return items on policy grounds, and has also enjoyed a strong informal authority. All draft bills are reviewed by the Chancellery's Council of Ministers Committee Department before their presentation in the Council of Ministers.

Line Ministries
Score: 8

Under the Tusk government, the Chancellery enhanced its formal and actual involvement in the preparation of policy proposals by the line ministries. While conflicts did occur, cooperation was in fact smoother than in the past. The Chancellery's involvement differed between PO- and PS-led ministries, as the latter typically sought to consult with Deputy Prime Minister Piechociński (PSL) before going to the Chancellery.

Cabinet
Committees
Score: 4

The number of cabinet committees was kept low under both the Tusk and Kopacz governments. The two most important such committees are the Development Policy Coordination Committee and the Committee on European Affairs. The former is in charge of coordinating the country's development strategy, while the latter is responsible for EU coordination. In both cases, however, coordination has largely been accomplished by top civil servants rather than by the ministers themselves.

Ministerial
Bureaucracy
Score: 6

Senior ministry officials play a substantial role in interministerial coordination. All meetings of the Council of Ministers, the Polish cabinet, are prepared by the Council of Ministers' Permanent Committee, which is made up of deputy ministers from the ministries. The Committee for European Affairs, which is in charge of EU coordination, also relies strongly on coordination by top civil servants. In contrast, bureaucratic coordination at lower levels of the hierarchy is still relatively limited, even though the joint administration of EU funds has helped to intensify interministerial exchange.

Citation:

Markowski, R., M. Kotnarowski, M. Wenzel, M. Żerkowska-Balas. 2015. Democratic Audit of Poland 2014. Frankfurt: Peter Lang Edition, chapter on Public Administration.
www.nik.gov.pl/aktualnosci/nik-o-szkoleniach-w-administracji-publicznej.html

Informal
Coordination
Score: 7

Though the formal mechanisms of interministerial coordination were strengthened under the Tusk government, informal-coordination mechanisms have continued to play an important role. As one example, meetings between the government-coalition partners have been used as a venue for solving conflicts between ministries respectively led by the Civic Platform (PO) and the Polish People's Party (PSL). For another, many ministers have been active and high-ranking party members; thus, some aspects of interministerial coordination have taken place within the Civic Platform and Polish People's Party leaderships.

Evidence-based Instruments

RIA Application
Score: 8

Since 2001, regulatory impact assessments (RIAs) have been mandatory for all new government bills and regulations. Comprehensive RIA guidelines were first introduced in 2006, and were updated by the Ministry of Economics' Regulatory Reform Unit in 2009. At the end of 2011, traditional RIAs were complemented by a new "regulatory test," a short document consisting of 18 items and questions. While an RIA is usually implemented after a decision to proceed with the new regulation has already been made, the regulatory test is supposed to take place at an earlier stage of decision-making. Unlike an RIA, however, the regulatory test is not obligatory. Despite various attempts to strengthen the RIA process, including a refinement of the "regulatory test" implemented in October 2013, in practice many assessments do not comply with guidelines, and lack important information necessary for making informed decisions. Despite attempts to improve RIA in Poland, in 2015, the European Commission accused Poland because its fracking law was not in line with the EU directive on RIA since it allows exploratory drilling at a depth of up to five thousand meters without a prior environmental impact assessment.

Citation:

OECD, 2013: Public Governance Report Poland: Implementing Strategic-State Capacity. Paris, Chap. 3.
OECD Regulatory Policy Outlook 2015, published on 28.10.2015. Chapter „Evidence-based policy making through Regulatory Impact Assessment” covers comparative data http://www.oecd-ilibrary.org/governance/oecd-regulatory-policy-outlook-2015/evidence-based-policy-making-through-regulatory-impact-assessment_9789264238770-9-en
http://www.keepeek.com/Digital-Asset-Management/oecd/governance/oecd-regulatory-policy-outlook-2015/poland_9789264238770-36-en#page1
<http://regulatoryreform.com/wp-content/uploads/2015/02/Poland-Regulation-Impact-Assessment-RIA-at-Poland-and-at-Some-EU-Countries-2013.pdf>

Quality of RIA
Process
Score: 9

Stakeholders are often involved in regulatory impact assessments (RIAs), and the results of assessments are published on ministry websites as well as on the website of the Government Legislative Center (Rządowe Centrum Legislacji). The responsibility for checking the quality of individual RIAs does not rest with an independent body, but rather with a special RIA unit within the Chancellery of the Prime Minister. This unit was strengthened after the 2011 elections through an increase in its staffing, and by being moved to the Chancellery's Department of Strategic Analysis.

Citation:

http://www.keepeek.com/Digital-Asset-Management/oecd/governance/oecd-regulatory-policy-outlook-2015/poland_9789264238770-36-en#page1

Sustainability
Check
Score: 7

Article 5 of Poland's constitution enshrines the principle of sustainable development, according to which the state ensures the protection of the environment, guided by the principle of sustainable development. The first

national sustainability strategy was adopted in 2000. While the government has increasingly paid attention to sustainability issues in policy documents, sustainability checks are not an integral part of regulatory impact assessments. Assessments cover a broad range of issues, yet treat environmental issues as less relevant than economic issues. There is also no systematic distinction between short-, medium- and long-term impact.

Societal Consultation

Negotiating
Public Support
Score: 7

The Polish government is obliged by law to consult all parties affected by proposed legislation. It is supposed to discuss all significant reform projects with major interest groups in advance, and has introduced the option of online consultations with ministries as well as the additional Internet-based option of following a bill through the stages of lawmaking. In practice, however, the government's consultation with societal actors is often formalistic. Prime Minister Kopacz managed to achieve a compromise with the miner's trade union in January 2015 following protests that emerged in response to announced plans to shut a down a mine in Silesia. In October 2015, the new Council of Social Dialogue replaced the traditional Tripartite Commission which had ceased operations in June 2013 because of conflicts between trade unions and the government. The council, which will be appointed by the president instead of the prime minister, will have a limited right to initiate legislation. While the participants and the scope of dialogue will essentially remain the same, the council will receive greater funding than the commission.

Citation:

Kotnarowski, M., R. Markowski, M. Wenzel, M. Żerkowska-Balas. 2014. Democratic Audit of Poland 2014. (available in Polish at www.dap.swps.pl), pp. 118 onwards

Policy Communication

Coherent
Communication
Score: 7

Ministry communication is coordinated by the Government Information Center, a department of the Chancellery of the Prime Minister. However, ministers have occasionally voiced positions that differ from the government's line. Moreover, the Government Information Center has failed to inform the citizens regularly or comprehensively about government activities.

Implementation

Government
Efficiency
Score: 8

The second Tusk government started with an ambitious reform program and succeeded in implementing major and politically difficult reform projects such as an increase in the retirement age, a reduction in the fiscal deficit and a deregulation of professions. Upon entering office, Prime Minister Kopacz stated as her two key goals the need to achieve sustainable fiscal consolidation

and to reduce unemployment. While these goals were met, the Kopacz government failed to implement the education and health care reforms announced in advance of the 2015 parliamentary elections.

Ministerial
Compliance
Score: 8

Prime Minister Kopacz and her Chancellery enjoyed a relatively strong position within the Council of Ministers, and largely succeeded in committing line ministers to the implementation of the government's program. However, ministers have still enjoyed some autonomy. This particularly applies to ministers nominated by the junior coalition partner, the Polish People's Party (PSL), and who have been able to capitalize on their position of power.

Monitoring
Ministries
Score: 7

Ministries are obliged to keep the Chancellery of the Prime Minister apprised of legislative progress on a regular basis. Although ministries have sought to maintain their autonomy, and monitoring has remained largely formal, the prime minister and the Chancellery have controlled policy implementation to a great extent.

Monitoring
Agencies,
Bureaucracies
Score: 8

There is a large number of executive agencies in Poland. Agencies report to ministries, and ministries have special units responsible for monitoring the activities of agencies and auditing their finances. The effectiveness of monitoring has improved over time.

Task Funding
Score: 7

Since 1999, Poland has supported three tiers of subnational governments: municipalities, districts and regions. A number of reforms, most notably the health care and education reforms enacted in 1999, increased the responsibilities of subnational governments, but in some cases did not provide sufficient additional resources. The increasing availability of EU funds has helped to alleviate this problem.

Citation:

Polish NIK (Supreme Audit Chamber) information on the topic.
lpo-p_14_103_201407241157291406203049-01.pdf

Constitutional
Discretion
Score: 7

The process of government decentralization that started in 1998 has been broadly accepted. The Kopacz government has largely refrained from intervening in the affairs of subnational governments.

National
Standards
Score: 8

The central government has set national standards with the aim of guaranteeing a minimum quality of public services. In the regions, the centrally appointed head of regional administration is responsible for ensuring that national policies are implemented, and that state institutions operating in the region perform their functions properly. For a number of reasons, municipalities and regions have increasingly been able to meet existing standards. Primarily, these subnational bodies' fiscal health has improved, and their staff has become increasingly professional. Moreover, the degree of cooperation between these two subnational levels of government has increased. However, public spending at the local level is not fully transparent. Changes to the tax distribution mechanism for voivodships (the so-called

Janosikowe) as well as a change in the electoral law for the November 2014 local elections (when single-seat constituencies were introduced on the gmina level in order to increase the accountability of local representatives), enhanced opportunities for regional self-administration.

Adaptability

Domestic
Adaptability
Score: 8

Government structures in Poland have been gradually adapted to international and supranational developments, most notably NATO and EU membership. Poland's good reputation and its growing influence in the European Union show that adaptation has been successful, as has the relatively high and increasing rate of absorption of EU funds.

International
Coordination
Score: 8

Poland has taken an active role in international policy coordination, most notably within the European Union. As its successful EU presidency and its impact on EU policies toward its eastern neighbors show, Poland has sufficient capacity to act on the international level. While its capacities have been increased through cooperation with Germany, its continued presence outside the euro zone hampers coordination somewhat. The country's positions on climate policy also differ from many other EU countries, as well as from the EU Commission's targets. The political crisis in Ukraine and the military conflict with Russia led Poland to seek a diplomatic solution in conjunction with France and Germany, but the conflict is still far from being resolved.

Organizational Reform

Self-monitoring
Score: 6

As part of its reform efforts, the Kopacz government regularly monitored the institutional arrangements of governing.

Institutional
Reform
Score: 7

The Kopacz government has largely relied on the institutional framework of its predecessor. The big cabinet reshuffle in June 2015 brought only minor changes in ministerial portfolios.

II. Executive Accountability

Citizens' Participatory Competence

Policy
Knowledge
Score: 5

Despite recent attempts to improve access to government information, the average level of knowledge regarding government policy within the Polish public remains limited. Reasons include a tendency toward infotainment in many media outlets, the populist propaganda produced by opposition parties, and a general detachment from politics among the citizenry. Moreover,

political parties, trade unions and most other professional associations do not properly perform their socialization function, and fail to improve their members' policy knowledge.

Citation:

Kotnarowski, M., R. Markowski, M. Wenzel, M. Żerkowska-Balas. 2014. Democratic Audit of Poland 2014. (available in Polish at www.dap.swps.pl)

Czapiński, J. & T. Panek 2015. "Diagnoza społeczna 2015", Warszawa, pp. 314-54

Legislative Actors' Resources

Parliamentary
Resources
Score: 9

The Chancellery of the Sejm provides sufficient resources to members of parliament (MPs) for the effective monitoring of government activities. MPs have permanent support staff and can draw on the Sejm's library and the expertise of the Sejm's Bureau of Research (BAS). In addition to researching legal issues, the BAS publishes a newsletter, discussion papers and a peer-reviewed quarterly Law Review (*Zeszyty Prawnicze BAS*). Many of its expert reports are of high quality and are thus also used outside parliament.

Citation:

<http://www.parlamentarny.pl/ludzie/liderzy-partyjni-zdobyli-kontrolę-nad-posłami,1459.html>

Obtaining
Documents
Score: 10

Parliamentary committees have both de jure and de facto full access to government documents. Members of parliament may demand information from government officials, either in written or verbal form, at the sitting of the Sejm plenary or at a committee meeting. These requests are usually complied with.

Citation:

Kotnarowski, M., R. Markowski, M. Wenzel, M. Żerkowska-Balas. 2014. Democratic Audit of Poland 2014. (available in Polish at www.dap.swps.pl)

Summoning
Ministers
Score: 10

Ministers and heads of the supreme organs of state administration (or their representatives) are obliged to take part in committee meetings whenever issues are discussed that fall within their domain. No restrictions are observed in practice. Groups comprising at least 15 MPs and parliamentary party groups have the right to ask for up-to-date information from members of the government. The Sejm then issues opinions, desiderata and suggestions on these reports. The comments are not legally binding, but in a worst case scenario may lead to a vote of no confidence against a minister, and even to his or her dismissal. Parliamentarians tend to make proper use of their means for obtaining information, but sometimes complain about the substantive quality of the government's responses.

Summoning
Experts
Score: 10

Parliamentary committees have the right to invite experts to give statements on hearings on particular issues or to take part in normal committee proceedings. The invitation of experts, ranging from academic scholars to representatives of lobbying groups and non-governmental organizations, is a common practice, and their input is valued. Experts take their role more seriously now than was the case in the past, and do not primarily play a lobbying role.

Citation:

Zubek, R. 2015. "Coalition Government and Committee Power", *West European Politics*, 38(5), 1020-1041.

Task Area
Congruence
Score: 9

The number of Sejm committees exceeds the number of ministries. However, some committees, such as the Deputies' Ethics Committee, deal exclusively with internal parliamentary issues. Most ministries, including the more important ones, have only a single oversight committee, a so-called branch committee. The distribution of subject areas among committees does not infringe upon parliament's ability to monitor ministries.

Audit Office
Score: 10

Poland's Supreme Audit Office (Naczelna Izba Kontroli, NIK) is an efficient and effective institution whose independence is respected. It is accountable exclusively to the Sejm. The NIK chairperson is elected by the Sejm for six years, ensuring that his or her term does not coincide with the term of the Sejm. The Senate has to approve the Sejm's decision. The Supreme Audit Office has wide-ranging competencies and is entitled to audit all state institutions, government bodies and local-government administrative units, as well as corporate bodies and non-governmental organizations that pursue public contracts or receive government grants or guarantees. The NIK can initiate monitoring proceedings itself or do so at the request of the Sejm, its bodies or its representatives (e.g., the speaker of the Sejm, the national president or the prime minister). The office is also responsible for auditing the state budget.

Citation:

www.nik.gov.pl/plik/id,8902,vp,11055.pdf

Ombuds Office
Score: 10

The Polish ombuds office, the Commissioner for Citizens' Rights, is an independent state organ and is accountable exclusively to the Sejm. It has substantial investigative powers, including the right to view relevant files or to contact the prosecutor general. Because of its strong engagement for citizens' rights ever since its creation in 1987, the ombuds office has traditionally been accorded a good reputation. However, this reputation suffered somewhat as a consequence of the controversial views on issues such as homosexuality and the death penalty held by Janusz Kochanowski, the commissioner elected in January 2006 (who subsequently died in the Smolensk air crash in 2010). Kochanowski's successor, lawyer and former Sejm member Irena Lipowicz, has managed to restore the office's good reputation. She has paid special

attention to the rights of the disabled and the elderly. However, the effectiveness of the ombuds office has suffered, as the institution has been assigned new tasks in the field of anti-discrimination policy, but lacks sufficient new funds to perform the tasks properly.

Citation:

www.rpo.gov.pl/pl/content/dzialalnosc-rzecznika-praw-obywatelskich

Media

Media Reporting
Score: 7

Government decisions are widely covered by the country's main TV and radio stations. TV and radio journalists often refer to, and make use of, the in-depth information provided by the print media. Despite a tendency toward infotainment, the quality of reporting by the public broadcaster and the two major private TV companies, POLSAT and TVN, has increased. Rzeczpospolita, the second-largest daily paper in Poland, has benefited from a change in ownership and editorial staff, and has become less politically partisan. However, there is still comparatively little public trust in the objectivity of the media. Moreover, citizens do not see major differences in the reliability of the information programs offered by public and private TV broadcasters.

Citation:

Markowski, R., M. Kotnarowski, M. Wenzel, M. Żerkowska-Balas. 2015. Democratic Audit of Poland 2014. Frankfurt: Peter Lang Edition, chapter on media.

Markowski, R. and M. Kotnarowski. 2016. "Rewolucja mniejszości", POLITYKA nr 6 (3045)

Parties and Interest Associations

Intra-party
Democracy
Score: 6

For the last decade, political parties have functioned under legislation that strictly defines the role of a political party and how parties are financed. Since most funding is public, the government mandates that parties themselves are governed by democratic principles. However, the reality is mixed, with some parties meeting democratic standards while others fall short. Charismatic party leaders such as Janusz Palikot of Palikot's Movement (now called Twój Ruch, or Your Movement) hold strong positions within their party, as does Jarosław Kaczyński, who has served as president of the conservative Law and Justice (PiS) party since 2003. The Polish People's Party (PSL) has also been characterized by a hierarchical mode of organization. By contrast, the Civic Platform (PO) has often experienced intra-party controversies. In 2012 and 2013, a conservative faction around Justice Minister Jarosław Gowin mounted a challenge to then-Prime Minister Tusk, but ultimately left the party. This strengthened Tusk's position; however, his attempts from early 2014 on to

introduce more democratic voting and nomination procedures did not work well and were not taken up by his successor, Ewa Kopacz.

Association
Competence
(Business)
Score: 6

Poland has a relatively developed universe of interest associations. Business associations and trade unions have become increasingly professional over time. However, the unions have largely taken an obstructionist approach toward government reforms. By contrast, leading business associations such as the Konfederacja Lewiatan and the Business Center Club (BCC) have the expertise and resources to carry out research and formulate elaborate reform proposals. Konfederacja Lewiatan monitors many draft bills, and its spokespeople maintain a strong media presence. There are also a number of smaller associations that organize internationally known events such as the European Forum for New Ideas (EFNI), which annually invites leading public intellectuals, academics and politicians, both Polish and European, to the EFNI conference in Sopot.

Association
Competence
(Others)
Score: 6

Poland has a large number of interest associations beyond business associations and trade unions. However, compared to other countries, there are comparatively few environmental groups. Most non-governmental organizations are relatively small, and there are only a few interest associations that focus on – and are capable of – developing full-blown policy proposals. The Catholic Church, still the most influential interest group in Poland, pursues relatively narrow interests, and is largely preoccupied with stabilizing its influence within an increasingly secular society.

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