



Civil Rights and Political Liberties Report

Civil Rights, Political Liberties, Non-discrimination

Sustainable Governance Indicators 2018

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Indicator

Civil Rights

Question

To what extent does the state respect and protect civil rights and how effectively are citizens protected by courts against infringements of their rights?

41 OECD and EU countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels.

- 10-9 = All state institutions respect and effectively protect civil rights. Citizens are effectively protected by courts against infringements of their rights. Infringements present an extreme exception.
- 8-6 = The state respects and protects rights, with few infringements. Courts provide protection.
- 5-3 = Despite formal protection, frequent infringements of civil rights occur and court protection often proves ineffective.
- 2-1 = State institutions respect civil rights only formally, and civil rights are frequently violated. Court protection is not effective.

Finland

Score 10

Civil rights are widely respected and protected in Finland. The country has received the highest possible rankings for civil rights in Freedom House's annual rankings since the early 1980s. The law provides for freedom of speech, which is also respected in practice. Furthermore, Finns enjoy full property rights and freedom of religion, with the government officially recognizing a large number of religious groups. Freedoms of association and assembly are respected in law and practice, while workers have the right to organize, bargain collectively and strike. In November 2014, after long and contentious discussions, parliament voted to provide marriage rights for same-sex couples, and adoption-rights legislation for same-sex couples became effective in March 2017.

Norway

Score 10

State institutions respect and protect civil rights. Personal liberties are well-protected against abuse by state and non-state actors. People cannot be detained without charge for more than 24 hours. A court decides whether a suspect should be held in prison during an investigation, a question given more serious consideration here than in some other countries. The issue of civil rights receives considerable attention in the media and from intellectuals as well as from the government bodies responsible for the protection of civil rights. The court system is, however, not always effective. It may take considerable time for a case to be handled in the courts.

Access to the courts is free and easy, and the judiciary system is viewed as fair and efficient. The most difficult recent court case was that of Anders Breivik, who on 22 July 2011 orchestrated domestic acts of terrorism, killing 77 people and causing massive material damage. This incident was regarded as a national trauma, but from a judicial perspective was handled scrupulously and according to due process. There is full freedom of movement and of religion. Respect for civil rights extends to the rights of asylum-seekers.

Privacy is less protected than in some other countries. All residents are recorded in a compulsory population register with a unique number that is also used in all official and much private business, including banking.

Canada

Score 9

The state and the courts in general show a high degree of respect for civil rights and political liberties in Canada. Of course, there is a trade-off between protecting the rights of individuals from government intrusion and ensuring public safety and security from terrorist threats. Two recent security breaches, the shooting of a soldier on ceremonial sentry duty at the Canadian National War Memorial in Ottawa and an attack on military personnel in Saint-Jean-sur-Richelieu, have given new impetus to the government's plans to introduce new anti-terrorism legislation. In 2015, the government passed the Anti-Terrorism Act (Bill C-51), representing sweeping changes to the Canadian security apparatus. It includes expanded surveillance and intelligence sharing, a remodeling of the Canadian no-fly regime in the style of the United States,' and expanded powers and courtroom anonymity for the Canadian Security Intelligence Service (CSIS). The bill was the subject of intense public debate as many civil libertarians and privacy advocates opposed the bill.

In a 2015 report, the U.N. Human Rights Committee expressed concerns about the bill. Two civil liberty organizations, the Canadian Civil Liberties Association and Canadian Journalists for Free Expression, have since launched a legal challenge to C-51 under the Canadian Charter of Rights and Freedom. Without repealing C-51, the government has introduced Bill C-59, an omnibus bill that would make significant changes to national security policy. However, the Canadian Civil Liberties Association maintains that the bill stops short of repealing measures in C-51 which threaten civil liberties.

Citation:

Bill C-51, An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts (2015). Retrieved from the Parliament of Canada website <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=8056977>.

Canadian Civil Liberties Association, "CCLA with Civil Society Groups Issue Joint Letter on Bill C-59 and National Security Law in Canada," September 19, 2017, posted at <https://ccla.org/ccla-civil-society-groups-issue-joint-letter-bill-c-59-national-security-law-canada/>

United Nations Human Rights Committee, Concluding Observations on Canada's sixth report in relation to Canada's compliance with the International Covenant on Civil and Political Rights, August 2015. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskswUHe1nBHTSwwEsgdxQHJBoKwgsS0jmHCTV%2fFsa7OKzz9yna94OOqLeAavwpMzCD5oTanJ2C2rbU%2f0kxdos%2bXCyn4OFm3xDYg3CouE4uXS>

Denmark

Score 9

Civil rights are protected by the Danish constitution, including personal liberty (Article 72), inviolability of property (Article 73), inviolability of dwellings (Article 72), freedom of speech (Article 77), freedom of association and freedom of assembly (Article 79). The authorities and courts normally protect these freedoms.

Denmark ratified the European Convention on Human Rights in 1953. Since 1976, Denmark has had a number of cases at the European Court of Human Rights. Denmark lost some cases, especially concerning freedom of association (Article 11 in the European Convention) and concerning unnecessarily lengthy case proceedings (Article 6 in the European Convention), including the 2009 Christensen v. Denmark Judgment. These cases indicate Denmark could do better when it comes to protection of civil rights.

The Danish Institute for Human Rights issues an annual report with detailed accounts of the human rights situation in Denmark and recommendations for the government. Some recommendations concern the rights of immigrants and asylum-seekers.

It is being contested whether recent changes in relation to asylum-seekers, including rules for family reunification, violate the Geneva Convention.

In its 2016 – 2017 report, Amnesty International referenced “serious restrictions to asylum and migration laws,” and “the government’s suspension of an agreement with the U.N. Human Rights Committee to receive 500 refugees annually for resettlement from refugee camps.”

The Danish government has announced that it will use its forthcoming chair of the Council of Europe (November 2017 to May 2018) to initiate a reconsideration of the European Convention of Human Rights. Article 8 of the convention is seen as a hindrance to the adoption of a more restrictive family reunification policy.

Citation:

Henrik Zahle, *Dansk forfatningsret 3: Menneskerettigheder*. Copenhagen: Cristian Ejlers' Forlag, 2007.
 Institut for menneskerettigheder, “Danske sager,” <http://menneskeret.dk/menneskerettigheder/europa,+oplysning+og+rettigheder/euopar%C3%A5det/den+europ%C3%A6iske+menneskerettighedsdomstol/danske+sager> (accessed 15 April 2013).
 European Court of Human Rights, “Case of Christensen v. Denmark,” <http://menneskeret.dk/files/DoekerPDF/Case%20of%20Christensen%20v.%20Denmark.pdf> (accessed 15 April 2013).

Danish Institute for Human Rights, Human Rights in Denmark: Status 2014-15. A Summary. http://www.humanrights.dk/files/media/dokumenter/udgivelser/status/status_uk_2015.pdf (accessed 7 October 2015).

Niels Rohleder, "Danish chairmanship of the Council of Europe to weaken human rights," <http://refugees.dk/en/news/2017/may/danish-chairmanship-of-the-council-of-europe-to-weaken-human-rights/> (Accessed 16 October 2017).

Amnesty International, Denmark 2016/2017. <https://www.amnesty.org/en/countries/europe-and-central-asia/denmark/report-denmark/> (Accessed 16 October 2017).

Estonia

Score 9

Civil rights are widely respected and government does not interfere in the activities of the courts. Equal access to the law and equal treatment by the law are legally guaranteed. Time needed to resolve civil, commercial, and administrative cases has steadily declined and, with average of 39 days, Estonia shows the second lowest figure in the EU. The same is true for the number of pending cases. Overall, the Estonian court system can be regarded as efficient in cross-European comparison on the basis of several indicators. However, according to the country's Chief Justice, legal advice in Estonia is too expensive for many citizens. The annual public budget allocated to legal aid is far below the EU average.

The Chancellor of Justice plays an important role in ensuring civil rights. She ensures that authorities and officials performing public duties do not violate people's constitutional rights and freedoms, and that persons held in detention are not treated in a degrading, cruel or inhumane way. Individuals can bring concerns directly to the Chancellor's office or send a letter detailing the issue of concern.

Citation:

Com (2017) The 2017. EU Justice Scoreboard. April 2017. http://europa.eu/rapid/press-release_IP-17-890_en.htm(accessed 25.10.2017)

Germany

Score 9

In general, all state institutions respect individual freedoms and protect civil rights. Civil rights are guaranteed by the Basic Law and their modification is possible only by a two-thirds legislative majority. Some provisions concerning basic human rights are not alterable at all. The court system works independently and effectively protects individuals against encroachments by the executive and legislature. In the Global Democracy Ranking 2015, Germany ranked 8, while in the Economist Intelligence Unit's Democracy Index and other indexes Germany is positioned near or outside of the top 10 countries.

Recent scandals revealed that the intelligence services neglected laws and disregarded national boundaries. The federal privacy officer, Andrea Voßhoff, deplored in September 2016 that the Federal Intelligence Service (BND) systematically violated basic civil rights in collecting private data from citizens. Her

report claimed that data collection was illegal (Die Zeit, 1 September 2016). So far, these accusations have not been substantiated through any successful court proceedings.

In reaction to the increasing risk of radical Islamic terrorism, new measures have been taken which raise debates about the right balance between privacy and security. In June 2016, the German government expanded the competences of the BND for wiretapping. In addition, the government established a new state agency for continuous monitoring of internet traffic, which was strongly criticized by the federal privacy office. In July 2016, Germany's domestic intelligence service (Bundesamt für Verfassungsschutz, BfV) was permitted to exchange data with their foreign counterparts. To sum up, the threat of radical Islamic terrorism has begun to change the structure of security policies in Germany and the balance between protecting and infringing liberal civil rights. Despite these changes, the overall level of protection remains high.

Citation:

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<https://infographics.economist.com/2017/DemocracyIndex/>

http://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex2015

<http://www.yabiladi.com/img/content/EIU-Democracy-Index-2015.pdf>

<http://www.zeit.de/politik/deutschland/2016-09/bundesnachrichtendienst-andrea-vosshoff-gesetzesverstoesse>

Ireland

Score 9

The Irish constitution enshrines the full range of fundamental civil rights associated with a liberal-democratic state. Article 38 establishes the right to a fair trial; Article 40 the rights to life, liberty, property, freedom of expression and equality before the law; Article 41 contains provisions for the protection of the family. In November 2012, the constitution was amended by referendum to strengthen the provisions regarding the rights of the child.

Operating under the common-law system inherited from the era of British rule, the Irish courts have been active in discovering “unenumerated” rights implied by these articles. These include the right to bodily integrity, to freedom from torture, inhuman or degrading treatment or punishment, the right to work and earn a livelihood and the right to privacy.

Following the passage of the European Convention on Human Rights Act (2003) by the Irish parliament, the rights interpreted and developed by the European Court of Human Rights are directly enforceable before the Irish courts. The Criminal Justice

(Legal Aid) Act 1962 established an extensive system of free legal aid to promote equal access to the law and the courts. Access to free legal aid in certain civil cases was established by the Civil Legal Aid Act (1995).

However, a plaintiff who takes a civil case through the courts and loses is likely to have to meet not only his/her own legal costs but also those of the defendant. The best legal advice is very expensive. These considerations limit the effectiveness of equality of access to justice especially in matters relating to defamation, property disputes and other areas not covered by legal aid.

The Protected Disclosures Act 2014 came into force in July 2014. This will offer legal protections for workers who report concerns about wrongdoing in the public, private and non-profit sectors. The law will cover all employees, contractors, agency workers, members of the police force (An Garda Síochána), and members of the Defense Forces.

Sweden

Score 9

Civil rights and legality are core values in Swedish governance. The constitution has a chapter devoted to human rights. Legal security is an essential guideline for the public administration. In all these respects, Sweden earns a top score for this indicator.

However, the emphasis on efficiency in administrative reform is undermining legal security. This applies, for instance, to the immigration service and the performance management system used by the police, which incentivizes staff to prioritize efficiency and closure over full legal consideration. Moreover, the immigration administrative system has come under considerable stress from the rapid increase in asylum-seekers caused by the Syrian war. The Migration Agency has done its utmost to step up to this challenge by increasing staff and introducing work shifts to deal with the soaring number of immigrants.

Also, there were instances in the recent past which raise issues about the extent to which state institutions or actors uphold the basic civil rights codified in the constitution. There is a current debate about whether it is humane to return young Afghan men or boys who have been denied asylum to their country of origin. While such extradition is consistent with the law – migrants that have been denied asylum are to be extradited – these cases still raise questions about what constitutes humane treatment. The number of cases where extradition has raised objections in the media increased significantly in 2015 and 2016 along with the increase in asylum applications.

Lastly, it is worth noting that organized crime has taken a hold in some metropolitan regions of Sweden. Without a doubt, infringement of individual freedom caused by

private actors such as organized crime is a real and growing problem. In response, the national police have made curbing organized crime a priority.

Switzerland

Score 9

Civil rights are guaranteed by the constitution. However, the country does not have a classic Constitutional Court able to monitor the conformity of federal laws with the constitution outside the context of a particular case. Federal laws are binding for the federal courts. In contrast, the Federal Supreme Court in Lausanne monitors the conformity of federal regulations and cantonal laws with the constitution. With respect to basic civil rights, the European Court of Human Rights complements the Swiss Federal Supreme Court.

In December 2012, a parliamentary attempt to give the Federal Supreme Court the right to abstain from applying federal law if the federal law was incompatible with the constitution failed. The main argument was that in a direct democracy, the Constitutional Court should not be authorized to declare federal laws void as a whole. Thus, Switzerland, for different reasons but in a manner similar to the Scandinavian countries, the Netherlands and Great Britain, does not possess a comprehensive judicial power of constitutional review.

In international comparison, the country's record of guaranteeing human rights is outstanding. However, conflicts between human rights and direct democracy have emerged, particularly in recent years. One such concern was represented by the successful 2004 popular initiative for the life imprisonment of particularly dangerous criminal offenders without any opportunity for re-examination. This conflicts with the European Convention for the Protection of Human Rights and Fundamental Freedoms. This convention guarantees periodic reviews in which the necessity for continued imprisonment can be evaluated.

Likewise, there have been conflicts between popular votes on naturalization and the call by foreign-born individuals for fair and transparent treatment, and the opportunity to appeal naturalization decisions. Some observers have argued that the current naturalization procedure fails to conform to the standard of human rights set out in the constitution. The Federal Supreme Court decided in 2003 that naturalization procedures previously established by popular vote were unconstitutional, since they violated constitutional norms of non-discrimination and the right to a lawful legal procedure.

The ban on the construction of minarets, approved in a popular vote in 2009, represents a particularly problematic decision. The basic claim of proponents was that minarets signify the potential aggression and power claims of Islam, which need to be suppressed as a strategy for keeping the peace. However, it is evident that the popular initiative was clearly aimed against Islam and the Islamization of Europe.

Legal scholars tend to argue that the decision violates the freedom of worship and the non-discrimination rule.

The major underlying problem is the claim by many political actors that the people have an unrestricted right to decide any matter through popular vote. This conflicts with the basic rule of any liberal democracy that there are limitations to the will of the majority, such as human rights standards and protections for minorities. Switzerland's public debate on the limits to majority rule (through popular vote) shows little cognizance of these traditional limitations to majoritarian rule. This has become very obvious in recent debates over the conflicts between international law and Swiss citizens' decision-making rights in popular votes. Although anxiety over the ebbing of popular sovereignty extends beyond conservatives, this latter group in particular feels uneasy with the internationalization of law and some recent interpretations of human rights that have been made by professional lawyers. In the right-populist and conservative view, the internationalization of law and international court decisions against the results of Swiss referenda contradict Switzerland's legislative culture, which is characterized by the principle of subsidiarity and guided by the idea that popular decisions have the highest degree of legitimacy. Consequently, in the summer of 2016, the country's strongest political party, the Swiss People's Party, had collected a sufficient number of signatures for an initiative that aims at giving federal law precedence over international law; this initiative will be decided upon in the near future.

France

Score 8

In France, even though there is an established tradition of the rule of law and the recognition and protection of civil and fundamental rights, there is also a long history of infringements of those rights. The two main reasons for this are related to the distrust, and often contempt, of government toward the judiciary. This behavior dates back to the French Revolution and has been further exacerbated by the country's fraught political history; violations have continued to occur up until the 1980s.

The situation has improved considerably in recent history for several reasons. France's judicial system now acts in the shadow of international courts which sanction national violations of the rule of law. The European Court of Human Rights and the Court of Justice of the European Union play an incremental but decisive role in this progress.

With the proclamation of a state of emergency by the government following the terrorist attacks of 13 November 2015 and its extension until 1 November 2017 by the parliament, the question of possible infringements of civil rights has become an important issue. The Council of Europe has been informed about this measure, which implies a possible breach of human rights, according to article 15 of the European Human Rights Convention. Up to now, infringements have been rather limited, and

the administrative courts have exerted control of the individual or collective measures adopted by the government in spite of pressures from right-wing political parties and the police to further restrict the rights of persons suspected of supporting terrorist activities.

Iceland

Score 8 The Icelandic state fully respects and protects civil rights, and courts effectively protect citizens. Where there is evidence of disregard for civil rights, courts generally rule against the government.

However, there are specific exceptions to this rule. Most importantly, the United Nations Committee on Human Rights (UNCHR) issued a binding opinion in 2007 to the effect that, because of its discriminatory nature, the management system of Iceland's fisheries constituted a violation of human rights. It furthermore instructed the government to change the system and to pay damages to those whose rights had been violated. The government responded by promising to pass a new constitution with a provision declaring the country's natural resources to be the property of the nation. The UNCHR later dropped the case, saying that Iceland's promise of a new constitution was partly sufficient. However, the parliament has not ratified a new constitution nor tried seriously to revise the old one from 1944.

The European Court of Justice (ECJ) has heard several petitions by Icelandic citizens recently that their civil rights have been violated. In almost all of these cases, the ECJ has ruled in favor of the petitioner, casting doubt on the ability of Icelandic courts to protect civil rights effectively. Most recently, for example, journalists who had been found guilty of libel in Iceland were declared innocent by the ECJ. Following a number of similar ECJ rulings in recent years, Icelandic courts have demonstrated an increased tendency to acquit defendants in politically motivated libel cases. Nevertheless, defendants in several recent libel cases have had to bear the cost of their legal defense, despite being acquitted.

Citation:

Gylfason, Thorvaldur (2016), *Constitution on Ice*, forthcoming in *Iceland's Financial Crisis: The Politics of Blame, Protest, and Reconstruction*, eds. Valur Ingimundarson, Philippe Urfalino, and Irma Erlingsdóttir, Routledge, London. — Also available as CESifo Working Paper 5056, November 2014.

Latvia

Score 8 Civil rights are generally respected and protected. In cases of infringement, courts provide protection. Individuals have equal access to and are accorded equal treatment by the courts. A significant court overload, however, creates difficulties in obtaining timely access to justice.

Despite improvements, there are ongoing concerns over poor conditions in the country's prisons and detention facilities, and about lengthy pre-trial detention periods.

A number of cases have cast a spotlight on the state's inability to prevent unjustifiable interventions into individuals' personal lives. The unsanctioned publication of private e-mails, personal data, internet browsing histories and telephone transcripts have led some to question the efficacy of privacy protections, and even the state's own ability to safeguard information. In 2015, an individual who downloaded data from the State Revenue Service and published a portion of that data in the public interest was prosecuted, found guilty and sentenced to community service, although he was pardoned by the president in December 2017. The published data, detailing the salaries of public servants, has since been categorized as openly accessible information. Nevertheless, the state pursued the individual for an unjustifiable violation of an individuals' right to privacy, because his download of information pertained to private individuals, not public officials. The civil servants responsible for leaving vast amounts of personal data on an unprotected website have not been held accountable.

Citation:

1. Ombudsman of Latvia (2016), Annual Report, Available at: http://www.tiesibsargs.lv/uploads/content/lapas/tiesibsarga_2016_gada_zinojums_1489647331.pdf, Last assessed: 29.11.2017.

Lithuania

Score 8

It is relatively easy for all residents to gain Lithuanian citizenship, and civil rights are officially protected by the constitution and other legislative provisions. However, there are some problems regarding effective protection of citizens' rights. According to the U.S. Department of State, Lithuania's most significant human rights problems include poor prison conditions, intolerance of sexual and ethnic minorities, and the lengthy detention of people awaiting trial. Additional problems include interference with personal privacy, domestic violence, child abuse, and libel and anti-discrimination laws that limit the freedom of expression. Lithuanian authorities do seek to prosecute or otherwise punish officials who committed abuses, and Lithuanian courts provide legal protection against illegitimate or unjustifiable interventions into personal life. However, on the Civic Empowerment Index, produced by the Civil Society Institute since 2007, Lithuania scored 37 out of 100 in 2016 compared to 33.4 in 2015.

Lithuanian society shows only an average interest in public affairs, while the social environment remains unfavorable for civic engagement. A total of 18% of the Lithuanian population indicated in 2014 that they had experienced violations of their rights, and again only 18% said they had taken action to protect themselves, indicating an insufficient degree of awareness of human rights.

Citation:

Country Report on Human Rights Practices for 2011 on Lithuania is available at <http://www.state.gov/j/drl/rls/hrrp/t/humanrightsreport/index.htm#wrapper>

The Index of Civil Power measured by the Civil Society Institute is available at <http://www.civitas.lt/lt/?pid=74&id=78>

Survey on the situation of human rights in Lithuania, <http://www.hrmi.lt/musu-darbai/tyrimai178/visuomenes-nuomones-apklauso/>

Luxembourg

Score 8

Civil rights are officially protected in Luxembourg and all state institutions respect these rights, with a few exceptions. Four institutions are in charge of protecting civil rights: the Constitutional Court, an advisory board on human rights, the National Commission on Data Protection and a parliamentary ombudsman. However, the judiciary system's slow processing of cases has led to concerns over due process and equitable treatment. The European Court of Human Rights in Strasbourg has reprimanded the country on several occasions because of delays in court proceedings. The mediation law grants a maximum of four months for processing, with the aim of speeding up administration procedures. The influence and the number of complaints to the ombudsman's office continues to grow. A total of 856 complaints were made in 2016, an increase when compared to the 743 complaints filed in 2015. The rate of favorable rulings or settlements is high at 87.68% in 2016, compared to 84.21% in 2015. These high figures show both the efficiency and necessity of this institution. Due to overcrowding in prisons, a new remand prison will be opened in 2022. Furthermore, three EU directives, concerning the right to have an interpreter and legal representation for detainees and prisoners as well as the right to inspect relevant files, are expected to be implemented.

Citation:

Accès citoyens aux documents détenus par l'administration. Chambre des Métiers, 2013. <http://www.cdm.lu/download/3430/avis-acces-des-citoyens-aux-documents-detenus-par-l-administration.pdf>. Accessed 21 Dec. 2017.

"Mémorial A n° 128 de 2003." Journal officiel du Grand-Duché de Luxembourg, 3 Sept. 2003, legilux.public.lu/eli/etat/leg/memorial/2003/128#page=2. Accessed 7 Mar. 2017.

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"Reformen im Luxemburger Rechtswesen." Tageblatt, 26 Sept. 2014, www.tageblatt.lu/nachrichten/luxemburg-nachrichten/reformen-im-luxemburger-rechtswesen-26766397. Accessed 21 Dec. 2017.

New Zealand

Score 8

Civil and human rights protection is based on the Bill of Rights Act 1990 and the Human Rights Act 1993, the latter of which defines the tasks of the Human Rights Commission. The Commission actively promotes compliance with civil and human rights by public bodies and in society. Recent activities concern rights within the Treaty of Waitangi and a Human Rights Action Plan 2005 with regard to violence against women and children and maltreatment in prisons and mental institutions. These have led to various activities, such as the establishment of a high-level taskforce for action on sexual violence, chaired by the secretary for justice, to advise the government. Amnesty International reported in its Annual Report 2012 that it had met with parliamentary members to discuss progress made with regard to social, economic and cultural rights (e.g., the Marine and Coastal Area (Takutai Moana) Act 2011). New Zealand signed the Optional Protocol to the U.N. Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in September 2011.

The powers of the Communications Security Bureau to conduct surveillance on New Zealanders has recently been the subject of scrutiny by civil rights, internet and legal groups, including the New Zealand Law Society. The Government Communications Security Bureau (GCSB) and the Related Legislation Amendment Bill, which was debated in parliament in 2013, extended the provisions under which the GCSB could investigate and gather information on residents and citizens. This bill amended the GCSB Act 2003, which stipulated that the GCSB's role was to conduct foreign, not domestic, surveillance. Prior to and during the 2014 election campaign, the activities of the GCSB came under close scrutiny. Controversially, New Zealand continues to be an active member of the so-called Five Eyes network, a government-level alliance that shares intelligence information on a global scale.

In August 2016, the New Zealand Intelligence and Security Bill 2016 was introduced. The bill modifies existing legislation and enhances transparency of New Zealand's intelligence and security agencies. The introduction of the bill resulted in a significant increase in the scope and powers of the GCSB. According to the Human Rights Commission, although the bill is a significant improvement in legislation, "there are aspects of the bill which are still of concern," notably the definition of national security. In March 2017, the Intelligence and Security Act was passed with cross-party support. It brings the GCSB and the NZ Security Intelligence Service (SIS) under the same law. In a fundamental shift in policy, it permits the GCSB to monitor New Zealanders if national security issues are at stake.

Citation:

Amnesty International Aotearoa New Zealand Annual Report 2016: https://www.amnesty.org.nz/sites/default/files/Amnesty%20International%20NZ%20Annual%20Report%202016_May.pdf (accessed November 30, 2016).

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New Zealand Bill of Rights Act 1990 (Wellington: The Government of New Zealand 1994).

NZ Intelligence and Security Bill 2016. New Zealand parliament <https://www.parliament.nz/en/pb/bills-and-laws/bills-digests/document/51PLLaw23781/new-zealand-intelligence-and-security-bill-2016-bills> (accessed 13 September, 2016).

Spying reforms allowing GCSB to spy on Kiwis pass into law with little opposition. New Zealand Herald. 21 March 2017 (http://www.nzherald.co.nz/politics/news/article.cfm?c_id=280&objectid=11822634) (accessed January 16, 2018).

Portugal

Score 8

The Portuguese constitution of 1976 defines broad categories of rights and guarantees for the population in articles 12-23 and 24-27. This is generally also the case in practice. However, poorer elements of society, as in any country, tend to lack the educational, legal and other means to take full advantage of these guarantees. Moreover, the justice system continues to be very slow, which also reduces its ability to effectively protect citizens.

Citation:

Patricia Pires, "Europa quer mais medidas contra a corrupcao em Portugal" Reuters October 2, 2016.

Australia

Score 7

Australia is the only major established democracy which does not have a bill of rights, but civil rights are protected through a significant body of legislation and by the constitution, which contains certain implied rights which are subject to interpretation by the High Court.

While Australia's record of protecting human rights is internationally regarded as strong, criticism continues to be voiced regarding treatment of the indigenous population and the respect accorded to asylum-seekers' civil rights. Even the Labor Party supports the policy of offshore processing of asylum-seekers, which is of course denying them rights enjoyed by Australian citizens.

Concerns have also been raised about counter-terrorism legislation. The Anti-Terrorism Act 2005 includes a variety of individual powers, including detention for up to 14 days, and restrictions on the movement, activities and contacts of persons subject to "control orders," whether or not those persons have been accused or convicted of any offense. The coalition government has implemented four further tranches of legislation since October 2014. These include the Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015, which requires telecommunications service providers to retain and secure telecommunications metadata for two years. Twenty-two agencies, including the Australian Security Intelligence Organization (ASIO), state police forces, the Australian Crime Commission and the Australian Taxation Office are able to view the data without a warrant. The act is opposed by a wide range of groups, including human rights organizations and civil liberties groups, on the basis that it represents an excessive encroachment on Australians' privacy. Most recently, the Australian Citizenship

Amendment (Allegiance to Australia) Bill 2015 grants the government explicit powers to revoke Australian citizenship from dual citizens convicted of engaging in terrorist-related activities. The bill has also been criticized for being unconstitutional and for allowing possible retrospective application.

In late 2017, the government proposed further changes, including new commonwealth criminal offenses for people in possession of instructional terrorist material and for people who engage in terrorism hoaxes; creation of a national facial biometric matching capability; and increasing the role of the military in responding to terrorism incidents.

Citation:

<http://www.amnesty.org.au/news/comments/36221/>

Leonard, P (February–March 2015). “The metadata retention debate rages on” Internet Law Bulletin: <http://www.gtlaw.com.au/wp-content/uploads/The-Metadata-Retention-Debate-rages-on.pdf>

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<http://www.smh.com.au/federal-politics/political-news/a-new-low-labor-slams-t Turnbull-government-plans-to-put-asylum-seekers-on-the-street-20170827-gy4z9b.html>

Austria

Score 7

The rule of law as well as basic civil rights are guaranteed in Austria, at least for Austrian citizens. This is less so the case for non-citizens (and especially non-EU-citizens). Austrian laws concerning naturalization are extremely strict, which leaves hundreds of thousands of persons living legally in Austria excluded from political rights. Recent cases documented by NGOs have shown members of the Austrian police to have used cruelty and violence in interactions with non-citizens (especially migrants without a residence permit).

Right-wing populist parties, especially the Freedom Party of Austria (FPÖ), instrumentalize social and economic anxieties among the broader population to blame migrants and refugees for any kind of negative development, ranging from crime to unemployment. Mainstream political parties have sometimes been reluctant to insist that the guarantees provided by human-rights declarations signed by Austria (such as the Council of Europe’s Declaration of Human Rights) cover refugees and migrants, and must be implemented without reservation.

The European Court of Human Rights has been especially critical of the way Austrian courts implement the freedom of speech. There is a tendency within Austria’s administration and judiciary to define this freedom in a more restrictive way than the court believes is correct.

With respect to religious freedom, all major denominations enjoy the status of officially recognized religious communities. This status enables access to the public-

education system in form of religious instruction in schools, paid for by the government; a privileged way of “taxing” members of religious communities (through the church tax, or Kirchensteuer); and other entitlements. As a consequence of these various financial links and other relationships, there is no clear separation between religious denominations and the state. However, the religious denominations (especially the still-dominant Roman Catholic Church) have resisted identification with any specific political party.

As a consequence of the significant number of people coming from Muslim-majority countries over recent years (especially during the “refugee crisis” of 2015), the acceptance of Islam has become politically less secure than in the past. Islam is officially recognized and, like all other religious denominations, Islam has been entitled to organize religious instruction in public schools and pre-school institutions (“Kindergarten”). The fear that Islam (or at least significant Muslim elements) are using their position in the educational system to preach a fundamentalist form of Islam, including the promotion of violence and resistance to gender equality, is feeding a debate concerning the status of Islam. Political debates over radical preaching and terrorism are often intermingled with discussions about the status of Islam.

Two groups of Austrians are disadvantaged by this system of officially recognized denominations: members of the small denominations that lack official recognition, and atheists (or agnostics) who may feel that religion as such is privileged in Austria compared with non-religion.

Access to the courts in Austria has become increasingly difficult as a result of legal fees that have reached exorbitantly high levels, particularly in the civil branch of the judiciary system.

While the state does in some cases provide financial assistance, in many cases, the fees required for access to the Austrian judicial system constrain or altogether block access for people with limited means. In practice, this has fed the growth of a legal-insurance sector. People who cannot afford to pay for legal-insurance policies find the high court fees a significant obstacle to defending their rights in the Austrian court system.

Chile

Score 7

The state and the courts efficiently protect civil rights, but certain specific conflicts (e.g., those related to indigenous groups) have led to human-rights violations in the recent past. In conflicts involving ethnic minorities, such as the ongoing conflict regarding the Mapuche minority in the southern region of Chile, anti-terror legislation – which dates back to 1984 and violates international conventions signed by Chile – have been applied in recent years. Additionally, within the context of the

Mapuche conflict, it is quite noticeable that there have been multiple cases of detainees being held significantly longer than average, independent from the respective results of an investigation.

Furthermore, some occasional conflicts between civilians and the military or the police are overseen by military courts, whose impartiality is questionable. In general, the enormous income gap between population groups tends to marginalize the poorest people, who receive less state protection against infringements of their rights and for whom access to justice is more difficult.

In November 2016, Law No. 20,968 was enacted which modified the competences of the military justice defined by Law No. 20,477. Henceforth, no civilian – perpetrator or victim – will be prosecuted by military courts. The new law also introduced the crime of torture into the criminal code.

Citation:

<http://www.latercera.com/noticia/bachelet-pide-perdon-al-pueblo-mapuche-presenta-medidas-la-araucania/>

<https://prensa.presidencia.cl/comunicado.aspx?id=56160>

<https://www.bcn.cl/leyfacil/recurso/delito-de-tortura>

<http://radio.uchile.cl/2016/12/02/nueva-modificacion-a-la-justicia-militar-un-avance-hacia-el-pleno-estado-de-derecho-en-chile/>

Cyprus

Score 7

Cyprus's constitution and laws guarantee and protect the civil rights of all resident individuals, whether citizens of the republic or of other EU or non-EU countries. However, many problem areas exist. They relate to the treatment of asylum-seekers and economic and irregular migrants, overcrowding in prisons and other issues. Compliance with European and international rules and standards remains deficient. On human trafficking, Cyprus has again moved to Tier Two in the U.S. Department of State 2017 report, the actions of Cyprian authorities' deemed non-satisfactory.

Also, a late 2015 report by the CoE's Group of Experts on Action Against Trafficking in Human Beings (GRETA) committee noted a rise in labor exploitation. Despite a new policy framework and an EU harmonization law (2014), problems persisted. These concern the detention of migrants and asylum-seekers, exploitation of migrant workers, offering of low salaries, and denial of social insurance. Thus far, measures to combat trafficking and eliminate labor exploitation, including more severe penalties for offenders, appear to not be yielding satisfactory results. Interventions by NGOs appear to slightly compensate for deficient official action by assisting various groups in overcoming barriers that constrain access to legal protection. Cyprian society's perceived complacency continues to show signs of positive change on some issues. Cyprus responded to the GRETA report and provided information and data on its actions in December 2016.

More proactive and sustained measures are necessary because of the effects the financial crisis has had on vulnerable groups. New policies and forms of assistance are needed because of increased competition in the labor market. Under economic crisis conditions, both locals and immigrants hesitate to seek the legal protection of their rights. Instead, repatriation appears to be a favored solution for foreign workers and emigration for locals.

Citation:

1. USA State Department Report on Human Rights, Cyprus -Released 2017, <https://www.state.gov/j/drl/rls/hrrpt/2016/eur/265408.htm>
2. CoE GRETA report on Human Trafficking, 2015, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631b96>
3. USA State Department 2017 Report on Trafficking, Cyprus <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271175.htm>

Czech Republic

Score 7

The government and administration of the Czech Republic respect and protect its citizens' basic civil rights. As complaints lodged with the European Court of Human Rights and the Office of the Public Defender of Rights (ombudsman) have indicated, the main problem is the length of legal proceedings. The relatively high number of complaints compared to other East-Central European countries shows that Czech citizens are increasingly aware of their civil rights and have the resources (financial, cultural and social) to pursue these rights.

Malta

Score 7

The state generally respects human rights and human rights issues have judicial protection. The integration of the European Convention on Human Rights into Maltese law has strengthened protection of human rights, and decisions by the European Court of Human Rights are normally implemented; however, experts have criticized general practices saying that court procedures take far too long. This appears to be the case with human trafficking, where Malta is still said to not meet minimum standards. However, recent reforms in the courts have improved matters. The extension of rights to members of the LGBT community has improved civil rights protections. An increased focus on gender equality has improved matters considerably as has the transposition into domestic law of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention). There has been a similar development regarding disabled persons in Malta. Reforms concerning the civil rights of immigrants and asylum-seekers, including the removal of automatic detention, along with the high numbers of asylum-seekers being accorded humanitarian protection status has been noted. Nonetheless, the recognition rate of refugee status remains low. Better access

to housing and support for migrants to integrate with the community needs to be made available. The prime minister has declared that the government will tackle the exploitation of refugees by employers, while a Human Rights and Equality Commissioner has been appointed and a new integration policy is being launched. Malta has not, however, ratified the relevant conventions on statelessness. The dereliction of the rights of prisoners confined in overcrowded and substandard conditions has also been noted. On a recent visit to Malta, the Council of Europe's commissioner for human rights noted the introduction of the morning after pill, but stressed the lack of debate on access to safe abortions; the island country continues to have one of the most restrictive abortion regimes in Europe. In the Freedom in the World Report 2017, Malta's score remained unchanged at 96 out of 100.

Citation:

The Malta human rights report 2015 The people for change foundation.

<http://www.timesofmalta.com/articles/view/20160713/editorial/Spotlight-on-human-trafficking.618620>

<http://www.timesofmalta.com/articles/view/20160819/local/maltas-laws-on-detention-are-still-unclear-says-unhcr.622400>

<http://www.timesofmalta.com/articles/view/20160914/life-features/malta-and-lgbtq-equality-one-year-on.624868>

<http://www.timesofmalta.com/articles/view/20160818/local/transgender-policy-for-prisons-launched.622376>

<http://www.timesofmalta.com/articles/view/20160803/local/fewer-complaints-filed-with-commission-for-people-with-a-disability.620908>

<http://inewsmalta.com/article.php?ID1=39241>

The Guardian 07/12/16 Malta becomes first European Country to ban gay cure therapy

Amnesty International Annual Report Malta 2015/16

Times of Malta 03/01/16 New Migrant strategy is a step in right direction

Times of Malta 19/11/16 No More temporary humanitarian protection N for failed asylum-seekers

Times of Malta 14/10/17 No flushing toilets for 120 prisoners

Times of Malta 11/11/17 Commissioner Taken aback by non-debate on abortion

Freedom of the World 2017

Council of Europe, Commissioner for human rights, country Visit Malta 2017: Malta should step up efforts to enhance protection of women's and migrant's rights

Netherlands

Score 7

The Netherlands guarantees and protects individual liberties, and all state institutions respect and – most of the time – effectively protect civil rights. The Netherlands publicly exposes abuses and reports them to the U.N. Human Rights Council or the European Union. It cooperates with the monitoring organizations of all international laws and treaties concerning civil liberties signed by the Dutch government.

However, there are developments worthy of concern. The right to privacy of every citizen tops the list of preoccupations. Dutch citizens are more at risk than ever of having their personal data abused or improperly used. In addition, current policies regarding rightful government infringement of civil rights are shifting from legally well-delineated areas like anti-crime and terrorism measures toward less clearly defined areas involving the prevention of risky behavior (in personal health, education, child care, etc.) and travel behavior. There is an urgent need to rethink privacy rights and the broad use of policy instruments within the context of the information revolution.

Human Rights Watch has criticized recent Dutch legislation restricting the rights of asylum-seekers (especially long waits for asylum decisions and family reunion procedures), and efforts to only offer shelter, clothes and food to irregular migrants in the five largest cities (and nowhere else). Recently, the government has expanded its list of safe third countries for asylum-seekers (including, surprisingly, Afghanistan) and the Council of State was criticized for failing to uphold the rights of asylum-seekers in appeals to government decisions. On the other hand, the Dutch government withdrew a bill that would have criminalized illegal residence, allowing authorities to put those lacking residence permits in jail. There were concerns about racial profiling by police officers and white Dutch citizens interfering in protests against the traditional “Black Pete” (“Zwarte Piet”) figure in traditional Santa Claus festivities.

Citation:

Human Rights Watch in Nederland (hrw.org., consulted 8 October, 2017))

NRC Handelsblad, Rechter bij Raad van State kiezen ‘zelden de kant van de vluchteling,’ dd. 21 October 2014 (nrc.nl., consulted 23 October 2014)

“Bestaande technologieën met totalitaire trekken,” NRC-Handelsblad, 11 March 2017

Slovakia

Score 7

In Slovakia, civil rights are largely respected. However, the integrity of the judiciary and the long duration of court proceedings remain a problem, as do the police discrimination and mistreatment of the Roma population. In the period under review, clashes over these issues between the government and Public Defender of Rights (Ombudswoman) Jana Dubovcová continued.

Spain

Score 7

A controversial new law on public safety (Ley Orgánica 4/2015) was passed in 2015. This so-called gag law (ley mordaza) has been widely regarded as an anti-protest instrument, with the aim of reducing the tide of demonstrations against the government’s austerity policies and has thus been strongly resisted by the opposition and activists. It includes a new system of executive fines imposed for insulting (or sometimes simply criticizing) police officers, as well as for taking part in public unauthorized demonstrations (see also “Political Liberties”).

The new law also introduces civil-rights guarantees and makes some timid progress on racial profiling by police in the course of carrying out searches in public spaces. Under the new regulation, police searches must be carried out by a member of the same sex as the person being searched and can only be conducted for the purpose of preventing or investigating a crime. People who fail to supply ID can be taken to a

police station only in order to prevent a crime or if they have already committed a misdemeanor.

State institutions generally respect and protect civil rights; the rights guaranteed by the constitution and in ordinary legislation are enforced, even if some infringements occur in practice (e.g., concerning illegal immigrants). Separately, the systematic delays and lack of adequate resources (both human and technological) in the Spanish courts are factors that serve to undermine the effective protection of fundamental rights to some degree. Over the long term, the inability to address the conflict in Catalonia politically may have strained human rights protections in Spain, being interpreted by some in Catalonia as an abusive interpretation of the rule of law.

Citation:

February 2017, El País: "Facebook user faces €30,000 fine for posting video of policeman online"
https://elpais.com/elpais/2017/02/17/inenglish/1487338337_48_5063.html

Belgium

Score 6

Belgian courts operate independently of political interests, and regularly challenge political decisions. Tensions between judges and politicians can even be said to have increased in recent years. In most cases, civil rights are well-protected.

Nevertheless, issues remain. The judicial system is chronically underfunded, which means that many cases face a delay of years before a decision is made. Abnormally long delays occasionally force judges to dismiss cases. This has damaged Belgium's position in both the World Economic Forum (WEF) and World Bank rankings. The WEF's Global Competitiveness Report indicates that there have been de facto reductions in judicial independence. The World Bank's Ease of Doing Business analysis gives Belgium a grade of 8 out of a possible 18 points in its Quality of Judicial Processes index. This has overall brought Belgium down to 52nd place in terms of contract enforcement (compared to 43rd place in the June 2015 report).

The government passed several new laws in the wake of the terrorist attacks on France, Belgium and Germany. Human Rights Watch has determined that "at least six of the government's newly adopted laws and regulations threaten fundamental rights."

Citation:

<http://www.doingbusiness.org/data/exploreeconomies/belgium#enforcing-contracts>

<http://reports.weforum.org/global-competitiveness-index-2017-2018/countryeconomy-profiles/#economy=BEL>

Human Rights Watch: https://www.hrw.org/sites/default/files/report_pdf/belgium1116_web.pdf

Greece

Score 6

Civil rights are protected by and included in the constitution (passed in 1975 and amended in 1986, 2001 and 2008) and the criminal code. Judges are tenured and cannot be removed nor transferred by incoming governments. Courts guarantee the protection of life, freedom and property and protect all individuals against illegitimate arrest, exile, terror, torture or unjustifiable intervention into personal life. Greek citizens enjoy equal access to the law and are treated equally by the law. Notably, despite intense political conflict since the start of the economic crisis (2010), Greek democracy has continued to function and the courts have administered justice, albeit with very significant delays. Judges are unable to handle the constant overflow of cases, while lack of digital infrastructure and modern management methods aggravate the situation.

There are rare cases of officials failing to uphold the law as far as human rights protection are concerned. Such cases, which have occurred in detention centers for migrants and in prisons, have acquired wide publicity, but have taken a long time to be processed by the courts system. Independent control mechanisms, such as free media, NGOs and social movements, are very sensitive to such violations. Moreover, in March 2017, Greece was condemned by the European Court of Human Rights in a case in which Greek authorities had failed to protect rights of migrant workers.

In the period under review, little progress was been made in a major trial against militants of the neo-Nazi Golden Dawn party. Several members of Golden Dawn were accused of assassinating a left-wing rap singer in September 2013 but did not stand trial until November 2015. At the time of writing, the trial is still under way.

In the meantime, the living conditions of approximately 60,000 migrants and asylum-seekers, stranded in detention centers on Greek islands, have not improved. Many reception centers are overstretched as more than 200 people continue to arrive every day, 40% of them are children. Camps suffer from inadequate facilities, violence and harassment of women.

In summary, the state protects civil rights, but in practice organizational and infrastructural obstacles stand in the way of comprehensive protection of these rights particularly with regard to migrants and asylum-seekers.

Citation:

Information on the case of forced migrant labor in Greece is available from Amnesty International, at <https://www.amnesty.org/en/latest/news/2017/03/greece-victory-for-strawberry-pickers-trafficked-into-forced-labour-and-shot/>

Italy

Score 6

The legal system includes detailed constitutional provisions and a series of ordinary laws that provide an articulated protection of a broad set of rights. Strongly independent courts serve in principle to guarantee their implementation. In practice, however, inefficiencies in the judicial administration, the heavy backlog of many courts and the consequent length of judicial procedures can make the protection of civil rights (both personal and property) less effective. The current government has further promoted reforms to judicial procedures and the organization of courts. These actions are slowly reducing the backlog of judicial proceedings, particularly civil proceedings.

The legal protection of the rights of immigrants, especially if they are illegal, is far from satisfactory. Some cases of police violence are reported. Actions by the security agents of the various authorities (including the state police) sometimes seem to contradict the principles of the rule of law. Immigrants and homosexuals sometimes experience discrimination. After years of discussion and on request of supranational institutions, Italy has finally introduced a law against torture.

Citation:

http://www.camera.it/leg17/522?tema=reato_di_tortura

Japan

Score 6

Civil and human rights are guaranteed under the Japanese constitution. However, courts are often considered to be overly tolerant of alleged maltreatment by police, prosecutors or prison officials. LDP governments have made little effort to implement institutional reform on this issue. Critics have demanded – so far unsuccessfully – that independent agencies able to investigate claims of human rights abuse should be created. There is no national or Diet-level ombudsperson or committee tasked with reviewing complaints. Citizens have no legal ability to take their complaints to a supra- or international level. Unlike 35 other UN member states, Japan has not signed the so-called Optional Protocols to the International Covenant on Civil and Political Rights.

Japan has been widely criticized for its harsh prison conditions, and for being one of the few advanced countries still to apply the death penalty. Under Prime Minister Shinzo Abe's government, 21 executions had been carried out by the end of 2017. Prisoners are given only a few hours' notice, and families are usually informed afterwards.

In 2017, parliament passed controversial anti-conspiracy/anti-terror legislation in preparation for the Tokyo Olympics in 2020. Critics say these rules threaten to undermine civil liberties, as police powers have been expanded, and courts are traditionally reluctant to interfere.

Citation:

United Nations Human Rights, Japan Webpage, <http://www.ohchr.org/EN/countries/AsiaRegion/Pages/JPIndex.aspx>

Justin McCurry, Japan passes 'brutal' counter-terror law despite fears over civil liberties, *The Guardian*, 15 June 2017, <https://www.theguardian.com/world/2017/jun/15/japan-passes-brutal-new-terror-law-which-opponents-fear-will-quash-freedoms>

Japan hangs two death row inmates, including man who killed Chiba family as a minor, *Japan Times*, 19 December 2017, <https://www.japantimes.co.jp/news/2017/12/19/national/crime-legal/japan-hangs-triple-murderer-man-minor-killed-chiba-family-four/#.WINHgvCnGJA>

Slovenia

Score 6

In Slovenia, civil rights are largely respected. Citizens are effectively protected by courts and by independent institutions like the ombudsman against infringements of their rights. Some problems exist with regard to the integrity of the judiciary. By contrast, the duration of court proceedings, which was very long in the past, has been reduced.

South Korea

Score 6

Despite the establishment of the Human Rights Commission in 2001 and the relatively effective performance of courts in protecting civil rights, many problems remain.

Under the Lee Myung-bak and Park Geun-hye administrations (2008 – 2016), South Korea experienced many symptoms of a reversal of democracy, across a wide range of areas. The country is now in the process of restoring that democracy. Civil-rights conditions are expected to improve under President Moon, a former human-rights lawyer.

Serious issues include limits on the freedom of association; limits on free speech related particularly to the National Security Law; inadequate rights accorded to migrant workers; insufficient protection accorded to refugees; inadequate protection for LGBT rights, particularly within the military; and the imprisonment of conscientious objectors. South Korea also maintains the death penalty, though there has been a moratorium on executions since 1997. The threat from North Korea has been used in the past to suppress civil and political rights. Recently, several people indicted in 2013 on suspicion of being North Korean spies were determined to be innocent, and the charges are today regarded as fabrications by the National Intelligence Service and the Prosecutor's Office.

Citation:

AI – Amnesty International: Amnesty International Report 2014/15 – The State of the World's Human Rights – South Korea, 25 February 2015 (available at [ecoi.net](http://www.ecoi.net))

http://www.ecoi.net/local_link/297359/419715_en.html (accessed 15 May 2016)

Amnesty International, Report on South Korea 2013, <http://www.amnestyusa.org/research/reports/annual-report-south-korea-2013>

“2013 was a poor year for South Korean democracy,” Globalpost, Jan 17, 2014

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Amnesty International Report 2015/2016

<https://www.amnesty.org/en/documents/pol10/2552/2016/en/>

“After South Korean farmer’s death, family continues fight for justice,” Amnesty International Korea, 27 September 2016.

<https://www.amnesty.org/en/latest/campaigns/2016/09/after-south-korean-farmers-death-family-continues-fight-for-justice/>

Freedom on the Net 2016, <https://freedomhouse.org/report/freedom-net/freedom-net-2016>

United Kingdom

Score 6

In the United Kingdom, civil liberties have long been protected despite the absence of a written constitution and an accompanying bill of rights. The country thus shows that effective protection is possible if support for civil rights is firmly rooted in society and therefore is expected of the government of the day. However, UK citizens have been afforded additional rights of protection from the European Court of Human Rights (ECHR). Events of the last decade such as terrorist attacks have also demonstrated that the balance between state interests and individual rights can be more easily tilted if there are no institutional protections at hand. Various anti-terrorism acts (2000; 2001; 2005; 2006; 2008) have given the UK government more and harsher instruments to fight terrorism. For most citizens, these anti-terrorist measures are not an issue, but for the very small minority that they affect, they can be a source of dismay. In the past, governments had objected to rulings from the ECHR, to the extent that some government ministers advocated a UK withdrawal from the court. The absolute national sovereignty of British courts was a crucial argument to the campaign to leave the European Union.

While courts and public pressure have from time to time succeeded in stopping practices like the indefinite detention of non-nationals, the state has usually succeeded in reintroducing them after some time under a different name, for example when replacing “control orders” with “terrorism prevention and investigation measures.” However, it does so under quite intense media scrutiny. The files leaked by former U.S. National Security Agency (NSA) subcontractor and system administrator Edward Snowden disclosed a degree of digital surveillance in the United Kingdom that far exceeded expectations. The Government Communications Headquarters (GCHQ), with its Tempora and MUSCULAR programs, as well as the NSA/GCHQ PRISM joint venture, tracks and evaluates a very large share of national and international electronic communications. But despite the initial media outcry, public opposition to these programs has been relatively mild. Furthermore, wider society is well aware of the proactive tradition of its national intelligence services, and criticism tends to be limited outside the context of libertarian pressure groups. The most sustained opposition today comes from communication firms whose servers were hacked by government agents to access private data.

In October 2016, the investigatory power tribunal, which is the only court that hears complaints against the intelligence agencies (i.e., MI5, MI6 and GCHQ), ruled that the mass collection of private data as committed by the security services between 1998 and 2015 failed to comply with Article 8 of the European Convention of Human Rights and was therefore illegal. Although the government has announced plans to replace the Human Rights Act with a new Bill of Rights, it is unclear what will change and how court decisions based on EU law will be made when the United Kingdom leaves the European Union.

The House of Lords is currently debating the investigatory powers bill, the so-called snoopers charter, which aims to set clear legal standards for electronic and digital mass surveillance for the first time. However, until then, 17 years of unlawful spying makes a clear case for an infringement of civil rights.

United States

Score 6

The emphasis on protections from intrusion by the state has been compromised significantly as a result of the anti-terrorism measures following the attacks of 9/11. The Patriot Act, widely reviled by civil-liberties advocates, has taken a more balanced approach than is generally recognized, although some surveillance and investigative procedures have opened the way for abuse. The more significant compromises of privacy protections resulted from actions of the Bush administration, notably the ordering of widespread wiretapping and internet surveillance by the National Security Agency, which was entirely without statutory authority. The Obama administration did not produce a sweeping change to these actions, however. Congress also authorized parts of the National Security Agency's (NSA) wiretapping program, at least as it pertains to foreign suspects.

From 2014 to the present, African-American activists (the Black Lives Matter movement) have charged urban police departments of reckless, sometimes fatal use of force against black citizens. Despite some scandalous episodes captured in video recordings, according to a controversial study by Harvard economist Roland Fryer, empirical evidence has not shown a general pattern of racial bias in police use of lethal violence (shootings). Critics have argued that police training overemphasizes avoidance of risk to the officer, resulting in overly quick violent responses. In 2015, police review boards (for investigating citizen complaints of police abuse) were strengthened in some cities. In addition, a bipartisan group in Congress made progress promoting a sentencing-reform bill that would reduce excessive sentences for nonviolent offenses.

Trump has rejected complaints about excessive use of force by police (endorsing the counter-slogan Blue Lives Matter) and withdrawn support for legislative efforts at sentencing reform.

President Trump's proposed budget assumes a major reduction of staff in the civil rights division of the Justice Department, the section charged with enforcing laws against discrimination and protecting the right to vote. Since taking office, Attorney General Jeff Sessions has rescinded Obama-era guidance on combating discrimination against transgender students and announced his intention to end the civil rights division's aggressive oversight of police departments, even seeking to rescind a court-monitoring agreement overseeing police in Baltimore. The budget proposal also makes no mention at all of fighting discrimination against people with disabilities, a prominent change from the Obama-era 2016 request, which described it as a major priority.

Citation:

<http://www.nber.org/papers/w22399>

<https://scholar.harvard.edu/jfeldman/blog/roland-fryer-wrong-there-racial-bias-shootings-police>

Bulgaria

Score 5

The Bulgarian constitution and legislation provide a comprehensive, gradually improving framework guaranteeing civil rights and their protection. In practice, rights are generally respected by state agencies and citizens have legal recourse when infringements of these rights do occur. Bulgarian citizens actively use the administrative-justice process to challenge the actions of state agencies, and the courts regularly side with citizen plaintiffs. Bulgarian cases are also regularly heard at the European Court of Human Rights.

The most frequent and serious rights violations are the overuse of force by law-enforcing government bodies, especially against Roma. Citizens regularly report failures to investigate and protect rights related to some types of crimes, especially crimes against property. The length of legal proceedings represents a significant problem.

Croatia

Score 5

Civil rights are formally protected by the constitution and other laws. The ombudsman and specialized ombudspersons play an important role in the protection of human rights. However, the ombudsman's recommendations are not always carefully followed up on. The Kosor government's judicial-reform strategy (2011 – 2015) was designed to increase the effectiveness of the judicial system. Nevertheless, the need to reduce the backlog of civil, commercial and enforcement cases is still pressing. Domestic war-crimes prosecutions remain a weak point within the judicial system, as the process is slow and marked an institutional bias in favor of ethnic-Croat suspects. The rights of tenants of Serbian ethnicity who were expelled from the

country in 1995 remain an open issue, as the implementation of housing programs for returning refugees continues at a slow pace.

Israel

Score 5

By law, the effort to safeguard civil rights is constituted in the basic law's section on human dignity and liberty, which protects the right of each citizen to privacy, property, dignity, life and so forth.

This basic law is procedurally protected from nullification. However, aspects of the law can be overruled under specific conditions of urgency as stated by the government and the courts.

Much of the work of protecting civil rights in Israel is done through acts of judicial review, operating independently of the legislative and executive branches. Civil rights claims are voiced through media pressure, NGO activities, appeals to the Supreme Court, legislative amendments and appeals to government bodies that investigate public complaints.

The basic law in Israel does not grant individuals the right to express their opinions; however, the Supreme Court has affirmed this right as an essential component of human dignity. Despite this ruling, the Knesset has adopted legislation that severely curtails the exercise of the right to freedom of expression. The Boycott Prohibition Law and the Budget Foundations Law impose economic sanctions on anyone that expresses opinions criticizing injustices and human-rights violations in the Occupied Territories.

Moreover, there is a gap between the formal guarantees of equal civil rights and the reality of unequal opportunities as experienced mainly by the Arab minority, primarily due to the conflict between civil rights and other core social values such as religious identity, security and communal rights. The Association for Civil Rights in Israel (ACRI) has highlighted legislative activity over the last year that threatens civil rights, including the successful Entry to Israel bill (prohibiting persons who support a boycott against the State of Israel from entering the State of Israel), bills relating to contempt of the flag (an amendment to the law proposing significantly stricter penalties for those who harm the flag of Israel), a state education-bill amendment targeting organizations that "oppose educational values" and the armed forces, and more.

The ACRI's annual report for 2016 painted a complex picture of human-rights safeguards and violations. The report identified some civil rights violations such as the intention to increase enforcement and punishment of building violations within the Arab population and ongoing discriminatory planning processes targeting the Bedouin population in the Negev. Alongside civil rights violations, there were some

positive developments regarding health, housing and the rights of persons with mental or cognitive disabilities. In addition, three groundbreaking reports recognizing long-term discrimination against these groups were released: a report on the economic integration of the Arab minority, the Biton Report on empowering the Sephardi and Mizrahi cultures, and the report of the Palmor Committee on discrimination against Ethiopian-Israelis. However, few of the recommendations in these reports were expected to be implemented in the 2017 – 2018 state budget.

Citation:

Dahan, Tal, "Situation report: The state of human rights in Israel and the OPT 2016," The Association for Civil Rights in Israel, <http://www.acri.org.il/campaigns/report2016en/>

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"Basic Law: Human Dignity and Liberty": http://www.knesset.gov.il/laws/special/eng/basic3_eng.htm

Hermann, Tamar et.al., The Israeli Democracy Index 2016, The Israel Democracy Institute, Jerusalem 2016. <https://en.idi.org.il/media/7811/democracy-index-2016-eng.pdf>

CIVICUS Monitor. "Tracking civic space," 01.09.2016, <https://monitor.civicus.org/newsfeed/2016/09/01/expression-Israel/>

CIVICUS and Bread for the World (Brot für die Welt, Germany), "Atlas of the civil society. Report of the world situation" (German), January 2018.

Poland

Score 5

The PiS government's attempts to take control of the judiciary have raised some doubts about the government's respect for civil rights, as has the anti-terrorism legislation introduced after the terrorist attacks in Brussels in March 2016. It has extended options for telephone and internet surveillance without a court's order, has increased the period that suspects can be held without charges and has widened the Internal Security Agency's (ABW) access to data.

Citation:

Human Rights Watch (2017): *Eroding Checks and Balances: Rule of Law and Human Rights Under Attack in Poland*. New York (https://www.hrw.org/sites/default/files/report_pdf/poland1017_web.pdf).

Romania

Score 5

Civil rights are guaranteed by the constitution and are generally respected in practice. Romania responded to the decision by the European Court of Human Rights by adopting a new civil procedure order, which came into effect in February 2013. However, court protection has continued to suffer as a result of long and unpredictable proceedings. More specific concerns have been raised by the disproportionate use of preventive detention, often in conflagration of European legal standards, the bad conditions in Romanian prisons, and the large-scale surveillance

activities of the Romanian Intelligence Service (SRI). The NGO legislation introduced by the governing coalition is likely to weaken watchdog organizations in the field of civil rights.

Hungary

Score 4

The Orbán governments have formally respected civil rights. However, the rule of law has suffered from the government's politicization of the courts, its failure to protect Roma and other minorities from harassment and hate speech and its attempts to criminalize the (former) left-wing elite. The Prosecutor General has acted more and more as a shield protecting Fidesz affiliates and initiating fake legal processes against opposition actors, damaging their economic situation and private life. In the context of the EU refugee crisis, the Orbán government adopted emergency legislation that has raised fears of an emerging police state both inside and outside Hungary. The forced detention for all asylum-seekers introduced in March 2017 has prompted harsh criticism by the international community. So has the government's new legislation on NGOs adopted in June 2017 which obliges all NGOs receiving more than 7.2 million HUF (around Euro 24.000) annually from abroad to register with the courts and to present themselves to the public as "foreign-funded NGOs." Like the Russian "foreign agent" legislation, it has especially aimed at stigmatizing those organization and activists which get resources from the international networks to protect civil rights, including Amnesty International or the Red Cross. The leading professional NGOs have declared that they would not abide this law and turned to the Constitutional Court. The European Commission triggered an infringement process against the Hungarian government, which is an ongoing process. The Commissioner for Human Rights of the Council of Europe criticized the law sharply and addressed a letter to the president of Hungary and the Parliamentary Assembly of the Council of Europe asked the government not to pass the bill.

Citation:

Amnesty International Hungary (2017): We do not register. Budapest (<http://www.amnesty.hu/news/2377/nem-regisztralunk-megyunk-a-birosagra>).

Mexico

Score 2

In principle, Mexico guarantees most civil rights via its legal and constitutional systems. Nevertheless, access to the court system and protection against violations are both highly unequal. Overall, the rule of law is weak and this undermines the effectiveness of formally guaranteed rights. Almost two-thirds of Mexicans indicate that they fear torture in custody if arrested by security forces, a poll by Amnesty International shows. In 2017, in response to public pressure, Mexico adopted a new law against forced disappearances. Implementation of this law, which promises more resources for the issue and a national registry of those reported missing, will be challenging, however.

The tension between formal rights and effective guarantees plays out especially forcefully in the field of security. Since 2006, the military has taken on a more prominent role in combating organized crime and drug-trafficking organizations. However, the Mexican military and other security forces are notorious for violating human rights and the courts do not provide adequate protection to citizens victimized by the military or police. Since the beginning of the drug war in 2006, Mexico's Human Rights Commission received more than 10,000 complaints of abuse by the military, more than 2,000 of which occurred during the Peña Nieto administration. During the current administration the number of states in which the military operates has increased from six to 27 (out of Mexico's 32 states). Critics of the current system argue that a better legal framework is necessary to regulate the military's role in providing domestic security.

The security situation has deteriorated markedly in 2017 as the number of homicides, which had declined during the first years of the current administration, has increased to the highest level ever recorded since the state began keeping systematic records on crime and violence. Against the background of escalating violence, it has generally been impossible to effectively hold the security forces to account for abuses. Moreover, the government's failure to provide security has led to the formation of self-defense forces in some parts of the country, which operate outside formal legal structures and are themselves associated with human rights violations.

Citation:

New York Times (26 May 2016) "Mexican Military Runs Up Body Count in Drug War."

New York Times (16 March 2017) "While Scolding Trump, Mexico Seeks to Curtail Citizens' Rights."

Latin American Regional Report (May 2017) "Challenging abuse of authority one step at a time."

New York Times (30 Sept 2017) "The Social Contract Is Broken': Inequality Becomes Deadly in Mexico."

New York Times (20 Nov 2017) "In Mexico, Not Dead. Not Alive. Just Gone."

<https://www.hrw.org/news/2017/12/07/mexico-reject-internal-security-law>

Turkey

Score 2

While Article 10 of the constitution guarantees equality before the law, and Article 12 enshrines fundamental rights and freedoms, concerns over shortcomings in judicial proceedings remain, including limited access by defense attorneys to prosecution files, lengthy pretrial detentions, and excessively long and catch-all indictments. This relates especially to numerous cases involving Kurdish activists, journalists, union members, students, military officers, and policy and security personal being tried for alleged violations of the Anti-Terror Law. Many such cases are considered by domestic and foreign observers to be partly or even fully politically motivated. Fundamental rights (e.g., freedom of association, freedom of

expression, freedom of religion and right to privacy) are severely at danger. Improper influence over regulatory enforcement is moderately high and respect for due process is declining. The accessibility, affordability and effective enforcement of civil justice need to be strengthened.

In the aftermath of the 15 July coup attempt, even more serious violations of civil rights have occurred. Although the government claims it conducts the rules of emergency government with utmost care, these practices are based on executive decrees having the force of law and are not subject to judicial review. Some decrees affected policy areas outside the scope of the state of emergency. The institutionalized neglect of civil rights in Turkey are reflected in mass arrests of alleged coup plotters and sympathizers, confiscation of their properties, sentences against journalists and opposition politicians, renewed violence in the southeast, widespread restrictions on freedom of expression, association and assembly, a deteriorating judicial system, violence against women and impaired relations with key international actors. In July 2017, the State of Emergency Procedures Investigation Commission was established to receive the complaints from people who have been affected by the ongoing state of emergency. Over 100,000 people have submitted complaints to the commission to date. It is expected that the commission will make its first decisions in December 2017.

Political influence and pressure on the judiciary as well as allegations of conspiring with Gülenist organizations has weakened the independence of the judiciary as the sole guarantor for civil and political rights and liberties. The Justice Minister's right of veto, as ex officio President of the Council of Judges and Prosecutors (HSK), continued to be a source of major concern. Despite the reorganization of the judiciary, the court system does not work effectively.

Since September 2012, the Constitutional Court accepts individual petitions if the right to a fair trial has been violated. Since September 2012, 1,314 violations of the right to fair trial have been noted by the court. Article 148 of the constitution states that anyone who believes his or her human or civil rights as set forth in the European Convention on Human Rights (ECHR) have been infringed upon by a public authority has a right to apply to the Constitutional Court, after exhausting other administrative and judicial remedies. The cost of individual application was about €7.22 in 2017. Individual applications must be filed within 30 days after the notification of the final proceeding that exhausts other legal remedies. A total of 82 applications were made between January 2016 and November 2017. More than 16,000 applications were received by the European Court of Human Rights between January and July 2017, and about 13,000 cases remain pending.

Citation:

European Commission, Turkey 2016 Report, Brussels, 9.11.2016, http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_turkey.pdf (accessed 1 November 2016).

World Justice Project, Rule of Law Index 2016, https://worldjusticeproject.org/sites/default/files/documents/RoLL_Final-Digital_0.pdf (accessed 1 November 2016).

2017)Anayasa Mahkemesi Bireysel Başvuru Kararları, <http://www.anayasa.gov.tr/icsayfalar/kararlar/kbb.html> (accessed 1 November 2017)

ECtHR, Press Country Profile Turkey,http://echr.coe.int/Documents/CP_Turkey_ENG.pdf (accessed 1 November 2017)

T.C. Ministry of Justice (2014), Action Plan on Prevention of ECHR violations, <http://www.inhak.adalet.gov.tr/eng/announced/actionplan.pdf> (accessed 10 December 2014)

The Ombudsman Institution (2014) ‘The Chief Ombudsman Annual Press Conference,’ http://www.ombudsman.gov.tr/en/content_detail-322-779-the-chief-ombudsman-annual-press-conference.html (accessed 10 December 2014)

İnsan Hakları Kurulu Kararı, (Eşit Haklar İçin İzleme Derneği – Yüksek Seçim Kurulu), 25.06.2015, <http://www.tihk.gov.tr/www/files/13-Temmuz-YSK-karari.pdf> (accessed 27 October 2015)

Indicator

Political Liberties

Question

To what extent does the state concede and protect political liberties?

41 OECD and EU countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels.

- 10-9 = All state institutions concede and effectively protect political liberties.
- 8-6 = All state institutions for the most part concede and protect political liberties. There are only few infringements.
- 5-3 = State institutions concede political liberties but infringements occur regularly in practice.
- 2-1 = Political liberties are unsatisfactory codified and frequently violated.

Estonia

Score 10

Political liberties are an important part of Estonia's constitution and they are widely respected in society. Eleven political parties collectively covering the entire spectrum of mainstream political ideologies are registered and active. The Estonian Trade Union Confederation (EAKL), which is comprised of 20 branch unions, represents employees' interests in collective-bargaining agreements and protects employees' rights in employment relations. It also consults employers on developing a sustainable labor market and participates in policymaking. Civil-society groups organize open forums to discuss important social and political issues. One such forum, the Arvamusfestival (Opinion Festival) is held annually since August 2013 and expands each year. In 2017, over 9,000 people attended the three-day event. There is no state church in Estonia and religious freedom is guaranteed through the presence of 10 religious associations.

Finland

Score 10

Political liberties are effectively protected in Finland. The country has for decades received the highest scores concerning political liberties in Freedom House surveys. Finnish law provides for freedom of speech, and this freedom is upheld in practice. Finns also enjoy freedom of religion, freedom of association and assembly, and the right to organize, bargain collectively and strike. A large majority of workers belong to trade unions, although the share of membership in trade unions has been decreasing. Women enjoy rights and liberties in Finland equal to those of men. The criminal code covers ethnic agitation and human trafficking. The constitution guarantees members of the indigenous Saami population, who comprise less than 1%

of the population, cultural autonomy and the right to pursue their traditional livelihoods.

New Zealand

Score 10

The Bill of Rights Act 1990 guarantees unlimited political rights to think, speak, assemble, organize and petition without interference. Those who believe that their rights have been infringed upon can file a suit before the High Court. In addition, the New Zealand Council of Civil Liberties is an active, non-governmental organization that promotes these liberties. Freedom House assesses the situation of political rights in New Zealand as excellent. Despite being widely accepted as an important feature of New Zealand's constitutional arrangements, the provisions of the Bill of Rights are not supreme law; that is, they have never been entrenched. During 2012 and 2013, a constitutional advisory panel appointed by the government sought the public's view on whether the Bill of Rights should be expanded to include additional rights and be entrenched. It ultimately recommended that consultation on these issues should be continued.

Citation:

Constitutional Advisory Panel, 2013. New Zealand's Constitution. A Report on a Conversation, http://www.ourconstitution.org.nz/store/doc/FR_Full_Report.pdf (accessed November 11, 2014).

Sweden

Score 10

Political liberties and human rights are written into the constitution. Sweden is a highly institutionalized advanced democracy. As such, it upholds all political liberties.

Austria

Score 9

As human rights, civil and political liberties are guaranteed effectively by the Austrian constitution. The Austrian standard of recognition accorded to such liberties and rights is very high. For religious liberties, Austria has developed a special system of official recognition. Officially recognized religious denominations, which include all major Christian denominations, Islam, Judaism and Buddhism, enjoy specific privileges such as the right to provide religious instruction in public schools.

The freedom of speech is sometimes seen as constrained by Austrian courts' interpretation of libel. The European Court of Human Rights (ECHR) has overturned decisions by Austrian courts in numerous cases, as the Strasbourg court considers the Austrian interpretation as too narrow. The judicial system has in consequence adapted to the rulings of the ECHR.

The only legalized limitation to political freedom concerns any activity linked to National Socialism. As a consequence of Austria's past, the Austrian system does not allow political activities based on the doctrine of National Socialism, including Holocaust denial. While the principle itself is widely supported, its interpretation in practice sometimes leads to controversy.

The existence of an apparently very small in number but internationally well-connected network of radical Islamists represents a new challenge to political liberties in Austria. Some Austrian citizens have been recruited to fight for the "Islamic State" militia, for example. This has resulted in a debate about the limits of political liberties, but has not yet led to any significant legal action being taken.

Czech Republic

Score 9 Political liberties are respected by state institutions, and their observance is supervised by the courts. In the review period, several demonstrations against the introduction of electronic cash registers and in favor of the resignation of then-Minister of Finance Andrej Babiš and President Zeman took place. Civil society is vibrant. As domestic philanthropy continues to improve, the dependence on foreign donors has decreased.

Denmark

Score 9 The Danish constitution protects the political rights and liberties, including freedom of speech, freedom of association and freedom of assembly. Elections are free. The government is accountable to the elected parliament.

Freedom House usually gives Denmark top scores for civil liberties and political rights. Problems in Denmark mostly concern ethnic tensions, especially involving the country's Muslim population, and alleged abuse by the police.

Recent human rights reports from Amnesty International include critiques concerning the treatment of refugees and asylum-seekers. Some asylum-seekers in Denmark were returned to their home countries, contrary to the recommendations of the United Nations High Commissioner for Refugees (UNHCR). This practice stopped after a decision against Denmark by the European Court of Human Rights in 2011. The 2013 report criticized some individual cases of denied asylum. In a report reviewing human rights between 2011 to 2015, Amnesty International expressed concern about the "management of asylum cases which fails to insure the best interests of the child, and the detention of asylum-seekers and vulnerable persons while awaiting deportation."

The 2015 – 2016 report from Amnesty International mentioned a recent judgment by the Eastern High Court that the police had unlawfully removed and detained protesters during an official state visit by Chinese officials in 2012.

Citation:

Amnesty International Annual Report: Denmark 2016/2017, <https://www.amnesty.org/en/countries/europe-and-central-asia/denmark/report-denmark/>

Amnesty International, Denmark: Human Rights in Review: 2011-2015. <https://www.amnesty.org/en/documents/eur18/2332/2015/en/> (accessed 8 October 2015).

France

Score 9

Political liberties are well-protected in France. This situation can be explained by several factors. The fact that these liberties are considered as the heritage of the French Revolution sets them in a quasi-sacred position. Protections were granted and solidified by the highest administrative court during the Third and Fourth Republics. Recently, the increasing and active role of the Constitutional Council in striking down laws which could jeopardize said liberties has been crucial. The expansion of the court's powers stemmed from its 1971 decision to protect the right of association from governmental intervention.

A controversial and still not fully resolved issue is related to the interpretation of the separation of religious and public life (*laïcité*). The ban on religious signs and symbols in all places of public administration and institutions is, in theory, applicable to all religious affiliations but concerns mainly the Islamic community. There is a growing uneasiness among the population about the manifestation of “differences,” issues which right-wing and extreme-right parties are particularly vocal about. One observes a growing illiberal attitude in public opinion and a rejection of differences based, in particular, on religious beliefs (e.g., Halāl food, public religious demonstrations and wearing burkinis on public beaches).

Germany

Score 9

Due to Germany's historical experience with National Socialism, political liberties are highly protected by the country's constitution and the Constitutional Court. Freedom of expression is protected by the constitution (Art. 5), although there are exceptions for hate speech and Nazi propaganda, such as Holocaust denial. With the exception of cases where individuals are deemed to be actively seeking to overturn the democratic order, the right to assemble peacefully is guaranteed (Basic Law, Art. 8) and is not infringed upon. All exceptions are applied very restrictively. For example, even extreme parties such as the far-right Nationaldemokratische Partei (NDP) currently have full freedom to operate. The Bundesrat appealed to the Federal Constitutional Court seeking to prohibit the NDP but the court did not ban the NDP in its judgment from 17 January 2017.

The freedoms to associate and organize (Basic Law, Art. 9), as well as academic freedom, are generally respected. Non-governmental organizations operate freely. Every person has the right to address requests and complaints to the competent authorities and to the legislature (Basic Law, Art. 17). Freedom of belief is protected by the constitution (Basic Law, Art. 4).

Greece

Score 9

Political liberties are well protected by the constitution, including the right to vote, to think and speak freely, to assemble and demonstrate, to organize in collectives such as unions and associations and to submit petitions requiring a timely response by the competent authorities. However, in the period under review, the realization that the Syriza-ANEL government followed in the steps of previous governments on economic and social policy led to protests, such as protests by old-age pensioners, which at various times were suppressed by police forces. In other areas – the right to worship, for example – liberties are affected by the constitutionally imposed impediments on proselytism by religious dogmas other than Greek Orthodox Christianity. For years successive governments were reluctant to allow the establishment of places of worship. For example, the Muslim community of Athens still does not have an officially recognized place of worship (i.e., a state recognized mosque). In autumn 2015, the government proclaimed three make-shift Islamic places of worship legal, although hundreds of other places continued to function without a legal permit. In autumn 2016, the Greek government made available a public space in Athens for the construction of a mosque and in July 2017 the parliament, with 206 votes in favor and 24 against, approved a bill that set aside €46,000 of public funds for the building. This decision will mean that Athens is no longer the only EU capital without an official center of worship for Muslims. However, there is still no functioning Muslim cemetery in the capital's wider region. Nevertheless, there is progress. In August 2016, the Church of Greece decided to allocate a burial site for Muslims in a public cemetery in Athens (20 hectares of land in Schisto).

Iceland

Score 9

The 1944 constitution contains provisions protecting the freedom of the press as well as freedoms of organization and assembly. The 2011/2012 constitutional bill, which remains to be ratified by the parliament, aims to significantly broaden individual rights and liberties further in line with international developments in the area of human rights. The new constitution supported by 67% of the voters in the national referendum called by parliament in 2012, remains on the table. In the October 2017 parliamentary election campaign, five parties declared support for ratification of the

new constitution, namely the Social Democrats, the Pirate Party, the Left-Green Movement, Regeneration and Bright Future. The only sworn opponent of constitutional change is the Independence Party, which continues to behave as if the constitutional referendum of 2012 did not take place.

Ireland

Score 9 Freedom of speech, freedom of assembly, and the right to form unions and associations without religious, political or class discrimination are enshrined in the Irish constitution. These rights have been protected and upheld by the Irish courts over the years, subject only to restrictions regarding sedition, blasphemy and breaches of the peace. In October 2014, the government accepted the constitutional convention's recommendation that a referendum be held on removing the offense of blasphemy from the constitution. However, it has made clear that this referendum will not be held in the life of the present government.

Sinn Féin, the political wing of the formerly illegal Irish Republican Army, has become increasingly involved in mainstream Irish politics. Its share of the national vote grew from 1.6% in 1992 to 13% in 2016, while the number of seats it occupies in parliament grew from zero to 23. No political group is presently excluded from access to the airwaves or the print media.

Italy

Score 9 The protection of the complete array of political liberties is enshrined in the constitution and guaranteed by an independent judiciary. During the period of observation, no significant cases of infringement were attested. The right to worship is fully guaranteed to all religious groups and an increasing number of minority groups have been able to use the opportunities offered by agreements with the state to facilitate its implementation. However, some practical problems connected with the freedom of worship, like enjoying the special fiscal treatments guaranteed to religious groups or building places of worship, have not fully disappeared. These problems have been more relevant for Islamic groups, to some extent because of political fears and hostility, but also because of their more uncertain legal status.

Japan

Score 9 The freedoms of speech, the press, assembly and association are guaranteed under Article 21 of the constitution. Reported abuses have been quite rare, though it has often been claimed that the police and prosecutors are more lenient toward vocal right-wing groups than toward left-wing activists.

That are concerns that the new 2017 anti-conspiracy laws, passed in preparation for the 2020 Tokyo Olympics, could undermine political liberties. Under these rules, “words,” rather than simply “deeds,” can be grounds for prosecution.

There is also concern that right-wing activism, including so-called hate speech, is on the rise, and that this might actually be supported by ruling politicians. Some senior LDP politicians have been linked to ultra-right-wing groups.

Civil society movements have had varying effect. A group called the Student Emergency Action for Liberal Democracy (SEALDs) organized several high-profile mass rallies against the government’s assertive foreign-security policy before disbanding temporarily after the 2016 Upper House elections. While the success of such movements has as yet been limited, they offer testimony to the high de facto level of political liberties.

Citation:

Justin McCurry, Japan’s ruling party under fire over links to far-right extremists, *The Guardian*, 13 October 2014, <http://www.theguardian.com/world/2014/oct/13/japan-ruling-party-far-right-extremists-liberal-democratic>

Tomohiro Osaki, SEALDs leaves door open for future activities, 16 August 2016, <http://www.japantimes.co.jp/news/2016/08/16/national/politics-diplomacy/sealds-leaves-door-open-future-activities/>

Michael Hoffman, Is Japan slipping into prewar politics?, *The Japan Times*, 3 June 2017, <https://www.japantimes.co.jp/news/2017/06/03/national/media-national/japan-slipping-prewar-politics/>

Latvia

Score 9

Political liberties are effectively protected and upheld. The right to speak, think, assemble, organize, worship, and petition without government interference or restraint is recognized and protected. However, new challenges to the freedoms of speech, assembly and organization are emerging.

The freedom of assembly is regularly tested by organizations applying to the Riga city council for permits. In most instances, permits are granted without fail. Sensitive political issues, however, have led the city council to deny permits. There is a right of appeal to the court as well as a rapid consideration schedule to ensure timeliness of decisions. In all cases between 2011 and 2013, Riga city council decisions limiting the freedom of assembly have been overturned by the court.

Lithuania

Score 9

Lithuanian institutions generally respect the freedoms of assembly and association. In 2016, Lithuania obtained the best possible score from Freedom House on the issue of political rights and civil freedoms (1 out of 7). Lithuanian political parties operate

freely, with the Communist Party being the only banned grouping. Non-governmental organizations may register without serious obstacles, and human-rights groups operate without restrictions. In 2010, an appeals court ruled that Lithuania's first gay-pride parade could go ahead on the basis of the right to peaceful assembly. This parade (a controversial issue in this majority Roman-Catholic country) was initially banned by a lower court due to concerns over potential violence. Another gay-pride parade was allowed to be held in the center of Vilnius in 2013. The freedom of religion is also largely upheld in practice, but certain government benefits are granted only to traditional religious communities. Workers may form and join trade unions, strike, and engage in collective bargaining, but slightly less than 10% of the country's workforce is unionized. The supreme court has ruled that the right to strike can be used only after other measures provided for in the Labor Code have been exhausted.

Citation:

The 2017 freedom rating of Lithuania by the Freedom House is available at <https://freedomhouse.org/report/freedom-world/2017/lithuania>

Luxembourg

Score 9

No infringements of citizen's rights to speak, assemble, organize, worship or petition occurred during the period under review. Some court cases have dealt with xenophobic and racist speech (particularly online).

Anticlerical forces have demanded the separation of church and state, and criticized state subsidies for churches, particularly the Catholic Church, which is the dominant faith in Luxembourg. Protestant and Jewish organizations also benefit from public funding. In response to this, the 2009 government program promised the creation of so-called houses of secularism, following the Belgian model. Following a period of receiving very low subsidies, the Islamic Religious Community, Anglican Community and the Orthodox Church have received significant public funding since 2016. Initially, the government coalition intended to include a question in the June 2015 referendum, relating to the funding of the churches and the introduction of a church tax system in Luxembourg. In January 2015, however, the government agreed to the demands of the various religious communities and removed the issue from the referendum.

Citation:

"Religion is private, says Luxembourg PM." Luxemburger Wort, 12 Sept. 2014, www.wort.lu/en/politics/church-and-state-religion-is-private-says-luxembourg-pm-54128b3eb9b3988708063816. Accessed 21 Feb. 2017.

"«Die Kirche muss sich in Zukunft selbst finanzieren»." L'essentiel, 11 Sept. 2014, www.lessentiel.lu/de/news/story/19528954. Accessed 21 Feb. 2017.

Netherlands

Score 9 All the usual political liberties (of assembly, association, movement, religion, speech, press, thought, unreasonable searches/seizures and suffrage) are guaranteed by the constitution. The Netherlands is a signatory to all pertinent major international treaties (Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, European Convention on Human Rights). All relevant ranking institutions, such as The Economist's Intelligence Unit Democracy Index and the Freedom House ranking of political liberties, consistently list the Netherlands as one of the leading countries in the world.

However, the protection of privacy rights is in practice increasingly subject to political attention and public debate. The Expert Body on the Protection of Privacy Data (College Bescherming Persoonsgegevens) has identified a growing number of deliberate or unintended infringements of the constitutional right to privacy. Since January 2016, its powers have been broadened and it can now impose fines. There is also an obligation for large data-processing private and public companies to immediately report any data leaks. Nevertheless, there is a widespread perception that the big data revolution poses a considerable threat to privacy rights and the government's response has been too weak.

Citation:

Freedom House, Freedom in the world 2016, Netherlands (freedom house.org, consulted November 2016)

Autoriteit Persoonsgegevens, Agenda 2016 (autoriteitpersoonsgegevens.nl, consulted 9 November 2016)

Norway

Score 9 Political liberties are protected in the constitution and in law, although the constitution does not strongly articulate explicit protections for minority rights. The right to free expression was strengthened through a constitutional amendment in 2004. Norway has ratified all international conventions on human and civil rights. The European Convention on Human Rights is incorporated into national law. The right to free worship is ensured. The Lutheran church stills enjoys a privileged status, but its actual political influence is limited. Its status as a state church was reformed in 2012, increasing its autonomy of decision-making and introducing various forms of "democratization" in church affairs. Political liberties are respected by state institutions.

Portugal

Score 9 Under the regime that ruled Portugal until 1974, there were virtually no political liberties. The basic goal of the political transition was to achieve and guarantee political liberties. Portugal has been successful in this regard, and widely agreed-

upon political liberties are now in place and respected. The basic legislation in the constitution, and subsequent regular legislation, guarantees these political liberties. They function reasonably well.

Slovenia

Score 9 In Slovenia, political liberties are constitutionally protected and guaranteed and are respected by government institutions. The rights to assembly and association, for instance, are guaranteed in Article 42 of the Slovenian constitution and can only be restricted in special cases. The fact that Slovenia has more civil society organizations per capita than most other countries testifies to the protection of the freedom of association. Infringements on political liberties are rare.

Switzerland

Score 9 Switzerland is in many ways a role model for the exercise and protection of political liberties. However, the November 2009 adoption of a ban on constructing new minarets must be considered a serious political signal against the right to freely worship, even if, in practice, the law means little for the free exercise of religion. Before the decision, there were only four minarets in Switzerland.

United States

Score 9 The United States generally has a strong record of protecting political liberties. The protections cover all of the recognized political freedoms of speech, association, voting, and pursuit of public office, and extend even to extreme groups such as neo-Nazis. Religious freedoms are protected even for religious fringe groups. In contrast with most developed democracies, the United States' constitutional free-speech doctrine does not permit laws banning hate speech.

In one significant limitation to political rights, convicted felons are barred from voting in nearly all states, although usually not permanently. Additionally, while the government allows protest demonstrations for all kinds of causes, even when they may become disruptive or disorderly, local police have sometimes confined demonstrators to locations far removed from the target events (e.g., during G-8, G-20 and WTO meetings).

From 2015 to 2017, there was increasing media and political attention on the practice on many university campuses of imposing restrictions on speech deemed to offend one or more groups – primarily African Americans, LGBTQ or women. Some universities have barred conservative speakers from making appearances on campus,

mostly citing security concerns that arise from left-wing activists' efforts to disrupt the events. According to the non-profit Foundation for Individual Rights in Education (FIRE), a majority of colleges and universities have speech codes with provisions that have been ruled unconstitutional by federal courts.

Recently, there have been reactions against such university censorship. Many mainstream liberal media outlets have been highly critical of this kind of censorship, but some have given both sides the opportunity to state their positions. The Trump administration's Department of Education (DOE) has withdrawn a highly controversial, supposedly advisory letter that ordered universities to weaken free speech and due process rights on campus; the Obama administration had issued it to strengthen anti-discrimination and sexual harassment enforcement, backed by the threat of losing federal funds. The House Judiciary Committee, controlled by Republicans, had challenged the Obama administration's interpretations of the law and warned campuses to ensure that their speech codes do not violate constitutional rights. FIRE reports that the number of universities with unconstitutional speech codes has declined for several years.

Australia

Score 8

Political liberty is strongly protected by the courts, but is not unfettered. As in other Western countries, anti-terrorist legislation has raised a major challenge to political liberties. The Anti-Terrorism Act 2005 makes any act of sedition illegal, such as urging the overthrow of the government by violence or force, and outlaws any organization that advocates the use of violence or force for that end. One of the main criticisms of the legislation is that it lacks sufficient judicial oversight. Some also regard the design and administration of defamation laws as hampering political liberties, as they in practice act to protect governments, companies and powerful people from scrutiny.

Like many other OECD countries, Australia has seen a rise in anti-Islamic political parties, including Pauline Hanson's One Nation party, which secured four out of 76 senate seats in the July 2016 federal election.

Belgium

Score 8

Belgium is a mature democracy in which political rights are generally well-protected. Internal issues with respect to political liberties began to appear as a result of tensions between the Dutch-speaking (Flanders and a minority in Brussels) and French-speaking (Wallonia, a majority in Brussels and in some municipalities around Brussels) communities. To reinforce the usage of Dutch in Flanders, the Flemish regional government passed a law that in effect largely bans the usage of French for political communication in Flemish territory, even in municipalities where a large majority of the population is French-speaking.

A more recent set of challenges has emerged in the wake of the 2016 terrorist attacks on Brussels, Paris and Nice. The government has adopted countermeasures that allow the police to crack down on terrorist networks, which have used Belgium as a staging ground for attacks across Europe and for channeling fundamentalists to Syria.

However, Human Rights Watch has determined that the recent legislative reforms may be infringing on individual liberties. Recent legal changes allow the government to “place prisoners detained for terrorism in prolonged isolation, and allow the government to suspend passports and review terrorism suspects’ phone and email logs without judicial approval. Other laws can revoke Belgian citizenship and criminalize comments that stop short of direct incitement to terrorism. [The report] also details abusive police responses during counterterrorism raids and detentions.”

Citation:

https://www.hrw.org/sites/default/files/report_pdf/belgium1116_web.pdf

<https://www.hrw.org/news/2016/11/03/belgium-response-attacks-raises-rights-concerns>

Bulgaria

Score 8

Political liberties are guaranteed in Bulgaria by the constitution and relevant laws. Bulgarians enjoy the freedom to express themselves, to assemble and organize themselves (including explicitly politically), to hold religious beliefs and to petition the government. Bulgarians have clearly established rights to speak freely, assemble and protest. The freedom of expression has suffered from the declining independence of the traditional media, but has been strengthened by the opportunities provided by internet.

Canada

Score 8

There were very few major concerns expressed about infringements of Canadians’ political liberties over the 2011 to 2017 period, with two exceptions. Bill C-309, passed in 2013 makes it a crime punishable by a 10-year prison term to incite a riot while wearing a mask or any face covering, including face paint. Someone who merely participates in a riot or in an “unlawful” assembly with their face covered can be deemed under the new law to have committed an indictable criminal offense and be jailed for up to five years. Another potential challenge to Canadian political liberties was posed by the anti-terrorism legislation Bill C-51, passed in 2015, which contains provisions restricting protest rights and freedom of speech, this has attracted criticism from a number of human rights and civil liberty organizations. In a 2015 report, the U.N. Human Rights Committee voiced concerns about the excessive use of force by law enforcement officers during mass arrests in the context of protests on both the national and provincial levels.

Other developments have been more positive. Seeking to improve the stability and efficacy of First Nations governments, the federal government passed the First Nations Elections Act in 2014. This act provides a new opt-in election system for individual First Nations, which differs from the regime created under the Indian Act by providing for longer terms of office for chiefs and councilors, among other provisions, while creating the opportunity to withdraw from the Indian Act regime.

Citation:

Parliament of Canada, Bill C-9 “First Nations Elections Act,” posted at <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=6540209>

United Nations Human Rights Committee, Concluding Observations on Canada’s sixth report in relation to Canada’s compliance with the International Covenant on Civil and Political Rights, August 2015.

Slovakia

Score 8

In Slovakia, political rights are largely respected. Citizens can freely join independent political and civic groups. The Ministry of Interior has registered over 35,000 such associations and over 60 political parties, though only 23 of which took part in the 2016 parliamentary elections. In the period under review, several mass protests against corruption took place, calling for the dismissal of Interior Minister Robert Kaliňák, Police Corps President Tibor Gašpar and Special Prosecutor Dušan Kováčik.

Spain

Score 8

Spain is classified as an advanced democracy by various indices, including the Freedom House’s Freedom in the World index and the Economist Intelligence Unit’s Democracy Index. The country’s institutions are generally effective at protecting political liberties, though there are occasionally incidents of infringements on political liberties. The 1978 Spanish constitution outlines the political liberties that must be respected by state institutions. Fundamental rights and public freedoms (included in Section 1, Chapter 2, Part I of the constitution) are subject to special protections. The political liberties subject to special protection against government (or even private) interference or violation include: the freedoms of ideology, religion and worship; the right to freely express and spread thoughts, ideas and opinions without any form of prior censorship; the right to peaceful unarmed assembly, with no need to notify local authorities in advance unless demonstrations are being held in public places; the right of association; the right to freely join a trade union; and the right to individual and collective petition.

Citation:

Freedom House: Freedom in the World, Spain 2017
<https://freedomhouse.org/report/freedom-world/2017/spain>

The Economist Intelligence Unit's Democracy Index
<https://www.eiu.com/topic/democracy-index>

United Kingdom

Score 8

Without a written constitution and the protection it affords, citizens of the United Kingdom have no fundamental rights in the sense of enjoying special protection against the powers of the executive and parliament. Citizens' rights in the United Kingdom can thus be said to be residual and negative in nature. Citizens can do anything not expressly prohibited by law, but there are no positive rights to assert against the government unless the government concedes them. In practice, UK citizens enjoy considerable freedoms, although the police have recently acquired powers to constrain protests. Even so, demonstrations do take place.

Since disputes about political liberties always arise over contested issues, UK citizens have little recourse within the political system, especially when compared to continental European political systems. The Human Rights Act of 1998 (HRA) represented an attempt to create a "higher law" to which all other laws must conform. It offers individual and minority rights, and empowers judges to hold the executive to account and review acts of parliament. But its effectiveness is constrained by the fact that the government can temporarily annul the HRA, if it considers this necessary for the benefit of the country, and it remains contested.

The relative informality of civil rights in the United Kingdom is often justified by the strong tradition of a fair and open public discourse, which forms the very heart of the United Kingdom's political identity. Some elements of the Brexit campaign, not least the murder of Jo Cox, may have cast doubt on this, although the strong public and political reaction to this tragedy highlighted a national determination to defend civil liberties.

Chile

Score 7

In general, political rights are protected by the constitution and legislation, and are enforced by government policy and practice. Nevertheless, police interventions have sometimes crossed the line from guaranteeing law and order into repression – especially during the more intense period of the student movement and protests by Chile's indigenous people. Furthermore, the biased media landscape limits equal access to information and the opportunity to communicate different political opinions and versions of conflict situations.

Croatia

Score 7 In Croatia, political liberties are largely respected. There are laws that guarantee the freedom of assembly and the freedom of association. However, the Law on Public Assembly is more restrictive than in France or the United States, containing an obligation to outline the purpose of an assembly, and limiting spaces available for public assemblies. While the constitution guarantees freedom of expression, the criminalization of defamation, insult and shaming remains at odds with international standards

Cyprus

Score 7 Political liberties and the protection of fundamental human rights are enshrined in the constitution and protected by law. NGOs and other associations flourish in Cyprus. New media multiplied available channels for petitions, protests and rallies. Cases of pressure on minorities to attend religious ceremonies at schools have been reported. While religious groups are allowed to worship without interference from the authorities, isolated complaints were reported on the state of places of worship and other issues.

Strong professional associations and trade unions continue to enjoy easier access to public authorities than groups such as immigrants. The latter often require assistance from NGOs to make their requests public.

A supreme court decision in December 2016 considered the seizure of personal computers in a libel case as disproportionate. This practice during investigations raises serious concerns about the infringement of fundamental rights. The handling of seized computers and other forms of personal data by officials is often carried out in an insecure manner.

Libel was decriminalized in 2003 and Cyprian courts apply European Court of Human Rights (ECHR) free expression and shield standards. However, cases and threats to sue for libel/defamation persisted, both by politicians and businesses. This threatens the ability to scrutinize public figures, authorities and businesses.

The clientelistic system exerts “ambient” pressures on citizens’ liberties, indirectly undermining individual fundamental rights.

Citation:

1. Department of State Report on Religious Freedoms, Cyprus (released 2017) <https://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>
2. Our View: Protection of mediocrity by the unions keeps healthcare standards low, Cyprus Mail, 20.10.2016, <http://cyprus-mail.com/2016/10/20/view-protection-mediocrity-unions-keeps-healthcare-standards-low/>

Malta

Score 7

The constitution of Malta and its chapter on fundamental human rights provide for a broad range of political and civil liberties. The incorporation of the European Convention on Human Rights into the Maltese constitution as well as membership in the European Union has also enhanced political liberties in Malta. Maltese citizens have the right to take a case before the European Court of Human Rights (ECHR), and several individuals have done so with success. However, a traditionally clientelistic and partisan approach to politics sometimes hinders the political liberties of individuals, forcing them to refrain from associating with political parties, non-government organizations and/or trade unions for fear of being discriminated against by the government in office or after a change of government. In the World Economic Forum's Global Competitiveness Index 2017-2018, Malta's ranking fell in terms of public trust in politicians and favoritism in decisions by government. However, there was an improvement in the score for transparency of government policymaking. The 2017 Eurobarometer, in contrast, reported an increased trust in government in 2016 (55%) over 2012 (34%). Excessive delays in the deciding of court cases and the costs of such delays often deter people from seeking legal solutions, although the picture has improved sharply on this issue. In 2013, a commission charged with reforming the judicial system was established and although it has presented a number of reports, it remains subject to criticisms regarding the delayed implementation of its recommendations. The right to a lawyer during police interrogation has now been fully implemented. Malta, however, has one of the lowest allocations of legal aid in the EU. In addition, legal aid lawyers are very poorly paid. Legal aid needs to be provided for pre-litigation advice, mediation and out-of-court settlements. The current threshold to be eligible for legal aid is also very low.

Citation:

Migrant Integration Policy Index. <http://www.mipex.eu/malta>

Freedom in the World 2015 Malta

COM (2014) 419 Final COUNCIL RECOMMENDATION on Malta's 2014 National Reform Program

Judiciary criticizes proposals for reform of commission for the administration of justice Times of Malta 1/10/13

Justice Reform Commission makes 450 proposals Times of Malta 2/12/13

<http://www.timesofmalta.com/articles/view/20160411/local/european-commission-justice-scoreboard-results-welcomed.608529>

Times of Malta 28/09/16 Lawyers to be present during interrogation

Legal and Reformers Network Malta: parties agree on legal aid for suspects facing police interrogation

Access to Legal Assistance in Malta, Aditus 2017

Times of Malta 27/10/17 Malta's Tribal Politics

Times of Malta 11/11/17 Permanent secretary to be compensated because of political discrimination

Global competitiveness report 2017-2018 World Economic Forum

Malta Independent 31/07/16 55% of Maltese trust government in 2016 compared to 34% in 2012

Romania

Score 7

In 2017, Romanian citizens made heavy use of their political liberties, as hundreds of thousands of people took the streets to protest against the government's plans for amending the Criminal Code and for reforming the judiciary. However, the

protesters and some of the NGOs involved faced a smear campaign by the governing coalition. In some cases, the confrontation between the protesters and the police raised questions about crowd control and the conduct of the Romanian Gendarmerie. The new NGO legislation introduced by two members of parliament from the governing coalition in June 2017 and passed by the Senate in November 2017 aims at weakening Romanian civil society.

Poland

Score 6 Under the PiS government, violations of political liberties have increased. First, the Law on Public Assembly has been made more restrictive by privileging state-organized and regular public events over one-off demonstrations organized by social actors. According to the new rules passed by the Sejm in December 2016, assemblies of citizens cannot be held at the same time and place as gatherings organized by the public authorities or churches. This means that counter-demonstrations to periodic assemblies, typically devoted to patriotic, religious and historic events, are forbidden, which prioritizes governmental or government-supported assemblies. A second reason for concern is that the treatment of demonstrators by the police has worsened, as evidenced by an increasing number of interrogations and arrests, and growing police violence. Finally, political liberties are likely to suffer from changes in the financing of NGOs, signed by President Duda in October 2017. These changes will make access to public funding more difficult for independent NGOs.

Citation:

Amnesty International (2017): Poland: On the Streets to defend Human Rights. Harassment, Surveillance and Prosecution of Protesters. London (<https://www.amnesty.ie/wp-content/uploads/2017/10/Final-prosecution-of-protesters-10.10-1.pdf>).

Sadurski, W. (2018): How Democracy Dies (in Poland): A Case Study of Anti-Constitutional Populist Backsliding. Sydney Law School, Legal Studies Research Paper No. 18/01, Sydney (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3103491.##).

Israel

Score 5 Israel's lack of a constitution means that the guarantee of political rights is given the same status as basic laws. Thus, they are not constitutional as such. For these and other reasons, the responsibility to protect political liberties still lies with Israeli parliament. However, parliamentary activity has not been conducive to this task. Several recent pieces of proposed legislation appear to undermine aspects of democracy and due process.

A law passed in March 2011 requires the state to fine or withdraw funds from local authorities and other state-funded groups that hold events marking Al-Nakba (the 1948 displacement of the Palestinian population) on Israeli independence day, support armed resistance or "racism" against Israel, or desecrate the state flag or

national symbols. The law was intended to target Arab bodies financed through the state budget that commemorate the Al-Nakba events. However, during the period under review, Culture and Sports Minister Miri Regev called several times for the withdrawal of funding from cultural institutions for violating the law. On one occasion, she argued that the Jewish-Arab Jaffa theater “has turned from a platform for culture into a platform for terror.” Regev also proposed the so-called Culture Loyalty Bill, which would have allowed politicians to deny funding to cultural institutions that “contravene the principles of the state.” The bill was not approved, but was perceived by the Israel Union of Performing Artists as an attempt to undermine the freedom of expression and artistic freedom.

Another controversial measure is the so-called Boycott Law, passed in July 2011, which exposes Israeli individuals and groups to civil lawsuits if they advocate an economic, cultural or academic boycott on Israel or the West Bank settlements. An amendment to the law is currently being discussed, which would toughen its provisions by allowing “a body or person working to encourage the boycott of Israel eligible to be sued for ILS 100,000 (,500) without proof of damages – or ILS 500,000 (2,500) with proof of damages.”

The Transparency Requirements for Parties Supported by Foreign State Entities Bill, requires NGOs receiving more than half their income from foreign governments to report this fact annually to the Justice Ministry’s registrar of nonprofit associations. This bill was criticized as applying almost solely to human-rights and left-leaning organizations. According to Justice Ministry statistics, only 27 organizations in Israel that get more than half their funding from foreign governments. Of these, 25 are human-rights-focused organizations identified with the left.

The list of other problematic legislation includes the recently passed Entry to Israel law (prohibiting anyone who supports a boycott against the state of Israel from entering the country), several bills relating to contempt of the flag (one recently passed amendment to the law imposes significantly stricter penalties on those who harm the flag of Israel), a state education bill amendment (awaiting approval as of the time of writing) targeting organizations that “oppose educational values” and the armed forces, and more. However, many problematic proposals have not won parliamentary passage, or were eventually softened in part due to public opposition.

Citation:

Ben Shitrit, Lihi, “Israel’s Shrinking Democracy.” Carnegie Endowment for International Peace, 10.03.2016, <http://carnegieendowment.org/sada/63006>

Cohen, Hanan. “The Nakba Law,” IDI, 24.05.2014: <https://www.idi.org.il/articles/4640>

Dahan, Tal, “Situation report: The state of human rights in Israel and the OPT 2016,” The Association for Civil Rights in Israel, <http://www.acri.org.il/campaigns/report2016en/>

“Freedom in the world 2017,” Freedom House website: <https://freedomhouse.org/report/freedom-world/freedom-world-2017>

“Escalation in Israeli Minister’s Culture War,” Haaretz, 8.9.2017:

<https://www.haaretz.com/opinion/editorial/1.811237>

“Israel minister pursues tougher anti-BDS law,” *Memo Middle East Monitor*, 2.11.2017: <https://www.middleeastmonitor.com/20171102-israel-minister-pursues-tougher-anti-bds-law/>

Knesset Press Release “Knesset passes NGO transparency law,” 12.07.2016, <http://main.knesset.gov.il/News/PressReleases/pages/press120716.aspx> (Hebrew)

Lis, Jonathan, Yair Ashkenazi, Jack Khoury and Sharon Pulwer, “Israel’s Nationalistic ‘Loyalty in Culture’ Bill Passes Legal Test,” *Haaretz*, 25.2.2016: <https://www.haaretz.com/israel-news/.premium-1.705312>

“Project Democracy: The Arab minority,” *The Association for Civil Rights in Israel* (October 2010). <http://democracy-project.org.il/he/wp-content/uploads/2010/08/democracy-minorities.pdf>

Steinber, Jessica, Miri Regev’s cultural war heats, *The Times of Israel*, 29.1.2016: <https://www.timesofisrael.com/miri-regevs-cultural-war-heats-up/>

Yishai, Yael, “Civil Society in Israel,” Carmel, Jerusalem, 2003.

Freedom House, “Freedom in the World 2018,” <https://freedomhouse.org/report/freedom-world/2018/israel>

South Korea

Score 5

Political liberties are protected by the constitution, but infringements do take place. The freedoms of opinion and of the press are constitutionally guaranteed, and the freedoms of association and assembly are respected in principle; however, the past 10 years of conservative government produced many problems including infringements of the freedoms of speech, assembly and collective action. After President Park’s impeachment, substantial new information emerged indicating the full extent of the infringements of political liberties that had taken place under her administration, including a blacklist of more than 9,000 artists who had been punished for voicing opposition to the government. However, improvements were evident even as early as the onset of the public protests calling for Park’s impeachment, as peaceful protests were allowed without much restriction, and unlike previous such incidents, the police refrained from using force. The situation is expected to improve further under President Moon. Yet even if there are few new cases of infringements, many unresolved issues remain. For example, in May 2017, the Supreme Court ruled that labor-union leader Han Sang-gyun should remain in prison for organizing largely peaceful protests against the government in 2014 and 2015. Former UPP lawmaker Lee Seok-ki also remains in prison. The Korean Teachers and Education Workers Union’s (KTU) is still waiting for legalization after its legal status was revoked following accusations that it had violated the clause of the teachers’ union law, which bars dismissed and retired teachers from holding union membership. In general, labor unions still face considerable difficulty in organizing. For example, businesses can sue labor unions for compensation for “lost profits” during strikes, and civil servants are also limited in their political freedom. Most importantly, the National Security Law that limits the freedom of expression remains the biggest obstacle to improving political rights in Korea.

Citation:

Amnesty International Report, <https://www.amnesty.org/en/countries/asia-and-the-pacific/south-korea/>
Freedom House. "Freedom in the World 2016: South Korea." <https://freedomhouse.org/report/freedom-world/2016/south-korea>
teachers-union/

Hungary

Score 4

The Orbán government has shown little respect for political liberties. In Putin style, Orbán and other Fidesz leaders have defamed opposition activists as traitors to the Hungarian nation and as foreign agents paid by George Soros. In September 2017, Antal Rogán, the influential head of the prime minister's cabinet office accused the democratic opposition of planning to turn to violent actions before the elections. The vice-president of Fidesz, Szilárd Németh, has called Márton Gulyás, Gábor Vágó and Árpád Schelling, three well-known public activists subscribing to peaceful public disobedience, "terrorists." Moreover, the government has used "soft violence" against demonstrators at public or political events by relying on aggressively acting "private" security services (e.g., Valton Security). The most notorious cases of "baldheaded aggression," as the behavior of the frequently baldheaded security people has been called in popular parlance, took place during the Putin visit and Orbán's national holiday speech on October 23. Finally, the new NGO-legislation passed in June 2017 has aimed at further weakening civil society.

Mexico

Score 4

Political liberties are guaranteed by law, and public debate and electoral competition are meaningful. If political rights are violated, citizens have access to electoral courts which are generally professional and effective. Recently, however, the independence of the electoral justice system has been called into question. In October 2017, the prosecutor for election-related crimes was fired after an interview in which he accused the former director of the state oil company Pemex, a close ally of the president, of receiving bribes and funneling illegal funds to the president's party as part of the Odebrecht corruption scandal that has rattled political elites across Latin America.

In many parts of the country, high levels of criminal violence undermine democracy. Public officials, especially at the local level, are kidnapped, harassed and even murdered with impunity. Journalists and activists are also targeted. While the lack of credible and capable legal investigations in such cases makes it impossible to know the true extent of the problem, there is considerable evidence that authorities are not merely inept. Rather, they are sometimes complicit in violating citizens' political liberties. The justice system has proven to be particularly ineffective in prosecuting powerful rights violators. During the past year, the failure of authorities to arrest and prosecute several (former) governors suspected of corruption, money laundering and links to organized crime illustrated this shortcoming forcefully.

Citation:

Schedler, A. (2014). The criminal subversion of Mexican democracy. *Journal of Democracy*, 25(1), 5-18.

Latin American Regional Report: Mexico & NAFTA (December 2016). "The curious case of the missing Mexican former governors."

Turkey

Score 3

Whereas the freedoms of thought, conscience and religion are generally respected, official violations of the freedoms of expression and assembly occur, particularly when criticism of the ruling government and its policies is involved. Several key pieces of legislation adopted regarding the rule of law and fundamental rights were not in line with European standards, such as the law on data protection. The constitutional amendment to parliamentary immunities adoption in May 2016 allowed lifting immunity for a large number of deputies, and resulted in the detentions and arrests of several HDP members of parliament, including the two co-chairs in November 2016. Following the 2015 parliamentary elections, a peaceful solution for the Kurdish issue was replaced by a "nationalist" anti-terror policy by the government.

A highly controversial Internal Security Law adopted in March 2015 granted the police the power to detain a person caught in the act of committing a crime. A person can be kept in custody for 24 hours without seeing a judge, and this period can be extended to 48 hours if the police deem that a "collective crime" has been committed. The police forces have been allowed to use firearms against demonstrators, deepening fears of crackdowns on dissent ahead of parliamentary elections. This law was considered a threat to the Turkish state's conflict-resolution negotiations with the PKK, and a means of attracting nationalist votes for the AKP.

In the Penal Courts of Peace established in July 2014, single judges have the authority to issue search warrants and approve detentions and the seizure of property. Judges have been criticized for undermining the public's trust in the judiciary due to the arbitrary nature of their detainments, arrests and judgments.

The European Commission stated during the review period that the freedoms of expression and assembly have become major shortcomings in Turkey. Intimidation of journalists, up to and including physical attacks, has taken place. The Commission advised Turkey to improve monitoring of the implementation of the Action Plan on Prevention of ECHR Violations (adopted in March 2014). The Commission's 2016 Progress Report identified several major weaknesses, including: the intimidation of and denial of accreditation to journalists; the government's blocking of websites with or without a court decision; the lack of editorial independence within the public broadcast system, especially during the elections; and media ownership transparency more generally. The number of journalists in prison increased during the review period.

Although bans on social media imposed by the government in early 2014 were subsequently lifted by the Constitutional Court, legal provisions limiting the free use of the internet, presented as necessary for “national security and protection of the public order,” have raised additional concerns. Wikipedia has been suspended due to its anti-government content.

Human Rights Association of Turkey reported that the state of emergency has exceeded its initial purpose and become a permanent practice. This violates Turkey’s constitution (Article 15), the European Convention on Human Rights (Article 15) and the U.N. Civil Code (Article 4). Laws passed by decree have been used on almost every subject. In total, about 300 legislative changes have been passed by decree. In an extensive report on Turkey’s state of emergency, Common Platform for Human Rights identified 12 constitutional violations between 21 July 2016 and 9 February 2017. All rules and practices related to municipal bodies are regulated through Municipal Law 5393 (Articles 38, 39 and 40), which was amended by Decree 674. The number of municipalities to which a trustee has been assigned has reached 80. A total of 320 refusal decisions made by Administrative Courts across Turkey. The Constitutional Court ruled that it is beyond its authority to review state of emergency decrees. In the aftermath of the coup attempt, the government seized numerous Gülenist companies and confiscated property worth nearly €10 billion.

The European Court of Human Rights declared 25,000 applications inadmissible for failure to exhaust domestic remedies. However, the European Court of Human Rights’ decisions contradicted statements made by the Venice Commission and the Human Rights Commissioner of the Council of Europe concerning Turkey’s state of emergency. The Secretary-General of the Council of Europe and the Venice Commission proposed creating an independent ad hoc Turkish body to examine individual dismissed cases, subject to judicial review. Subsequently, the Turkish government issued Decree 685 on 23 January 2017, establishing a commission to review its state of emergency procedures. It is expected that the commission will make its first decisions by the end of 2017.

Citation:

İnsan Hakları Ortak Platformu, Fact Sheet State of Emergency Measures In Turkey, 23 February 2017, <https://bianet.org/english/politics/184123-21-statutory-decrees-under-state-of-emergency>
 World Justice Project, Rule of Law Index 2016, https://worldjusticeproject.org/sites/default/files/documents/RoLL_Final-Digital_0.pdf (accessed 1 November 2017)
 European Commission, Turkey 2016 Report, Brussels, 9.11.2016, http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_turkey.pdf (accessed 1 November 2016).
 Freedom House, Freedom of the Press 2016, https://freedomhouse.org/sites/default/files/FH_FT0P_2016Report_Final_04232016.pdf (accessed 1 November 2016)
 Web Index Report 2014-2015, <http://webfoundation.org/about/research/the-2014-15-web-index/> (accessed 27 October 2015)

Indicator

Non-discrimination

Question

How effectively does the state protect against different forms of discrimination?

41 OECD and EU countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels.

- 10-9 = State institutions effectively protect against and actively prevent discrimination. Cases of discrimination are extremely rare.
- 8-6 = State anti-discrimination protections are moderately successful. Few cases of discrimination are observed.
- 5-3 = State anti-discrimination efforts show limited success. Many cases of discrimination can be observed.
- 2-1 = The state does not offer effective protection against discrimination. Discrimination is widespread in the public sector and in society.

Ireland

Score 9

There are strong anti-discrimination laws on the Irish statute books. The Employment Equality Act, 1998 and the Equal Status Act, 2000 outlaw discrimination on grounds of gender, marital status, family status, age, intellectual or physical disability, race, sexual orientation, religious belief or membership in the Traveller Community in employment, vocational training, advertising, collective agreements, the provision of goods and services, and other opportunities to which the public generally has access. The Equality Authority is an independent body set up under the Employment Equality Act, 1998 to monitor discrimination. An independent equality tribunal was established under the same act to offer an accessible and impartial forum to remedy unlawful discrimination. These agencies have been active in recent years and successful in prosecuting cases on behalf of parties who felt they had been discriminated against.

In 2012, a referendum was passed to amend the constitution to explicitly recognize the rights of children and generally provide enhanced protection to children.

In May 2015, a referendum legalizing same-sex marriage was passed by a vote of 62% in favor, 38% against. The Thirty-Fourth Amendment of the Constitution (Marriage Equality) Act was signed into law on 29 August 2015.

New Zealand

Score 9

Anti-discrimination legislation is outlined in a number of acts, including the New Zealand Bill of Rights Act 1990, the Privacy Act 1993, and the Human Rights

Amendment Act 2011 (establishing the position of a full-time disability rights commissioner within the Human Rights Commission). Even more important, the Human Rights Commission actively promotes anti-discrimination measures focusing on populations such as Maori and women. Cases of discrimination are rare, but they do occur. Maori are disproportionately represented in the prison population, which may point to problems of discrimination, as has been highlighted by the United Nations Human Rights Committee. A lasting problem is the extent to which the Treaty of Waitangi as the basis of the relationship between Maori and the state is embedded in the general legal order. The complexities of this problem have been highlighted in the controversy over the ownership of the country's foreshore and seabed, with many Maori groups claiming that Maori had a rightful claim to the title, based on the Treaty of Waitangi. More recently, the conflict over the Kermadec marine reserve sanctuary led to tensions between the minority National government and one of its key parliamentary allies, the Maori Party. The conflict led the Maori Party to threaten to end its supply agreement with National, which would have undermined parliamentary confidence in the minority government. The government reacted by postponing a final decision on the project.

Citation:

Foreshore and Seabed Act 2004 (Wellington: The Government of New Zealand 2011).

Human Rights Amendment Bill 2011 (Wellington: The Government of New Zealand 2011).

Human Rights and the Treaty of Waitangi: Draft for Discussion (Auckland: Human Rights Commission 2010).

New Zealand Bill of Rights Act 1990 (Wellington: The Government of New Zealand 1994).

Privacy Act 1993 (Wellington: The Government of New Zealand 2013).

Bramwell, Chris, 2016. Māori Party puts government on notice over Kermadec row. 15 September, 2016. Radio New Zealand. <http://www.radionz.co.nz/news/political/313354/maori-party-puts-govt-on-notice-over-kermadec-row> (accessed 12 October, 2016).

Norway

Score 9

Equality of opportunity and equality before the law are firmly established in Norway. There is an ombudsperson for civil rights. The Sami minority living in the north of the country has some limited self-rule. Some contention exists over the use of natural resources in the Sami areas in the north, and legal issues over entitlements to land and water resources in these areas remain unresolved.

Men and women have essentially identical educational levels. Women's labor-force participation rate is comparatively high. There is some evidence of gender discrimination in wages, as women earn on average just 84.7% of what men earn. However, once specifics such as the number of hours worked, occupation, education and experience are taken into consideration, it is difficult to observe significant differences between the earnings of men and women. This finding does not per se imply that there is no gender discrimination whatsoever in the labor market (e.g., men may be more readily hired in high-paying occupations). In 2017, several instances of gender-based discrimination were disclosed as a result of the #metoo campaign. On the other hand, affirmative action in favor of women has been used

extensively in the labor market, particularly within the public sector. Even so, the labor market remains by international comparison strongly segregated by gender and occupation.

Day-care services are widespread and heavily subsidized. To a large extent, the supply of child-care services is today adequate to meet parents' demand. In 2006, a law went into effect introducing affirmative action in the selection of board members for publicly listed companies. Under this regulation, at least 40% of board members must be women. This goal was achieved in two years with surprisingly little difficulty.

Some discrimination against non-Western immigrants seems to persist. In some areas of the economy, immigrants find it comparatively harder to find work, while earning lower wages and showing substantially higher unemployment rates than native Norwegians. Although discrimination against immigrants (including in the labor market) is illegal, it occurs in some areas of Norwegian society, though very few discrimination cases are prosecuted.

Sweden

Score 9

Sweden still ranks as one of the most egalitarian societies in the world. Discrimination based on any feature, be it gender, race, sexual preferences or ethnicity, is not tolerated.

That said, it is clear that there are still differences between salaries for men and women performing the same work as well as between immigrants and Swedes in the labor market. These are spheres of society where public regulation is only effective when complaints are filed with public authorities. There are two ombudsmen dealing exclusively with discrimination issues; one for gender issues and one for other forms of discrimination.

In terms of ethnicity, Sweden is an increasingly heterogeneous society. Integration policies are highly contested in the public debate. A Discrimination Ombudsman and a minister of integration and gender equality devote their political activities to anti-discrimination. However, during the period of review, ethnic segmentation in several suburbs of metropolitan areas in Sweden has increased. This societal fracturing remains an unsolved political challenge in contemporary Sweden. With the increased immigration in 2015 and 2016 there is an imminent risk that these challenges will be exacerbated.

Canada

Score 8

Canada's Charter of Rights and Freedoms was enacted in 1982, with the aim of preventing all types of overt discrimination based on gender, physical ability, ethnic origin, social status, political view or religion. Groups believing they suffer from the effects of discrimination continue to emerge. Basing their claims on the Charter of Rights and Freedoms, some have taken their cases to the courts, often winning. The Canadian government has established policies such as employment equity and pay equity to protect and promote the rights of disadvantaged groups (often called equity groups) such as women, ethnic minorities, indigenous peoples and people with disabilities. These positive discrimination measures are controversial and their effectiveness is a subject of debate. A case in point is the gender-based pay gap. The lack of affordable childcare in Canada forces many women to drop out of the labor force or reduce their working hours during child-rearing years. This has a serious effect on women's earnings levels. Full-time employed women in Canada earn on average 19% less than men; for women between 25 and 44 with at least one child, the pay gap is 29%, significantly higher than the OECD average (2010 data).

As so often, the experiences of Canada's indigenous population pose the greatest concern. A 2014 report by the U.N. Special Rapporteur on the Rights of Indigenous Peoples concluded that Canada faces a continuing crisis when it comes to the situation of indigenous peoples: "The well-being gap between aboriginal and non-aboriginal people in Canada has not narrowed over the last several years, treaty and aboriginal claims remain persistently unresolved, indigenous women and girls remain vulnerable to abuse, and overall there appear to be high levels of distrust among indigenous peoples toward government at both the federal and provincial levels." A subsequent 2015 report from the U.N. Human Rights Committee listed similar issues, including the "potential extinguishment of indigenous land rights and titles," lengthy unresolved land disputes placing financial burdens on indigenous peoples, and the "disproportionately high rate of incarceration of indigenous people, including women, in federal and provincial prisons across Canada."

Citation:

UN Human Rights Council, Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya (2014), posted at http://www.ohchr.org/Documents/Issues/IPeoples/SR/A.HRC.27.52.Add.2-MissionCanada_AUV.pdf

OECD (2012), Closing the Gap – Canada, posted at <http://www.oecd.org/canada/Closing%20The%20Gender%20Gap%20-%20Canada%20FINAL.pdf>

United Nations Human Rights Committee, Concluding Observations on Canada's sixth report in relation to Canada's compliance with the International Covenant on Civil and Political Rights, August 2015.

Cyprus

Score 8

An extensive body of laws and measures protecting the rights of various groups seeks to prevent discrimination. The constitution protects human rights, with Article 18 guaranteeing equality and non-discrimination for all. It explicitly prohibits discrimination based on factors such as gender, race or religion, while specific laws proactively protect the rights of minority groups in various ways. However, implementation gaps and omissions exist in practice.

Laws on gender equality and anti-discrimination, updated in line with EU directives, provide for proactive measures and sanctions aimed at enforcing equality of treatment in employment and occupations, combating racism and other forms of discrimination, and protecting persons with disabilities. Disabled persons are offered additional protection and special treatment.

The adoption, in late 2015, of a law on civil partnerships is considered a serious step in efforts against discrimination. In 2016, the exclusion of women and some age groups for 3,000 army posts was considered discriminatory.

The Ombudsman's office, tasked with investigating discrimination, issued 17 reports/decisions on complaints in 2016 and 2017. A 2015 CoE report recommended actions to protect minorities' rights and raise awareness on issues of human rights and anti-discrimination among the police and judiciary.

Citation:

1. Reports -decisions of the Ombudsman as Authority against Racism and Discrimination 2016, 2017, (in Greek) http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/index_new/index_new?OpenForm

2. CoE committee on minorities, Cyprus 2015, rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680483b48

Denmark

Score 8

Denmark is traditionally an open and liberal society, and has been at the forefront in ensuring the rights of sexual minorities, for example. Basic rights are ensured in the constitution and supplemented with additional laws focused on specific areas, including ethnicity and the labor market. Citizens can file complaints concerning issues of discrimination to the Board of Equal Treatment or opt to bring discrimination cases before the courts.

Discrimination can take various forms and can be perceived differently depending on position, history and social context. A key issue is the extent of discrimination in the labor market.

Gender-based discrimination in the labor market relates primarily to wages, but also, more generally, to hiring and career options. Childcare is a particular point in this

context. Rules dealing with child leave have been expanded to extend the right (and duty) of fathers to take paternity leave. Since 2006, all employers have been required to contribute to a paternity fund which finances paternity leave, which prevents such costs disproportionately falling on employers with a high number of female employees. A commission (Lønkommissionen) concluded in 2010 that about two-thirds of the observed average gender wage difference could be explained by individual differences and sectoral employment, but the analysis did not conclude there was “equal wage for equal work.”

Frequently cases of discrimination in the labor market are reported in the press, with examples of persons having difficulties in finding a job due to ethnic identifiers, such as the person’s name. Different treatments and options in the labor market can have several causes, and there is no thorough academic analysis that has attempted to separate these causes and evaluate the extent of discrimination in the labor market.

Indirect discrimination can take various forms. A notable area is in terms of rules and regulations, which, on the one hand, are general and apply to all citizens, but on the other hand, effectively target particular groups. One example is “start-aid” (roughly half of ordinary social assistance) offered to immigrants which have been residing in the country seven out of the last eight years. While formally treating all immigrants equally (as required by EU regulations) the scheme in particular targets immigrants from low-income countries with a low employment rate. The scheme was introduced by the liberal-conservative government in 2002, abolished by the Social Democratic-Center government in 2012 and reintroduced by the liberal government in 2015.

Immigration laws were tightened after the liberal-conservative government came to power in 2001. One particularly controversial law was the tightening of rules for family reunification. Bringing a spouse to Denmark required that both persons in the couple are at least 24 years old, in addition to a number of other requirements; the law also included an economic test. Immigration laws concerning family reunification and permanent residency were made less restrictive in May and June 2012 under the Social Democratic-led government, but has since been tightened by the Liberal-led government. At the moment, asylum policy is under pressure due to the large influx of asylum-seekers from the Middle East. Immigration rules and their implementation have been tightened several times recently. Even the Social Democrats, under the party’s new leadership, now favors a tight immigration policy.

Citation:

Freedom House, *Freedom in the World 2014 – Denmark*, <http://www.freedomhouse.org/report/freedom-world/2014/denmark-0#.VEa2JOSEi70> (accessed 21 October 2014).

United States Department of State, *Country Reports on Human Rights Practices for 2013 – Denmark*, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> (accessed 21 October 2014).

Finland

Score 8 Rights of ethnic and religious minorities are as a rule well protected in Finland, and the criminal code provides penalties for anyone who incites violence on racial, national, ethnic or religious grounds. The rights of the Swedish-speaking minority in Finland are widely respected, with Swedish recognized as an official national language. However, reforms to public administration at the local level, which are still pending at the time of writing, may violate important rights of the Swedish-speaking population. In addition, some segments of the population, primarily represented by the so-called Finns Party, have turned hostile toward Finland's Swedish-speaking population. The Aland Islands, whose inhabitants speak Swedish, have historically maintained an extensive autonomy and a home-rule parliament as well as one permanent seat in the national legislature. Finland has often been seen as a forerunner concerning its efforts to maintain an effective minority-protection policy. Still, although cases of discrimination are rather few, ethnic minorities and asylum-seekers report occasional police discrimination; an immigrant background additionally increases the risk of encountering discrimination. Roma individuals, who make up a small proportion of the population, are marginalized, and the Finns Party, which split into two parts in 2017, one of which is a government party, encourages discrimination against ethnic minorities and asylum-seekers.

Germany

Score 8 Germany's Basic Law (Art. 3 sec.3) states that every person, irrespective of parentage, sex, race, language, ethnic origin, disability, faith, religious belief or political conviction is equally important and has the same rights. The General Equal Treatment Act of 2006 added age and sexual orientation to that enumeration of protected categories. The Federal Anti-Discrimination Agency (FADA) monitors compliance with legal anti-discrimination norms and principles, supports persons who have experienced discrimination, mediates settlements, informs the public about infringements, and commissions research on the subject of discrimination.

Nevertheless, discrimination remains a problem in various spheres of society. For example, there is widespread agreement that women should be better represented in the business sector's upper management. In 2015, the government adopted legislation to increase the number of women on corporate supervisory boards. The law stipulates a 30% share of women on the boards of large companies. Moreover, equal pay for men and women remains an issue as a gender pay gap seems to persist.

The Federal Constitutional Court decided in June 2013 that treating same-sex and opposite-sex marriages differently from a taxation perspective was unconstitutional. Regulatory changes reflecting this ruling were adopted within weeks by the parliament. In January 2015, the court ruled that a bill banning headscarves for

teachers at public schools must adhere to state laws (Ländergesetze). A general prohibition, incumbent on teachers in state schools, of expressing religious beliefs by outer appearance is not compatible with the freedom of faith and the freedom to profess a belief (Art. 4 secs. 1 and 2 of the Basic Law). However, in a dissenting opinion, two of the judges opposed the majority's reasoning, signaling that non-discrimination on religious grounds is a contested issue in society and in constitutional law.

In June 2017 the federal parliament voted in favor of a complete judicial equalization of same-sex marriages. In November 2017, the Federal Constitutional Court requested that the government must recognize a third sex, thus avoiding discrimination of intersexual persons.

Citation:

www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/EN/2015/bvg15-014.html

<https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2017/bvg17-095.html>

Luxembourg

Score 8

Fundamental human and civil rights are anchored in Luxembourg's constitution. Anti-discrimination efforts are overseen both by public authorities and NGOs.

The 2015 Migrant Integration Policy Index awarded Luxembourg a low score of 57 points for its anti-discrimination policies (2014: 49). Two EU anti-discrimination directives (2000/43 and 2000/78) were adapted after years of debate in the form of an act passed on 28 November 2006, establishing a Center of Equal Treatment (Centre pour l'égalité de traitement, CET), which opened in October 2008. The act includes EU definitions of discrimination. Other bodies such as the Ombuds Committee for Children's Rights (Ombuds-Comité fir d'Rechter vum Kand, law of 22 July 2002) have existed since January 2003; the Ombudsman Office was established by law on 22 August 2003 and began operations in May 2004.

Migration is a much debated issue. Considering that most migrants are European (90%) and of Christian faith, migration issues have caused fewer conflicts and ethnic concerns than in neighboring countries. After the adoption of the U.N. Convention on the Rights of Persons with Disabilities and an action plan in 2011, incidents of discrimination on the grounds of physical or mental disabilities have increased. This highlights the need to intensify inclusion policies.

Citation:

"Luxembourg." Migrant Integration Policy Index 2015, www.mipex.eu/luxembourg. Accessed 21 Feb. 2017.

"Mémorial A n° 207 de 2006." Journal officiel du Grand-Duché de Luxembourg, 6 Dec. 2006, legilux.public.lu/eli/etat/leg/memorial/2006/207. Accessed 21 Feb. 2017.

"Mémorial A n° 70 de 2008." Journal officiel du Grand-Duché de Luxembourg, 26 May 2008,

legilux.public.lu/eli/etat/leg/memorial/2008/70#page=2. Accessed 21 Feb. 2017.

Rapport d'activités 2016. Centre pour l'égalité de traitement, 2016. http://cet.lu/wp-content/uploads/2017/04/Jahresbericht-2016_DEU.pdf. Accessed 21 Dec. 2017.

Netherlands

Score 8

The Netherlands is party to all the important international anti-discrimination agreements. A non-discrimination clause addressing religion, worldviews, political convictions, race, sex and “any other grounds for discrimination” is contained in Article 1 of the Dutch constitution. An individual can invoke Article 1 in relation to acts carried out by the government, private institutions or another individual. The constitutional framework has been specified by several acts that also refer to the EC Directives on equal treatment. In total, there is a high degree of protection, even though the definition of indirect discrimination provided by the European Commission has not been adopted by the Dutch legislature, and many regulations avoid the term “discrimination” in favor of “distinction” (with less negative connotations in a religiously and culturally diverse society like the Netherlands). A recent expert report criticized Dutch anti-discrimination sanctions as “ineffective,” and as neither “dissuasive” nor “proportionate.” In 2013, the U.N. Human Rights Commission got involved in contentious political debates about the discriminatory character of “Black Pete” that appears in traditional Santa Claus celebrations.

In other respects, Dutch legislation has gone beyond what is required by EU directives. In terms of policy, the Dutch government does not pursue affirmative action to tackle inequality and facilitate non-discrimination. Generally, the government relies on “soft law” measures as a preferred policy instrument to curb discrimination. There are more and more doubts about state policies’ effectiveness. Depending on significant (international) events (e.g., Israeli-Palestinian conflicts, terrorist attacks and public debates about Black Pete) discriminatory actions, internet-based threats and insults targeting Jews, Muslims and Afro-Dutch citizens increase. Especially worrisome is the broad-based negative climate of opinion and stereotyping of Muslims.

Citation:

European Commission. European equality law review. European network of legal experts in gender equality and non-discrimination, 2015/1, Netherlands (equality law.eu, consulted 2 November 2015)

Zwarte Piet heeft zijn glans verloren (trouw.nl, consulted 5 November 2014)

Mens en Samenleving, Voor- en tegenstanders over Zwarte Piet (+ oplossingen) (mens-en-samenleving.infonu.nl., consulted 9 November 2016)

I. van der Valk, Veiligheid en discriminatie anno 2017 - waar staan we?, Achtergronden, 2 October 2017 (republic.allochthonië.nl)

SCP, Nederlanders dubbel over discriminatie, Burgerperspectieven 2017|2 (sep.nl)

NRC.nl, “Moslems in Nederland ervaren discriminatie meer dan elders in Europa,” 20 september 2017

Switzerland

Score 8 In Switzerland, constitutional law and a consociational political system ensure the autonomy, freedom from discrimination and rights to political participation of Swiss linguistic, ethnic and religious minorities. Article 8 of the country's constitution states: "Nobody shall suffer discrimination, particularly on grounds of origin, race, sex, age, language, social position, lifestyle, philosophical or political convictions, or because of a corporal or mental disability. Men and women have equal rights."

Nonetheless, a number of problems with regard to discrimination exist. The sheer size of the foreign population and its contribution to the wealth of the nation brings up the question of whether withholding political rights such as voting from this population might be regarded as an indefensible variety of discrimination. However, Switzerland's conception of non-citizen voting rights is similar to that of other Western democracies, and undoubtedly protects the civil and human rights of foreigners without any discrimination. The Swiss People's Party, currently the strongest party in the country, has repeatedly resorted to openly xenophobic discourse. Although gender-based discrimination is illegal, women continue to face considerable economic and social discrimination with regard to wage equality and equal career opportunities.

Social discrimination in higher education persists, as it does not attract political attention. Children with weak socioeconomic backgrounds have considerably lower chances of gaining access to higher education, and little progress has been made in the last decades.

United Kingdom

Score 8 Over the last 15 years, measures to combat discrimination have entered the political agenda, the statute books and, perhaps most tellingly, have become cultural norms. Starting with the Race Relations Act 2000, all public authorities have been obliged to promote race equality and tackle discrimination. In 2006, this was extended to cover gender and disability discrimination. The Equality Act 2010 has added further areas, such as age, gender identity, pregnancy and maternity and religion or belief. Political pressure is being exerted to add "caste" in order to fight discrimination still common in the Asian community. The legal framework is therefore very robust in countering discrimination and has had a significant impact on social attitudes, with the result that incidents of discrimination are rapidly and loudly condemned.

The state has made a serious attempt to end discrimination and abolish inequalities by reacting to a number of scandals in, for example, the police force with its alleged "institutionalized racism." Relatively minor incidents on the football field become headline news and the mainstream view is very strongly anti-discriminatory, to the

extent that even populist political parties appealing to indigenous groups have to be very careful to avoid any hint of overt racism or other forms of discrimination. The perception that the indigenous population is crowded-out from public services and social housing has contributed to concerns about the impact of immigration, on which right-wing political forces and the right-wing press are capitalizing. There is still a massive imbalance in the national DNA database (40% of the black male population is registered, but only 13% of Asian males and 9% of Caucasian males), and anti-terrorism laws sometimes entail racial profiling, but these phenomena are motivated primarily by security concerns, not explicit discrimination. Moreover, support for equality measures is evident in how public opinion reacts to cases of discrimination.

United States

Score 8

The U.S. federal and state governments have enacted many laws prohibiting discrimination. At the federal level, enforcement is centered in a Civil Rights Division within the Justice Department and an independent Equal Employment Opportunity Commission. While the origins of these policies are found in the civil rights movement of the 1960s, the framework of protection has been extended from racial minorities to women, the aged and disabled, and in some state and local contexts, LGBTQ. The Obama administration made progress with regard to gender equality.

The federal government has not actively pushed affirmative-action policies, such as preferential treatment for disadvantaged groups, since the Clinton administration. The U.S. Supreme Court has imposed restrictions on state-university practices that favored black or Latino students in admissions, while upholding state policies that barred race or ethnicity as considerations in admission. In general, liberals and conservatives disagree on how much the persistence of unfavorable outcomes for African Americans in educational achievement, employment status, income, incarceration and other areas is a consequence of ongoing discrimination despite existing legal protections.

The Trump administration has announced reversals of some Obama-era anti-discrimination policies. The Justice Department has announced that an anti-discrimination law does not protect transgender workers, opening people up to potential discrimination in the workplace based on their gender identity. In 2017, Donald Trump signed a directive reinstating a ban on transgender individuals serving in the military. Transgender troops had been able to serve openly since the Obama administration lifted the ban in 2016. The Trump administration and the Republican-controlled Congress will undoubtedly minimize anti-discrimination enforcement. Attorney General Jeff Sessions was a strong opponent of anti-discrimination policies while he served in the Senate. The administration is also appointing numerous very conservative judges. It is possible that past anti-discrimination achievements will be eroded.

Australia

Score 7

Australia has developed a substantial body of anti-discrimination legislation, covering sex, race, ethnicity, marital status, pregnancy and disability. The body charged with overseeing this legislation, the Australian Human Rights Commission, is a statutory authority. After completion of a National Human Rights Consultation, Gillard's Labor government moved toward replacing existing anti-discrimination legislation with a single integrated act that additionally incorporated prohibitions on discrimination on the basis of sexual orientation. Despite a reduction in sexual discrimination over recent decades, a 2016 survey of young Australians indicated that discrimination against women remains a problem.

No changes to legislation were ultimately made during the Gillard government's term in office, and the new coalition government has shown no interest in implementing the changes. Indeed, in November 2013, the attorney general announced a plan to amend part of Australia's racial-discrimination laws by repealing section 18C of the Racial Discrimination Act 1975, which makes it unlawful for someone to perform an act that is reasonably likely to "offend, insult, humiliate or intimidate" someone because of their race or ethnicity. In response to widespread opposition to the proposal, it was abandoned in August 2014. Several members of the coalition government nonetheless continue to advocate for its repeal.

Even though outside of the review period, it is important to note that Australia has finally joined other OECD countries that permit same-sex marriage. Following a broad majority in a public referendum, Australian parliament passed a bill on 7 December 2017 that allows same-sex marriage.

Citation:

<https://www.missionaustralia.com.au/what-we-do/research-evaluation/youth-survey>

<http://www.smh.com.au/business/workplace-relations/gender-discrimination-starts-young-mission-australia-2016-youth-survey-20161202-gt2snt.html>

<http://abcnews.go.com/International/australian-parliament-approves-sex-marriage-lengthy-national-debate/story?id=51637900>

Estonia

Score 7

Discrimination is prohibited by law, and several governmental institutions have been established to ensure non-discrimination. Alongside the Chancellor of Justice, the Gender Equality and Equal Treatment Commissioner (GEETC) acts as an independent and impartial expert tasked with monitoring the issue of discrimination. Legal standards are set by the Gender Equality Act (2004) and Equal Treatment Act (2009). The Registered Partnership Act (2016) allows same-sex couples to register

their partnership, but several secondary legal acts are still missing because of heavy opposition from some parliamentary parties.

Gender equality has been a longstanding challenge and is reflected, for example, in the largest gender pay gap in Europe. Out of all cases filed with the GEETC in 2016, about half were made on the basis of gender. The second-largest number of cases concerns discrimination on the basis of religion, language or citizenship (70 out of 332), followed by disability (55), ethnicity (20), sexual orientation (10), and skin color (5). More than half of the discrimination cases occurred in workplaces.

Citation:

GEETC (2017) Annual Report to the Parliament. (in Estonian) [http://www.vordoigusvolinik.ee/wp-content/uploads/2017/04/aastaaruanne-2016.pdf/](http://www.vordoigusvolinik.ee/wp-content/uploads/2017/04/aastaaruanne-2016.pdf) (accessed 25.10. 2017)

Greece

Score 7

Protection against discrimination on the basis of race has been regulated since 1979, while protection against gender discrimination is regulated by the New Family Law passed in 1983. The European Union's legislative acts also provide protection from gender discrimination. However, legislation against discrimination has rarely been implemented.

In the period under review, the outcry against racism and the rise to power of a left-wing party, Syriza, contributed to the decline of discrimination. In fact, the opposite of racist discrimination, namely tolerance, solidarity and support of foreigners, was observed in the summer and the fall of 2015, when Greece received a vast inflow of refugees from Syria, Iraq and Afghanistan (210,000 refugees arrived in and passed through Greece in the month of October alone).

Moreover, Greece recorded the largest improvement in the protection of LGBTI rights between 2015 and 2016, while new legislation passed between 2015 and 2017 grants extensive rights to same-sex couples and recognizes self-proclaimed gender identity for people experiencing gender dysphoria.

Citation:

Family relations are regulated through law 1329/1982, while anti-discrimination legislation is found in law 927/1079 (amended in 2001 to facilitate the intervention of prosecuting authorities against trespassers). European Union law, naturally also applicable in Greece, regulates gender discrimination. See, for instance, the Gender Directive, officially known as Council Directive 2004/113/EC of 13 December 2004.

Information on protection of LGBTI rights is available from https://www.ilga-europe.org/sites/default/files/Attachments/side_a_rainbow_europe_map_2016_a3_small.pdf

Italy

Score 7

At the legal level, anti-discrimination norms exist and are sufficiently developed. Their implementation is sometimes not equally satisfactory. This happens in particular in the field of physical and mental abilities, of gender or for some cases of

ethnic minorities (the Roma, for instance). Italy has a very inclusive model for integrating physically and mentally disabled persons. However, in some regions, the system lacks financial resources.

In the public administration there is an increasing effort by the Department for Equal Opportunities to monitor the impact of gender discrimination on a regular basis. The department's report of 2017 indicates – with some exceptions – significant gains made in gender representation in the higher levels of state administration. The percentage of women among the top ranks of the central administration reached 46%. Levels are lower in universities and independent authorities. The situation of gender representation in the business sector is generally less satisfactory but improving. Much greater progress was achieved in political institutions, such as parliament, assemblies and cabinet.

With regard to immigrants and especially illegal immigrants, discrimination is widespread. Whereas immigrants generally enjoy access to the health care system, their rights in other areas – labor relations in particular – are not well protected.

In 2016, the parliament approved legislation allowing same-sex civil partnerships. Italy's constitution and the political reality grants considerable political autonomy and cultural rights to regions with non-Italian or non-mainland minorities and majorities such as Val d'Aosta, Trentino and South Tyrol, Sardinia, Sicily but also to ancient ethnic groups such as the Alberesh, which originated in Albania. Some municipalities created democratically elected assemblies to represent migrants in the local decision-making.

Citation:

<http://www.pariopportunita.gov.it/notizie/20102017-quote-di-genero-nelle-societ%C3%A0-pubbliche-le-donne-aumentano-del-12-6-in-tre-anni/>

Latvia

Score 7

In 2011, Latvia concluded its transposition of EU anti-discrimination directives. Anti-discrimination legal provisions are scattered among more than 30 pieces of legislation, with policy responsibilities dispersed among a significant number of state institutions. No single entity takes the lead in designing and implementing anti-discrimination policy. Individuals complaining of discrimination typically approach the Ombudsman. The Ombudsman has focused on labor-market discrimination on the basis of age, sex and sexual preference, cases of hate speech, and on issues of equal access to education and health services.

Due to Latvia's ethnic makeup, discrimination based on ethnic origin is often cited in the media. The legal framework has been deemed non-discriminatory and official complaints are rare. However, public rhetoric on issues of citizenship, loyalty, language of instruction in education and use of language in public life can be inflammatory and be perceived as discriminatory. In 2016, new legislation was

passed requiring “loyalty” from teachers in the public-school system, creating concerns over how this “loyalty” measure will be implemented.

Discrimination on the basis of sexual orientation is poorly regulated. It is only mentioned in the context of Labor Law. The Ombudsman’s efforts to draw public attention to the issue of same-sex partnerships have been fraught with controversy due to intense polarization of views within Latvian society.

Citation:

1. European Network of Legal Experts in the Non-discrimination Field (2011), Report on Measures to Combat Discrimination, Available at: http://www.non-discrimination.net/content/media/2011-LV-Country%20Report%20LN_final.pdf, Last assessed: 18.05.2013
2. The European Network of Legal Experts, Country report – Main Legislation, Available at: <http://www.non-discrimination.net/content/main-legislation-10>, Last assessed: 18.05.2013
3. Latvian Centre for Human Rights (2011), Anti-discrimination in Latvia: From Legislation to Judicial Practice, Available at (in Latvian): http://cilvektiesibas.org.lv/site/attachments/29/01/2012/Diskriminacijas_noversana_Latvija_II_Screen.pdf, Last assessed: 21.05.2013.
4. Ombudsman of Latvia (2016), Annual Report, Available at (in Latvian): http://www.tiesibsargs.lv/uploads/content/lapas/tiesibsarga_2016_gada_zinojums_1489647331.pdf, Last assessed: 10.11.2017.
5. Ombudsman of Latvia (2012), Report on the Conference Regarding Progress Evaluation of 2012, Available at (in Latvian): http://www.tiesibsargs.lv/files/2012._gada_konferences_materi%C4%81li/runa_j_jansons_2012_tiesibsarga_konferences_preses_konference_12122012.pdf, Last assessed: 21.05.2013
6. University of Latvia, Social and Political Research Institute (2014). How Democratic is Latvia: Democracy Audit 2005 – 2014. Available at (in Latvian): http://www.szf.lu.lv/fileadmin/user_upload/szf_faili/Petnieciba/Demokratijas_audits_2014_kopaa.pdf, Last assessed: 03.11.2014

Lithuania

Score 7

Lithuania legislation is largely consonant with European non-discrimination standards. The country’s Criminal Code regulates racially motivated and xenophobic incidents and discriminatory acts. In 2013, Lithuania made it possible to conduct investigations into and prosecute domestic-violence offenses without the victim’s consent, and simplified the procedure for legal gender recognition based on the submission of medical proof of gender-reassignment surgery.

The number of criminal acts deemed to be inciting hatred increased in 2011 compared to 2010. A number of state institutions are tasked with preventing various forms of discrimination, but their activities lack coordination. Furthermore, NGOs implement activities aimed at strengthening the participation and representation of specific vulnerable groups (i.e., the small Roma population or members of the LGBT (lesbian, gay, bisexual, and transgender) community). Some awareness-raising campaigns have sought to prevent racial discrimination and promote tolerance, but these have been fragmented.

The impact that criminal cases, special-representation measures and awareness-raising campaigns have had on the elimination of discrimination is unclear due to the limited evidence available. Lithuania's human-rights organizations, particularly the Lithuanian Center for Human Rights, claim that a lack of attention from state institutions, disproportionate budget cuts during the financial and economic crisis, and policy-implementation failures have undermined anti-discrimination and anti-racism efforts.

Some cases of discrimination or racist activities have been observed in recent years, including a resurgence of neo-Nazi activities (e.g., a public march held in 2012) that was emphasized by the United Nations Committee on the Elimination of Racial Discrimination. Despite the adoption of anti-domestic-violence legislation, spousal and child abuse remain problems, as illustrated by a woman's death in 2013 (due to a lack of response from the police emergency-response center). According to Eurobarometer surveys, combating discrimination effectively in Lithuania remains difficult due to a lack of public support. In addition, political opposition occasionally forms a significant barrier to the implementation and enforcement of equality legislation.

However, according to public opinion surveys, the perception of discrimination as a widespread problem is significantly lower than EU averages. According to 2015 Eurobarometer data, 29% of respondents in Lithuania agreed that discrimination on the basis of ethnicity was widespread, compared to an EU average of 64%, while 17% of respondents thought that religious discrimination was widespread, compared to an EU average of 50%.

Citation:

Report on racism and related discriminatory practices in Lithuania can be found at http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202010-11/ENAR%20Shadow%20Report_Lithuania_2011_FINAL_CONFIRMED.pdf

Information on Lithuania by the Committee on the Elimination of Racial Discrimination is available at <http://www2.ohchr.org/english/bodies/cerd/followup-procedure.htm>

The 2017 freedom rating of Lithuania by the Freedom House is available at <https://freedomhouse.org/report/freedom-world/2017/lithuania>

European network of legal experts in gender equality and non-discrimination, Lithuania country report 2016: <http://www.equalitylaw.eu/downloads/3737-2016-lt-country-report-nd>

Portugal

Score 7

State policies seek to redress discrimination, and cases of overt discrimination are rare. Moreover, Portugal has been a signatory to the International Covenant on Civil and Political Rights since October 1976.

Nevertheless, two areas of concern remain:

First, the gap between average pay for women and men has increased steadily in

recent years. The unadjusted gender wage gap increased from 8.4% in 2006 to 14.9% in 2014 and to 17.8% in 2015. This latter result pushed Portugal's gender wage gap above the EU average for the first time since 2006.

Second, racial discrimination remains a concern. The Commission for Equality and Against Racial Discrimination (CICDR) received and analyzed 119 complaints regarding racial discrimination in 2016. This was the highest such number since 2000, and represented a rise from only 84 complaints in 2015.

However, the Costa government also has the most diverse cabinet since Portugal's democratization. Aside from a prime minister of Indian (Goan) ascent, the cabinet also includes Afro-Portuguese Minister of Justice Francisca Van Dunem, as well as a Roma junior minister and a blind junior minister.

Citation:

Eurostat, Gender pay gap in unadjusted form, available online at: <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tsdsc340&plugin=1>

Diario de Noticias, Miguel Marujo, "Queixas por discriminacao racial atingiram numero maximo em 2016."

Slovenia

Score 7

Slovenian law guarantees equal rights to all citizens and protects against discrimination based on prescribed criteria. There are also various forms of positive discrimination, including a gender quota in electoral law and special voting rights for the officially recognized national minorities as well as for the Roma population. Despite the legal framework, foreign workers and women are still at times paid somewhat less for the same work than Slovenian and male workers, and there have been cases of discrimination against same-sex couples. Amnesty International and others have criticized the government for not doing enough to counter discrimination toward the Roma. Media rights for minorities other than the Hungarian, Italian and Roma are underdeveloped.

Citation:

European Commission (2017): Country Report Slovenia about Non-Discrimination. Brussels (<http://www.equalitylaw.eu/downloads/4437-slovenia-country-report-non-discrimination-2017-pdf-1-96-mb>).

Spain

Score 7

Any discrimination based on birth, race, sex, religion, opinion or any other personal or social condition or circumstance is forbidden in Spain (according to the constitution and all important international and European treaties signed by Spain that are relevant to counteracting marginalization). In addition, any individual, whether a national citizen or not, can invoke a special expedited procedure in the courts asking the state to protect him or her against any form of discrimination. As a

result, cases of explicit discrimination are extremely rare. The Ministry of Health, Social Services and Equality, the ombudsperson, and several regional agencies are active in monitoring discrimination. Of course, this does not mean that occasional public discrimination and, above all, indirect social discrimination are never observed, particularly concerning women, the elderly, persons with disabilities, and ethnic and linguistic minorities. For example, there remain significant wage differences between men and women, and few women sit on the boards of companies. The recent approval of equal parental leave for fathers may prove a positive development.

Though there are instances of discrimination toward Muslim immigrants and the Roma, a survey conducted by the Pew Research Center in 2016 showed that Spaniards express fewer fears than other Europeans regarding minorities and tend to express less negative views about immigration. It is true that anti-Muslim views are comparatively common (50% of Spaniards have an unfavorable opinion of Muslims, although the community represents only 3.5% of the total population), and some tensions emerge from time to time, but it is also true that the state tends to offer protection to minority communities. Spain is also considered to be a pioneer in fighting discrimination against homosexuals and women, although the Rajoy government was less active in this realm than its predecessor. The main national agency tasked with monitoring equality and antidiscrimination efforts is the Institute for Women and Equal Opportunities. Nevertheless, Spain has not yet adopted a comprehensive antidiscrimination law and the European Parliament declared in a 2015 report that “there are some concerns about whether the law in Spain is in complete compliance with the EU directives on racial and employment equality.”

Citation:

June 2017, Chatham House: “The Future of Europe: Comparing Public and Elite Attitudes”
<https://reader.chathamhouse.org/future-europe-comparing-public-and-elite-attitudes#>
European Commission, Special Eurobarometer 437: “Discrimination in the EU in 2015”
http://www.equineteurope.org/IMG/pdf/ebs_437_en.pdf

Austria

Score 6

Austrian law bars discrimination based on gender, religion, race, age or sexual orientation. In practice, despite the institutionalization of an anti-discrimination policy, discrimination is evident within Austrian society. This includes indirect discrimination directed against women, who are still underrepresented especially at the level of management in the business sector; discrimination against dark-skinned persons, in some cases by the police; and gays and lesbians, whose position has improved, but still features structural disadvantages. Particularly with reference to sexual orientation, Austrian policies had retained a rather conservative orientation, limiting the legal institution of marriage to heterosexual partnerships. Although legal substitutes existed for gay and lesbian couples, the bureaucratic reality made life for heterosexual partners considerably easier. A decision by the Constitutional Court in

2017 ended this kind of discrimination and same-sex marriage will become possible as of 1 January 2019.

From the viewpoint of an inclusive democracy, the most significant form of discrimination is currently the increasing number of people living legally in Austria but excluded from political participation by the obstacles faced when applying for Austrian citizenship. Dual citizenship in Austria is legally possible, but the dominant policy is to make it as difficult as possible.

Belgium

Score 6

As in most countries, discrimination exists in practice. Average employment rates and educational achievements among Belgian citizens of foreign origin, for example, are significantly lower than among their native-born counterparts. A significant percentage of the Belgian population openly expresses racist speech or feelings, though rarely through mainstream media outlets.

With regard to providing equal opportunities to the disabled, Belgium performs less well than most northern European countries. The country also falls below the European average with regard to acts of violence against ethnic minorities, although state institutions have taken a proactive stance in such matters. Gay marriage has been legal for more than 10 years without significant social upheaval, mass demonstrations or violence. In 1993, the Belgian parliament founded a government agency called the Centre for Equal Opportunities and Opposition to Racism, changing its name to the Interfederal Centre for Equal Opportunities (UNIA) in 2016. UNIA is easily accessible to the public, and its many activities, including legal support for people subject to discrimination, are publicly visible.

In the years since the terrorist attacks on Paris and Brussels, a specific set of challenges has emerged in the form of reports of police violence and abuse toward Muslims. However, these incidents are not expected to become a part of systematic policy, and thus should be progressively addressed by authorities.

Citation:

https://www.hrw.org/sites/default/files/report_pdf/belgium1116_web.pdf

on UNIA: English-language welcome page: <https://www.unia.be/en>

Chile

Score 6

In general terms, political rights are protected by legislature and government bodies. Major failings can be seen, for example, in the case of the Mapuche indigenous conflict in the southern part of Chile. The Mapuche are not constitutionally recognized as an ethnic minority with collective rights. Despite official denials, some

Mapuche captives claim to be political prisoners. There have been some important attempts to diminish discrimination, such as the Civil Union Agreement (Acuerdo de Unión Civil) that allows for the official acceptance of same-sex unions. The law on this issue was enacted in October 2015. In June 2017, President Bachelet officially apologized to the Mapuches for the mistakes and horrors (errores y horrores) committed or tolerated by the state toward these communities and presented the Plan de Reconocimiento y Desarrollo (Plan for Recognition and Development) Araucanía. This initiative seeks the recognition of collective rights and their language (mapuzungung), introduces a holiday in their honor (Día Nacional de los Pueblos Originarios) and creates the Ministry of the Indigenous Peoples and the Council of Indigenous Peoples.

With regard to gender, Chile is ranked 63 out of 144 countries in the latest Global Gender Gap Index (2017); its parity-imparity score (ranging from 0.00 = imparity to 1.00 = parity) is 0.704. Both figures represent an improvement compared to last year. Only about 16% of Chile's serving deputies and senators are women. These averages are much lower than comparable shares elsewhere in Latin America or in the OECD as a whole. In order to improve the ratio of women representatives, a new electoral law obligates political parties' electoral slates to be composed of at least 40% women beginning in the 2017 elections and provides financial incentives for the candidacy and election of women. Furthermore, a new labor reform package enacted in August 2016 implemented a 30% female quota for the representatives of labor unions.

Gender-discrimination issues are relevant in other spheres as well. For example, health care insurance is twice as expensive for women as for men due to maternity costs. Many other social, political, economic and legal policies and practices lead (directly or indirectly) to gender and ethnic discrimination.

Citation:

Interparliamentary Union, Situation as of 1. October 2017
<http://archive.ipu.org/wmn-e/classif.htm>

Global Gender Gap Index (2017)
<https://www.weforum.org/reports/the-global-gender-gap-report-2017>

<http://www.t13.cl/noticia/nacional/bachelet-anuncia-creacion-ministerio-pueblos-indigena>

Czech Republic

Score 6

The Czech legal system guarantees equality of access to work, education and social services before the law. The implementation of EU directives has underpinned such guarantees. Compared to other developed countries, however, gender discrimination remains relatively high, especially in the labor market. The World Economic Forum's 2017 Global Gender Gap Report ranked the Czech Republic 88th out of 144 countries due primarily to challenges facing women in the areas of economic participation and political empowerment (ranking 91st and 92nd respectively in these

categories). The discrimination of Roma remains a grave issue. The ratio of Roma pupils in so-called special schools that serve individuals with learning disabilities is about 30%, significantly higher than the actual proportion of Roma living in the Czech Republic. Such tracking means that many Roma children have a reduced chance of moving on to higher education and better work opportunities. As low-income Roma families have moved out of cities into rural areas in response to rising housing prices, territorial segregation has increased. The governmental response included a plan to move 6,000 low income (mainly Roma) families from temporary housing into permanent housing by 2020.

Citation:

World Economic Forum (2017): The Global Gender Gap Report 2017. Geneva (http://www3.weforum.org/docs/WEF_GGGR_2017.pdf).

France

Score 6

In principle, any discrimination such as those based on gender, race, ethnic origin or religion is banned by the constitution and by fundamental law. Beyond the recognition of the right of non-discrimination, however, institutional monitoring, judicial support and policy measures to ensure such rights are less than adequate.

France's legal basis for non-discrimination is solid. The controversial recognition of "marriage for all," or recognizing the right of gays and lesbians to legally marry, is a point in case. Courts tend not only to apply but also to extend these rights. Many policy measures, particularly financial incentives or subsidies, attempt to compensate for different instances of discrimination, in particular gender, age or migration background. However, the situation is often contradictory in many cases. For instance, while immigrants face challenges in getting residence permits, illegal immigrants have free access to health care and their children can be legally registered at school. A key contention concerns the integration of so-called second-generation immigrants. Despite many policy measures, a large number of these young French citizens feel like foreigners in their country, and they are often considered as such by the population at large. The failure to provide quality schooling and, later, a proper job is one of the most dramatic dimensions of what is called invisible discrimination. Empirical evidence exists examining discriminative practices experienced by Muslim job-seekers (cf., France Stratégie). One serious handicap in dealing with this situation is enshrined in the French republican tradition, which emphasizes strict equality and excludes in principle any sort of discrimination, even positive discrimination (such as gathering statistics based on ethnicity to determine social service allocation). The first measure Macron introduced from September 2017 to tackle these phenomena was a reduction in the number of pupils per class for primary schools located in designated poor and problematic areas. The maximum number of students per class (previously 24) has been halved to 12.

Institutionally, a recent development is the creation of a new body named the Defender of Rights, which replaces several specialized agencies. In addition to

national organizations, many regional or sectoral ad hoc institutions that address discrimination cases have been established.

Citation:

France Stratégie: Lignes de faille, Paris, October 2016

(<http://www.strategie.gouv.fr/sites/strategie.gouv.fr/files/atoms/files/rapport-lignes-de-faille-ok.pdf>)

Iceland

Score 6

Iceland's constitution states that every person should enjoy equal human rights regardless of gender, religion, opinion, national origin, race, color, property, birth, or other status. More specific provisions are to be found in the Penal Code, the Administrative Procedure Act, and the Equality Act. The Supreme Court has ruled based on those acts and the constitution. The Equality Act states that genders should be accorded equal rights in all areas of society and that discrimination in terms of pay, hiring, and employment is against the law. The Center for Gender Equality monitors adherence to this law and is obliged to refer all major cases to the courts.

Although equal rights are guaranteed by law, the reality is that discrimination occasionally occurs in Iceland, especially against women, disabled persons, and migrants. In the 2012 presidential elections, blind and physically disabled voters were denied the right to have an assistant of their own choice to help them vote at polling stations. Instead, they had to vote with help from public officials working at the polling stations. Following complaints from the Organization of Disabled in Iceland (Öryrkjabandalagið), the electoral laws were adjusted to allow blind or otherwise physically disabled individuals to independently nominate their own assistant who would be sworn to secrecy. This change applied to the 2013 parliamentary elections.

The government's non-compliance with the binding opinion of the United Nations Human Rights Committee, which ruled in 2007 that the management system of Iceland's fisheries was discriminatory, signals a less-than-full commitment to non-discrimination.

The U.N. Convention on the Rights of Persons with Disabilities was signed on behalf of the Icelandic government in March 2007. It was not until September 2016 that the Icelandic parliament, Althingi, passed a resolution to enable the government to ratify the convention. At the time of writing, this remains to be done.

Citation:

The Penal Code (Almenn hegningarlög no. 19/1940).

The Administrative Procedure Act (Stjórnsýslulög no. 40/1993).

The Gender Equality Act (Lög um jafna stöðu og jafnan rétt kvenna og karla no. 10/2008).

Act on changes on the Act on Parliamentary Elections (Lög um breytingu á lögum um kosningar til Alþingis nr.

24/2000 og lögum um kosningar til sveitarstjórna nr. 5/1998 (aðstoð við kosningu). Lög nr. 111 16. október 2012.

Dingsályktun um fullgildingu samnings Sameinuðu þjóðanna um réttindi fatlaðs fólks.
<http://www.althingi.is/altext/145/s/1693.html>

South Korea

Score 6

Discrimination remains a major problem in South Korea, particularly for women, migrants, LGTB people and North Korean defectors. In the Global Gender Gap Report 2017, South Korea was ranked 118th out of 144 countries measured. The country has shown progress on the Political Empowerment subindex and with regard to parity in tertiary enrollment; however, it also showed a small decrease in share of estimated income earned by women and in perceptions of wage equality within the Korean business community. The Moon government has promised to improve gender equality. As a start, he appointed six female ministers, which at one-third of the cabinet is a considerably higher share than in any previous Korean cabinet.

Discrimination against irregular workers and migrant workers is also common, with many migrant workers still having to submit to an HIV test in order to obtain a work visa. There were approximately 30,000 North Korean defectors in Korea at the end of 2016. They are eligible for South Korean citizenship, but often face months of detention and interrogations on arrival. According to a study by the National Human Rights Commission of Korea, half of the North Korean defectors in South Korea have suffered from discrimination, primarily directed at them by people in the street (20.6%), their supervisors (17.9%) or by co-workers (16.5%).

In 2015, the Ministry of Justice rejected an attempt by the Beyond the Rainbow Foundation to become the country's first registered LGBT advocacy group. However, in August 2017, the Supreme Court ordered the government to allow Beyond the Rainbow to register as a charity with the Ministry of Justice. Article 92 of the Military Penal Code, which currently faces a legal challenge, singles out sexual relations between members of the armed forces of the same sex as "sexual harassment" punishable by a maximum of one year in prison.

Citation:

Freedom House. "Freedom in the World 2016: South Korea." <https://freedomhouse.org/report/freedom-world/2016/south-korea>

Chosun Daily. "N.Korean Defectors Complain of Discrimination in S.Korea." March 15, 2017. http://english.chosun.com/site/data/html_dir/2017/03/15/2017031501539.html

World Economic Forum. Global Gender Gap Report 2017. November 2, 2017. http://www3.weforum.org/docs/WEF_GGGR_2017.pdf

Bulgaria

Score 5

The Bulgarian constitution, the 2004 Anti-Discrimination Act and various EU directives guarantee protection against discrimination. There is a Commission for Protection against Discrimination, and citizens have access to the courts in cases of

suspected discrimination. In practice, however, instances of discrimination can be frequently observed. Discrimination against the highly marginalized Roma minority remains a major issue. Groups such as people with mental and physical disabilities and members of sexual minorities face discrimination within the labor market. Elderly people and those with comparatively low socioeconomic status often face discrimination with regard to the provision of health services. Public discourse regarding migrants has grown increasingly xenophobic as many Bulgarian media outlets openly broadcast hate speech, thereby contributing to racially motivated agitation.

Croatia

Score 5

Although discrimination has been prohibited by several different legislative acts for some time, the new Anti-discrimination Act (ADA), which entered into force in 2009, was an important step. The new act prohibits discrimination in 10 specific areas of social life and distinguishes 17 different forms of discrimination. It has enabled new forms of judicial redress for cases of discrimination. The Ombudsman institutions have a large role in combating discrimination, and the Office of the Public Ombudsman serves as a central anti-discrimination body under the ADA. However, although discrimination is prohibited by the law, the legislation has not been fully implemented, and certain vulnerable groups still experience widespread discrimination. In particular, the Roma encounter discrimination in almost all areas of life, especially in education and employment. In addition, although Croatia has a good legal framework governing minority rights, Croatian citizens of Serbian ethnicity remain subject to discrimination.

Israel

Score 5

Israel's main venue for dealing with cases of discrimination is the court system, particularly the Supreme Court, which address cases of discrimination against women and minorities in professional, public and state spheres. The country has long-standing institutional mechanisms intended to promote equality, such as the Authority for the Advancement of the Status of Women in the Prime Minister's Office and the Equal Employment Opportunities Commission in the Ministry of the Economy. However, these tend to offer ad hoc solutions instead of comprehensive and long-term plans. Attempts to pass a basic law protecting equality, thus enshrining this normative concept alongside existing laws protecting human dignity and liberty, have proved unsuccessful. Instead, the struggle against discrimination is usually fought through Israel's media and in the form of vigorous NGO activity.

Progress has been made in recent years in the areas of women's rights and gay rights. The government addressed the expanding industries of human trafficking and

prostitution by opening designated shelters for victims and passing a 2006 law imposing prison terms of up to 20 years for perpetrators. The gay community has also achieved prominent victories; non-biological same-sex parents have been made eligible for guardianship rights and same-sex marriages conducted in foreign countries are now recognized by the state, with the first gay divorce granted in 2012.

The country has generally positive measures protecting the rights of disabled persons. The Commission for Equal Rights of Persons with Disabilities has stated that the gap between the general employment rate and the disabled employed population is constantly closing, and that the employment rate among disabled persons is rising (to 78% in 2013). The commission's work is based on the Equal Rights Law for Persons with Disabilities (1998), which mandates Israel to "protect the dignity and liberty of persons with disabilities and anchor their right to equal and active participation in society in all fields of life, as well as properly provide for their special needs in a manner enabling them to spend their lives in maximum independence, privacy and dignity, while making the most of their capabilities." Examples outside the labor market include fines for a lands authority for releasing a promotional video degrading Mizrahi Israelis; police raids targeting nightclubs and other entertainment venues applying discriminatory selection criteria; and police arrests of people linked to the racist "La Familia" organization.

However, numerous troubling signs remain. Discrimination against Palestinians is widespread and systematic. Following Israel's annexation of East Jerusalem in 1967, Arab residents were issued Israeli identity cards and given the option of obtaining Israeli citizenship, though most choose not to seek citizenship for political reasons. These non-citizens have many of the same rights as Israeli citizens, except the right to vote in national elections. They can vote in municipal as well as Palestinian Authority elections and remain eligible to apply for Israeli citizenship. However, Israeli law strips non-citizens of their local residency if they stay outside the city for more than three months. The most recent annual report of the Association for Civil Rights in Israel argued that there is "institutionalized and long-standing neglect and discrimination against the Arab population in the areas of land allocation, planning and housing."

A 2003 law denies citizenship or residency status to Palestinian residents of the West Bank or Gaza who marry Israeli citizens. This measure affects about 15,000 couples and has been criticized as blatantly discriminatory. In 2011, the Knesset passed a law allowing the courts to revoke the citizenship of any Israeli convicted of spying, treason or aiding the enemy. A number of civil rights groups and the Shin Bet security service criticized the legislation as unnecessary and overly burdensome.

Women still face discrimination in the labor market, earning lower average wages and salaries than men (women's average per-hour wage is 83% of the comparable wage for men). Moreover, women, Arabs and people with low incomes are underrepresented in technological and scientific study courses and work environments, a factor indicating persistent inequality in the educational system.

Citation:

Dahan, Tal, "Situation report: The state of human rights in Israel and the OPT 2016," The Association for Civil Rights in Israel, <http://www.acri.org.il/campaigns/report2016en/>

Adalah, Adalah's Annual Report of Activities 2016, April 2017, https://www.adalah.org/uploads/uploads/PDF_Adalah's_Annual_Report_of_Activities_2016_15.4.2017_FINAL.pdf

Swirsky, S., E. Konor-Atias, "Social status report 2016," January 2017. (Hebrew) <http://adva.org/wp-content/uploads/2017/03/SocialReport2016.pdf>

Tzameret-Kertcher, Hagar et al. "The Gender Index, Gender Inequality in Israel 2016," The Van Leer Jerusalem Institute, <http://genderindex.vanleer.org.il/wp-content/uploads/2016/12/%D7%9E%D7%93%D7%93-%D7%94%D7%9E%D7%92%D7%93%D7%A8-2016-%D7%9B%D7%A4%D7%95%D7%9C%D7%AA-%D7%A2%D7%9E%D7%95%D7%93%D7%99%D7%9D.pdf>

Zohar, Gal, "Equal participation – comparative view- Israel and the World," Report to the Ministry of Justice, 2016 <http://webcache.googleusercontent.com/search?q=cache:wFtosSXqLwAJ:www.justice.gov.il/Units/NetzivutShivyon/SiteDocs/Disabilities-Affirmative-Action-Report.docx+&cd=2&hl=iw&ct=clnk&gl=il>

Japan

Score 5

Women still face some discrimination, particularly in the labor market. Women's average salaries remain 27% below those of their male colleagues (based on 2016 data). The country's share of female parliamentarians – 9% according to World Bank data for 2017 – is low by the standards of other advanced countries. Prime Minister Abe has called women "Japan's most underused resource," and the government has designated "womenomics" as a key pillar of its reform program. Programs being implemented under this rubric include child care support and similar measures, and according to pledges made in the 2017 general election, a portion of the proceeds from the planned 2019 consumption-tax increase will be used for this purpose. Still, given the persistent undercurrent of sexism in Japanese society, de facto workplace discrimination will be hard to overcome.

The 3 million descendants of the so-called burakumin, an outcast group during the feudal period, still face social discrimination, though it is difficult for the government to counter this. Korean and Chinese minorities with permanent resident status also face some social discrimination. Naturalization rules have been eased somewhat in recent years. Workers from the Philippines, the Middle East and elsewhere frequently complain of mistreatment and abuses. According to a 2016 – 2017 Ministry of Justice survey, one in three foreigners have experienced discrimination in the form of derogatory remarks, housing discrimination or similar such behavior.

Japan continues to have a rather serious human-trafficking problem with respect to menial labor and the sex trade, in some cases affecting underage individuals.

The treatment of refugees and asylum-seekers is frequently the subject of criticism. Asylum status is still rarely granted – only 28 asylum-seekers were recognized in 2016 – despite the rising number of applications (around 17,000 in 2017).

Citation:

Akiko Fujita and Afifah Darke, As Abe injects fresh fiscal stimulus, how is Japan's 'womenomics' faring?, CNBC News, 3 August 2016, <http://www.cnbc.com/2016/08/03/as-abe-injects-fresh-fiscal-stimulus-how-is-japans-womenomics-faring.html>

Daniel Hirst, Japan racism survey reveals one in three foreigners experience discrimination, The Guardian, 31 March 2017, <https://www.theguardian.com/world/2017/mar/31/japan-racism-survey-reveals-one-in-three-foreigners-experience-discrimination>

Japan to limit work permits for asylum-seekers from 2018, Japan Times, 27 December 2017, <https://www.japantimes.co.jp/news/2017/12/27/national/crime-legal/japan-limit-work-permits-asylum-seekers-2018/#.WINKgvCnGJA>

Malta

Score 5

The Maltese constitution's chapter on fundamental human rights forbids discrimination on the basis of race, religion, gender or politics. Other laws forbid discrimination on the basis of physical disability or handicap. In Malta, the civil courts and the Constitutional Court are staunch defenders of anti-discrimination legislation. Since 2013, the government has strengthened the rights of gay, lesbian and transgender people through the establishment of civil unions and a gender identity act. Malta also has a number of independent commissions to protect the rights of vulnerable groups, such as children and disabled people. In the last budget, the government increased the fine for employers who discriminate against disabled people.

Women are generally underrepresented in the social, economic and political life of Malta; although much progress has been made in recent years, there remains a lack of consensus concerning the introduction of positive discrimination measures to address this problem. In the latest Gender Equality Index, composed of several indicators of equality, Malta scored 60% out of 100% overall and only 27.4% in the indicator of power. In the workplace, women earn about half of what men receive. Discrimination on grounds of political affiliation remains a problem, a direct result of the electoral system used in Malta. Aggrieved ordinary citizens may take their case to the Constitutional Court, the Employment Commission or the Ombudsman Office, while public servants may also bring a case before the Public Service Commission. Nevertheless, allegations of discrimination on political grounds remain common. In addition, it has been alleged that many cases of discrimination remain unreported. Migrant workers experience discrimination in accessing employment and within employment.

Citation:

Carabott, S. Expats Petition against Malta Discrimination. Times of Malta 12/04/13
 Ellul, T. REPORT ON MEASURES TO COMBAT DISCRIMINATION Directives 2000/43/EC and 2000/78/EC COUNTRY REPORT 2011 MALTA
 Unreported discrimination cases causes concerns Di Ve 24/05/13.
<http://www.timesofmalta.com/articles/view/20160615/local/agreement-reached-on-electricity-tariffs-for-rented-properties.615486>

http://www.maltatoday.com.mt/news/national/80052/muscat_to_participate_in_mentoring_programme_for_women_in_politics#.WesByVuCyM8

http://www.maltatoday.com.mt/news/national/80676/strong_representation_of_women_in_parliament_next_step_for_maltas_democracy#.WesClluCyM8

Malta is almost half way to gender equality, European Institute for Gender equality 24/06/16

Times of Malta 04/11/17 Women in Malta earn half of what men get

Mexico

Score 5

While there is a societal norm against overt racial discrimination, there is a significant correlation between race and class. Light-skinned Mexicans are over-represented among the wealthy and powerful. Recent data from the Latin American Public Opinion Project shows that they have significantly higher educational attainment and more material wealth. Social discrimination varies by region and setting. In urban centers, there is growing awareness around issues of gender and sexuality. The local constitution adopted by the Mexico City constituent assembly includes a number of liberal and progressive provisions. Nevertheless, more traditional gender roles and the political and social marginalization of women continue to be the norm, particularly in rural and less affluent areas.

The courts are increasingly assertive in taking up cases of gender equality. However, while there is generally more awareness of gender discrimination, attention to indigenous rights and other forms of social stigmatization is more limited. Moreover, as is often the case in Mexico, there is a considerable gap between formal rights and their effective guarantee and enforcement.

In an attempt to increase LGBT rights, the government presented a constitutional reform that would legalize same-sex marriages across the country and campaigned in favor of more inclusive rights for minorities. However, the government's proposed legislation failed in Congress and Mexico is considered one of the most dangerous countries in Latin America for trans individuals.

Citation:

Latin American Regional Report: Mexico & NAFTA (November 2016). "Spotlight on transgender rights."

Zizumbo-Colunga, D. and Iván Flores Martínez (2017). "Is Mexico a Post-Racial Country? Inequality and Skin Tone across the Americas." AmericasBarometer: Topical Brief #31, (<https://www.vanderbilt.edu/lapop/insights/ITB031en.pdf>).

Poland

Score 5

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. Anti-discrimination policy has not featured prominently on the agenda of the PiS government. Quite to the contrary, the PiS government has launched a strong discourse against Muslims and has spoken out against the LGBT community and “gender-ideology.” The new legislation on the financing of NGOs will make it more difficult for NGOs that campaign against discrimination to access public money. In a number of cases, NGOs that focus on women’s rights, domestic violence or asylum-seeker and refugee issues have already been denied funds.

Romania

Score 5 The Romanian state has been ineffective in countering discrimination against a number of vulnerable groups, including members of the LGBT community, adults and children infected with HIV, people with disabilities, and the country’s large Roma minority. The civil code still prohibits same-sex partnership and marriage, and fails to recognize any such marriages registered abroad. The popular initiative to make the constitutional definition of marriage more restrictive, with strong support by the Romanian Orthodox Church, has favored the discrimination of members of the LGBT community.

Slovakia

Score 5 While Slovakia has fairly sophisticated anti-discrimination legislation in place, the discrimination of Roma, women and LGBTI persons continues to be a major problem. The Roma population has suffered from the lack of access to adequate housing, the pervasive segregation of Roma children and their very high dropout levels in the education system, the excessive use of force by police officers during raids carried out in Roma settlements and various manifestations of hate speech. The second and the third Fico governments alike have not cooperated with Public Defender of Rights (Ombudswoman) Jana Dubovcová who has again and again drawn public attention to the discrimination of Roma. The new commissioner (government proxy) for Roma affairs appointed by the third Fico government (nominated by Most-Híd) has been only slowly gaining public support and political standing. Since the onset of the refugee crisis, Prime Minister Fico stirred a discriminatory discourse on refugees and migrants. Intolerance of immigrants, and discrimination and violence against minorities in Slovakia is relatively high. The most recent report of the United Nations Committee on the Elimination of Racial Discrimination (CERD) underlines the continuing discrimination of Roma and recommends effective measures to eliminate discrimination against members of the Roma minority. Moreover, CERD also expressed regret over the Slovak government ignoring its previous recommendations on creating an independent institution to investigate crimes committed by the police. The CERD again recommended that the

government quickly create such an institution. The conclusions of the European Council's Commission against Racism and Intolerance (ECRI) issued in March 2017 recommended the adoption of legislative changes to tackle racism and racial discrimination, the introduction of a mechanism for collecting joint data on hate speech incidents, the adoption of legislation banning political parties openly hostile to human rights, and the ratification of the Additional Protocol the Convention on Cybercrime. Moreover, the report states that the Ministry of Justice set up a working group in 2016 in order to develop proposals for the reform of the Slovak National Center for Human Rights. This task has not been accomplished yet.

Citation:

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Hungary

Score 4

Hungary has a comprehensive anti-discrimination legal framework in place, but in practice, little is done to enforce it. Fidesz's traditional family concept corresponds with strong discrimination against women in the areas of employment, career and pay, although there are some steps to reverse this policy. However, there are no female ministers or top-level leaders in Fidesz. The failure is even greater regarding the Roma minority. By trying to create a separate school system, the Orbán government has aggravated segregation. The government has also continued its hate campaign against Muslims and refugees. As a result, xenophobia has grown among Hungarians, with a spillover to all kinds of minorities, including Jews. The government's campaign against George Soros invoked anti-Semitic stereotypes.

Turkey

Score 4

While Article 10 of the constitution guarantees equality before the law, irrespective of language, race, sex, political opinion or religion, the political reality in Turkey differs significantly from this constitutional ideal. The executive's political discourse discriminates and insults opposition groups, including the CHP (the main opposition party), the HDP (the pro-Kurdish party), journalists, academics and LGBT communities. Insulting the president is a crime in Turkey punishable by up to four years in jail. In 2016, 4,936 cases against people charged with "insulting" President Erdoğan were opened. The courts convicted 1,080 of the defendants, acquitted 679 individuals and suspended judgment in 867 other cases.

The Law on the Human Rights and Equality Institution of Turkey provides a positive development toward non-discrimination. Turkey did not ratify Protocol 12 of the

ECHR providing a general prohibition of discrimination. The definition of hate crime is excessively narrow, while the Criminal Code does not explicitly provide that racist, homophobic or transphobic motivations constitute an aggravating circumstance. Core elements of the anti-discrimination law are not in line with recommendations from the European Commission against Racism and Intolerance (ECRI). Members of the Human Rights and Equality Institution were selected by the Council of Ministers (eight members) and the president (three members) in March 2017, only one member of the institution is female.

The educational needs of refugee children, work permits for refugees and return of displaced Kurds are major issues affecting the integration of disadvantage groups. Although Turkey ratified the Council of Europe Istanbul Convention on preventing and combating violence against women and domestic violence, gender-related violence, hate speech and discrimination against LGBT communities are serious problems. LGBT communities do not have any legal protections. The number of female victims of violence increased from 278 in 2016 to 293 in 2017. Physical attacks on non-Muslim residents were reported during the period under review, and physical and verbal anti-Semitic assaults are common in public. According to the Anti-Defamation League's 2015 Global Anti-Semitism Index, 71% of Turkey's adult population is estimated to harbor anti-Semitic attitudes – a slightly higher figure than for the Middle East and North Africa (MENA) region overall.

A number of high court rulings remain unimplemented, including the European Court of Human Rights' December 2014 decision on cemevi (gathering places for Alevi Muslims) as a place of worship and February 2015 rejection of Turkey's appeal on the issue of compulsory religious-education classes, as well as the Turkish Court of Cassation's August 2015 judgment on cemevi as religious locations within the scope of the ECHR ruling. Some leading politicians' "uneven" treatment of the Alevis negatively affects the public atmosphere.

The use of Kurdish and some other languages in formal education gradually widened. However, investigations and detentions of Kurdish activists have undermined efforts to find a workable solution to the Kurdish issue. The government introduced a National Strategy and Action Plan for Roma people, yet Roma continued to face discrimination in social and economic life.

Three years ago, the Ministry for Family and Social Policies adopted a national action plan to combat violence against women. However, despite rising public awareness, the incidence of violence against women in Turkey has undergone a dramatic and rapid increase in the last decade. Even though a large number of cases go officially unreported, women's rights groups reported that 230 women had been killed in 2016 as of mid-November. In some cases, courts have ruled that "extenuating circumstances" existed for perpetrators of so-called honor crimes. A 2014 Penal Code amendment expanding penalties for violence against women was considered unsatisfactory by women's rights associations. A controversial amendment on victims of sexual abuse was submitted by a group of AKP deputies in

early November 2016, yet withdrawn by the Constitution Commission following street protests. Gender discrimination and discrimination against LGBTI in the workplace is widespread.

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