

〈NGO・外務省定期協議会 2022 年度第 1 回 ODA 政策協議会 議題案／質問状記入シート〉

1. **議題案名**: 日本政府による民主主義共同体(CoD)運営理事国のメンバーシップ更新について

2. **議題の背景**:

民主主義共同体(Community of Democracies / CoD)¹は、2000年に設立された政府間組織であり、「ワルシャワ宣言」に記された共通の民主的価値の遵守を支援し、世界中の民主的なルールを支持し、民主的規範と制度を強化するという共通の目標に向かって、政府、市民社会、民間セクターが参加している。

日本政府は2000年にワルシャワで開催された民主主義共同体(CoD)閣僚級会合に参加²し、「民主主義にとって重要な基本的権利を確認し、民主主義へのコミットメントを表明し、民主主義の強化のために、民主主義コーカスを設置する等の協力を行うことにつき合意」した。日本政府は、その後、運営理事国(Governing Council)メンバーとして参加している。

民主主義共同体(CoD)は、6年ごとに運営理事国のメンバーシップを更新する手続きをとっている。これは、各国にとって、現地の市民社会のメンバーの積極的な参加を得て、ワルシャワ宣言の原則へのコミットメントを新たに作る機会である。2022年現在、カナダ、コスタリカ、フィンランド、ハンガリー、日本、ナイジェリア、ルーマニア、スウェーデン、ウルグアイの9カ国が、運営理事国メンバーシップ更新手続きの対象である。

民主主義共同体(CoD)のアドバイザーとして活動する「市民社会の柱(Civil Society Pillar / CSP)」は、55の非政府組織、すなわち市民社会組織、財団、地域ネットワーク、グローバルNGOで構成されている。CSPは、CoDの中で、市民社会総会によって選出された常設の執行委員会である国際運営委員会(International Steering Committee / ISC)によって代表されている³。

2022年5月20日には、民主主義共同体(CoD)市民社会の柱(CSP)の代表と日本の市民社会によるラウンドテーブルが開催され、日本政府の運営理事国更新について、また、以下の5つの分野における日本政府の取り組みや日本社会の状況に関して意見交換を行った。

- ・民主的ガバナンス(Democratic Governance)
- ・表現の自由(Freedom of Expression)
- ・政治参加(Political Participation)
- ・人権の保護と推進(Protection and Promotion of Human Rights)

¹ Community of Democracies (CoD) <https://community-democracies.org/>

² 第 1 回民主主義共同体閣僚級会合 https://www.mofa.go.jp/mofaj/gaiko/jinken/minshu/k_kaigo01.html

³ Civil Society Standards <https://community-democracies.org/resources/resolutions/>

このラウンドテーブルを経て、日本の市民社会フォーカルポイントを務める国際協力NGOセンター(JANIC)より、「市民社会の柱(CSP)」を通じて、民主主義共同体(CoD)運営理事国に対して報告書が提出され、日本政府の運営理事国更新に関する議論がなされる。

3. 議題に関わる問題点(議題に上げたい理由):

2015年に閣議決定された開発協力大綱⁴において、「重点政策」の重点課題「イ普遍的価値の共有、平和で安全な社会の実現」として、「『質の高い成長』による安定的発展を実現するためには、一人ひとりの権利が保障され、人々が安心して経済社会活動に従事し。社会が公正かつ安定的に運営されることが不可欠である。我が国はそうした発展の前提となる基盤を強化する観点から、自由民主主義、基本的人権の尊重、法の支配といった普遍的価値の共有や平和で安定し、安全な社会の実現のための支援を行う。法の支配の確立、グッドガバナンスの実現、民主化の促進・定着、女性の権利を含む基本的人権の尊重等は、効果的・効率的かつ安定した経済社会活動の基礎をなし、経済社会開発を支えるものであると同時に格差の是正を始め、公正で包摂的な社会を実現するための鍵である」と述べられている。

持続可能な開発目標(SDGs)には、直接的に民主主義の推進について言及されているわけではないが、民主主義の重要な要素である「人権の尊重」(すべての目標)、「ジェンダー平等」(目標5)をはじめ、「法の支配」・「説明責任のある透明性の高い公共機関」・「対応的、包摂的、参加型及び代表的な意思決定」・「情報への公共アクセス」(目標16)などが含まれており、国連加盟国政府は国内政策・国際協力の両面でSDGsの達成に向けて取り組むこと、そして、それをもって民主主義を推進することが期待されていると言える。

日本政府は2019年12月に発表した「SDGs実施指針改訂版⁵」において、優先課題1「あらゆる人々が活躍する社会・ジェンダー平等の推進」において、「国際社会における普遍的価値としての人権の尊重と、ジェンダー平等の実現及びジェンダーの視点の主流化は、分野横断的な価値としてSDGsの全てのゴールの実現に不可欠なもの」と表明している。また、優先課題7「平和と安全・安心社会の実現」においては、「日本は、平和国家としての歩みを引き続き堅持しつつ、国際協調主義に基づく積極的平和主義の立場から、国際社会の平和と安定及び繁栄の確保に一層積極的に貢献していく必要がある」、「人権が保障され、安全で安心して暮らせるまちを実現するため、それぞれの地域における取組も重要である」と述べている。また、具体的な取り組みとしては、2021年3月には、SDGsの達成に向けた法の支配の推進をテーマとする第14回国連犯罪防止刑事司法会議(京都 kongress)を開催している。

⁴ 開発協力大綱 <https://www.mofa.go.jp/mofaj/gaiko/oda/files/000072774.pdf>

⁵ SDGs 実施指針改訂版 https://www.kantei.go.jp/jp/singi/sdgs/pdf/jisshi_shishin_r011220.pdf

上述したとおり、人権の尊重、ジェンダー平等の実現、ジェンダーの視点の主流化、法の支配は、民主主義を構成する重要な要素であり、日本政府は国内政策および国際協力において、これらを実現するための各種取り組みを進めている。

一方、2021年7月に発表したSDGsの進捗報告書「2030アジェンダの履行に関する自発的国家レビュー2021～ポスト・コロナ時代のSDGs達成へ向けて～⁶」においては、民主主義に関わりの深いSDGsの目標16に関する取り組みとして、外交政策の柱の一つとして「法の支配の強化」を掲げていることや、子どもに対する暴力の撤廃や児童労働撤廃に向けた取り組みは紹介されているが、人権の尊重や情報への公共アクセスなどについての言及は乏しい。また、「円卓会議民間構成員による進捗評価」では、「刑務所や外国人収容所、老人病院、高齢者施設、精神病院等、公共・民間を問わず、収容施設における人権侵害や虐待は、国連自由権規約に関する審査などにおいても課題となっている」、「COVID-19 対策を含め、意思決定への十分な参画(16.7)ができていない。多様なステークホルダーが、VNR策定も含む意思決定過程に参画する機会を増やすべき。特に、市民社会、次世代の声、ジェンダーの観点などが不足している」、「特に脆弱な状況に置かれた人々やコミュニティとの関係で、公共機関や政策の運営が、十分な透明性、公開性、説明責任に基づいて行われていない」などの課題が指摘されている。

国際的な文脈では、2021年12月にアメリカ政府が主催した「民主主義のためのサミット⁷」において、日本政府は、(1)より透明な政府に向けて共に歩む(腐敗との闘い)、(2)より強固な民主主義に向けて共に歩む(権威主義からの防衛)、(3)より一層の人権尊重に向けて共に歩む(人権の促進)を柱とするコミットメントを発表している。

また、日本政府も参加するG7は「民主主義、自由、平等、法の支配及び人権の尊重という共通の価値」を共有しており、2021年にイギリス政府が議長国を務めたG7サミットでは、「G7カービスベイ首脳コミュニケ⁸」および「開かれた社会声明⁹」において「責任及び透明性のある統治体制内における、自由かつ公正な選挙での各市民の投票権や、全ての人々の平和的な集会・組織・結社の権利を含む、民主主義」を再確認し、他国に対して奨励することが喫緊であると述べられている。

2022年5月31日に内閣府経済財政諮問会議において発表された「経済財政運営と改革の基本方針2022(仮称)(原案)」¹⁰においても、「我が国は、次期G7議長国として、自由、民主主義、人権、法の支配といった普遍的価値に基づく国際秩序の維持・発展のための外交を積極的に展開」し、「これら

⁶ 2030 アジェンダの履行に関する自発的国家レビュー2021～ポスト・コロナ時代の SDGs 達成へ向けて～
https://www.mofa.go.jp/mofaj/gaiko/oda/sdgs/pdf/vnr2021_00_full.pdf

⁷ 米国主催民主主義のためのサミット(結果概要)
https://www.mofa.go.jp/mofaj/gaiko/jinken/minshu/page3_003174.html

⁸ G7 カービスベイ首脳コミュニケ <https://www.mofa.go.jp/mofaj/files/100200083.pdf>

⁹ 2021 年 開かれた社会声明 <https://www.mofa.go.jp/mofaj/files/100200087.pdf>

¹⁰ 「経済財政運営と改革の基本方針 2022(仮称)(原案)」 https://www5.cao.go.jp/keizai-shimon/kaigi/minutes/2022/0531/shiryo_01.pdf

の取組を推進するため、時代に即した国際協力のあり方を模索するとともに、国際機関とODAを通じた国際協力の戦略的活用に加え、ODAを質・内容共に充実させる」ことが述べられている。

排外主義やヘイトスピーチ、法の支配の逸脱、独裁政治の強化、市民社会への弾圧、自由なメディアの規制など、世界的に「民主主義の危機」と言われている今日、上記のように民主主義の発展に取り組む日本政府が引き続き民主主義共同体(CoD)の運営理事国メンバーとして参加することは、持続可能な開発目標(SDGs)、特に目標16「平和と公正をすべての人に」の達成のためにも極めて重要であるとする。

4. 外務省への事前質問(論点を詰めるために事前に確認しておきたい事実関係などがあれば):

(1) 外務省のウェブサイト「民主主義共同体閣僚級会合¹¹⁾」では、「第9回民主主義共同体閣僚級会合」(2017年9月開催)が最新の記事であるが、それ以降の閣僚級会合について記載がない。日本政府から誰が出席したのか、また、それらの記録の掲載はいつを予定しているかを伺いたい。なお、民主主義共同体(CoD)の公式ウェブサイトには、2021年9月に開催された第10回閣僚級会合(10th Ministerial Conference of the Community of Democracies)の開催報告が既に掲載されている¹²⁾。

(2) 日本政府が出席している運営理事国の記録について、日本語仮訳を添付した上で情報を公開する予定があるかどうかについても伺いたい。

5. 議題の論点(定期協議会の場で主張したいことや、外務省に聞きたいこと):

・日本政府として、民主主義共同体(CoD)の運営理事国のメンバーシップが更新された際、具体的にどのような面で運営理事国に貢献したいと考えているかどうかを伺いたい。

・2022年5月19日および20日に、民主主義共同体(CoD)の常設事務局と日本政府関係者の間で行われた運営理事国の更新に関する会合の詳細(日時、参加者、議題、議論概要)を伺いたい。

・市民社会ラウンドテーブルを経て、日本の市民社会が作成した報告書について、意見交換を行う場を設けたいと考えるが、日本政府の意向を伺いたい。

・民主主義共同体(CoD)が民主主義の進展という役割を果たすために、その一員である日本政府と市民社会が協力して行えることがあるとすればどのようなことが考えられるかを伺いたい。

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¹¹⁾ 民主主義共同体閣僚級会合 https://www.mofa.go.jp/mofaj/gaiko/jinken/minshu/k_kaigo.html

¹²⁾ Ministerial Conferences <https://community-democracies.org/what-we-do/ministerial-conferences/>



Multitudes

**CIVIL SOCIETY PILLAR
INTERNATIONAL STEERING
COMMITTEE AND FOCAL
POINTS REPORTS**

***Governing Council Membership
Renewal
2021 - 2022***

 **Civil Society Pillar**
Community of Democracies

ISC
Civil Society Pillar
Community of Democracies

Introduction

The Community of Democracies (CoD) is a global intergovernmental coalition of states, founded in 2000, that supports adherence to shared democratic values enshrined in the Warsaw Declaration to bring together governments, civil society and the private sector in pursuit of a common goal: supporting democratic rules and strengthening democratic norms and institutions around the world.

The Community's principal decision-making body is the Governing Council that comprises 28 Member States which are represented by members of their Ministries of Foreign Affairs. On the other hand, the Civil Society Pillar (CSP) includes all non-governmental entities which are part of the CoD, namely civil society organizations (CSOs), foundations, regional networks and global NGOs. The International Steering Committee (ISC) is the governing body of the CSP and the Focal Points (FPs) are CSOs that serve as counterparts to their corresponding GC member governments with the primary role to convey the views of civil society to their governments on issues coming before the CoD's Governing Council.

Every six years, member-countries undergo a renewal process of their membership to the CoD. The renewal process is extremely important, as it is an opportunity for countries to renew their commitment to the Warsaw Declaration principles, with the active participation of members of the local civil society.

The CSP Secretariat, Fundación Multitudes, stresses the importance of holding meetings with local civil society organizations during this process in order to gather their views on the state of democracy in the countries undergoing the renewal process and their recommendations for improvement, therefore complying with the Warsaw Declaration standards and values.

In the current 2021-22 renewal round, 9 countries are currently under the process: Romania, Finland, Canada, Uruguay, Sweden, Hungary, Nigeria, Japan, and Costa Rica. The Joint Visits and Civil Society Roundtables in the aforementioned countries took place in the following dates:

- Romania, September 9 - 10, 2021
- Finland, October 27 - 29, 2021
- Canada, March 31 - April 1, 2022
- Uruguay, April, 25 - 26, 2022
- Sweden, May 9 - 10, 2022
- Hungary, May 12, 2022
- Nigeria, May 16 - 17, 2022
- Japan, May 19 - 20, 2022
- Costa Rica, May 30, 2022

In this document we gather the reports made by the ISC and Focal Points on the state of democracy in the nine countries undergoing the current renewal process based on the 19 principles of the Warsaw Declaration distributed in five clusters: Democratic governance, freedom of expression, political participation, protection and promotion of human rights, and rule of law.

We would like to thank the CSP Focal Points for their continuous support and remarkable work, as well as other civil society organizations that were part of this process, particularly Expert Forum, Cooperation Canada, Nigeria Network of NGOs, Japan NGO Center for International Cooperation, Fundación para la Paz y la Democracia, and Transparency International Finland.

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Romania

Section I - Democratic Governance

- That government institutions be transparent, participatory and fully accountable to the citizenry of the country and take steps to combat corruption, which corrodes democracy.
- That the legislature be duly elected and transparent and accountable to the people.
- That civilian, democratic control over the military be established and preserved.
- The obligation of an elected government to refrain from extra-constitutional actions, to allow the holding of periodic elections and to respect their results, and to relinquish power when its legal mandate ends.

Democratic governance:

According to Freedom House's *Nations in Transit* 2021 Report, Romania is considered a semi-consolidated democracy, with an overall democracy score of 57/100¹, while Transparency International Corruption Perception Index 2021² rates Romania 69th out of 180 countries, with a score of 44. Key institutions are viewed as corrupt (80% of responders view corruption as a big problem in the government), while 45% of the citizens consider that corruption increased in the past 12 months³. The government's capacity to fight corruption is marked as rather low.

In the past two years Romania has undergone a significant change in political power. In November 2019 President Klaus Iohannis, supported by the National Liberal Party (PNL) was re-elected for a second mandate, while a minority center-right cabinet formed by PNL was appointed. The parliamentary majority led by the Social Democrat Party (PSD) and its allies blocked reforms on controversial topics such as elections, justice or the abolition of special pensions for magistrates and dignitaries. Moreover, it promoted unsustainable populist measures that would boost their chances in the elections scheduled for 2020 without any executive political drawback. These included increasing pensions by 40 per cent⁴ and doubling the child allowances⁵ - measures that could not have been realistically supported by the state budget. The parliamentary majority brought the social expenditure measures to the parliament before the local elections; they were upheld by the Constitutional Court⁶.

The Liberals attempted to force early elections and due to the intricate Romanian constitutional system, prime-minister Ludovic Orban pursued a draft law strategy to reform the electoral system to a two-round majoritarian system for local elections as opposed to the current system with one round. As the measure did not have political support from most parties, the cabinet fell on 5 February 2020, as a result of a no-confidence vote. Two unsuccessful nominations of successive PNL cabinets followed. The COVID-19 crisis stopped the political game and PM Orban was reinstalled. Another PSD-led no-confidence motion failed in the parliament.

¹ <https://freedomhouse.org/country/romania/nations-transit/2021>. The report scores are based on analyzing key aspects such as national and local democratic governance, the electoral process, civil society, independent media, corruption and judicial framework and independence over the course of a year.

² <https://www.transparency.org/en/gcb/eu/european-union-2021>

³ See Global Corruption Barometer – EU, <https://www.transparency.org/en/gcb/eu/european-union-2021>

⁴ <https://www.romania-insider.com/romania-parliament-votes-pension-increase>

⁵ <https://www.romania-insider.com/ro%3Dparliament-insists-doubling-child-allowances-june-2020>

⁶

<https://www.g4media.ro/guvernul-a-atacat-la-curtea-constitutionala-modificarile-aduse-de-catre-parlament-la-rectificarea-bugetara-printre-care-revenirea-la-majorarea-pensiilor-cu-40-de-la-1-septembrie-si-cresterea-salaril.html>

On 16 March 2020, President Iohannis declared a state of emergency, which lasted for two months, followed by a state of alert, which is still in force. The government imposed military decrees, as required by the legislation, while restrictions started to be relaxed in July. In general, the government faced difficulties in administering public affairs during the pandemic, due to inappropriate legislation and amendments that were rejected by the Constitutional Court. Even in 2021, the legislation lacked clarity, was limitative and did not provide a proper framework for imposing the state of emergency or alert. The government and parliament failed to take any serious measures to improve it in due time.

Local and parliamentary elections were organized in September and December 2020. In the local elections, PSD suffered important losses in major cities, including in Bucharest, where the party lost most of the positions for General and Sector mayor. Even so, PSD received a high percentage of votes in local elections and held more localities, but with lower influence than in the previous mandate. USR-Plus, a relatively new political party registered important successes in Bucharest and a few other major cities such as Timisoara, Bacau or Brasov. For the parliamentary elections⁷, PSD gained the most votes, followed by PNL, USR and AUR, a newly formed right-wing party. The fifth party that passed the threshold is UDMR, representing the Hungarian minority. Pro Romania and Popular Movement (PMP) failed to enter the parliament. A center-right coalition between PNL, UDMR and USR-PLUS was formed in order to ensure a parliamentary majority, while the Government was led by PM Florin Cîțu.

At first a promising coalition that would bring stability – as the next elections are scheduled in 2024 - and push for much-needed reforms, the coalition proved dysfunctional as PM Cîțu dismissed USR Ministers of Health and Justice. These issues, together with the approval of a clientelistic 10 billion program for local investments (Anghel Saligny Program⁸), marks the plunging into a political crisis that is still to be resolved. USR-PLUS left the cabinet. After drafting multiple no-confidence motions against Cîțu's cabinet and leveraging procedural loopholes in order to delay the vote after the PNL congress and the election of the new PNL party president Florin Cîțu, the cabinet fell in October⁹. The first PM proposal by President Iohannis, USR-PLUS President Dacian Cioloș (also newly elected as a result of internal affairs), had few confidence votes. A cabinet proposal led by Nicolae Ciucă, a general and Minister of Defense, failed to be formed even before reaching the parliamentary vote. However, since 25 November 2021, a government composed of PNL, PSD and UDMR has been led by Prime Minister Ciucă.

The effectiveness of Romanian local government was marred by the use of investment funds for political purposes. The fall of the government was caused, among other developments, by the increased allocations (10 billion EUR) for local authorities with reduced transparency and objective allocation criteria the term, which was criticized by USR and the public. Moreover, the Anghel Saligny Program was used as an internal campaign mechanism by the Liberal Party and continues another much criticized program, the National Program for Local Development (PNDL). In October, after the PNL Congress, PM Cîțu distributed from the reserve fund – a budget line used for unforeseen expenses – 200 million EUR to local authorities, for expenses

⁷ <https://parlamentare2020.bec.ro/rezultate/>

⁸ <https://expertforum.ro/bani-din-elicopter-saligny/>

⁹

<https://www.digi24.ro/stiri/actualitate/politica/ziua-in-care-se-decide-soarta-guvernului-citu-surse-varianta-de-lucru-la-pnl-guvern-minoritar-1689615>

and co-financing of projects, mostly to PNL local mayors and county presidents (65% of the funds). The decision represents a historical maximum of political fund allocation to local authorities¹⁰, although similar funds have been allocated in other years, including in 2020, by the Orban government and other allocations in December 2021. In April 2022, the budget for the Saligny Program was further increased in spite of negative reports by the Court of Accounts and civil society that reflect long standing issues with the implementation of the previous reports.¹¹ The months-long internal PNL campaign affected reforms in many domains and created blurred lines between political interests and public policy.

Section II - Freedom of Expression

- The right of every person to freedom of opinion and of expression, including to exchange and receive ideas and information through any media, regardless of frontiers.
- The right of the press to collect, report and disseminate information, news and opinions, subject only to restrictions necessary in a democratic society and prescribed by law, while bearing in mind evolving international practices in this field.

Freedom of expression:

Freedom of expression is a fundamental right and censorship is forbidden within limits stipulated in the Constitution. However, in 2020, the media landscape was shaped by restrictions imposed by the government on the flow of information, while limited access was provided to the decision-making process. Additionally, in recent years civil society has been subjected to continuous pressures and damaging measures that would challenge its capacity and status quo.

Before the 2020 local elections, the government generated distortions in the media market, by providing public financial support. The government distributed over 40 million EUR in ad revenue for media groups in order to promote preventive measures and inform the public about the pandemic. The decision was deemed controversial and was considered as an attempt by the government to buy political influence¹², with low oversight and transparency. A small number of outlets received most of the money, even though not all of them were seriously affected economically by the pandemic, raising skepticism about the government's rationale. Some outlets were even involved in spreading fake news or were highly politicized, affecting the already inefficient efforts of the government to fight the pandemic. Media control is further imposed by contracts from state subsidies, taking into consideration that half of the funds political parties spend are allocated to buying advertisement and promotion services¹³.

In March 2020, during the state of emergency, the Telekom authority (ANCOM) was permitted to restrict access to web pages that spread false COVID-19 information through administrative decisions that were not subject to appeal. The Organization for Security and Cooperation in

¹⁰ <https://expertforum.ro/clientelism-fara-rezerve/>

¹¹ <https://expertforum.ro/pndl-in-2022/>

¹² <https://expertforum.ro/publicitate-pandemie/>

¹³ <https://expertforum.ro/secretele-subventiilor-politice/>

Europe (OSCE) criticized the decree, raising concerns regarding restrictions on freedom of speech online. A number of 15 websites were restricted, although access was restored by May¹⁴.

In terms of transparency, Romania's Freedom of Information Act was recently the target of proposed amendments in the parliament with the intent to limit access to information and the list of disclosures. After the state of emergency was declared in March 2021, measures were imposed to double the time institutions have to answer FOIA requests and petitions. The access to crucial information regarding decision making related to COVID-19 was limited. The 2020 EC Rule of Law report underlined that "repeated difficulties and obstacles to obtain information have been reported."¹⁵

Expert Forum illustrated through a case study serious issues regarding the collection and use of public information by the police inspectorates during the state of emergency. Romania applied some of the most restrictive fines, up to 5000 EUR¹⁶. Expert Forum requested all the county police inspectorates to provide information on sanctions given during the COVID-19 state of emergency. While provided information was scarce or the data was not transmitted (the Gendarmerie provided the information), the cases were taken to courts in all counties and some of the proceedings are still in progress. The case study illustrates both the inefficient methods to gather data, but also the non-unitary practice regarding the interpretation of legislation as half of the cases in first instance were won, while half were lost starting from the same complaint¹⁷.

The right to assembly was also affected during the state of emergency and as restrictions regarding other activities were relaxed, the opportunity to organize public meetings was not properly regulated and allowed. The organizer of the Bucharest Pride 2021, one of the most well attended public assemblies of the year, was fined¹⁸. Civil society organizations protested against the lack of inclusion of public meetings in the regulations regarding restrictions due to COVID-19¹⁹. Furthermore, during the state of emergency, the government requested activation of Article 15 of the European Convention of Human Rights (ECHR) which allows the suspension of all rights in the convention (albeit with several exceptions)²⁰.

Civil society organizations have been targeted in recent years by political parties through a series of legislative amendments that would have weakened their activity and capacity to monitor the government. Such initiatives include the requirement to declare "beneficial ownership," under certain conditions about which the law was unclear. Another initiative is related to transferring registration procedures from court for the Company Registry, which is an executive institution under the Ministry of Justice. This change could expose CSOs to political decision-making and

¹⁴ <https://romania.europalibera.org/a/siteuri-blocate-fake-news-/30613952.html>

¹⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0580&from=EN>

¹⁶ In comparison, the average salary in July 2020 was 674 EUR.

¹⁷ <https://expertforum.ro/en/annual-report-2021/>

¹⁸

<https://www.hotnews.ro/stiri-esential-24978224-organizatorul-bucharest-pride-2021-amandat-7-000-lei-manifestatie-participat-mii-oameni-desi-legea-permite-500.htm>

¹⁹

<https://www.stareademocratiei.ro/2021/06/22/masurile-de-relaxare-ignora-in-continuare-conditiile-de-organizare-si-desfasurare-a-adunarilor-publice/>

²⁰

<https://romania.europalibera.org/a/rom%C3%A2nia-suspend%C4%83-drepturile-omului-urmeaz%C4%83-scenarii-dure-activarea-art-15-din-cedo-/30500019.html>

lead to arbitrary dissolutions of vocal organizations. These measures occurred in a context in which "strong involvement of civil society has been key to encouraging anti-corruption reforms and in defending the rule of law in the country."²¹

As part of the transposition of the whistleblower Directive in Romania, the Ministry of Justice was criticized as the proposed version is more limiting than the actual one. Moreover, the project released in March 2021 has not been sufficiently discussed with relevant stakeholders²².

Section III - Political Participation

- The will of the people shall be the basis of the authority of government, as expressed by exercise of the right and civic duties of citizens to choose their representatives through regular, free and fair elections with universal and equal suffrage, open to multiple parties, conducted by secret ballot, monitored by independent electoral authorities, and free of fraud and intimidation.
- The right of every person to equal access to public service and to take part in the conduct of public affairs, directly or through freely chosen representatives.
- The right of those duly elected to form a government, assume office and fulfill the term of office as legally established.

Political participation:

Elections are free, fair, based on universal and equal suffrage, open to political parties. The electoral process is open to a range of political parties, although influenced mostly by a low number of political parties. Fundamental freedoms are respected, even though the introduction of the state of emergency and state of alert limited the right to assembly, right to movement or right to justice. The 2020 ODIHR report on parliamentary elections noted that "Elections were competitive and fundamental freedoms were respected, but public health limitations on freedom of movement combined with restrictive campaign rules led to an anemic campaign"²³.

The local elections were postponed for September 27, while the parliamentary elections were organized on December 6. PSD attempted to postpone the parliamentary elections by transferring the jurisdiction to set the date from the government to the Parliament, but the law was not promulgated by the President in due time to enter into force.

The legal framework was amended throughout the year for both elections and some key issues were passed in the parliament without transparency. Major changes such as the membership of the electoral commissions were implemented shortly before the parliamentary elections. The national observation reports noted that the activity of the electoral administration needs strengthening, while the independence and efficiency of the Permanent Electoral Authority

²¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0580&from=EN>

²²

<https://expertforum.ro/pozitia-efor-cu-privire-la-proiectul-de-lege-privind-protectia-avertizorilor-de-integritate/>

²³ <https://www.osce.org/odihr/elections/romania/467130>

were questioned²⁴. For the local elections, the final results were unusually delayed due to tabulation errors and were marred by allegations of fraud in some sectors in Bucharest (especially Sector 1)²⁵, while the parliamentary elections were organized in a more efficient and coherent manner.

COVID related measures were limited, while civil society requested on numerous occasions that political parties and the electoral administration take measures in order to allow quarantined or isolated voters to participate. However, only a few measures have been taken, while the fragmented legislation limited some voters in casting their ballots. Voter turnout in the local elections was not affected by COVID-19 and was similar to previous years, reaching 46,02²⁶ per cent in the first round as compared to 48,44 per cent in 2016. By contrast, the parliamentary elections were characterized by low turnout, with 31,84 per cent as compared to 39,49 per cent in 2016.

Political financing remains an issue, with low transparency and need for more efficient oversight mechanisms. Subsidies represent the main source of income for major political parties, reaching 50 million EUR in 2021²⁷, while their increased value represents a threat to balanced and democratic political competition. In 2022, the value of subsidies is similar. Political parties are reluctant to provide information about the beneficiaries of contracts, while PSD constantly refused to provide such information²⁸. Up to 50 per cent of the funds are used to buy advertising services which are not marked in any way, which could lead to gross disinformation. Abuse of public resources was a repetitive issue, mostly in local elections, with almost no oversight or actions taken by responsible institutions, as municipalities used funds before the local elections to promote their activity²⁹.

Women representation remains low, with 23% of all candidates in the September 2020 local elections and almost 30% for the parliamentary elections. Women held 18.5% of lower-house seats and 18.4% of the Senate after the December 2020 elections³⁰. The electoral and political finance legislation includes few mechanisms to improve women's participation, such as additional public funding for women elected officials, but all political parties remain rather reluctant to allow women to be candidates for relevant positions. In May 2022, the Senate

²⁴ See the reports released by FiecareVot Coalition for 2020 elections <https://expertforum.ro/?s=fiecarevot>, as well as reports on diverse topics published by Expert Forum <https://expertforum.ro/program/procese-electorale/>. Several CSOs requested the parliament to investigate the activity of the PEA, but no response was provided <https://expertforum.ro/solicitam-parlamentului-verificarea-de-urgenta-a-activitatii-autoritatii-electorale-permanente/>

²⁵

<https://romania.europalibera.org/a/acuza%C8%9Bii-de-fraud%C4%83-la-sectorul-1-poli%C8%9Bia-a-deschis-dosar-penal-in-rem/30864726.html>

²⁶ <https://prezenta.roaep.ro/locale27092020>

²⁷ See the evolution of subsidies in EFOR's website <https://banipartide.ro/subventii>

²⁸ The Center for Public Innovation sued the political parties for refusing to respond and even the organization has court decisions, some political parties refuse to provide information

<https://www.inovarepublica.ro/contractele-partidelor-politice-sunt-informatii-de-interes-public/>

²⁹ <https://www.stareapresei.ro/gabriela-firea-a-invadat-posturile-tv-cu-reclama-electorala-mascata/>

³⁰ See EFOR's study on women's participation in elections -

<https://expertforum.ro/reprezentarea-femeilor-in-politica-din-romania/>

passed a law requiring that for the parliamentary elections the candidate lists should include at least 33% of the candidates of either gender³¹.

Out-of-country voting continues to be a sensitive issue due to its political implications and the large number of citizens that reside outside the country (estimated between 3 and 5 million), even though voting mechanisms improved significantly in recent years. Legislative and practical measures have been taken starting with 2019, while postal voting has been available since 2016. In May 2019, for the European parliament elections, controversy emerged due to the limited capacity of polling stations organized abroad, which restricted the ability of voters to cast their ballots. There were protests as well as calls for the resignation of Foreign Affairs Minister Teodor Melescanu³². Participation increased for the presidential elections in November 2019, reaching the highest numbers in recent electoral history³³. Postal voting was criticized, sometimes in a biased manner, by political parties, authorities and citizens, due to the high number of votes that were not returned in due time to be registered for counting³⁴. Political representation of citizens living abroad is another topic which fails to be discussed in the Parliament and remains an issue that led to the freezing of electoral reform after the 2020 elections.

The legislation regarding formation of political parties was liberalized in 2015, as the legal framework reduced the number of signatures from 25,000 to only three. However, additional barriers to political participation are in place. In practice, local political parties are not properly regulated, while the law established that they can be dismantled if they do not participate in two consecutive elections. Some 100 political parties could face dissolution³⁵. Moreover, the current framework of political financing imposes high thresholds to receive subsidies, favoring parliamentary political parties or other political parties with national networks.

The legislation remains fragmented and political parties failed to initiate the discussions about the approval of the Electoral Code. The set-up of the Commission failed to be approved in the parliament, as some of the political parties, especially PSD and UDMR oppose it based on reasons such as the reform of the electoral system for local elections (two rounds) or increasing the number of representatives in the parliament for citizens that are based abroad. However, a draft proposal was prepared by USR. ODIHR 2020 report mentioned that the legislation "is complex, interspersed across various instruments covering different elections, and numerous amendments close to the election date contributed to legal uncertainty. In September 2020, the parliament amended a number of election-related laws, in a rushed manner and without public debate, contrary to international commitments and good practice."³⁶

³¹ https://senat.ro/legis/lista.aspx?nr_cls=L240&an_cls=2022. The draft law needs to be approved by the Chamber of Deputies

³² <https://www.digi24.ro/stiri/actualitate/politica/teodor-melescanu-nimeni-nu-mi-a-cerut-demisia-1139843>

³³ 926,574 voters cast their ballots outside the country for the second round, while in the first round the number of participants reached 650,159, <https://prezenta.bec.ro/prezidentiale10112019/abroad-precincts>

³⁴ However, voters are informed if their ballot arrived in time to be registered and can vote in a polling station during the election day if it doesn't arrive prior to the polling stations closing. 21,329 out of 35,808 postal ballot envelopes were returned before the deadline, while 7,164 were returned after the end of dedicated polling stations or embassies that managed the postal ballots, <https://expertforum.ro/raport-parlamentare-2020>

³⁵

<https://www.g4media.ro/presedintele-autoritatii-electorale-permanente-vom-propune-ministerului-public-radiere-a-a-aproximativ-100-de-partide-inactive.html>

³⁶ <https://www.osce.org/files/f/documents/3/3/484562.pdf>

Section IV- Protection and Promotion of Human Rights

- The right of every person to equal protection of the law, without any discrimination as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- The right of every person to freedom of thought, conscience and religion.
- The right of every person to equal access to education.
- The right of every person to respect private family life, home, correspondence, including electronic communications, free of arbitrary or unlawful interference.
- The right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties, civic groups, trade unions or other organizations with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law.
- The right of persons belonging to minorities or disadvantaged groups to equal protection of the law, and the freedom to enjoy their own culture, to profess and practice their own religion, and use their own language.

Protection and promotion of human rights:

Civil rights are guaranteed by the constitution and are generally respected in practice. Still, the Romanian state has not been able to hinder and properly punish discrimination or provide inclusive public policies to protect vulnerable groups, including members of the LGBTIQ+ community, persons with disabilities³⁷ or certain medical conditions or the Roma community³⁸.

In theory, the legislation forbids segregation in the educational system, however implementing regulations have not yet been put properly in place. In practice, segregation is still present³⁹. The pandemic has furthermore affected the right to free access to quality education, as many students and teachers did not have access to equipment and the measures taken by the Ministry of Education did not respond fully and swiftly to the needs of the students. A high percentage of children from vulnerable groups had their access to education limited in 2020⁴⁰.

In 2018, a two-day referendum was organized to amend the Constitution with the purpose of limiting the possibility of same sex marriage by expressly providing that marriage is between a man and a woman. The referendum involved political parties and the Romanian Orthodox

³⁷ The conclusions of the Commissioner for Human Rights of the Council of Europe included in the [Report following her visit to Romania from 12 to 16 November 2018 stated that](#): “While welcoming these steps, the Commissioner finds that there are numerous systemic obstacles to the effective protection of the rights of persons with disabilities in Romania. In particular, the authorities should increase the resources and clarify the mandates of the responsible institutions; strengthen monitoring mechanisms; build technical capacity and allocate sufficient funding to county and local authorities, enabling them to adequately fulfil their decentralised functions related to the protection of the rights of persons with disabilities; improve inter-institutional co-operation and coordination; and address existing deficiencies in data collection. The Commissioner also urges the Romanian authorities and national human rights structures to strengthen their collaboration with NGOs.”

³⁸ <https://www.amnesty.org/en/location/europe-and-central-asia/romania/report-romania/>. Also see EU-MIDIS II: Second European Union Minorities and Discrimination Survey, https://knowledge4policy.ec.europa.eu/dataset/ds00141_en

³⁹ A report published in 2015 by the European Commission illustrated that 26% of the Roma students learn in classes that are ethnically separated,

https://ec.europa.eu/assets/eac/education/tools/docs/2015/monitor15-vol-2_en.pdf

⁴⁰ https://caritasromania.ro/wp-content/uploads/2020/09/Studiu-acces-la-educatie_RO.pdf

Church but failed to pass as the participation and validation thresholds were not reached. However, the campaign highly polarized the society. Same sex marriages are not recognized in Romania, but as a result of the European Court of Justice (ECJ) case of Coman-Hamilton vs Romania⁴¹, CCR recognized the right of spouses to free circulation and residence in Romania, although it still does not recognize same sex marriages⁴².

In June 2020, the Parliament passed a law which bans teaching and training about gender identity. The law was widely criticized by civil society and universities. The law banned “activities aimed at propagating the gender identity theory or opinion, understood as the theory or opinion that gender is a different concept from that of biological sex and that the two are not always identical.” The provisions were overturned by the Constitutional Court in December 2020⁴³.

As a result of the invasion of Ukraine on 25 February, both the Romanian state and the civil society provided support to citizens coming from Ukraine that fled the war and ensured assistance to citizens that remained in the country. A task force was set-up at governmental level, to coordinate the activity of the ministries in providing support to refugees. In the first ten weeks of war, some 840,000 citizens entered Romania, while some 10,000 requested temporary protection. However, it is estimated that other tens of thousands of citizens stayed in the country⁴⁴.

Section V- Rule of Law

- The right of every person to be free from arbitrary arrest or detention; to be free from torture and other cruel, inhuman or degrading treatment or punishment; and to receive due process of law, including to be presumed innocent until proven guilty in a court of law.
- That the aforementioned rights, which are essential to full and effective participation in a democratic society, be enforced by a competent, independent and impartial judiciary open to the public, established and protected by law.
- That elected leaders uphold the law and function strictly in accordance with the constitution of the country concerned and procedures established by law.

Rule of law:

As Romania experienced a continuous attack against rule of law in the previous legislature (2016-2020), the coming to power of a governmental coalition led by the National Liberal Party in 2020 was perceived as a potential improvement, with expectations from national and international stakeholders of reversing damaging legislation and promoting reforms where needed. Unfortunately, no significant reforms have been implemented in the past two years, although a set of legislative reforms were put on the agenda by the Ministry of Justice. Furthermore, the EC Rule of Law report noted that “the widespread use of government

⁴¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62016CJ0673>

⁴²

<https://www.mediafax.ro/social/seful-ccr-despre-cazul-coman-hamilton-persoanele-de-acelasi-sex-casatorite-a-u-dreptul-de-libera-circulatie-si-la-sedere-in-romania-accept-adrian-si-clai-doar-un-pic-casatoriti-17360291>

⁴³

<https://www.digi24.ro/stiri/actualitate/justitie/ccr-legea-care-interzice-referirea-la-identitatea-de-gen-in-scoli-e-neconstitutionala-1419118>

⁴⁴ <https://romania.europalibera.org/a/romania-ajutor-ucraina-/31832352.html>

emergency ordinances applied in key areas, including judicial reforms, raised concerns regarding the quality of legislation, legal certainty and the respect for the separation of powers.”⁴⁵

The same report noted that “controversial reforms enacted in 2017-2019 with a negative impact on judicial independence continue to apply. In 2020, the government expressed its commitment to restore the path of judicial reform after the backtracking of previous years, leading to a significant decrease in tensions with the judiciary”⁴⁶. One of the most controversial amendments brought between 2018-2019 was the establishment of a specialized prosecution office for investigating magistrates (judges and prosecutors). The Special Section has been criticized by the EU Commission, the Venice Commission⁴⁷ and GRECO⁴⁸ for various reasons. Concerns were expressed about the lack of independence in the way its leadership was appointed, but also for a very broad mandate that would allow it to transfer cases from other prosecution units and be used as an instrument of intimidation of other magistrates. The dismantling of this section was one of the priorities of the newly appointed government in 2020. However, the legislation dismantling the Section failed to pass in Parliament, as political parties in the coalition government were unable to reach consensus⁴⁹. Finally, in February 2022, the Parliament passed the law dismantling the Special Section⁵⁰. The law, initiated by the Ministry of Justice, was criticized⁵¹ for not returning the competence to investigate offences committed by magistrates to specialized prosecution units such as the DNA and DIICOT but replacing the Special Section with another structure. The opposition in Parliament requested the opinion of the Venice Commission but the law was passed before the decision was made public. The Venice Commission issued its opinion which criticized the hastiness with which the Parliament adopted the law for dismantling the section, as well as the decision to not return the competences to the specialized prosecutions units⁵².

At the beginning of 2020, nominations were made for top management positions for several bodies, such as the Prosecutor General, the head of the National Anticorruption Directorate (DNA), and the head of the Directorate for Investigating Organized Crime and Terrorism (DIICOT). The process was started by Minister of Justice Catalin Predoiu, but in February 2020, the Prosecutors’ Section of the Superior Council of Magistracy (SCM) issued negative notice for two of the candidates (for DIICOT and Prosecutor General)⁵³; even so, the President of Romania signed the appointment decrees for the candidates. In September 2020, Giorgia Hosu, who had been appointed as Chief Prosecutor of DIICOT resigned following the conviction of her

⁴⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0580&from=EN>

⁴⁶ [Idem](#)

⁴⁷ <https://www.venice.coe.int/webforms/documents/?opinion=1036&year=all>

⁴⁸ <https://rm.coe.int/ad-hoc-report-on-romania-rule-34-adopted-by-greco-at-its-79th-plenary-/16807b7717>

⁴⁹ <https://www.romania-insider.com/udmr-special-section-dismantling-not-settled>

⁵⁰ Law no. 49/2022 on the abolition of the Section for the Investigation of Crimes in Justice

(<https://legislatie.just.ro/Public/DetaliiDocumentAfis/252558>)

⁵¹

<https://www.hotnews.ro/stiri-esential-25367776-dna-reactie-dura-fata-proiectul-privind-desfiintarea-sectiei-speciale-rupe-din-competenta-dna-sector-vital-natura-fragmenteze-lupta-impotriva-coruptiei-nivel-inalt.htm>;

<https://presshub.ro/amasp-noul-proiect-privind-desfiintarea-sectiei-speciale-este-un-compromis-inadecvat-car-e-incalca-obligatiile-romaniei-de-stat-membru-al-ue-si-al-ce-206697/>

⁵² [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2022\)003-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2022)003-e)

⁵³ The head of DIICOT chief prosecutor, Giorgia Hosu, was appointed even though her husband Dan Hosu was convicted in the first instance for trafficking in influence and bribery.

husband for corruption related offences⁵⁴ in first instance court. The position of chief-prosecutor remained throughout the year despite growing concerns at EU level about organized crime and trafficking of human beings in Romania⁵⁵. A new Minister of Justice was appointed in December 2020; Stelian Ion initiated the procedure to appoint a new chief-prosecutor in September 2021, but he was dismissed immediately after by the Prime-Minister. The procedure of appointment was also suspended⁵⁶.

A comprehensive initiative to reform the judiciary was made public by the Justice Minister, Cătălin Predoiu, in autumn 2020. This initiative was continued by the next Minister of Justice, Stelian Ion, who amended it and finalized the reform proposal in March 2021⁵⁷. The proposal was criticized⁵⁸ because it was going to amend more than 550 articles pertaining to the judiciary system although the governmental coalition did not agree on many of the proposals. Without consensus within the coalition parties, the reform proposal could have backfired once it reached Parliament, potentially leading to damaging amendments. The reform proposal was blocked by coalition partners, and it never reached the Parliament.

During the COVID-19 pandemic, courts could hear urgent matters, but the decision on what constitutes “urgent” was left at the discretion of the management of courts. The pandemic highlighted a more systemic and stringent need of the system: to digitalize procedures and ensure access to justice.

Recommendation:

We recommend the Governing Council to renew Romania's membership to the Community of Democracies. We advise Romanian authorities to take into consideration the concerns raised by civil society and other national and international stakeholders regarding the need to enhance good governance and to further promote fundamental democratic values.



This report has been developed by the Civil Society Pillar Romanian Focal Point (Expert Forum), with the support of the Secretariat of the CSP (Fundación Multitudes).

⁵⁴ <https://www.digi24.ro/stiri/actualitate/justitie/giorgiana-hosu-sefa-diicot-si-a-dat-demisia-1373445>

⁵⁵ <https://rm.coe.int/evaluation-report-on-the-implementation-of-the-council-of-europe-conve/1680a2b0f8>

⁵⁶

<https://www.g4media.ro/breaking-ministrul-interimar-pnl-al-justitiei-opreste-procedura-de-numire-a-noilor-sefi-la-diicot-si-dna.html>

⁵⁷

<https://www.digi24.ro/stiri/actualitate/justitie/ministrul-justitiei-anunta-desfiintarea-sectiei-speciale-pentru-investigarea-magistratilor-modificari-importante-la-legile-justitiei-1376902>

⁵⁸ <https://expertforum.ro/legile-justitiei-nu-redeschideti-cutia-pandorei/>. EFOR highlighted that the reform should tackle existing recommendations: “The decisions of the ECHR, the decisions of the RCC as well as the recommendations of the Venice Commission and the European Commission serve as a solid basis for the elaboration of separate projects on issues to be corrected: regulating mechanisms for challenging revocation requests for chief prosecutors of SCM members, stronger regulation of the Judicial Inspection and the mechanisms of material and disciplinary liability.”

Finland

Section I - Democratic Governance

- That government institutions be transparent, participatory and fully accountable to the citizenry of the country and take steps to combat corruption, which corrodes democracy.
- That the legislature be duly elected and transparent and accountable to the people.
- That civilian, democratic control over the military be established and preserved.
- The obligation of an elected government to refrain from extra-constitutional actions, to allow the holding of periodic elections and to respect their results, and to relinquish power when its legal mandate ends.

According to the Transparency International Corruption Perception Index, Finland is ranked 3rd out of 180 countries, with a score of 85. This is a regression from Finland's score of 86 the year before. However, it demonstrates that perception of democracy in Finland has remained stable at a very low level in recent years. Finland's good performance in the ranking shows that democratic governance is more than satisfactory in the country.

The country is known for its excellent and transparent governance and it has historically put much effort in combating corruption. Some of the factors behind Finland's success include regulations on party financing and on the acceptance of bribes, as well as a consistent legal prosecution of corruption. Nonetheless, a large portion of state and local civil servants are appointed from political parties, and there are still some cases of corruption in government, such as the 2007 campaign finance scandal, in which members of Parliament reported false sources of funding for their campaigns. In recent years, Finland has implemented stronger legislation requiring more transparency in the declaration of funding for electoral campaigns. The current programme of the government underlines transparency in all decision-making, that in practice this would mean paying more attention to conflicts of interest in different areas of society and governance. Finland is about to introduce the first lobbying register by the end of 2023, and it should cover all the areas of public interest where lobbying takes place.

Finnish corruption is monitored and detected by multiple authorities from police to ombudsman and private companies, but there is no single authority that would monitor and stay in charge of the phenomenon. According to reports, for instance, cases of foreign bribery are seldom detected by Finnish law enforcement officials. Civil society organizations have expressed that anti-corruption legislation in Finland needs to be reviewed, and more research on Finnish corruption is needed.

Furthermore, Finland carries out free and fair elections, with the Prime Minister being selected by Finland's elected Parliament. In recent years, international observers have not reported any suspicion of electoral irregularities in the country. Despite the increasing political polarization in the country, Finland always has peaceful transitions of power.

Section II - Freedom of Expression

- The right of every person to freedom of opinion and of expression, including to exchange and receive ideas and information through any media, regardless of frontiers.
- The right of the press to collect, report and disseminate information, news and opinions, subject only to restrictions necessary in a democratic society and prescribed by law, while bearing in mind evolving international practices in this field
- Despite progressive constitution and other legislation, there are issues in access to documents of journalists. Another major problem is the increase in online harassment of journalists.

In Finland, freedom of speech and of expression are guaranteed by Article 12 of the Finnish constitution. Generally, media outlets and citizens of Finland are free to express political opinions in theory and in practice. The country's law also protects citizens against prior censorship, though information can be subject to intervention retrospectively.

Access to information is also unrestricted, since every Finnish citizen can request access to any public document or recording. The country also scores extremely high on the Reporters Without Borders' World Press Freedom rankings ever since 2009.

However, recently, due to the increasing political polarization in the country, disinformation, misinformation and hate campaigns online have begun to represent a serious threat to democracy and freedom of speech. In April 2019, investigative reporter Johanna Vehkoo was convicted for insulting a far-right politician, and was ordered to pay over \$7,000 in compensation. The decision was later overturned by the country's Supreme Court. However, according to experts, the process showed the problems of the Finnish legal system in tackling phenomena such as SLAPP (strategic lawsuit against public participation). More awareness is needed, since the case of Vehkoo would have been solved best by early dismissal.

Furthermore, disinformation and misinformation campaigns harass and discourage several sectors of society from participating actively in politics, in particular women. According to a NATO report, female Finnish government ministers were systematically targeted by social media hate campaigns, criticizing their stance on immigration, and EU relations. Though women are particularly targeted by campaigns of disinformation and misinformation, the issue affects Finnish democracy as a whole, diminishing transparency and impartiality in politics.

Moreover, the majority of Finnish journalists face online harassment and this has an impact especially on female journalists. This has already led to journalists avoiding certain subjects in their work and poses a risk of self-censorship. However, statistically Finland remains a country with a high level of trust in the media.

Self-regulation is an important part of the Finnish system when it comes to freedom of expression. The Council for Mass Media (CMM) is a self-regulating committee established by publishers and journalists in the field of mass communication for the purpose of interpreting good professional practice and defending the freedom of speech and publication. In recent years, the amount of complaints to the CMM has kept growing. Between 2019 and 2020, there was a 32 percent rise in the amount of complaints, the overall amount being 329 complaints. The most common reason for complaint is a significant mistake that was not corrected, or the correction was not made according to the ethical code.

Finland has laws ensuring open access to public information to citizens, despite some restrictions on information concerning national security, foreign affairs, and criminal investigations. Despite the progressive access to information law, the implementation of the law remains unsatisfactory according to civil society organizations. There are regular reports of delays and other unnecessary restrictions in providing public documents to journalists. At the moment of this writing, the access to information law is under review, but the changes are considered not significant and thus unlikely to make the implementation more effective. Also journalists need to pay if they turn to administrative courts with their requests, which is a problem especially for freelancers.

In October 2021, prosecutors announced charges for disclosure and attempted disclosure of state secrets against three journalists from Helsingin Sanomat. The case is ongoing at the time of this writing, but the charged journalists face four months to four years in prison. According to the editor-in-chief of Helsingin Sanomat, the journalists did not disclose any state secrets in their stories. If the journalists get convicted, this will make normal journalistic work with official documents a potential criminal offense.

Section III - Political Participation

- The will of the people shall be the basis of the authority of government, as expressed by exercise of the right and civic duties of citizens to choose their representatives through regular, free and fair elections with universal and equal suffrage, open to multiple parties, conducted by secret ballot, monitored by independent electoral authorities, and free of fraud and intimidation.
- The right of every person to equal access to public service and to take part in the conduct of public affairs, directly or through freely chosen representatives.
- The right of those duly elected to form a government, assume office and fulfill the term of office as legally established.

The Law of Procedures in Advisory Referendums determine that advisory referendums can be called by Parliament by means of special laws that specify the details of the referendum. Nonetheless, referenda are not often enacted, only one referendum has taken place ever since the passing of the Law: the referendum on Finland's entry into the European Union. Finland presents no limitations on political parties' ability to organize and cooperate, and all political parties are free to compete in equal terms.

Furthermore, in 2012, a constitutional amendment introduced a popular-initiative system, whereby parliament has to consider any petition that receives over 500,000 signatures in six months. However, citizens do not have decision-making powers to vote on such laws, since legislation must be ultimately passed by parliament.

The political participation and the full political rights of ethnic minorities is also guaranteed. The Åland Islands are a politically autonomous region inhabited by Swedish speakers in the South of Finland; they have their own 30-seat parliament and one guaranteed seat in the national legislature. The indigenous population of Finland: the Sami people, also have their own self-governing legislature, though they do not have a guaranteed representation in parliament. Political activists of the Sami community continue to call for greater representation and political inclusion.

Finland also has universal suffrage to all adult Finnish citizens, being one of the few countries in the world where prisoners are allowed to vote. Furthermore, citizens do not have to register individually to be able to vote, as every citizen receives an automatic notification prior to elections. A system allowing citizens to vote in advance has also been put in place, which has had a positive impact on early voting.

However, there are indicators of change in people's willingness to participate in politics. The participation in elections, especially municipal elections, has been at a low level. In 2021 municipal elections only 55 percent of Finns cast their vote - the lowest percentage since 1945. This is a worrying trend, since Finnish municipalities enjoy a wide range of autonomy, even though in the

administrative reform in 2022 the health care sector was moved to a new level of governance; county councils will be in charge of health care and social services. According to a survey by the Foundation for Municipal Development, the majority of Finns do not believe that the new council will improve access to services, indicating a certain mistrust in governance.

According to experts, the decrease in participation in politics and NGO's does not necessarily indicate alienation of citizens to politics. It can also mean criticism towards the functionality of democracy and the need to find new ways of participation. New, direct means of participation are preferred to traditional means. This could mean more referenda, regular dialogue between citizens and decision-makers, better participation of citizens in law-making, strengthening the position of elected officials in municipal levels and an increase in citizen's right to take initiatives.

Another issue is election meddling. According to a report by Yle, one in four Finnish MPs reports being targeted by some kind of hybrid influencing effort. The means and methods of countering these threats vary. To face this threat, civil society organizations established that meddling in elections, including hacking, trolling and other means of malevolent hybrid campaigning need to be tackled efficiently.

Section IV- Protection and Promotion of Human Rights

- The right of every person to equal protection of the law, without any discrimination as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- The right of every person to freedom of thought, conscience and religion.
- The right of every person to equal access to education.
- The right of every person to respect private family life, home, correspondence, including electronic communications, free of arbitrary or unlawful interference.
- The right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties, civic groups, trade unions or other organizations with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law

The right of persons belonging to minorities or disadvantaged groups to equal protection of the law, and the freedom to enjoy their own culture, to profess and practice their own religion, and use their own language.

Civil rights are very well respected and protected in Finland. In Freedom House's 2019 Freedom in the World Survey, Finland has received the maximum score (100) in the category of political rights and civil liberties. Freedom of association, of religion and of assembly are guaranteed and respected in practice. Workers have the right to organize themselves in trade unions, as well as the right to bargain and strike.

Sexual minorities have their civil and human rights protected. The Finnish parliament has legalized same-sex marriage and the right to adoption for same-sex couples in 2017. Rights of ethnic, racial and religious minorities are also widely protected. The Finnish criminal code contains penalties for anyone who discriminates or attacks people on the basis of their race, ethnicity, nationality or religion.

Finland has always put much effort into combatting discrimination and protecting its ethnic and linguistic minorities. The Sami population has had a high degree of self-governance and linguistic rights since the 1990's. Linguistic minorities such as the Swedish-speaking population are also respected, with Swedish being recognized as an official language of Finland. Finland provides services in Swedish in courts and other government establishments; education in Swedish is also ensured in Swedish-speaking communities. Lately, however, the Finns Party has begun to act with hostility towards the Swedish-speaking minority.

Lately, with a higher migration flow into the country, new cases of discrimination have appeared against asylum-seekers and migrants. According to the Helsinki times, about 60% of Sub-Saharan Africans surveyed in Finland had suffered some discrimination in the past five years. Members of the Roma community also reportedly face discrimination in many sectors of society. Far-right movements, in particular the Finns Party, have been accused of fueling discrimination against minority groups.

On the other hand, as demonstrated in the shadow report to the UN Committee on Economic, Social and Cultural Rights, some significant problems remain in the commitment given by Finland. There are shortcomings in social and economic rights and their realization. The problems have to do, especially with the low level of social welfare. The benefits for poor populations are not enough to cover necessary living costs. There are problems in access to healthcare for vulnerable groups. Another issue is the Sami population: the ILO convention number 169 on indigenous and tribal populations has still not been ratified in Finland. The COVID-19 pandemic has made some of the problems deeper.

The NGO's that reported to the UN underlined the following problems: the position of prisoners, meaning that prisoners are treated in a very unequal way. For example, the right to social services depends on the punishment and the type of facility. There is a widespread regional inequality in access to mental health services of prisoners and individuals leaving prison remain very vulnerable also in terms of housing. Other vulnerable groups include homeless people: the shelters for homeless and both insufficient in quantity and not safe for all the groups, especially women.

Another serious human rights issue in Finland is domestic violence. One in three women in Finland experiences intimate partner violence in their lives. This makes Finland the second most dangerous country for women within the EU according to UN Women. Nearly half of girls and

women over the age of 15 experience some form of physical and or sexual violence during their lifetime. The COVID-19 pandemic has made the situation worse.

Section V- Rule of Law

- The right of every person to be free from arbitrary arrest or detention; to be free from torture and other cruel, inhuman or degrading treatment or punishment; and to receive due process of law, including to be presumed innocent until proven guilty in a court of law.
- That the aforementioned rights, which are essential to full and effective participation in a democratic society, be enforced by a competent, independent and impartial judiciary open to the public, established and protected by law.
- That elected leaders uphold the law and function strictly in accordance with the constitution of the country concerned and procedures established by law.

Rule of law has been somewhat weakened by the lack of a Constitutional Court in Finland. The necessity for such a court has been discussed often, however left-wing parties in particular have historically blocked proposals for its creation. Instead, the parliament's Constitutional Law Committee has assumed the position taken in other countries by a Constitutional Court. The implication of this is that parliament is controlled by a type of inner-parliament, an arrangement that constitutes a compensation for a regular Constitutional Court.

Furthermore, courts are independent in Finland, however, they do not decide on the constitutionality of laws or acts or of the public administration. That role is taken by the Office of the Chancellor of Justice. The Chancellor, together with the parliamentary ombudsman, is also responsible for supervising the behavior of courts, authorities and civil servants. There has been criticism of the Sipilä government for not considering the Chancellor of Justice's recommendations enough when legislating.

The Government has also adopted an Action Plan on Better Regulation, which aims at improving the quality and transparency of legislation.

In 2019, Finland's Supreme Court banned The Nordic Resistance Movement, a Pan-Nordic organization of neo-Nazi nature and with several ties to terrorist groups. In 2020, the court denied their appeal to the ban. That same year, the National Bureau of Investigation found that the NRM continued its operations in the country under a different name and identified hundreds of people associated with the group and with terrorist motivations throughout the country.

The OECD and other watchdogs, however, have noted that despite the high level of trust in public institutions, there is a paradox in the way these institutions are able to respond to the changing expectations, needs and future challenges that the institutions pose. In addition to well-functioning public services citizens hope for a stable economic environment. OECD recommends better ways to measure trust, services that would respond to the needs and expectations of citizens; more citizen participation in decision-making, integrity of governance and more openness. Issues of justice and non-discrimination still remain important in Finland.

The COVID-19 pandemic demonstrated clearly that those citizens that are already willing to trust in public institutions were more ready to accept the restrictions that were introduced by the government in 2020. Amnesty International noted that the restrictions should be customized to

take into account the fact that they hit harder the already vulnerable populations such as undocumented migrants, homeless and prison populations. The restrictions also meant additional risks to groups such as women living under the threat of violence, those people dependent on elementary social benefits and small entrepreneurs. The COVID-19 pandemic also demonstrated that the division of power between the Chancellor of Justice and the Parliamentary Ombudsperson is always not as clear as it should be. Division of labor between the two institutions has been reviewed before but the adoption of the reform has been delayed.

Recommendations:

We recommend the Governing Council to renew Finland's membership to the Community of Democracies.

We advise Finland to take into consideration the recommendations made by Finnish civil society organizations on the transparency of political party funding; higher guarantees to access to information and transparency of public documents to journalists; scope and transparency of the new lobby register; new means of citizens' political participation; zero tolerance policy towards ethnic and racial discrimination as well as gender-based violence at all levels of society; and the situation of civil society organizations, their funding and the effects of globalization on their work.



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Canada

Section I - Democratic Governance

- That government institutions be transparent, participatory and fully accountable to the citizenry of the country and take steps to combat corruption, which corrodes democracy.
- That the legislature be duly elected and transparent and accountable to the people.
- That civilian, democratic control over the military be established and preserved.
- The obligation of an elected government to refrain from extra-constitutional actions, to allow the holding of periodic elections and to respect their results, and to relinquish power when its legal mandate ends.

Democratic governance:

Legislature and constitutional actions

As of the most recent Canadian parliamentary elections of 2021, the Liberal party held a minority government, headed by Prime Minister Justin Trudeau, with little change from the previous parliamentary structure established after the 2019 elections. While failing to achieve the potentially desired outcome of holding a majority government, the Liberal party came into agreement with the National Democratic Party (NDP) this past March 2022 in order to avoid parliamentary gridlock on specific key issues that overlap between the two parties' platforms.⁵⁹

Currently, according to the Transparency International Corruption Perception Index 2021, Canada is ranked 13th out of 180 countries on the theme of democratic governance, with a score of 74. Canada's very good standing in the ranking shows that democratic governance is more than satisfactory in the country. However, it is worth noting that Canada's current score, while being in good standing, presents a regression from previous years – Canada had ranked 11th, with a score of 77 on the Index of 2020⁶⁰ – showing that Canadians' perception of democracy in their country has dropped.

In August 2020, the governing Liberal Party of Canada faced accusations of corruption regarding a government contract done with a charity institution to which the Prime Minister's family had financial connections. Conservative Party ministers accused the Liberal Party of purposefully ending the August parliamentary session in order to avoid an investigation into the scandal.

During the COVID-19 pandemic, federal and provincial governments initially faced interruptions in processes and programs, however, legislative business was subsequently carried on during the pandemic due to a policy of limiting the number of policymakers allowed to attend in-person sessions in Parliament and provincial assemblies and creating online platforms to carry out activities. In March 2020, the Minister of Finance was given emergency powers to spend on COVID-19-related policies without approval from Parliament, and such powers were extended until the end of that year.

⁵⁹ [“Delivering for Canadians Now.”](#) Prime Minister of Canada, 22 March 2022.

⁶⁰ [“Corruptions Perceptions Index: 2020.”](#) Transparency International.

Transparency and access to information

In terms of access to information, which is a component of democratic governance, Canadians can request public information under the Access to Information Act, though they may face delays or high costs. In 2017, the Liberal government proposed reforms to the act. According to the information commissioner of Canada, the proposal would “result in a regression of existing rights,” as it would increase the criteria for the request of public information and give agencies more grounds for refusal. Despite these concerns, the bill on access to information was passed in Parliament in late 2017 and by the Senate in 2019. However, Access to Information from the Canadian government is not exempt from challenges, as evidenced by the 2022 lawsuit filed against the government regarding removing redactions in several documents that could suggest government intervention on behalf of a mining corporation accused of human rights abuse so it could continue its operations in Guatemala.⁶¹ This lawsuit demonstrates that, while Canadians are able to make Access to Information requests (despite the added gatekeeping now associated with these requests), they are unlikely to get a fully transparent picture regarding their request.

Respect for self-governance: Indigenous Peoples

Finally, a main issue that hampers conversations around democratic governance in Canada is the government’s approach when dealing with Indigenous Peoples’ issues and rights. Despite existing treaties with Indigenous communities, the government continues to disregard and disrespect the right of Indigenous communities to self-governance and their agency on their own lands, as well as inclusion in key decision-making moments that could impact those communities directly. A major example of this is the government’s inaction in heading the 94 calls to action mentioned in the 6-volume final report of the Truth and Reconciliation Commission – while the report was accepted by the government in 2015, only 13 calls have been implemented so far.⁶²

Another example is Canada’s lack of effort to go beyond acknowledging the mass graves that have been, and continue to be, uncovered across the country at the so called “Residential schools.” Disrespect of Indigenous autonomy and rights is an issue at both the federal and provincial spheres, with both levels of government accepting various industrialization and development plans directly affecting sovereign Indigenous territory, against the communities’ will. Such situations have often led to police brutality against Indigenous peoples in areas marked as implementation areas for such development projects, such as the building of oil

⁶¹ [“Court rules Ottawa can maintain secrecy on aid to Goldcorp in human rights dispute.”](#) Mining Watch Canada, 2 March 2022.

⁶² [“Let’s get on with it’: Indigenous advocates demand completion of TRC calls to action”](#), CTV News, 4 June 2021. [“Much work remains on the Truth and Reconciliation Commission’s 94 Calls to Action”](#), The National Post, 5 June 2021.

pipelines on Indigenous territory.⁶³

Furthermore, the government is yet to seriously commit to implement the 231 Calls to Justice stemming from the National Inquiry into Missing and Murdered Indigenous Women and Girls. As a result of the Canadian government's inaction on the 2018 report published by the National Inquiry, the Native Women's Association of Canada⁶⁴ published their own Calls to Justice and Action Plan in 2021, which states that:

The inaction by the government, after the National Inquiry released its Final Report, was extremely disappointing. Indigenous women wanted cold cases to be reopened. They wanted to know what had happened to their missing and murdered loved ones. They wanted assurances that governments were going to meet their constitutionally mandated responsibility for ensuring their safety. They wanted the perpetrators to be brought to justice.⁶⁵

Section II - Freedom of Expression

- The right of every person to freedom of opinion and of expression, including to exchange and receive ideas and information through any media, regardless of frontiers.
- The right of the press to collect, report and disseminate information, news and opinions, subject only to restrictions necessary in a democratic society and prescribed by law, while bearing in mind evolving international practices in this field.

Freedom of expression:

Overall freedom of expression

According to the CIVICUS monitor, Canada currently holds an “open” status in relation to the presence of enabling conditions for civil society and/or civic space in the country. This rating is also measured against freedoms of assembly, association and expression, which relate to the state's duty to protect civil society.⁶⁶ Canada currently rates well in terms of fostering freedom of expression, association and assembly, as well as in terms of the governing bodies not violently opposing interventions and critiques coming from civil society actors, though there are exceptions and more could be done in terms of recognizing civil society as development actors in their own rights.

⁶³ A concrete example of this is the Terms of Reference for the Regional Impact Assessment for the Ring of Fire region, which failed to take into account Indigenous voices and knowledge, as well as backlash, regarding the proposed mining complex in that region. The Chiefs of Neskantaga, Eabametoong, Fort Albany, Kashechewan and Attawapiskat First Nation have issued a [letter](#) to the Minister of Environment and Climate Change, Steven Guilbeault, to retract the [draft Terms of Reference](#), referred to as “so broken they cannot be fixed,” and to restart the process with a commitment to a process that is “mutually and equally co-developed and co-led and co-enforced” by the Indigenous groups.

⁶⁴ [“Native Women's Association leaves national MMIWG action plan process, calling it 'toxic and dysfunctional'”](#) CBC, 1 June 2021.

⁶⁵ [“NWAC ACTION PLAN”](#) Native Women's Association of Canada.

⁶⁶ [“Civic Space in Numbers.”](#) CIVICUS Monitor: Tracking Civic Space.

Media freedom

Canada's media is generally free; journalists are legally protected from violence and harassment in their work and are usually able to freely express their points of view. In 2017, a law granting journalists greater ability to protect their sources was implemented, determining that journalists are not required to reveal confidential sources unless a Superior Court judge considers that the information cannot be obtained through other means, and that it is in the public interest for the source to be disclosed. For example, in September 2019, the Supreme Court applied this law and determined that a Canadian Broadcasting Corporation (CBC) journalist did not have to reveal their sources on a case of political corruption in Québec.

However, while Canada's media is generally free, journalists often face the risk of imprisonment and police brutality when covering stories of Indigenous peoples protesting the use of their land without permission to extract natural resources, for example.⁶⁷ The organization called Ligue des droits et libertés (LDL) has documented a number of threats against freedom of expression in Québec and in Canada:

The LDL denounces the numerous attacks on the freedom of expression and the right to demonstrate in Québec and in Canada. LDL's interventions aim at rehabilitating the right to exercise these civil liberties (which are essential to democracy) in the public space. LDL campaigns against the practices of political profiling, which restrict the freedom of expression and the right to demonstrate of individuals and groups based on their political opinions and beliefs.⁶⁸ (Free translation from French).

Religious freedom

The Canadian constitution and legislation protect religious freedom. Nonetheless, in June 2019, the provincial government of Québec passed Bill 21, which caused a reduction in religious freedom in the province, where over a quarter of Canadians live. The bill bans workers in the public sector from wearing religious symbols such as hijabs, crucifixes, turbans, or kippahs while at work. Judges, police officers, government lawyers, and teachers are among the workers targeted. Some court proceedings against the bill have been put in place, but they seem unlikely to succeed.

Uneven application of freedom of expression

The recent events of the so-called "Freedom Convoy" revealed that the right to freedom of

⁶⁷ For further reading, see ["Outrage after two journalists detained at Indigenous protest in Canada"](#), The Guardian, 22 November 2021, and ["I felt kidnapped": a journalist's view of being arrested by the RCMP](#), The Narwhal, 16 December 2021.

⁶⁸ "La LDL dénonce les nombreuses atteintes à la liberté d'expression et au droit de manifester au Québec et au Canada. Ses interventions visent à réhabiliter dans l'espace public le droit d'exercer ces libertés civiles essentielles à la démocratie. Elle milite contre les pratiques de profilage politique, qui briment la liberté d'expression et le droit de manifester de personnes et de groupes en fonction de leurs opinions et convictions politiques." In: ["Thèmes et Droits civils et politiques et Liberté d'expression, droit de manifester et profilage politique."](#) La Ligue des droits et libertés.

expression can be interpreted as contingent on the persons or groups exercising that right. Striking differences became evident in terms of the way these protestors were treated by the authorities, vis-à-vis the treatment received by Black, Indigenous and People of Colour (BIPOC), as well as other minority groups, while protesting issues that are often related to threats to life, safety and security. These events, happening in Ottawa in 2022, foregrounded the understanding that freedom of expression in Canada can be interpreted as being racially coded, as well as a privilege co-opted and abused by the growing voices of the far-right. While other voices face active suppression across the country, there is opportunity for Canada to reassess its stands and ways of operating when it comes to addressing conflict, particularly from a racial perspective.

Disinformation and Misinformation

Still on freedom of expression, it is also important to acknowledge the role that social media in Canada currently plays in shaping public opinion. The recent “Freedom Convoy”-related events – as well as the ‘coming out’ of white supremacy as a growing issue in Europe and North America – have brought forth the role played by social media in the processes of spreading disinformation and misinformation, creating polarization among Canadians, and co-opting the language of freedom of expression for the purpose of promoting fake news and inciting hate and violence. Canada should be aware of the risks related to responsibility and accountability in the digital world and work to educate people and prevent social media from being used as a catalyst in pushing divisive politics and hate mongering.

Section III - Political Participation

- The will of the people shall be the basis of the authority of government, as expressed by exercise of the right and civic duties of citizens to choose their representatives through regular, free and fair elections with universal and equal suffrage, open to multiple parties, conducted by secret ballot, monitored by independent electoral authorities, and free of fraud and intimidation.
- The right of every person to equal access to public service and to take part in the conduct of public affairs, directly or through freely chosen representatives.
- The right of those duly elected to form a government, assume office and fulfill the term of office as legally established.

Political participation:

Overall political participation

In terms of political participation, Canadians can organize themselves in different political parties, and Canada holds free and fair elections. However, a small number of parties have traditionally dominated the political scenario. For example, although 22 political parties were registered in the 2021 election, only 5 of them currently hold seats in the House of Commons, showing that although opposition parties have a chance of gaining power through elections, minor parties often struggle to be represented. Ever since 2015, the Liberal Party has been in power in the country, under the leadership of Prime Minister Justin Trudeau.

All Canadian citizens above 18 years old have the right to vote, including the people who bring different abilities (physical and/or mental) to democratic discourse, and people who are imprisoned in correctional facilities. In 2015, an Ontario Court of Appeal ruled that non-resident citizens who have not lived in Canada for the last five years could no longer vote, a decision that was however overruled by the Supreme Court of Canada. In Canada, a system of universal voter registration is in place, meaning that the government oversees registration of all citizens to vote as a means of protecting their constitutional right. Additionally, Canada allows voters to register on election day in order to include those who were not previously registered by the government, there is an adequate opportunity for casting an advance ballot, and there are four days of advance polling, which finish the week before election day. Moreover, citizens can vote by mail if they cannot go vote in person due to physical incapacity or foreign residency.

Prior to the current Liberal government, the Conservative Party heading the country between 2006 and 2015 had made highly controversial changes to Canada's election law. The current Liberal government attempted to resolve these issues with the Elections Modernization Act, a bill that recognized voter information cards as an acceptable form of identification and restored the rights of Canadians living abroad to vote in elections regardless of how long they had been outside of Canada.

Diversity and representation

Canada has been positively ranked by the Overseas Development Institute (ODI) regarding its application of the broad principle of "leaving no one behind" stated in the United Nations' 2030 Agenda for Sustainable Development. Included in that principle are topics such as inclusive multi-stakeholder consultation and assessment of risks and resiliency factors of underrepresented and marginalized groups. However, the lack of substantial presence of Indigenous persons, particularly women, in Parliament brings forth the issue of diversity and representation, as well as safety and security. For example, in an open letter on social media, former Member of Parliament Jody Wilson-Raybould (also known by her Kwak'waka name Puglaas) mentioned that the environment of Parliament:

has become more and more toxic and ineffective while simultaneously marginalizing individuals from certain backgrounds. Federal politics is, in my view, increasingly a disgraceful triumph of harmful partisanship over substantive action.⁶⁹

Wilson-Raybould, formerly a British Columbia Crown Prosecutor and regional chief, later became Canada's first Indigenous Minister of Justice but resigned from cabinet and was subsequently ousted from the Liberal Party.⁷⁰

Section IV- Protection and Promotion of Human Rights

- The right of every person to equal protection of the law, without any discrimination as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth

⁶⁹ ["Jody Wilson-Raybould won't run in next election, denounces 'toxic' environment in Parliament"](#), CBC, 8 July 2021. See also ["Jody Wilson-Raybould on Ottawa's power problem"](#), Maclean's, 10 September 2021.

⁷⁰ *Ibid.*

- or other status.
- The right of every person to freedom of thought, conscience and religion.
- The right of every person to equal access to education.
- The right of every person to respect private family life, home, correspondence, including electronic communications, free of arbitrary or unlawful interference.
- The right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties, civic groups, trade unions or other organizations with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law.
- The right of persons belonging to minorities or disadvantaged groups to equal protection of the law, and the freedom to enjoy their own culture, to profess and practice their own religion, and use their own language.

Protection and promotion of human rights:

Gender equality

Canada makes use of gender-based analysis to inform programming. The current liberal government has also mandated high ranking officials – ministers – to promote gender equality across diverse portfolios. According to the most recent [United Nations' Gender Inequality Index](#) of 2019, Canada is ranked 16th out of 167 countries, and many improvements in gender equality have been noted. Furthermore, Canada's commitment to supporting paid and unpaid care work signals notable progress, though there is room for the country to further support feminist movements, women-led and women's rights organizations both in Canada and abroad, particularly the Global South, as part of Canada's Feminist Foreign Policy agenda. Same-sex marriage has been legal in Canada since 2005. Domestic violence is an underreported problem that disproportionately affects women, particularly Indigenous women. Recently, there have been initiatives to better train police in order to handle cases of domestic violence.

While there apparently has been significant progress in government support for sexual and reproductive health and rights, 2SLGBTQ+ rights, and ending gender-based violence (GBV) – evidenced by increased funding and more inclusive consultations – access to sexual and reproductive healthcare and services, already underfunded for decades, has been further challenged by the COVID-19 pandemic. Adding to that, the lack of robust data collection and intersectional analysis on GBV in Canada hinders appropriate GBV prevention by civil society actors.

Immigration and human rights

In recent years, Canada's federal government, the Canada Border Services Agency, and the Immigration Division of the Immigration, Refugees and Citizenship Canada (IRCC) Board have adopted policies to reform the immigration detention system.⁷¹ The regulations require decision-makers to consider children's interests in decisions concerning immigration detention. It is in the best interests of children to be united with their families in community-based, non-custodial settings but, according to a recently published Human Rights Watch report,

⁷¹ ["Canada: Country Profile"](#), Global Detention Project, 2020.

children are still being placed in detention to accompany their detained parents.⁷²

While some reforms were made with regards to immigration, Canada continues to take a harsh stance on issues of family reunification. For example, the case of Ayoob Mohammad is a case in point and adds to countless Uyghur men who had been convicted of alleged terrorist-related activities and later exonerated. Even after exoneration by the U.S. Government, the Canadian government has twice so far declined Mohammad's application to be reunited with his family in Canada. Mohammad's first lawyer, Wells Dixon, stated on the issue that:

There is not a serious, credible argument that the Uyghurs detained at Guantánamo were terrorists or were a threat to anybody. To suggest that they're a national security threat to Canada is laughable. It discredits the integrity of the Canadian government to suggest that these men pose a threat to anybody. They suffer stigma, which is used and invoked by countries that don't want to accept them. They are labelled as dangerous or terrorists. And that is done for political convenience.⁷³

Right of Indigenous Peoples: Truth and reconciliation

At its heart, Canada is a settler-colony. In recognizing and acknowledging this fact about Canadian history, it is also important to understand that the project of Canadian colonial expansion, which comes at the expense of Indigenous communities, is ongoing. Therefore, while it is easy to note many of Canada's successes in promoting human rights with regards to sexual discrimination, women's rights, and immigration, for example, it is crucial to understand Canada's ongoing colonial project as being an impediment to the promotion and protection of Indigenous rights.

Indigenous persons continue to rank lower than non-Indigenous Canadians on all socio-economic indicators (e.g. health, education, income), both on and off-reserve,⁷⁴ and continue to be among the highest represented demographic group in Canada's prisons today.⁷⁵ The Canadian government is yet to implement the 94 Calls to Action from the 2015 Truth and Reconciliation Commission final report regarding the over 150,000 Indigenous residential school system survivors in Canada today. The lack of action to address those Calls to Action is in itself an ongoing violation of the rights and reparations survivors are owed due to their experiences. Moreover, while Canada has established legal same-sex marriage and perceived equality between cisgender men and women in various aspects of public and private life, still various shortcomings exist, particularly for Indigenous communities. For example, the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls⁷⁶ reveals that "persistent and deliberate human and Indigenous rights violations and abuses are the root cause behind Canada's staggering rates of violence against Indigenous women, girls and 2SLGBTQIA

⁷² ["Joint Submission to the Committee on the Rights of the Child's Review of Canada: 87th pre-session"](#), Human Rights Watch, 13 April 2022.

⁷³ ["Endless Exile: The Tangled Politics Keeping a Uyghur Man in Limbo"](#), The Walrus.

⁷⁴ ["Chapter 2. Profile of Indigenous Canada: Trends and data needs"](#), OECD iLibrary.

⁷⁵ ["Overrepresentation of Indigenous People in the Canadian Criminal Justice System: Causes and Responses"](#), Scott Clark for the Department of Justice: Canada, 2019.

⁷⁶ ["Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls"](#), National Inquiry into Missing and Murdered Indigenous Women and Girls.

people.”

Access to clean water has been an ongoing issue in many Indigenous communities. The water that many Indigenous communities have access to on and off the reserves is often contaminated or at risk due to faulty treatment systems. The poor water and sanitation conditions have a disparate and negative impact on at-risk populations, including children. While the most severe public health concerns have mostly been avoided through water advisories, the social costs and human rights impact of the water crisis are high.

In addition to access to water, natural resource management and governance over natural resources remains a challenge for federal and provincial government relations with Indigenous communities. During 2021, Indigenous community defenders were subjected to a series of threats and violations in their territories, such as at the Site C dam construction in the province of British Columbia that does not have the consent of the West Moberly First Nations.⁷⁷ The Site C dam illustrates the persistence of tensions about resource development and land rights in Canada, in contradiction to the principle of free, prior, and informed consent contained in the UN Declaration of the Rights of Indigenous People, which all current ministerial mandate letters commit to honour.

Both the provincial government of Ontario and the federal government have consistently failed to address the health consequences of decades-old mercury contamination in the Indigenous community of Grassy Narrows. While the federal government committed funds to support the building of a mercury care home in Grassy Narrows in April of 2020,⁷⁸ it has not yet compensated most of the affected community, who continue to live with the physical and mental impacts of mercury exposure. The Grassy Narrows case is a decade-long case of environmental injustice that the federal government is yet to properly address. This issue – alongside issues relating to sovereignty over land, issues with proper access to clean water, issues with land development and police brutality, among others – speaks to more than just a lack of fulfillment of services to citizens, but showcases the lack of recognition of Indigenous voices, and the lack of participation and holistic inclusion of Indigenous communities and knowledge into matters of local, provincial and federal governance.

Poverty

Poverty in Canada also continues to include racial and gendered elements, as the majority of people living in poverty in Canada are women, racialized seniors, and gender-diverse people, of whom the overwhelming majority are Indigenous individuals.⁷⁹ In addition, since people living in poverty are particularly impacted by extreme weather events, their interests should be reflected in governments’ climate change strategies and sustainability transition plans.

⁷⁷ [“BC Hydro, province ordered to release secret Site C dam docs to West Moberly First Nations”](#), The Narwhal, 6 May 2021.

⁷⁸ [“Grassy Narrows First Nation and federal government sign agreement to build on-reserve mercury care home”](#) CBC, 3 April 2020.

⁷⁹ [“The Facts about Women and Poverty in Canada”](#), Canadian Women’s Foundation, Last Updated: 6 April 2022. [“Spotlight Saturday: Indigenous Homelessness in Canada”](#), Greater Victoria Coalition to End Homelessness, 6 June 2020.

Beyond efforts in Canada, there is room for Canada to do more to support poverty reduction and human rights abroad. While Canada's ambitious Feminist International Assistance Policy (FIAP) outlines a transformational, human rights-based and feminist approach to international assistance, the government has failed to reach the United Nations' target and to honour its commitment to allocate 0.7% of GNI for Official Development Assistance. It has also fallen short disclosing the outline of a roadmap to meet this goal by 2030. As such, Canada is not currently using the full capacity of its global political capital to be able to show leadership on international assistance.

Section V- Rule of Law

- The right of every person to be free from arbitrary arrest or detention; to be free from torture and other cruel, inhuman or degrading treatment or punishment; and to receive due process of law, including to be presumed innocent until proven guilty in a court of law.
- That the aforementioned rights, which are essential to full and effective participation in a democratic society, be enforced by a competent, independent and impartial judiciary open to the public, established and protected by law.
- That elected leaders uphold the law and function strictly in accordance with the constitution of the country concerned and procedures established by law.

Rule of law:

Overall status of rule of law

Canada's government and administration rarely make unpredictable decisions. Legal regulations are generally consistent but do sometimes leave scope for discretion. However, the government can be expected to be challenged in court if its executive actions are not consistent with the law, which provides an incentive to comply. The scope of judicial review was greatly expanded with the enactment of the Canadian Charter of Rights and Freedoms in 1982, which constitutionally entrenched individual rights and freedoms. Today, the courts in Canada pursue their reasoning autonomously in relation to governments, powerful groups, or individuals.

Application of the law

The levels of application of the rule of law can be challenged. For example, instances of police violence are present in Canada and disproportionately target Indigenous citizens and Afro-Canadians. A report released by the Ontario Human Rights Commission (OHRC) showed that although Black people represented 8.8% of the population in Toronto, they represented 32% of all charges reviewed.⁸⁰ According to an analysis by CTV News, an Indigenous person in Canada is 10 times more likely to get shot by the police than a white person.⁸¹ In the decade spanning 2007 to 2017, Indigenous people accounted for more than a third of people shot to

⁸⁰ ["New OHRC report confirms Black people disproportionately arrested, charged, subjected to use of force by Toronto police"](#) Ontario Human Rights Commission, 10 August 2020.

⁸¹ ["Why are Indigenous people in Canada so much more likely to be shot and killed by police?"](#) CTV News, 19 June 2020.

death by Royal Canadian Mounted Police (RCMP) officers, despite numbering just 5% of the population.

Moreover, confirmation of the bodies of Indigenous children at residential schools across Canada are not being treated as crime scenes, and investigations into the deaths of each child are not being conducted, nor prosecutions are being brought forth. This is despite lawyers across Canada, led by Brendan Millar, having filed a request to Karim Khan, Chief prosecutor of the International Criminal Court, demanding that the ICC appoints a prosecutor to investigate the children's deaths as a crime against humanity. Miller has stated that "Continuing to cover it up is a crime against humanity itself, both in international law and domestically."⁸²

Emergencies Act

In addition, a closer look is needed regarding the government's implementation of the Emergencies Act during the so-called Freedom Convoy protests in Ottawa in early 2022. Questions are looming over how the government plans to use that act in the future to block protests and the right to free assembly, noting that the Freedom Convoy was also a manifestation of Canadian-born white supremacy.

Legal reforms

During the consultation, civil society organizations pointed to the need for Canada to reform the Extradition Act. The International Civil Liberties Monitoring Group describes the Act as being "discretionary and political, lacking in transparency, and works in every way against the extradited persons."⁸³ The government should reform its policies on extraditions in order to comply with a fair rule of law that protects all Canadians and those living in the country, as well as to prevent racial bias from playing a role in immigration-related decisions.⁸⁴

Section VI- Conclusion

The Canada Renewal visit in March 2022 indicated that Canada's international support for democratic development has declined steadily in recent years. According to a 2019 report by the House of Commons Foreign Affairs Committee, only 2% of Canadian foreign aid was invested in strengthening democratic institutions in 2017-2018. The COVID-19 pandemic has elevated the need for countries to defend democracy, not as a subsidiary component of international development and humanitarian assistance, but as the backbone of a long-term international cooperation strategy.

After the 2021 elections, the Liberal government issued mandate letters to Canada's ministers. In particular, the mandate letters of the Minister of Foreign Affairs, the Honourable Mélanie Joly,

⁸² [Canadian lawyers want Indigenous children burial site investigated as crime against humanity](#). Global News. June 3, 2021.

⁸³ ["Canada must reform its extradition laws now"](#), International Civil Liberties Monitoring Group. 12 April 2022.

⁸⁴ ["Racism plays a role in immigration decisions," House Immigration Committee hears](#). The Hill Times. March 28, 2022.

and of the Minister of International Development, the Honourable Harjit S. Sajjan, commit them to establishing a new Canadian Centre for Democracy. Minister Joly's mandate letter states:

Working with the Minister of International Development, establish a Canadian centre to expand the availability of Canadian expertise and assistance to those seeking to build peace, advance justice, promote human rights, inclusion and democracy, and deliver good governance [...] Expanding fast and flexible support for fragile and emerging democracies, increasing Canada's diplomatic presence in regions of strategic importance, and working closely with democratic partners to promote open, transparent and inclusive governance around the world.

In turn, the mandate letter for Minister Sajjan states:

Work with the Minister of Foreign Affairs to establish a Canadian centre to expand the availability of Canadian expertise and assistance to those seeking to build peace, advance justice, promote human rights, inclusion and democracy, and deliver good governance.

Current discussions, including between the government and civil society organizations, are taking place to examine how the new centre for democracy would carry out its mandate and activities. This is one of the indications that Canada might be willing to take a greater leadership role in the peace and democracy space. Civil society stakeholders advise that Canada keep a humble position and focus on convening and leveraging across geographies, while also acknowledging the importance of civil society – in all its diversity, including social movements, human rights defenders, and activists – for democracy. Recognizing the government's commitments to open government, as well as Canada's Policy for Civil Society Partnerships for International Assistance – A Feminist Approach, civil society actors are calling for the need to include civil society in the development of the centre and its governance. In addition, Canada can learn from its experience with the FIAP and build on its global feminist leadership (e.g. focusing on women's movements and LGBTQI+ movements), as well as on its experience with democratic instances such as federalism, elections, multiculturalism and pluralism. Finally, it is important that Canada keeps policy coherence across foreign policy (e.g. development, diplomacy, trade, defense) while working in the peace and democracy space, including through the actions of the new centre currently under development.

Looking domestically, Canada is far from achieving genuine truth and reconciliation with Indigenous Peoples and taking action to understand and address systemic racism, sexism, and colonialism in many of its institutions. The discovery of mass graves in the grounds around former Residential Schools in 2021 was a blow to many Canadians' self-concept and global reputation.

Recognizing the flaws of Canadian democracy is both a burden and an opportunity. Canada needs to be more active to defend democracy globally, while also strengthening and reinforcing it at home. Canada's role in the global defense of democracy should be grounded in a sustained effort to ensure that democratic practices and institutions are both protected and have room to

evolve. Canada has much to learn from the journeys of others and is keen to share its own knowledge and learnings to keep the dialogue open.

Recommendation:

We recommend the Governing Council to renew Canada's membership to the Community of Democracies. We advise Canada to take into consideration the concerns raised by civil society on the issues outlined in this report, particularly with regards to systemic racism, reconciliation with Indigenous Peoples, and inclusive and participatory governance.



This report has been developed by the Civil Society Pillar Canadian Focal Point (Cooperation Canada), with the support of the Secretariat of the CSP (Fundación Multitudes) and in coordination with a limited

number of Canadian CSOs.

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Uruguay

Section I - Democratic Governance

- That government institutions be transparent, participatory and fully accountable to the citizenry of the country and take steps to combat corruption, which corrodes democracy.
- That the legislature be duly elected and transparent and accountable to the people.
- That civilian, democratic control over the military be established and preserved.
- The obligation of an elected government to refrain from extra-constitutional actions, to allow the holding of periodic elections and to respect their results, and to relinquish power when its legal mandate ends.

Democratic governance:

According to the Transparency International's Corruption Perception Index, Uruguay is ranked 18th out of 180 countries with a score of 73 points. This is an improvement from Uruguay's score in 2020, representing an increase of 2 points. Since 2018, Uruguay has experienced a growth tendency, with small stagnation periods, as a result of a long tradition on transparency.

Uruguay has followed multiple laws, presidential decrees and public policies to determine the rights and duties of all public actors to make their actions and decisions adequate according to democratic values of transparency, open government and accountability. In addition to the national legislation bodies, Uruguay has adhered and ratified multiple international instruments that aim to define, prevent and combat corruption, including the Inter-American Convention Against Corruption.

Despite Uruguay being the first ranked country in Latin America, it has multiple challenges to face in the fight against corruption. Civil society organizations have raised their concern on the insufficient measures to ensure transparency in political parties and accountability measures for private actors, particularly due to severe conflicts of interest between public authorities and private companies.

Uruguay carries out free and fair elections every four years, with the president and members of the parliament being elected through a democratic voting system. In recent years, international observers have not reported any suspicion of electoral irregularities in the country, and results are accepted by political parties and candidates. However, the increasing political polarization in the country is amplified by the permanent diffusion of disinformation and fake news.

Section II - Freedom of Expression

- The right of every person to freedom of opinion and of expression, including to exchange and receive ideas and information through any media, regardless of frontiers.
- The right of the press to collect, report and disseminate information, news and opinions, subject only to restrictions necessary in a democratic society and prescribed by law, while bearing in mind evolving international practices in this field.

Freedom of expression:

Uruguay recognizes the freedoms of speech and expression under article 29 of the National Constitution. As a general situation, citizens are free to express their opinions on public matters both in theory and in practice. Uruguay forbids censorship, interferences and pressures over any

thought or commentary diffused through any kind of press form. Despite this regulation, during 2021, CAinfo Centro de Archivo y Acceso a la Información Pública reported 49 aggressions against media outlets and journalists, ranging from verbal attacks to death threats, and being mostly performed by state actors.

According to the 2020 Reporters Without Borders' World Press Freedom ranking, which places Uruguay in the 18th place worldwide, the decriminalization of media offenses and access to information has created a positive environment for journalists, but they still face many challenges.

Likewise, many civil society organizations have raised their concern on how private censorship is being performed online. All signatories of a joint declaration expressed how the unjustified removal of two research papers published by Sudestada, an online Uruguayan media outlet, from Google's metasearch tool affects freedom of speech and expression in the country.

Uruguay has laws ensuring open access to public information to citizens, despite some restrictions on exceptions established by the law and confidential information, which include public contracts processes. Law 18.381 establishes that all people have access to public information, without repairs from their nationality or character, and that requests are free of charge. However, in the context of the Covid-19 pandemic, civil society organizations denounce an increase in the restriction to access public information. According to different sources, the Presidency of Uruguay has become the institution that has rejected the highest amount of access to public information.

Section III - Political Participation

- The will of the people shall be the basis of the authority of government, as expressed by exercise of the right and civic duties of citizens to choose their representatives through regular, free and fair elections with universal and equal suffrage, open to multiple parties, conducted by secret ballot, monitored by independent electoral authorities, and free of fraud and intimidation.
- The right of every person to equal access to public service and to take part in the conduct of public affairs, directly or through freely chosen representatives.
- The right of those duly elected to form a government, assume office and fulfill the term of office as legally established.

Political participation:

The Economist Democracy Index places Uruguay as the only full democracy in Latin America, with a total score of 8.85 points, representing good levels of transparency in the electoral processes, high levels of pluralism and a proper amount of participation.

However, civil society organizations have raised their concern for the recent deterioration of communications channels with the government. This has been evident in the decision to terminate the agreements between the Ministry of Social Development and 140 NGOs, which has a first direct impact on resources for these organizations, undermining their ability to continue working.

Elections in Uruguay are ruled by the National Constitution and Electoral Laws of different kinds. The regulations ensure a universal, obligatory and secret vote for every person over 18 years old. However, prisoners and Uruguayans overseas cannot vote, the latter must return to the country to vote. There have not been official reports on fraud or any other threatening practices during elections, but disinformation and fake news undermine the legitimacy of the process.

General, departamental and municipal elections take place in Uruguay every four years, respectively, in which all political parties and candidates are able to participate without limitations. The election of formal candidates to President and Vice-president of Uruguay follows a previous election process in the different political parties. Uruguayans direct participation is encompassed in referendums, in which they can directly decide the approval or rejection of certain regulations that have been approved by the Parliament. All these processes respect the decisions of the majority of the population, and are managed by the electoral authority.

Uruguay has implemented legislation and policies that aim to assure women's participation in public spaces. Despite the law, women's participation as candidates in Uruguay is low. For example, the percentage of women running for "intendentas" hardly reached 15% in 2020, with only 2 women elected for office. Likewise, only 14.3% of women hold ministerial positions, with only 2 women being Ministers. In the Parliament, women only represent an average of 28.25% of the seats between the two chambers. This shows that women participation is still restricted by other factors that are beyond the current legislation.

Section IV- Protection and Promotion of Human Rights

- The right of every person to equal protection of the law, without any discrimination as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- The right of every person to freedom of thought, conscience and religion.
- The right of every person to equal access to education.
- The right of every person to respect private family life, home, correspondence, including electronic communications, free of arbitrary or unlawful interference.
- The right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties, civic groups, trade unions or other organizations with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law.
- The right of persons belonging to minorities or disadvantaged groups to equal protection of the law, and the freedom to enjoy their own culture, to profess and practice their own religion, and use their own language.

Protection and promotion of human rights:

According to the Freedom House's report on the current State of Freedom in the world, Uruguay has a score of 97 between the categories of political rights and civil freedoms.

Freedom of religion is protected by the law in Uruguay by establishing that all people are free to exercise their own religion without the threat of being discriminated against or threatened because of its faith. In practice, all this is properly respected by all actors in Uruguay, including government, civil society, private sector and citizens.

The Civicus Monitor for 2021 places Uruguay as an open State regarding Civic Space, which means civil society and other actors have the proper environment to exercise their freedom of association and peaceful assembly as the government mostly fulfills its duty to ensure so. Some threats have increased, considering the criminalization of social protest has been a constant concern for civil society emerged from the current government, as the "Law of Urgent Consideration" attempted to restrict both freedom of peaceful protest and expression.

For example, Uruguay welcomes multiple trade and labor unions, which have emerged as important voices in the public arena, but in 2021 port workers were unproportionally repressed by officers when peacefully protesting to get better labor contracts to ensure their physical protection. Furthermore, civil society organizations denounce that the "Law of Urgent Consideration" attempted to restrict both freedom of peaceful protest and expression.

On the other hand, Uruguay has developed important legislation to protect women against any form of gender violence. In practice, women in Uruguay still experience lower employment opportunities, considerable salary gaps and a high rate of unemployment or unpaid domestic work. Moreover, around one million Uruguayan women have experienced some form of gender based violence throughout their lives. In 2021, shelters designed for women survivors of violence received 217 women and 229 children and teenagers. To address this pressing issue, the government has implemented several public policies for women to denounce violence and receive attention from public and private actors, but civil society organizations have denounced a potential setback in the implementation of the gender approach in public policies if some proposed bills under discussion in Parliament are approved in the near future.

On the other hand, in Uruguay, imprisoned people have not received proper attention. Since 2017, the homicides rates in prisons are distressing; and, in 2021, the rates of overcrowding reached its peak, showing that prison density is over 140%. Worryingly, 90% of the prisoners in the country are under 28 years old, and Uruguay is among the 15 countries with more prisoners per capita in the world, and in Latin America is the sixth country with the highest rate of prisoners.

Regarding sexual diversities, Uruguay is the sixth country in the world to recognize and protect the rights of the LGBTQ+ community. Marriage, anti-discrimination and equality are topics included in legislation and policies in Uruguay.

According to the LatinoBarometer of 2021, Uruguay is one of the LAC countries that has the lowest perception regarding unfair distribution of health, justice and education services.

Section V- Rule of Law

- The right of every person to be free from arbitrary arrest or detention; to be free from torture and other cruel, inhuman or degrading treatment or punishment; and to receive due process of law, including to be presumed innocent until proven guilty in a court of law.
- That the aforementioned rights, which are essential to full and effective participation in a democratic society, be enforced by a competent, independent and impartial judiciary open to the public, established and protected by law.
- That elected leaders uphold the law and function strictly in accordance with the constitution of the country concerned and procedures established by law.

Rule of law:

According to the World Justice Project Index on the Rule of Law, Uruguay has the best score in Latin America, with a 1% increase from last year's ranking. Within the ranking, the lowest score achieved relates to the effectiveness of Criminal Justice (0.56/1), as the criminal investigation system is not working as it full potential; the correctional system does not reduce criminal behavior; the due process of the law and rights of the accused is lacking a proper disinvolvement; and, the criminal system is not as impartial as needed to achieve a proper Rule of Law.

In Uruguay, the National Constitution establishes the independence of State powers. The Executive, Legislative and Judicial bodies are recognized to work free from influences from each other to ensure transparency and good governance. In practice, each power has been independent, but in recent years, some labor unions have exposed the dangers of the interference of the Executive body in judicial matters.

For example, recently the Uruguayan Lawyers Union and several Magistrates strongly condemned the presence of the Minister of the Interior that had the objective to show support to the police officers accused of unproportionate use of force and to question the decision made by the judges in charge of the cause. The actions of the Minister created tensions between the two State powers, as they were considered a delivered intention to put pressure on the decisions made during trial.

Recommendations:

We recommend the Governing Council to renew Uruguay's membership to the Community of Democracies. We advise Uruguay to take into consideration the concerns raised by civil society on the recent deterioration of communication and collaboration channels with CSOs.



This report has been developed by the Secretariat of the CSP (Fundación Multitudes) after holding dialogues with Uruguayan CSOs.

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Sweden

Section I - Democratic Governance

- That government institutions be transparent, participatory and fully accountable to the citizenry of the country and take steps to combat corruption, which corrodes democracy.
- That the legislature be duly elected and transparent and accountable to the people.
- That civilian, democratic control over the military be established and preserved.
- The obligation of an elected government to refrain from extra-constitutional actions, to allow the holding of periodic elections and to respect their results, and to relinquish power when its legal mandate ends.

Democratic governance:

In the last International Transparency Report 2021, Sweden was ranked 4th out of 180 countries, the same rank since 2018. In the latest report of Freedom House, 2021, Sweden was rated as a country with 100/100 points.

In summary of the Freedom House last report, Sweden's parliamentary monarchy has efficiently made free and fair elections, and as a country they have a strong multiparty system. Civil liberties and political rights are legally guaranteed which are highly respected and the rule of law prevails broadly in the country.

As for the hold of the power, the Prime Minister is the head of the government and is appointed by the speaker of the freely elected parliament. The current Prime Minister Löfven of the Swedish Social Democratic Party (commonly abbreviated: SAP) was appointed in 2019. On the other hand, King Carl XVI Gustaf, was crowned in 1973, though the power of the King had diminished successively over the years.

The Swedish power is constitutionally stated to proceed from the people and the Riksdag (the parliament) is the foremost representative of the people. This is stated in the Instrument of Government, which describes how the country is to be governed, the democratic rights and how public power is to be divided.

Additionally, the Parliament is composed of 348 members, who are elected every four years by proportional representation. Swedish elections are broadly free and fair. A report published in november 2018 by the Organization for Security and Co-operation in Europe stated that the integrity of the elections was not in doubt, but the secrecy of the vote was sometimes compromised. The elections are regulated and controlled by the Swedish Election Authority, which effectively upholds its mandates.

By the same, Sweden's freely elected representatives develop and implement policy, for example the SAP managed to form a functioning government with the Green Party, Center Party, and Liberals in 2019 after a vote in parliament.

Furthermore, corruption is low in Sweden, as anti corruption mechanisms are generally effective and the country's free press also works to expose corrupt officials. However, Sweden has faced some criticism for insufficient enforcement of foreign bribery laws.

Finally, Sweden is one of the most robust freedom of information statutes in the world, and state authorities generally respect the right of both citizens and noncitizens to access public information.

Section II - Freedom of Expression

- The right of every person to freedom of opinion and of expression, including to exchange and receive ideas and information through any media, regardless of frontiers.
- The right of the press to collect, report and disseminate information, news and opinions, subject only to restrictions necessary in a democratic society and prescribed by law, while bearing in mind evolving international practices in this field.

Freedom of expression:

The fundamental law on Freedom of Expression sets out these rights, including the right to express yourself freely on TV, radio and the internet. It also mentions what's not permitted, like defaming or publicly insulting another person. This law has been extended alongside the development of new media. Examples of possible offenses against the Fundamental Law of Freedom of Expression include films with +18 elements or threats to the security of the country or society through the publication of something involving treason or espionage.

The Swedish Media Council is for internet literacy and protecting children and young people from harmful content of the media. The Council is also responsible for setting age limits for films intended for public screenings to children under 15 years of age.

The media is independent and most newspapers are owned by privates. The government subsidizes newspapers regardless of their political line. Public broadcasters air weekly and television programs are in several minority languages as well. On the other hand, threats and intimidation towards journalists have increased over the recent years, particularly against the journalists who report on organized crime, religion and extremist groups.

The freedom of Press Act contains the principle of public access to official documents. According to this principle, everyone is permitted to access official documents. The principle of public access to official documents is a guarantee that makes the work of the Riksdag, government and public organizations more transparent. Everyone is permitted to contact public authorities and request a copy of the official document, this is allowed without providing a name or any detail of how the document will be used.

Section III - Political Participation

- The will of the people shall be the basis of the authority of government, as expressed by exercise of the right and civic duties of citizens to choose their representatives through regular, free and fair elections with universal and equal suffrage, open to multiple parties, conducted by secret ballot, monitored by independent electoral authorities, and free of fraud and intimidation.
- The right of every person to equal access to public service and to take part in the conduct of public affairs, directly or through freely chosen representatives.
- The right of those duly elected to form a government, assume office and fulfill the term of office as legally established.

Political participation:

The elections are regulated by the Swedish Election Authority, which effectively upholds its mandates. The Election Authority is headed by a government-appointed committee.

There are realistic opportunities for the opposition to increase its support and gain power through elections, as Political parties may form and operate without restriction. Sweden has a strong multiparty system, with a robust opposition. In the 2018 Riksdag, eight political parties secured representation.

As well, in the Freedom House 2021 report, it is said that the people's political choices are free from domination by external forces to the political sphere, or by extra political means by political forces. These choices are generally free from domination by actors that are not democratically accountable.

Regarding the representation of citizens in public institutions, the country's principal religious, ethnic and immigrant groups are represented in the parliament. In the case of indigenous communities, since 1993, the indigenous Sami community has elected its own legislature, which has power over community education and culture, which also serves as an advisory body to the government. There are calls for more political autonomies of the Semi Parliament, which have been echoed by the United Nations Special Rapporteur on the rights of Indigenous peoples.

In the case of female representation, currently there are 161 women, out of 349 members, in the Riksdag. Some parties maintain more gender parity than others.

The Swedish political participation is high, as in the parliamentary elections of 2018, the preliminar voter turnout was 87.1% of valid votes. The turnout has not been below 80% since the 1950s. This high turnout can be influenced by many factors: trust in democratic institutions, respect for the electoral system and the fact that parliamentary elections are combined with elections to local and regional governments as well. These last two types of elections are chosen by local voters and not appointed from the capital of Stockholm.

Section IV- Protection and Promotion of Human Rights

- The right of every person to equal protection of the law, without any discrimination as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- The right of every person to freedom of thought, conscience and religion.
- The right of every person to equal access to education.
- The right of every person to respect private family life, home, correspondence, including electronic communications, free of arbitrary or unlawful interference.
- The right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties, civic groups, trade unions or other organizations with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law.
- The right of persons belonging to minorities or disadvantaged groups to equal protection of the law, and the freedom to enjoy their own culture, to profess and practice their own religion, and use their own language.

Protection and promotion of human rights:

On the theme of religious freedom, it is constitutionally guaranteed and generally respected. The authorities document religious related crimes, investigate and prosecute them and then provide adequate resources for victims. The Police force includes a unit trained just to handle hate crimes.

However, despite the capacity of the authorities to document and process legal actions for hate crimes, most violence against Jews and Muslims are often not reported. A survey from Uppsala University made in 2018, found that 52% of Muslims had received death threats and 45% had reported -at least- one attack. That same year, 2018, houses owned by Jews were set on fire on two occasions in Lund, Sweden. Since 2017 the statistic of islamophobia and antisemitism crimes have increased, and early this year unrest came to Sweden because of islamophobic demonstrations that threaten to burn the Qur'an, resulting in several civilians and police officers injured.

Furthermore, in the last years multiple notices of members of Parliament making antisemitic and anti-Muslim remarks have occurred: included denials of the Holocaust, antisemitic conspiracy theories, and extreme anti-Muslim rhetoric. Some members of the parliament have proposed laws to ban the Muslim call to prayer and the wearing of the hijab by students and teachers, the importing of kosher and the non medical circumcision of boys. With that, the government statistics on hate crimes in 2018, showed that hate crimes were increasing. Authorities recorded 7,090 offences with an identified hate crime motive that year, of which 4,865 had a xenophobic or racist motive.

People in Sweden generally enjoy equality of opportunity. However, unemployment is higher among immigrants, and particularly immigrant women, than is among people who were born in Swedish land. The United Nations has also noted that the performance gap between foreign-born and native-born children in school remains high.

Unfortunately Sweden is a destination and, to a lesser extent, a transit point for women and children trafficked for the purpose of sexual exploitation, but the Swedish government is proactive in combatting it. The political power has established anti trafficking working groups and plans at regional and municipal levels. Despite these actions, the United Nations has pointed out that Sweden lacks robust methods to prevent from falling victim to human trafficking, especially unaccompanied immigrant children.

In the case of the rights of the LGBT+ community, same-sex couples are legally allowed to marry and adopt, and lesbian couples have the same right to artificial insemination and in vitro fertilization as heterosexual couples. Moreover, in 2020, authorities were working to draft a law that would permit people to change their gender legally according to their identity.

Despite Sweden's reputation in the eyes of many as a model for gender equality, Sweden suffers from persistently high levels of rape and sexual assault. To combat the issue, the Riksdag passed a law in May 2018 that legally recognizes sex without consent as rape. The law distinguishes Sweden from most other European countries, which continue to legally define rape in terms of force, threats and coercion. The rates of rape conviction in Sweden had increased by 75% since 2020, when was the change in the legal definition.

Freedom of movement is legally guaranteed and it's mostly respected in practice. As for asylum seekers, they may be assigned to a place of residence and sometimes may be forced to change locations, violating the freedom of movement of this vulnerable group. Also, in the wake of growing right-wing sentiment and increasing immigration from abroad in 2017, the Swedish government decided to place limits on parental leave benefits for migrants. The year prior, the parliament confirmed a law that tightened restrictions on asylum seekers, which even included limiting family reunification.

In face of the current conflict in Ukraine, the Swedish Government decided to fund support for Ukrainian refugees to Sweden. However, many civil society organizations expressed their concern because the majority of the cost is being extracted from the Swedish International Development Cooperation Agency (Sida) budget, particularly from the Democracy and Human Rights and Civil Society strategies, which could potentially undermine the work of community-based organizations and human rights defenders in other conflict areas around the world.

Section V- Rule of Law

- The right of every person to be free from arbitrary arrest or detention; to be free from torture and other cruel, inhuman or degrading treatment or punishment; and to receive due process of law, including to be presumed innocent until proven guilty in a court of law.
- That the aforementioned rights, which are essential to full and effective participation in a democratic society, be enforced by a competent, independent and impartial judiciary open to the public, established and protected by law.
- That elected leaders uphold the law and function strictly in accordance with the constitution of the country concerned and procedures established by law.

Rule of law:

The judiciary in Sweden is independent and the rule of law prevails in civil and criminal matters. For example, defendants are presumed innocent until proven guilty and the state has to provide legal counsel to accused for criminal offenses.

In addition there is protection from the illegitimate use of physical force and freedom from war and insurgencies. As informed in the last Freedom House report, Sweden is free from large-scale insurgencies, on the contrary rising street violence has emerged as a growing concern. Likewise deadly shootings, arson attacks and the use of hand grenades have taken place in many cities in recent years, mainly in poorer neighborhoods with large immigrant populations. In the first six months of 2020 there were 163 shootings, in which 20 people were killed. Despite the last, very few cases have been prosecuted, and little information is available about who is involved in the attacks or why they have happened.

As for anti-terrorism, the government introduced measures following a 2017 attack in which a man drove a truck through Stockholm and into a department store, killing people and injuring 10 others. The mentioned law is focused on higher security in public places, greater information sharing between government agencies and tighter controls on individuals.

Sweden works to ensure equal protection and rights for all members of the population. An equality mediator oversees efforts to prevent discrimination on the topics of gender, ethnicity, sexual orientation and disabilities. However, the United Nations has called for the mediator's power to be strengthened, as they have noticed discrimination by police and personnel of detention facilities.

Recommendations:

We recommend the Governing Council to renew Sweden's membership to the Community of Democracies. We advise Sweden to take proper measures to promote the report of hate crimes; guarantee equal opportunities for immigrants, particularly women; protect and guarantee the

freedom of movement and family reunification of asylum seekers; and increase allocation of funding to SIDA, particularly to the Democracy and Human Rights and Civil Society strategies.

This report has been developed by the Secretariat of the CSP (Fundación Multitudes).



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Hungary

Section I - Democratic Governance

- That government institutions be transparent, participatory and fully accountable to the citizenry of the country and take steps to combat corruption, which corrodes democracy.
- That the legislature be duly elected and transparent and accountable to the people.
- That civilian, democratic control over the military be established and preserved.
- The obligation of an elected government to refrain from extra-constitutional actions, to allow the holding of periodic elections and to respect their results, and to relinquish power when its legal mandate ends.

Democratic governance:

According to the last Transparency International Corruption Perception Index 2021, Hungary scored 43 points on a scale ranging from 0 points (the most corrupt country) to 100 points (the country least infected with corruption), ranking 73rd in a survey of 180 countries, down one point and four places compared to the previous year. This is the worst result the country has ever received. In the European Union, only Bulgaria scored worse, with 42 points. The last score is enlarged by the coronavirus pandemic, used by the Hungarian government as a pretext to further deconstruct the country's democratic structure and to enrich oligarchs at the expense of public resources by spending less than needed to mitigate the pandemic crisis.

Moreover, the TI report stated that the government revoked some of the competences of municipalities and diverted a non negligible share of their revenues by the designation of the so-called special economic zones and by depriving some of the municipalities' most important non-restricted financial resources such as vehicle tax and local business tax. The government used the need to combat the pandemic as an excuse to significantly curtail the accessibility of public interest information.

On the topic of election and transparency of the legislature, the Nation Assembly elects both the President and the Prime Minister, meaning the democratic legitimacy of these votes rests largely on the fairness of parliamentary elections. The President's duties are mainly ceremonial, but they may influence appointments and return legislation for further consideration before signing it into law.

The president is limited to a maximum of two terms, János Áder, a founding member of Fidesz – Hungarian Civic Alliance, Hungarian political party, has been president since 2012, having won a second five-year term in 2017. In March 2022, the Hungarian Parliament – where Fidesz has a constitutional majority – elected Katalin Novák as president. She used to be the Vice-President of the ruling party, Fidesz, and took up several ministerial positions in the previous governments. She took office in May 2022. It is the Prime Minister who holds most executive power, Viktor Orbán has been PM since 2010, winning reelection in 2014, 2018 and 2022. Nevertheless, Orbán's government has been largely successful in superseding impartiality requirements. In 2019, the Supreme Court effectively neutralized a long-standing neutrality requirement for State institutions during election campaigns.

As for the elections, the Organization for Security and Cooperation in Europe's 2018 assessment also indicated that citizens were not permitted to participate in election observation at polling places, and that "intimidating rhetoric by the government" discouraged public involvement in election-related activities. Numerous local election commissions operated without an opposition

or nonpartisan presence during that year. Based on previous experiences, for the elections in April 2022 OSCE sent a full mission to Hungary, which is unprecedented in the European Union. OSCE stated in its preliminary report that the parliamentary elections were professionally administered but marred by the absence of a level playing field. The campaign was characterized by a pervasive overlap between the ruling coalition and the government. The lack of transparency and insufficient oversight of campaign finances benefited the governing coalition. In addition, several key provisions of the electoral legal framework fall short of international standards.

As for its efficiency of European Union grants dedicated to economic development during 2014-2020, it remained humble, and the proportion of single-bidder process in public tendering was particularly high: in almost half of the public procurement procedures practically there is no competition. Hungary is allocated in the 2021-2027 period around 40,6 billion euro worth of EU funding, which is way more than the 32,1 billion euro received in the previous funding period, which makes it crucial for the country to more efficiently use the EU grants. It needs to be mentioned, though, that up until the time of the preparation of the present report, Hungary has not received the funding allocated for the 2021-2027 budgetary period, since the European Commission has not approved the Hungarian Partnership Agreement due to the inadequate anti-corruption performance of the Hungarian Government. Moreover, the European Commission triggered the so-called conditionality mechanism for the first time due to the systemic breach of the principles of Rule of Law in Hungary.

One of the main reasons for triggering the above-mentioned mechanism is that instances of government corruption have not been properly investigated. Prosecutors have also been reluctant to investigate long-standing allegations of the public misuse of development funds disbursed by the EU. Fidesz has also established major control over auditing and investigation bodies. The latest report of the Group of States against Corruption (GRECO) said that Hungary performed poorly in complying with its recommendations on anti corruption measures in relation to ministers, judges, and prosecutors; and the Hungarian Chapter of Transparency International has warned that a number of companies with close ties to the government are supported primarily by public funds.

Section II - Freedom of Expression

- The right of every person to freedom of opinion and of expression, including to exchange and receive ideas and information through any media, regardless of frontiers.
- The right of the press to collect, report and disseminate information, news and opinions, subject only to restrictions necessary in a democratic society and prescribed by law, while bearing in mind evolving international practices in this field.

Freedom of expression:

Media freedom and corruption are interlinked, and the indicators describing the two phenomena show a strong correlation. The Transparency International Corruption Perceptions Index and the Freedom House Press Freedom Index show a strong positive correlation.

After Fidesz's first "two-thirds" electoral victory (in 2010) and its rise to government, more and more organs have become government mouthpieces. The public media had been degraded from public service to state-run, and then many other privately owned organs changed owners and became servants of power. This trend accelerated in the middle of the decade. Media pluralism, i.e., plural, factual and objective reporting, has been under threat. This declining trend is reflected

in the Freedom House Press Freedom Index. The organization's 2012 report was the first to apply the label "semi-free" to the Hungarian media, and this has been confirmed by Freedom House's indexes and related studies published since then.

In the past decade a number of government-critical media outlets ceased to exist or were taken over by pro-government players. The allocation of radio frequencies also showed political intent, especially as Klubrádió, the only radio station with political content was deprived of its frequency and was "exiled" to the internet. The most important tool of market distortion is the redirection of public advertising to pro-government organs. Data analysis has shown that public money in television, online media and printed media has gone overwhelmingly to pro-government organizations. However, private companies' advertising is also often hijacked by public authorities, albeit in more sophisticated ways, appealing to a perceived or real sense of threat and conformity. Companies do not necessarily base their advertising decisions on objective circulation figures, but on an expression of loyalty to public authorities

The pro-government regulation capture continued with the unprecedented concentration of media markets in the European Union in November 2018, when the management of some 450 pro-government media titles was merged into a single conglomerate, the Central European Press and Media Foundation (CEPMF). CEPMF has since managed even more, almost 500 titles. The government has exempted the foundation from competition oversight on the grounds of national strategic interest.

As they currently control most of Hungary's media, there has been minimum criticism and cover within the country of the many controversial actions the government has taken, such as a ban on gender and climate change studies, the acquisition of Hungary's scientific and academic bodies, running an anti-migrant campaign, blocking the EU's 2050 carbon neutrality goal and even blocking news on the coronavirus situation.

The media regulation is performed by the National Media and Info-communications Authority (M.A) which is made up of three components: The president, the Media Council and the Office of the Media Council. It is noticeable that the President of the M.A exercises a range of powers, including the appointment of the main decision-makers in the M.A, the nomination of candidates for the senior positions in each public service media provider and the appointment of the executive director of the national public service broadcasting organization. In addition to the control of power the President of the Media Authority is nominated by the Prime Minister and appointed by the President of Hungary.

The Constitution protects the freedom of the press, but Fidesz has undermined this guarantee through legislation that has politicized media regulation. While private opposition media outlets exist, national, regional and local media are increasingly dominated by pro-government outlets, which are frequently used to smear political opponents and highlight false accusations. Governments advertising and sponsorships favor pro-government outlets, leaving independent and critical outlets in financially precarious positions.

Journalists' safety is threatened by the government's use of the Pegasus spyware also targeting journalists. The government acknowledged the acquisition of this software. Evidence has been found for the government surveillance of at least 4 journalists: including a reporter specialized in crime stories, a photojournalist who has worked on covering the luxurious holidays of government-friendly oligarchs and political actors, and journalists working on high profile

corruption cases. Furthermore, Zoltán Varga, CEO of Central Media Group (one of the most significant independent media holdings still standing in Hungary) was also among those surveilled. At the same time there is no dedicated law enforcement capacity to prevent or investigate attacks on journalists, and neither criminal law nor law enforcement practice treats journalists as a group that requires enhanced protection. When a journalist addressed the Minister of Interior in his role as head of the National Security Committee in charge of examining abuses of surveillance, the Minister threatened the journalist with a criminal charge.

Another concern regarding Hungary's media legislation is the vaguely formulated content regulation provisions, thus the Media Council may interpret the illegality of content without any clear proportionality requirements or other guidance to limit its discretion.

The government is unwilling to take effective steps against (primarily Russian and Chinese) anti-EU authoritarian propaganda built on disinformation. In fact, it aggravated its effects in certain cases when government-controlled media disseminated geopolitical messages in line with Russian and Chinese propaganda to the Hungarian public.

As regarding transparency information laws, the government tripled the 15-day deadline set out in the law for servicing freedom of information requests; the government rewrote the constitutional definition of public funds in the ninth amendment of the fundamental law.

Hungary's Freedom of Information Act contains numerous exemptions and permits agencies to charge fees for the release of information, and is inconsistently enforced. In many cases, information is only made available as a result of litigation. In April 2021, the government made changes to the "scaremongering" law, ostensibly to fight false or distorted information about COVID-19, ultimately challenged journalist's ability to secure reliable sources to report on the crisis, as many individuals, especially health workers, feared retaliation if they provided information publicly.

Section III - Political Participation

- The will of the people shall be the basis of the authority of government, as expressed by exercise of the right and civic duties of citizens to choose their representatives through regular, free and fair elections with universal and equal suffrage, open to multiple parties, conducted by secret ballot, monitored by independent electoral authorities, and free of fraud and intimidation.
- The right of every person to equal access to public service and to take part in the conduct of public affairs, directly or through freely chosen representatives.
- The right of those duly elected to form a government, assume office and fulfill the term of office as legally established.

Political participation:

The Hungarians political parties can organize legally, but they face practical impediments in their efforts to garner popular support. The government introduced changes to party registration and financing systems that took effect ahead of the 2014 parliamentary elections, which encouraged the registration of new parties, but these reforms were criticized due to the means of Fidesz to divide the opposition. The opposition parties are disadvantaged by the politicized distortion of the advertising market and media.

In 2020, the government cut funding and halved state subsidies for political parties in order to increase funds dedicated to the challenges of the COVID-19 pandemic. This disproportionately affected opposition parties. The parliament further amended the electoral framework to require 71 candidates per political list (instead of the usual 27), forcing small parties to combine and field one consolidated list of candidates.

Since 2010, Fidesz has dominated the political landscape. The opposition remains fragmented, and increasingly face obstacles and restrictions that detract their ability to gain power through democratic means. This includes unequal access to media, smear campaigns, politicized audits, and campaign environment skewed by the ruling coalition's mobilization of the country's resources.

Individuals are largely able to participate in public affairs without undue influence over their political choices. However, Fidesz increasingly harnessed its members' political and economic power to sideline opposition groups and prevent them from presenting a meaningful challenge to its dominant position, which has made these groups vulnerable to pressure to vote for the ruling parties because of the "fear of losing access to the limited public works funds".

As for gender inclusion, women are underrepresented in political affairs, and the share of women in the parliament remains low, being only 27 out of 199 National Assembly members and only 1 out of 14 cabinet Ministers. Ruling party Ministers and pro-government media occasionally make derogatory and sexist remarks toward women in the parliament.

The Hungarian Constitution guarantees the right of ethnic minorities to form self-governing bodies. All 13 recognized minorities have done so. These groups can also register to vote for special minority lists in parliamentary elections. Most ethnic minority groups -given the small sizes they have assimilated into Hungarian society- are unable to win a preferential mandate. Whoever, minorities without a parliamentary mandate can send a "national minority advocate" to the parliament without voting rights.

Section IV- Protection and Promotion of Human Rights

- The right of every person to equal protection of the law, without any discrimination as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- The right of every person to freedom of thought, conscience and religion.
- The right of every person to equal access to education.
- The right of every person to respect private family life, home, correspondence, including electronic communications, free of arbitrary or unlawful interference.
- The right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties, civic groups, trade unions or other organizations with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law.
- The rights of persons belonging to minorities or disadvantaged groups to equal protection of the law and the freedom to enjoy their own culture, to profess and practice their own religion and use their own language.

Protection and promotion of human rights:

Roma people continue to be discriminated against in workplaces, schools and public establishments, adding that many live in abject poverty. Children from Roma families living in poverty continued to be separated from their families and placed in long-term state care, even though this practice is forbidden by the Hungarian Child Protection Act. In January 2021 a lower court decision ordered a €275,000 compensation in damages to 60 Roma students who had been segregated. The Prime Minister Orbán said the ruling was an affront to people's sense of justice when "members of an ethnically dominant ethnic group can receive an amount of money without doing any kind of work". Alarm about the prevalence of racist hate speech against Roma and other minorities and about hate crimes was raised by the Human Rights Council Working Group.

The government continued to restrict the rights of LGBTIQ+ people. Transgender people are not legally allowed to change the gender markers on their identification documents. In December 2020, the parliament adopted a law that states that only married couples will be eligible to adopt children, with the minister in charge of family policies able to make exceptions on a case-by-case basis. It effectively excludes same-sex couples, single people, and unmarried different-sex couples from adopting children. A constitutional amendment adopted at the same time includes language that stigmatizes transgender people, stating that "children have the right to their identity in line with their sex at birth" and rejects diversity and inclusivity by mandating that children's upbringing should be "in accordance with the values based on our homeland's constitutional identity and Christian culture." Hungary adopted a homophobic and transphobic law in June 2021, banning access by those under 18 to material that promotes or portrays "divergence from self-identity corresponding to sex at birth ... or homosexuality". The new law violated the rights to freedom of expression, non-discrimination and education. The European Commission launched an infringement procedure against Hungary in July. An implementation decree in August put restrictions on shops selling products "promoting" or "portraying" sexual and gender diversity, banning all such sales within 200 meters of places frequented by children, and in all other cases required shops to separate those products in sealed packages. Reports from LGBTIQ+ organizations show that the number of hate incidents have increased since then.

Women continues to experience widespread gender-based discrimination. Many government policies and communications actively reinforced gender stereotyping, promoting women's domestic roles while downplaying the importance of gender equality. In addition, at workplaces, gender-based discrimination particularly affects pregnant women and women with young children wanting to return to work. The authorities failed to ensure access to effective remedies for unlawful termination of employment. On the other hand, in May of 2020, the Hungarian parliament adopted a political declaration calling on the government not to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence, despite initially signing it in 2014.

Regarding religious freedom, the Hungarian constitution guarantees freedom of belief and provides for the separation of church and State, but these guarantees were weakened in the 2011 Constitution. Constitutional amendments enacted in 2018 and 2020 reinforced Christianity references in the Constitution, obliging all State organs to protect "Christian culture" and guarantee children's right to education based on Christian values.

On education themes, in October of 2020 the Court of Justice of the European Union (CJEU) ruled that the 2017 Hungarian law that forced the George Soros funded Central European University to leave Budapest and relocate to Vienna, violated EU law.

Following the mentioned, the government had maintained its efforts to bring schools and universities under close supervision. A gradual overhaul of the public education system raised concern about excessive government influence on school curriculums – there is a rigid, centralized, compulsory curriculum of public education –, and legislation adopted in 2014 allows government-appointed chancellors empowered to make financial decisions at public universities. The government also has increasingly threatened the academic autonomy of well established institutions, pulling support, interfering in their affairs and landing pro government supporters in leading positions. In 2021 all but five higher education institutions in Hungary were conferred upon newly formed public interest trusts, with government representatives in the board.

Regarding access to the Net, Hungary's internet penetration rate has steadily increased in the last few years. According to Eurostat, over 86% of the population used the internet in 2020 and 88% of Hungarian households had access to the internet in 2020. The national infocommunication strategy developed by the government aims for 100% of households to have access to the internet by the end of 2020. It is not clear if the government met the goal, but the government did meet the strategy's goal of providing at least 50% of households access to connections.

Lastly, Hungarians have the right to own property and establish private businesses. However, the success of said business is somewhat dependent upon its owner's government connections. Business people whose activities are not aligned with the political interest of the government are likely to face harassment and intimidation, and be subject to increasing administrative pressure for possible takeover.

Section V- Rule of Law

- The right of every person to be free from arbitrary arrest or detention; to be free from torture and other cruel, inhuman or degrading treatment or punishment; and to receive due process of law, including to be presumed innocent until proven guilty in a court of law.
- That the aforementioned rights, which are essential to full and effective participation in a democratic society, be enforced by a competent, independent and impartial judiciary open to the public, established and protected by law.
- That elected leaders uphold the law and function strictly in accordance with the constitution of the country concerned and procedures established by law.

Rule of law:

Regarding the rule of law in Hungary, the Transparency International reports stated that the government's response to the challenges of the coronavirus pandemic accelerated the deconstruction of the country's democracy. One example of the preceding is the introduction of a rule by decree regime, which substantially broadened the government's room for maneuver.

On judicial independence matters remain concerning. The President of the National Office for the Judiciary ("NOJ President") has the right to declare a judicial application procedure unsuccessful without any external control even after the establishment of the ranking of applicants. The NOJ President has the same overly broad and excessive powers and discretion regarding the

appointment of court presidents. Additionally, a Hungarian Constitutional Court (HCC) judge has the possibility to automatically become a judge at the Supreme Court upon their request, which, according to the Venice Commission “opens the door to a potential politicization of the supreme court”. In June 2020 the President of the Republic appointed eight members of the Constitutional Court to judges. Six out of them had no judicial experiences in ordinary courts.

Court presidents have exclusive and unlimited right to establish the case allocation scheme. Specific concerns can be raised with respect to case allocation at the Supreme Court. In 2021, the case-allocation scheme was modified 12 times, which indicates a continuous change in the composition of chambers. In 2021, in several politically sensitive cases the composition of the adjudicating panel was not in line with the case allocation scheme.

It is of particular concern that there is a strong political influence of the governing majority over the Hungarian Constitutional Court (HCC) through the election of one-party nominees as HCC justices with a $\frac{2}{3}$ majority of Fidesz-KDNP in Parliament. As a result of the court-packing process, twelve justices out of fifteen HCC justices were elected without any opposition support.

The prosecution service and the incumbent Prosecutor General (PG) – a former member of the ruling party, Fidesz –, re-elected in 2019 for 9 years by the governing parties over the objections of the opposition, has long been subject to heavy criticism for not bringing high-profile corruption cases of government politicians and their close affiliates before courts. In November 2021, the governing majority adopted an amendment requiring a two-thirds majority for the removal of the PG.

In the case of process rights, these are enshrined in the constitution and are generally respected. However, the former head of the National Judicial Office was criticized for using the authority to transfer certain cases to courts of their own choice. Litigation costs are relatively high, while access to legal aid is limited. There have been concerns about the quality of lawyers appointed for defendants who are unable or unwilling to retain legal counsel on their own.

Regarding the illegitimate use of physical force, physical abuse by police is a problem, and there are systematic deficiencies in reporting, investigating and sanctioning such conducts. The inadequate medical care and poor sanitation in the country’s prisons and detention centers remains a concern as well. The COVID-19 pandemic presented further challenges to the safety of prisoners and prison staff. In 2020, the government added new facilities, which added more space in prisons.

Lastly, the rights of refugees and asylum seekers are routinely violated in Hungary, where frequent changes to asylum policy and the construction of barriers along the country’s southern border made it nearly impossible for individuals to apply for asylum and receive protection. Since 2018, only two asylum seekers are formally permitted to enter the country per day. In May 2020, the Court of Justice of the European Union (CJEU) ruled that Hungarian asylum procedures were incompatible with EU law. Currently, in relation to the war in Ukraine, the Hungarian government follows the European norms in treating the refugees fleeing from Ukraine.

Recommendation:

We recommend the Governing Council **NOT** renew Hungary’s membership to the Community of Democracies.

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Nigeria

Section I - Democratic Governance

- That government institutions be transparent, participatory and fully accountable to the citizenry of the country and take steps to combat corruption, which corrodes democracy.
- That the legislature be duly elected and transparent and accountable to the people.
- That civilian, democratic control over the military be established and preserved.
- The obligation of an elected government to refrain from extra-constitutional actions, to allow the holding of periodic elections and to respect their results, and to relinquish power when its legal mandate ends.

Since 1999 when the country returned to civil rule elections have been held in Nigeria. The Independent National Electoral Commission (INEC) is responsible for conducting elections into the National Assembly. INEC is empowered to divide each state of the federation into 3 senatorial districts; and the federation into 360 federal constituencies for elections only. The Commission is mandated to review the division of States and of the Federation into Senatorial districts and Federal constituencies at intervals of not less than ten years, and may alter the districts or constituencies in accordance with the provisions of the relevant section of the constitution. INEC equally is mandated to conduct elections to the House of Assembly of each State. Every citizen of Nigeria, who has attained the age of 18 years residing in Nigeria at the time of the registration of voters is entitled to be registered as a voter for the election.⁸⁵

For the executives at the State and Federal levels, the INEC conducts the election to the office of the President and it is held on a date appointed by the Independent National Electoral Commission. This date is not earlier than sixty days and not later than thirty days before the expiration of the term of office of the last holder of the office. For the purpose of an election to the office of President, the whole of the Federation is regarded as one constituency. Every person who is registered to vote at an election of a member of a legislative house shall be entitled to vote at an election to the office of President.⁸⁶

The main challenges during elections include pre/post-election violence, poorly organised elections due to logistical issues and the generally slow and cumbersome legal process at the election tribunals. The National Assembly makes provisions for election matters redress via the election tribunals. "The integrity of the electoral system is a major issue facing democratic governance in Nigeria. It is known from past history that turbulent elections have been a source of political crisis in Nigeria and controversies surrounding elections have serious potential to undermine the legitimacy and stability of democracy." "For democratic governance to thrive in Nigeria, the people must be vigilant and demand accountability from the leaders. It has been proven that the strength of a democracy is only as great as the will of the people to uphold it. For all these to be possible, the citizens must be politically educated and mature. This would enable the future leaders to make ethical decisions and for the people to begin to make political office holders accountable while within and outside office."⁸⁷

There is no indication at the moment for the citizens to doubt the commitment of the incumbent president to relinquish power when the time comes for him to hand it over. He was quoted earlier saying "I am gradually entering my final year in office. It is a period I intend to spend not only on

⁸⁵ <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>

⁸⁶ <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm#FederalExecutive>

⁸⁷ http://www.ijbssnet.com/journals/Vol_3_No_5_March_2012/19.pdf

consolidating on the achievements of the past seven years but also to leave a legacy for a united, peaceful, and prosperous Nigeria".⁸⁸

Section II - Freedom of Expression

- The right of every person to freedom of opinion and of expression, including to exchange and receive ideas and information through any media, regardless of frontiers.
- The right of the press to collect, report and disseminate information, news and opinions, subject only to restrictions necessary in a democratic society and prescribed by law, while bearing in mind evolving international practices in this field.

The right to freedom of expression and to the press is enshrined in section 39, chapter four of the 1999 constitution of Nigeria. It states that "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference". In recent times, the steps taken by the Federal government is a pointer to the fact that the government is intolerant of the press freedom. In August 2020, the Federal Government launched the reviewed 6th Broadcasting Code of the National Broadcasting Commission (NBC). Among other things, the code prohibits hate speech and raised the fine for contravening this code from N500, 000 to N5million. In the same month, The NBC went on to fine a radio station for what it tagged "unprofessional broadcast". In the 2021 annual World Press Freedom Index, Nigeria was listed as a country not conducive to the practice of journalism. Nigeria, listed 120 in the World Press Freedom characterization, earned a reputation as one of West Africa's most dangerous and difficult countries for journalists, who are often spied on, attacked, arbitrarily arrested or even killed.⁸⁹

With the government in tight control of the NBC, it becomes a case of being the judge and the jury. Once the government is uncomfortable with a particular trending issue in the press, it declares the broadcasting as "inappropriate" and unleashes the watchdog. The independence of the NBC cannot be vouched for industry stakeholders.

In its 2020 report, the Media Foundation for West Africa and its partner organisation in Nigeria, International Press Centre (IPC), monitored and reported on the state of press freedom in Nigeria. They recorded at least 56 press freedom violations. Forty-eight (48) of the violations were perpetrated against journalists with eight (8) attacks targeted at media outlets. Thirty-nine (39) of the victims were male, seven (7) were female, while two (2) were not specified. The report generally concluded that the prevalence of attacks, especially by security agents poses a herculean challenge that must be engaged by stakeholders to ensure that the media continue to function under an enabling environment.⁹⁰

On the types of safety and security issues that journalists are faced with in Nigeria, the report mentioned physical attacks, arbitrary arrests/detentions, threats and seizure/destruction of journalists' tools. With regard to perpetrators, the report revealed that more than 50% of the attacks on journalists and media outlets are influenced by duty bearers, particularly politicians, and

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<https://www.vanguardngr.com/2022/01/buhari-promises-to-handover-to-his-successor-stable-democracy-revamped-security/>

⁸⁹ <https://www.sunnewsonline.com/nigeria-rejects-2021-world-press-freedom-index-ranking/>

⁹⁰ <https://www.mfwa.org/publication/state-of-press-freedom-in-nigeria-2020/>

carried out by security operatives. Political thugs also posed threats to journalists' safety, especially during elections.⁹¹

"Following the Twitter ban, NBC directed all social media platforms and online broadcasting service providers operating in Nigeria to apply for a broadcast licence. This was followed by a controversial amendment to the NBC Act which sought to stifle media organisations. These actions have prompted huge protests from all the major media houses in Nigeria, with each outlet publishing a front-page advertisement campaigning against undue media regulation in the country".⁹²

Section III - Political Participation

- The will of the people shall be the basis of the authority of government, as expressed by exercise of the right and civic duties of citizens to choose their representatives through regular, free and fair elections with universal and equal suffrage, open to multiple parties, conducted by secret ballot, monitored by independent electoral authorities, and free of fraud and intimidation.
- The right of every person to equal access to public service and to take part in the conduct of public affairs, directly or through freely chosen representatives.
- The right of those duly elected to form a government, assume office and fulfil the term of office as legally established.

President Muhammadu Buhari has assured Nigerians and the international community of free and fair elections in 2023 general elections, and peaceful transfer of power. In his remark at a Virtual Summit for Democracy organised by President Joe Biden of the United States, President Buhari said necessary mechanisms will be strengthened to ensure that Nigeria witnesses another peaceful transfer of power. "As we countdown to our next general elections in 2023, we remain committed to putting in place and strengthening all necessary mechanisms to ensure that Nigeria will not only record another peaceful transfer of power to an elected democratic government, but will also ensure that the elections are conducted in a free, fair and transparent manner." He noted that Nigeria continues to face security challenges which pose a threat to democracy, calling "on global partners to support our efforts in tackling insurgency and terrorism."⁹³

On Friday, 25th February, 2022 the Electoral Amendment Bill 2022 was signed into law by the President of the Federal Republic of Nigeria. The New Electoral Act introduced certain innovative features aimed at using technological innovations to ease and ultimately conduct credible elections in the country. Where elections are fraught with intimidation, vote buying, rigging, forgery of ballot papers, ballot box snatching and other electoral malpractices, the whole process loses all credibility and whatever government that emerges cannot be said to be credible. Part of the Act includes- conduct of political party primaries, review of electoral results by INEC, the INEC fund, accreditation of voters, people with disabilities, smart card readers and electronic transmission of results, limitation on political campaigns, etc.⁹⁴

Likewise, the data of newly registered voters released by the Independent National Electoral Commission (INEC) is, to say the least, surprisingly low for a continuous voters registration exercise

⁹¹ <https://www.mfwa.org/publication/state-of-press-freedom-in-nigeria-2020/>

⁹² <https://www.cfr.org/blog/nigerian-press-freedom-grave-danger>

⁹³ <https://www.premiumtimesng.com/news/top-news/500194-well-ensure-free-fair-elections-in-nigeria-in-2023-buhari.html>

⁹⁴ <https://lawpavilion.com/blog/electoral-act-2022-a-new-hope-for-credible-elections-in-nigeria/>

that kicked off ten months ago; June 2021 to be precise.

According to the commission, as of January 14, 2022, over two million five hundred thousand Nigerians completed new registrations to join the voter register ahead of the 2023 general election. However, over one million of these new registrations which makes up 44.6% have been declared as invalid. This means a total of 1,390,519 Nigerians are set to be disenfranchised for avoidable reasons. This is really discouraging considering the massive publicity and effort by interest groups to mobilise citizens to participate in the process. The major cause of invalid voter registration has to do with cases of duplications where citizens who are already on the voter register decide for one reason or the other, to undergo the process again. For instance, citizens who probably lost or damaged their permanent voters card (PVC) simply registered as new voters instead of applying for replacement of the PVC. Another instance has to do with Nigerians who relocated to other parts of the country and needed to transfer their voter registration to their new location but decided to register as new voters. Others who had their temporary voters card (TVC) decided to register newly because they could not collect their PVCs where they previously registered while others could not find their records on the INEC portal even when they tried to retrieve previous registrations. Despite introducing the automated biometric identification system (ABIS) and automated fingerprint identification system (AFIS), it is ironic that the more comprehensive and robust system involving not just fingerprint identification, but also the facial biometric recognition, could not be integrated to flag duplications during the online pre-registration process, or during the physical registration at various INEC offices nationwide. Although the commission admitted the complicity of some of its staff in this debacle, these are not necessarily the best signs for a nation that will largely depend on technology for the conduct of elections in less than ten months' time. Some civil society organisations have also called on the INEC to do all in its power to salvage invalid registration saying the commission must take full responsibility. Better still, the commission has an opportunity to review duplicate registrations while keeping the most recent and updated information to enable citizens participation in the upcoming general election. Also, Nigerians have recommended merging the voters' register with the national identification number (NIN) because it has provided a platform for creating a national database of Nigerians.⁹⁵

The Independent National Electoral Commission (INEC) presented its 2022-2026 strategic plan and 2023 electoral project plan. The commission said the objectives of the document are geared towards providing electoral officials with the needed support to deliver free and fair elections. It will also help INEC to register political parties and monitor their operations, while strengthening the commission's ability to deliver on its mandate. It was noted that the new document is guided by findings from the review of the 2017-2021 strategic plan whose lifespan expired in December 2021. The successes and challenges witnessed in the implementation of the last plan, forms a strong basis for the new strategic plan.⁹⁶

There has been a spike in violence during elections in Nigeria, this has impacted negatively on the participation of citizens during the 2019 general elections. February 19, 2019, President Muhammadu Buhari issued death threats to election riggers and political thugs who may want to subvert the electoral process, especially on election day, saying they would be doing so at the expense of their lives. He further stated that the police and the military have been directed to be ruthless with election riggers. However, this directive raised eyebrows by some sections of the country and the opposition party as it is an indirect authorization of indiscriminate killings and a threat to the nation's democracy. Clarifying the President's statement in an interview with

⁹⁵ <https://www.thecable.ng/inec-invalid-voter-registrations-and-2023-elections>

⁹⁶ <https://www.channelstv.com/2022/04/21/2023-inec-presents-strategic-plan-in-abuja/>

journalists, National Leader of the party, Asiwaju Bola Tinubu, said President Buhari never gave any such order. He said: “I was in that meeting; the President was just reinforcing the fact that if you are out there snatching ballot boxes, and causing destruction, you are at risk of your own life”. Shoot on sight are not his words; he is a law-abiding person and he understands categorically and clearly what the rule of law is and the lives of individual citizens, he knows that he is in that office to protect. Reacting to the President’s order, Peoples Democratic Party, PDP, described the President’s utterances and the position of the ruling party as a threat to the nation’s democracy and a call to jungle justice.⁹⁷

The YIAGA Africa Watching The Vote (WTV) Group reported extensive cases of ballot box snatching, votes buying and other irregularities across the country in the Presidential and National Assembly elections. It also raised concerns over the arrest and detention of accredited observers in Kafanchan, Kaduna State. The group also said it received over 100 verified critical incident reports concerning the late opening of polls across Nigeria. Election materials were reported to be snatched by unknown persons at the RAC centre in Okrika LGA, River state which led to no voting in ward 06, 07, 08 and 09 of Okrika LGA in Rivers State. This was also reported in PU 003 ward 10 Emohua LGA, Rivers state. While calling for a transparent results collation process, the group urged party agents to conduct themselves in an orderly manner. “INEC is encouraged to remind Resident Electoral Commissioners to instruct all election officials under their supervision to allow accredited citizen observers to access polling units in accordance with the electoral law. This includes instruction to the security personnel to allow the free movement of accredited observers”.⁹⁸

There were accusations by the main opposition party - Peoples Democratic Party (PDP) and other groups of manipulating results with the electoral commission. According to the European Union, there were “serious operational shortcomings”, which saw polling units open late, leaving voters waiting for hours with no idea when voting would start. It was highlighted that the process was poorly managed with lapses in logistics, technology and security saying INEC had “not managed the election efficiently and significant shortcomings have been recorded”. As regards to security gaps, the election took place against a backdrop of fears about security across the country, as well as claims from both parties that the other was looking to rig the result. Neither produced evidence but INEC chairman Mahmood Yakubu said there were reports of ballot-snatching, vote-buying and violence. There were also reports of some “partisan” security officials as well as “compromised” INEC staff and incidents involving the military, including blocking some voters.⁹⁹

Questions around the credibility of the 2019 elections have been on the fore especially with the high militarisation of some sections of the country by the ruling party. This further resulted to violence and voter apathy especially in Rivers state as voters were scared of being victims. Some soldiers were alleged to have invaded the INEC office and embarked on partisan selective screening of voters, while some soldiers were also alleged to have caused the outbreak of violence that claimed many lives. Mr Clement Nwankwo specifically faulted military involvement in the elections, especially as it borders on participating soldiers not taking directives from INEC officials. According to him: “We went through 13 years of brutal military dictatorship and we are at the point today

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<https://www.vanguardngr.com/2019/02/ballot-box-snatchers-ive-ordered-army-police-to-be-ruthless-buhari/>

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<https://businessday.ng/ng-election/article/2019-election-records-ballot-box-snatching-votes-buying-yiaga/>

⁹⁹ <https://www.vanguardngr.com/2019/02/rigging-claims-fly-as-nigeria-election-results-come-in/>

where for the first time since 1999, the army is playing such an incredibly direct role in our elections.¹⁰⁰

Reported on July 30, 2019 - The Independent National Electoral Commission (INEC) conducted the last presidential and National Assembly elections on February 23, 2019, while governorship and state assembly elections were held on March 9, 2019. According to the Nigeria Civil Society Situation Room, 626 persons were killed across Nigeria in the six months between the start of the election campaign and the commencement of the general and supplementary elections. The North-west region recorded the highest number of deaths with 172 killed during the elections, while the North-east followed with 146 fatalities. Also, the report revealed that the South-south and North-central had 120 and 111 fatalities respectively. Sixty-three people were killed in the South-west, while 14 were killed in the South-east. Also, the European Union Election Observation Mission (EU EOM) in its 2019 election report published on PREMIUM TIMES in June, said about 150 people were killed in election-related violence in different parts of the country. "The elections became increasingly marred by violence and intimidation. This harmed the integrity of the electoral process and may deter future participation."¹⁰¹

An analysis report of the 2019 elections by the Centre for Democracy and Development (CDD), reveals how security operatives and INEC officials compromised the election results. The report graphically depicted that five states – Lagos, Osun, Kaduna, Rivers and Sokoto experienced significant problems with the ward level collation. The report stated that misconduct and mistakes by INEC staff undermined ward-level collation in many locations, especially in cases where the commission's ward-level officers or ad hoc staff lacked sufficient knowledge of the rules and procedures designed to ensure successful and credible results collation. The report pointed out that the disorganisation and poor planning on the part of INEC also hampered ward-level collation activities, stating that in many wards across Nigeria, INEC officials caused confusion, delays and created opportunities for election malfeasance by shifting or failing to clarify the location of WCCs.¹⁰²

The integrity of the coalition process is critical to the overall success and credibility of Nigerian elections. If conducted in a transparent, organised and well-regulated way, collation can help produce credible election results and boost voter confidence in the process. In the 2019 elections, civil society observers across Nigeria saw a collation process that was chaotic, open to manipulation and, in some locations, badly disrupted and opaque. The report shows that there were challenges with ward-level collation, collation problems were significant to 5 key states (Lagos, Osun, Kaduna, Rivers and Sokoto), and INEC was less Transparent in 2019 than in 2015 and 2011.¹⁰³

Section IV- Protection and Promotion of Human Rights

- The right of every person to equal protection of the law, without any discrimination as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- The right of every person to freedom of thought, conscience and religion.
- The right of every person to equal access to education.

¹⁰⁰ <https://www.vanguardngr.com/2019/03/militarisation-of-2019-elections/>

¹⁰¹ <https://www.premiumtimesng.com/news/headlines/343971-626-killed-during-2019-nigeria-elections-report.html>

¹⁰² <https://www.premiumtimesng.com/news/headlines/349513-how-security-operatives-inec-officials-compromised-2019-election-results-report.html>

¹⁰³ <https://cddwestafrica.org/cdd-postmoterm-report-2019-presential-election/>

- The right of every person to respect for private family life, home, correspondence, including electronic communications, free of arbitrary or unlawful interference.
- The right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties, civic groups, trade unions or other organizations with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law.
- The right of persons belonging to minorities or disadvantaged groups to equal protection of the law, and the freedom to enjoy their own culture, to profess and practice their own religion, and use their own language.

The Nigerian constitution sets the framework for the country's commitment to protecting and promoting human rights and disadvantaged groups through the "federal character" principle also enshrined in the constitution. In Chapter 2, section 18 (1) of the Nigerian Constitution (1999), "Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels". Chapter 4 spells out the fundamental rights of citizens- Section 37- Right to private and family life; Section 38 Right to freedom of thought, conscience, and religion; Section 40 - Right to peaceful assembly and association; Section 42- Right to freedom from discrimination. In a bid to promote national unity, foster national loyalty and give every citizen of Nigeria a sense of belonging to the nation, the "Federal character of Nigeria" emerged, and it is expressed in section 14 (3) and (4) of the constitution. In Section 15, sub-section 2, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.

To this effect, the Federal Executive body established the Federal Character Commission (FCC) by Act No 34 of 1996 by the military regime of Sani Abacha¹⁰⁴. Overtime, there have been ongoing debates on lop-sidedness of appointments to the commission and other federal appointments tilting towards the North¹⁰⁵. For examples, the House of Representatives demanded the suspension of the ongoing recruitment by the Nigerian Navy due to its unfair nature and non-compliance with the Federal character principle¹⁰⁶ and also lamented the Presidency's lopsided appointment of people from a particular region in the country into leadership positions. They described it as "unfair, unjust, and inequitable contravention of the provisions of the constitution, in appointing both the Chairperson and Secretary of the Federal Character Commission from a particular zone of the country (North)." ¹⁰⁷

The ENDSARS protest of 2020 highlighted the issues of police brutality and significant increase in violence targeting civilians by state forces. The Nigerian government's response to the public outcry over police brutality and excessive force against protesters has further widened the trust deficit among young Nigerians towards their government. Claims of killings (massacre) during the ENDSARS protests in Lekki were faulted¹⁰⁸. Although the government tasked all 36 states and the Federal Capital Territory (FCT) with setting up panels of inquiry into public complaints relating to police brutality and harassment, outcomes have still been largely expected, many supporters of the #EndSARS movement have doubted the sincerity of investigations especially in Lagos State and the

¹⁰⁴ <https://placng.org/lawsofnigeria/laws/F7.pdf>

¹⁰⁵ <https://www.vanguardngr.com/2021/12/the-callous-character-at-the-federal-character-commission/>

¹⁰⁶ <https://punchng.com/regs-allege-lopsidedness-in-navy-recruitment-demand-suspension-of-exercise/>

¹⁰⁷ <https://guardian.ng/news/regs-laments-fgs-lopsided-appointments/>

¹⁰⁸ <https://www.vanguardngr.com/2021/03/endsars-protest-us-govt-faults-claims-that-nigerian-army-killed-protesters-at-lekki-tollgate/>

government's willingness to implement police reform recommendations.

Nigeria is currently working as part of its Open Government Commitments on Civic Space to protect the rights to free assembly, association, and expression. Milestones of the commitment include registering and creating a federal budget line for civil society organisations (CSOs), creating safeguards to protect CSOs against undue supervision, and developing guidelines for peaceful protests with the Nigerian police force¹⁰⁹.

The National Human Rights Commission (NHRC) of Nigeria serves as an extra-judicial mechanism for the respect and enjoyment of human rights. It also provides avenues for public enlightenment, research, and dialogue in order to raise awareness on Human Rights issues¹¹⁰. The Commission tracks cases of Human Right abuses across the country and provides redress. An "At-Risk Children Project was launched by the Nigerian governments as a strategic national response to address issues of violence, neglect, abuse, exploitation, and exclusion faced by 9 million children across the country¹¹¹.

In 2020, a reviewed Company and Allied Matters Act (2020) was passed¹¹². There have been concerns and pushbacks by civil society organisations on the Part F that regulates civil society incorporation and operations¹¹³. Currently, CAMA 2020 is under review, as the bill to amend the ACT has passed the second reading in the Senate as of February 9, 2022¹¹⁴ and a public hearing held on March 28, 2022, with civil society organisations in attendance making submissions on aspects of the law that needs to be reviewed. A suit challenging the constitutionality of the provisions in the law was also instituted against the government by the Christian Association of Nigeria.

Section V- Rule of Law

- The right of every person to be free from arbitrary arrest or detention; to be free from torture and other cruel, inhuman or degrading treatment or punishment; and to receive due process of law, including to be presumed innocent until proven guilty in a court of law.
- That the aforementioned rights, which are essential to full and effective participation in a democratic society, be enforced by a competent, independent and impartial judiciary open to the public, established and protected by law.
- That elected leaders uphold the law and function strictly in accordance with the constitution of the country concerned and procedures established by law.

Chapter 4, Section 34. (1) guarantees that every individual is entitled to respect for the dignity of his person, and accordingly - (a) no person shall be subject to torture or to inhuman or degrading treatment; During an investigation on abuse of office and arbitrary arrest by the National Human Rights Commission (NHRC), the Nigerian police reaffirmed that the "Police Act" gave them the power to investigate, arrest and prosecute any person allegedly involved in criminal breach of trust

¹⁰⁹ <https://www.opengovpartnership.org/wp-content/uploads/2021/11/Civic-Space-Fact-Sheet.pdf>

¹¹⁰ <https://www.nigeriarights.gov.ng/about/overview.html>.

¹¹¹ <https://www.thisdaylive.com/index.php/2021/07/22/fq-to-protect-nine-million-vulnerable-children-with-harc-project-2/>

¹¹² <https://www.cac.gov.ng/wp-content/uploads/2020/12/CAMA-NOTE-BOOK-FULL-VERSION.pdf>

¹¹³ <https://placng.org/Legist/new-cama-raises-civic-space-concerns/>

¹¹⁴ <https://placng.org/i/the-bill-to-amend-the-companies-and-allied-matters-act-cama-2020-scales-second-reading-in-the-senate/>

and cheating¹¹⁵. The Police Act will have to be properly interpreted by the Courts in a bid to clear the air on this aspect of the law.

Several cases have been reported of the untimely death of Nigerian citizens in the custody of Nigerian security agencies (especially the police force), due to torture or degrading treatments. The increasing cases of police brutality led to the #EndSARS protests in October 2020. However, the protests yielded little results as there have been reported cases of brutality and deaths of citizens by the Nigerian police force, with little/ no justice for victims of police brutality more than a year after the #EndSARS protests. The #EndSARS panel investigating cases of police brutality in Abuja, summoned a superintendent of police over an alleged enforced disappearance (alleged extra judicial killing) of a suspect (Ebuka Aniegu) arrested by the police on May 10, 2019. Other probes have been established on the brutality and human rights abuses of the disbanded special anti-robbery squad (SARS) and other units of the force¹¹⁶.

Amnesty International recounted that at least 115 people in Southeast Nigeria were killed by security forces in 4 months, with more than 500 arrested after police and military raids accompanied with widespread torture and ill treatment. It was alleged that the victims were members of the unknown gunmen, however, many relatives of the victims attested that they were not part of the militants that were attacking security agents¹¹⁷.

The Nigerian judiciary has been widely condemned for alleged complicity in the country's political and social malady, for partisanship, corruption, timidity, and conservatism. One of the most controversial issues relates to the judiciary's independence, upheld in section 17(2) (e) of the Constitution and backed up by a settled, almost immutable convention on the tenure of office for judges and the protection of their office and person¹¹⁸. Autonomy exists at the Federal level for the Judiciary however at the sub-national level, the Judiciary "continues to be financially tied to the executives" a situation which led to industrial protests by the Staff of the Judiciary across States in 2021¹¹⁹. In February 2022, the Supreme Court nullified Federal Governments Order 10 on Financial Autonomy for States' Judiciary, Legislature. The order was issued in June 2020 to ensure independence of the judicial and legislative arms of government at the state levels¹²⁰.

Recommendations:

We recommend the Governing Council to renew Nigeria's membership to the Community of Democracies. We welcome Nigeria's role in stabilising democracy across the West-Africa region and continue to encourage its leadership in addressing the military coup in Mali, Guinea, and Burkina Faso. We advise the Nigerian Government to take into consideration the concerns raised by civil society on several aspects relating to the implementation of its democratic principles across the country.

¹¹⁵<https://www.nigeriarights.gov.ng/nhrc-media/news-and-events/232-alleged-arbitrary-arrest-police-reaffirm-their-power-to-investigate-arrest-prosecute-criminal-breach-of-trust.html>

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This report has been developed by the Civil Society Pillar Nigerian Focal Point (Nigeria Network of NGOs) following a desk review and after holding dialogues with Nigerian CSOs, with the support of the Secretariat of the CSP (Fundación Multitudes).

Japan

Section I - Democratic Governance

- That government institutions be transparent, participatory and fully accountable to the citizenry of the country and take steps to combat corruption, which corrodes democracy.
- That the legislature be duly elected and transparent and accountable to the people.
- That civilian, democratic control over the military be established and preserved.
- The obligation of an elected government to refrain from extra-constitutional actions, to allow the holding of periodic elections and to respect their results, and to relinquish power when its legal mandate ends.

Democratic Governance:

According to the Transparency International's Corruption Perception Index 2021, Japan is ranked 18th out of 180 countries, with a score of 73. Even though this is a regression from Japan's score of 74 the year before, the rank demonstrates democracy in Japan has remained stable in recent years.

However, Japan's democratic governance is not operating as it should be. Although the country is known for its parliamentary democracy with a multi-party system, political corruption still exists with regards to well-known politicians, including ex-Prime Ministers. In recent years, Japan has suffered political scandals such as the Moritomo Gakuen incident and the Kake Gakuen School case, between then Prime Minister and presidents of private schools. It is regrettable that in connection with the latter, little debate has taken place over the fundamental principles of public administration in Japan, such as integrity, transparency, or accountability.

Japan has the Administrative Information Disclosure Law enacted in 1999. The law ensures open access to public information to citizens, despite some restrictions on information concerning privacy, national security, public safety and neutral or fair decision-making. At the local level, all prefectures and all except one municipality have local laws on information disclosure. The implementation of the law remains unsatisfactory. There are regular reports of delays and refusal of disclosure or blacked out based on possible "security concerns" or "unfair" decision-making.

Japan carries out free and fair elections, with the Prime Minister being selected by Japan's elected parliament. There are few cases of electoral irregularities in the country. In recent years, low voter turnout rate, discussed more in detail in the section on Political Participation, and fairness in representation are critical issues. The gap in representation/population ratio is quite serious; over 2:1 in the House of Representatives, which according to the past Supreme Court rulings is unconstitutional. The rural areas are overrepresented compared to the urban areas. Despite Japan being under multi-party democracy, transition of power rarely takes place; since 1955, the Liberal Democratic Party has always been the ruling party, although sometimes in coalition with other parties, except the periods of 1993-94 and 2009-12. With the rise of populist parties, we see increased political polarization.

Section II - Freedom of Expression

- The right of every person to freedom of opinion and of expression, including to exchange and receive ideas and information through any media, regardless of frontiers.
- The right of the press to collect, report and disseminate information, news and opinions, subject only to restrictions necessary in a democratic society and prescribed by law, while bearing in mind evolving international practices in this field.

- Despite progressive constitution and other legislation, there are issues in access to documents of journalists. Another major problem is the increase in online harassment of journalists.

Freedom of expression in Japan is legally guaranteed by the Constitution of Japan and the International Covenant on Civil and Political Rights. On the other hand, "public welfare," which is frequently referred to in the Constitution as the purpose of exercising rights or as a requirement for restricting rights, is interpreted broadly by the government and courts, and there is a growing tendency for excessive restrictions on freedom of expression. Therefore, the Government of Japan has been pointed out multiple times in the review stipulated in the International Covenant on Civil and Political Rights that "public welfare" is a vague and unrestricted concept that restricts freedom of expression, and that the concept of "public welfare" should be legally and strictly restricted based on Articles 18 and 19-3 of the International Covenant on Civil and Political Rights.

In addition, over the past few years, the Government of Japan enacted the Specified Secret Protection Law, the Collusion Crime Law, the Law Regulating the Investigation of Important Land and Other Matters, and the Law for the Promotion of Economic Security, citing the deterioration of the security environment. These laws have been strongly criticized by civil society, academia, journalists, and opposition parties for potentially restricting citizens' right to know and civic space.

In recent years, speech, expression, and nonviolent direct action critical of the government have increasingly been subject to excessive pressure and repression, targeting ordinary citizens, civic activists, artists and curators, minority rights advocates, academics, and journalists. Powerful politicians who are conservative, authoritarian, and reliant on populism often scapegoat civic activists, who have different opinions with them, by excessively threatening in order to increase their own political support.

In addition to opposition to government policies, topics such as the Emperor System, the war responsibility of Showa Emperor during the World War II, wartime sexual violence in World War II, advocacy for minorities such as foreigners, ethnic minorities, the discriminated, and sexual minorities, and protests against the U.S. military presence in Japan have become "taboo" or sensitive things of expression and speech, and those engaged in such expression and speech are increasingly attacked both in physical or verbal manner, and in cyberspace, sometimes with direct violence by conservative politicians, far right activists, racists, and anonymous citizens.

As a result of these pressures, civil society, journalists, artists, and others have increasingly tended to refrain from excessive expression and speech. The expansion and enhancement of cyberspace has expanded opportunities for expression and speech for civil society and journalists, but it has also become a hotbed for attacks on expression and speech, hate speech, and hate crimes, which have become major problems.

In response to this situation, Japanese civil society is increasingly organizing and working in networks to defend and expand civil society spaces, defend the expression of minority opinions, and counter hate speech and hate crimes.

Section III - Political Participation

- The will of the people shall be the basis of the authority of government, as expressed by exercise of the right and civic duties of citizens to choose their representatives through regular, free and fair elections with universal and equal suffrage, open to multiple parties, conducted by secret ballot, monitored by independent electoral authorities, and free of fraud and intimidation.

- The right of every person to equal access to public service and to take part in the conduct of public affairs, directly or through freely chosen representatives.
- The right of those duly elected to form a government, assume office and fulfill the term of office as legally established.

As described in previous sections, Japan has several problems associated with the ideal maintenance of democracy, such as low youth political participation - accentuated by a declining population, poor representation of women in public office and private companies, or general public apathy due to a dominant party system for most of its democratic history, which are but cumulative results of problems that can be grouped into three pillars: educational problems, problems of the political system itself, and socio-cultural background.

Educational problems: Although the Basic Law on Education stipulates the need to provide neutral knowledge about politics, this is hardly applied in reality. Little civic education in Japan is focused on memorisation, and the section on politics barely amounts to a couple of hours of study out of the total. Furthermore, in compulsory education, the subject matter is more focused on the concept of democracy, rather than on the active role of politics as an engine of change, with concepts such as the separation of powers being an optional subject to be expanded further.

Political apathy is reflected in the low participation of youth (43.2% for 18-19-year-olds and 36.5% for 20-29-year-olds), which, reinforced by the ageing of society, makes it difficult to see the will of young individuals reflected in decision-making (only 8.4% of all voters were under 29 years old), creating a vicious circle of political apathy and disillusionment.

Problems of the political system itself: Several aspects of the political system could be improved, but two issues deserve special attention.

Firstly, the enormous economic cost of standing for election, since an electoral deposit is required to run for representative in Japan (whether in gubernatorial, mayoral or council elections). Nowadays, the amount required to run for a constitutional seat in the Upper or Lower House is 3 million yen (approximately 23,000 dollars), which is not refundable unless a 10% valid vote is achieved. The amount of this deposit, considered to be one of the most expensive among the countries with such a system, is a significant barrier to new or young politicians, as well as to female candidates (for reference, according to the National Tax Agency, the average annual salary of a Japanese woman is 2.8 million yen).

Secondly, the low representation of women and youth in politics should be focused. Considering the age limit, which does not allow people under 25 (for the Lower House) or 30 (for the Upper House) to be political representatives, followed by the absence of quotas or regulations to guarantee the presence of women in the results of the elections, we face the fact that less than 5% for representatives were under 39 years old (the average age is around 60) and less than 10% of representatives were women (data from the last general elections of 2021 for the Lower House).

Other problems that could be mentioned are the continuous dissolution of the parliament to strengthen power or improve the public image of ruling parties, the short period of time available before the elections, making it impossible to vote by post, the closing of temporary polling stations before the stipulated time, or withholding the right to vote in any election to long-term residents,

such as ethnic Koreans and Chinese with permanent residency status in Japan, despite them paying residential taxes.

Cultural problems: Cultural problems are hardly classifiable, being a set of intrinsically intertwined issues, but two will be mentioned here; gender roles that hinder women's presence in politics, and the prevalence of political dynasties that make it difficult for outsiders to enter political society.

Although gender issues are a global concern, they are deeply rooted in Japan. It is only necessary to mention that in the latest Global Gender Gap (2021), Japan ranked 120th out of 156 countries in political empowerment. Issues related to gender equality and feminism are considered socially thorny topics, and it is considered as a “taboo” to mention them in public. The presence of women in public office is scarce and is hampered by the sexual harassment of female politicians (98% of women politicians are reported to have experienced some form of sexual harassment). In 2020, the Government of Japan pushed back its 30% target for women in leadership positions by up to 10 years, from 2020 to 2030.

Second, the prevalence of political dynasties and the 1955 system has given rise to what many scholars call the “one dominant party” system, which has resulted in single-party dominance (except for a small hiatus) since the mid-20th century. Apart from this issue, political dynasties make it difficult for new individuals to enter political life. Of the candidates in the last election, 31% of the winning party belonged to a political dynasty, making politics as an occupation a hereditary matter, just as professions such as lawyer or doctor are in Japan.

Other problems that are difficult to quantify are the enormous social pressures that make it challenging to raise one's voice or to have a different or non-traditional opinion.

Therefore, it can be said that Japan has a series of intrinsically interrelated problems, which can only be solved through close cooperation between different institutions of the executive and legislative branches, the media and the education system.

Section IV- Protection and Promotion of Human Rights

- The right of every person to equal protection of the law, without any discrimination as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- The right of every person to freedom of thought, conscience and religion.
- The right of every person to equal access to education.
- The right of every person to respect private family life, home, correspondence, including electronic communications, free of arbitrary or unlawful interference.
- The right of every person to freedom of peaceful assembly and association, including to establish or join their own political parties, civic groups, trade unions or other organizations with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law.
- The right of persons belonging to minorities or disadvantaged groups to equal protection of the law, and the freedom to enjoy their own culture, to profess and practice their own religion, and use their own language.

“Respect for basic Human Rights” is one of the three important principles in the Constitution of Japan, along with popular sovereignty and pacifism. It has taken root in Japanese society to a certain extent after the Constitution went into effect in 1947. However, this principle was not actively acquired by the hands of Japanese people in history, therefore, it has not deeply

permeated in every aspect of people's lives. Violation of human rights has been interpreted in a rather narrow manner, such as a matter of discrimination or harassment. The concept of human rights often stirs a negative image among people.

The Government of Japan and the Diet have not focused on human rights protection as the priority issues, but rather have focused on economic growth after World War II. The human rights related recommendations made by the UN have been repeatedly ignored by the government. Japan has not ratified any optional protocols of individual complaints procedure in the human rights related treaties, and has not established a national human rights institute (NHRI), which is set out by the Paris Principles.

One of the serious problems in Japan is the condition of detention facilities, such as prisons, detention houses and immigration centers. There have been many incidents in which detainees have died behind a veil of secrecy at the detention facilities. The operations of these facilities are not open or transparent to the public. In 2021, a woman from Sri Lanka detained at the Nagoya immigration center passed away, and the investigation report revealed serious shortcomings in medical care, including a delay in getting the care that the detainee suppliantly requested.

According to the 2022 World Press Freedom Index compiled by Reporters Without Borders (RSF), Japan ranked as the 71th out of 180 countries and territories. This is a set back from the previous year, as 67th. And Japanese ranking has been down in the past. Civic Space in Japan is categorized as "narrow" in the CIVICUS Monitor 2021 while Taiwan is the only "Open" country and territory in Asia. As it was mentioned, in the most recent Global Gender Gap Report announced by the World Economic Forum in 2021, Japan ranked 120th out of 156 countries. Japan is the lowest and far below in ranking among G7 countries.

Japan launched a National Action Plan (NAP) on Business and Human Rights in 2020, led by the Ministry of Foreign Affairs, and it was the second country in Asia to issue it after Thailand. However, the process of creating the NAP was not based on the international standard, and the engagement of civil society in the process of creating the NAP was rather weak. After one year of the establishment of the NAP, not much progress has been made. It is highly expected from now on, Human Rights Due Diligence (HRDD) will advance as it is planned.

Section V- Rule of Law

- The right of every person to be free from arbitrary arrest or detention; to be free from torture and other cruel, inhuman or degrading treatment or punishment; and to receive due process of law, including to be presumed innocent until proven guilty in a court of law.
- That the aforementioned rights, which are essential to full and effective participation in a democratic society, be enforced by a competent, independent and impartial judiciary open to the public, established and protected by law.
- That elected leaders uphold the law and function strictly in accordance with the constitution of the country concerned and procedures established by law.

The Rule of Law in Japan has been weakened by the lack of a Constitutional Court and the Japanese courts tend to avoid the review of the Constitution as much as possible. The courts themselves strictly limit their chance of review of the Constitution. Further, because Japan does not introduce any individual complaints systems of human rights treaties and National Human Rights Institutions, the courts tend to disregard the arguments based on the international human

rights law. As a result, there are many issues in Japan which do not comply with the international human rights standard.

Compared to other civilized countries, Japan is a society where a person's liberty is constrained based on extremely arbitrary standards, and means to restore liberty are insufficient. Grave situations for personal liberty are emerging not only in one particular area, but across several domains such as penal institutions, psychiatric hospitals and immigration detention facilities, where the rule of law seems not to exist substantially.

Detention in police cells, a substitutional detention system ("daiyo-kangoku"): The use of police cells for pre-indictment detention in Japan is notoriously known as "daiyo-kangoku" (a substitutional prison). Suspects are subjected to 23 days of police interrogation for the charged offense without a pre-indictment bail system. By subdividing the charged offense into several offenses, the detention period can be extended. In 2018, Carlos Ghosn, then Chairman of Nissan and Renault, was arrested by the Tokyo District Prosecutor for questioning over allegations of false accounting, and was detained in a penal institution (not in a police cell), but this case involved the same problem as exists in "daiyo-kangoku" in that Ghosn was subjected to lengthy interrogation.

Death penalty, indefinite imprisonment, and imprisonment for a definite term up to 30 years: The Japanese penal system has penalties of death, indefinite imprisonment, and imprisonment for a definite term up to 30 years (having been raised from 20 years to 30 years in 2004). Although the number of crimes has been decreasing in recent years, penalties have been becoming more severe. Out of 1,800 prisoners sentenced to indefinite imprisonment, the number granted parole each year is less than 10, and the number of prisoners who die in prison is more than that.

Around 130,000 persons with mental disabilities hospitalized without consent in psychiatric hospitals: As of June 30th 2019, a total of 129,014 persons with mental disabilities are detained in psychiatric hospitals, mostly in private hospitals, based on the consent of the family (without the person's own consent) or by means of administrative involuntary hospitalization. However, efforts for reintegrating such people into society are insufficient. The Psychiatric Review Boards established in each prefecture are designated to conduct independent reviews as experts over the treatment of mentally disabled people to ensure adequate medical care and protection for them, while giving due respect to their human rights. However, the Boards' functions do not include on-site inspections, and the independence of the Board members is questionable. The policy of isolating mentally disabled persons is causing them fear toward psychiatric treatments, and constitutes an obstacle to their access to appropriate medical care.

Hunger strikes in protest of indefinite and/or prolonged immigration detention are spreading nationwide, with one even resulting in death from starvation: Foreign nationals who are determined or suspected by the immigration authority to fall under the grounds for deportation under the Immigration Control and Refugee Recognition Act (hereinafter "Immigration Act") are detained in immigration detention facilities. According to the Government's view, such foreign nationals should be detained in principle, and necessity and reasonableness of detention are not required. As there is no limit to the detention period under a written deportation order, there is no "extension" of the detention either, which means that once a detention is initiated, no judicial review is conducted at regular intervals to check the legality of continuation of detention. Although provisional release used to be granted to some extent, it has rarely been granted in recent years. As a result, the number of people detained for more than 6 months has drastically increased, causing a serious situation. Hunger strikes in protest of prolonged detention occurred in

detention facilities on a nationwide scale, even with a case of death from starvation. In response to this situation, inhumane measures were taken. The authority continues a cycle of granting 1- to 2-week provisional releases to detainees with deteriorating health conditions due to hunger strike and re-detaining them afterwards before again granting provisional release and re-detaining.

Recommendations:

We recommend the Governing Council to renew Japan's membership to the Community of Democracies. We advise Japan to take into consideration the concerns and recommendations raised on the report by civil society.



This report has been developed by the Japanese Focal Point (Japan NGO Center for International Cooperation), with the support of the Secretariat of the CSP (Fundación Multitudes) and in consultation with Japanese CSOs, namely, Human Rights Now, Japan Center for

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Costa Rica

Section I - Democratic Governance

- That government institutions be transparent, participatory and fully accountable to the citizenry of the country and take steps to combat corruption, which corrodes democracy.
- That the legislature be duly elected and transparent and accountable to the people.
- That civilian, democratic control over the military be established and preserved.
- The obligation of an elected government to refrain from extra-constitutional actions, to allow the holding of periodic elections and to respect their results, and to relinquish power when its legal mandate ends.

Democratic governance:

Historically, Costa Rica has had democratic stability, with a multiparty political system and regular rotations of their power through periodical elections. Currently the president is directly elected for a 4 year term and can seek a non-consecutive second term. To win the elections, the presidential candidates must win 40% of the vote to avoid a runoff. In 2022, Rodrigo Chaves was elected president in the second round of elections.

As for the national legislative representatives, Costa Rica has a 57-seat unicameral Legislative Assembly, with elections that occur every four years, and deputies are elected by proportional representation. Deputies may only run for two consecutive terms, but may run again after skipping a term. In the February 2018 legislative elections, which were held concurrently with the first round of the presidential poll, no party came close to winning a majority. The actual president's party, Governing Social Democratic Progress Party, took ten seats.

In addition, there is a special chamber of the Supreme Court appoints the independent national election commission, the Supreme Electoral Tribunal, which is responsible for administering elections and carries out its functions impartially and the electoral framework is fair.

The Legislative Assembly recently approved Law №9699: Responsibility of legal persons on domestic bribery, international bribery and other crimes. This aims to regulate the criminal responsibility of people responsible for crimes committed under the Law against Corruption and Illicit Enrichment in the Public Service (Law №8422), and seeks to improve mechanisms to combat impunity and corruption both in the public service and in private companies.

In terms of information freedom, citizens generally have access to government information. However, there are some deficiencies in the reporting of budgets to the public, including a lack of transparency in communicating the objectives of the annual budget. Senior government officials are required to make financial disclosures, but that information is not available to the public.

Additionally, growing socio-economic challenges and changes in the political system and administration are putting pressure on the country's governance mechanisms and limiting Costa Rica's aspirations to achieve greater, sustainable prosperity for all its people.

These challenges include a fragmented public administration with limited steering capacity from the centre of government, a large share of the budget is outside the budget preparation process led by the Ministry of Treasury, fiscal sustainability under severe pressure, and regional disparities and growing inequalities

Section II - Freedom of Expression

- The right of every person to freedom of opinion and of expression, including to exchange and receive ideas and information through any media, regardless of frontiers.
- The right of the press to collect, report and disseminate information, news and opinions, subject only to restrictions necessary in a democratic society and prescribed by law, while bearing in mind evolving international practices in this field.

Freedom of expression:

Until 2017, Costa Rica was one of only four countries in the region that didn't have a law promoting access to public information. That's why that same year, as part of Costa Rica's second National Action Plan for Open Government, the chapter, Costa Rica Integra advocated for government leaders to prioritize two specific commitments. The first one was a law to promote transparency and access to information which provided a framework for effective access to public information and promoted a culture of transparency in public services. The second commitment was an executive decree to promote transparency and access to information. An executive order, enforced by the former Ministry of Communication, would help establish good practices within institutions to facilitate better access to information. This includes creating follow-up mechanisms and proper monitoring and evaluation.

As for the media, there are six privately owned daily newspapers. Both public and commercial broadcast outlets are available, including at least 6 private television stations and more than 100 private radio stations.

On another hand, in the education area, Academic freedom is constitutionally protected and generally upheld and, along with it, private discussion is free and the government is not known to surveil the electronic communications of Costa Ricans, making academic environments safe to discuss political situations.

Finally, in terms of religion, Roman Catholicism is the official religion, making Costa Rica the only State in the Americas to do so, but the constitution guarantees the freedom of religion, which is respected in practice.

Section III - Political Participation

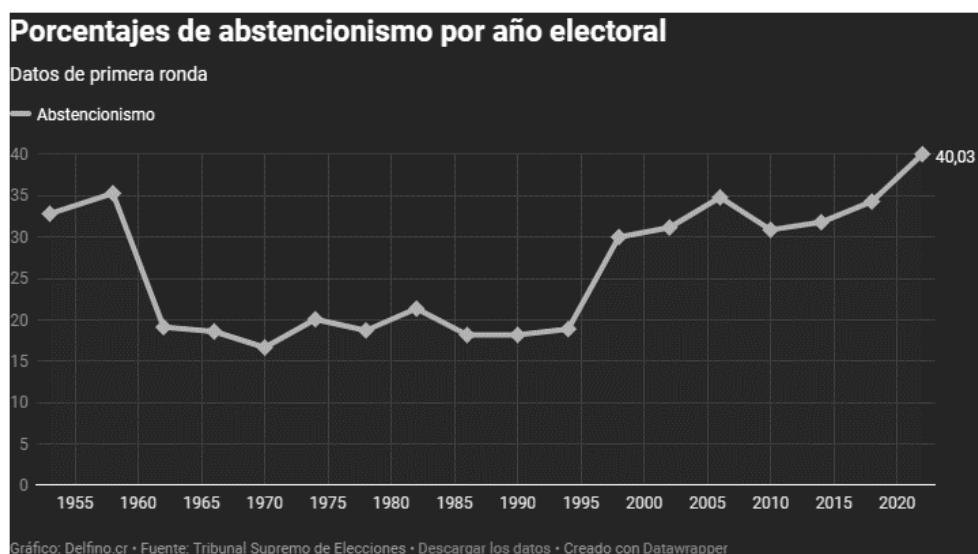
- The will of the people shall be the basis of the authority of government, as expressed by exercise of the right and civic duties of citizens to choose their representatives through regular, free and fair elections with universal and equal suffrage, open to multiple parties, conducted by secret ballot, monitored by independent electoral authorities, and free of fraud and intimidation.
- The right of every person to equal access to public service and to take part in the conduct of public affairs, directly or through freely chosen representatives.
- The right of those duly elected to form a government, assume office and fulfill the term of office as legally established.

Political participation:

Costa Ricans have the right to organize in different political parties without undue obstacles. The

historical dominance of the National Liberation Party (PLN) and the Social Christian Unity Party has waned in recent years. The Costa Rican general elections of 2022 were held on Sunday, 6 February 2022, as stipulated in the currently valid Political Constitution of Costa Rica of 1949, to elect the president, two vice-presidents and the 57 deputies of the Legislative Assembly. None of the presidential candidates obtained at least 40% of the votes in the first round, so a second round of elections was called for 3 April. This was the most contested election since the 1930s, with 25 parties participating in the presidential elections and 36 in the legislative elections, beating the previous record of Costa Rica's 2006 general election, which had 18.1

The former ruling Citizen Action Party (PAC) suffered a crushing defeat, obtaining less than 1 per cent of the vote for president, placing tenth, and failing to win any deputies in the legislative elections. It was also the first-round election with the highest abstention rate in the country's electoral history, with just over 40 per cent of registered citizens not turning out to vote.



As for political choices for Costa Ricans, citizen's political preferences are free from domination by unelected elites and other undemocratic powers. Alongside, members of religious, racial, ethnic, and other minority groups enjoy full political rights in Costa Rica, though some groups remain underrepresented in government. Indigenous rights have historically and systematically not been prioritized by politicians, and there are no indigenous representatives in the legislature.

In terms of women representation, the government has introduced initiatives to increase women's political participation, such as the establishment of gender quotas in order to ensure gender parity in political parties.

Section IV- Protection and Promotion of Human Rights

- The right of every person to equal protection of the law, without any discrimination as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
- The right of every person to freedom of thought, conscience and religion.
- The right of every person to equal access to education.
- The right of every person to respect private family life, home, correspondence, including electronic communications, free of arbitrary or unlawful interference.
- The right of every person to freedom of peaceful assembly and association, including to

establish or join their own political parties, civic groups, trade unions or other organizations with the necessary legal guarantees to allow them to operate freely on a basis of equal treatment before the law.

- The right of persons belonging to minorities or disadvantaged groups to equal protection of the law, and the freedom to enjoy their own culture, to profess and practice their own religion, and use their own language.

Protection and promotion of human rights:

In Costa Rica, there is freedom of assembly as it is constitutionally protected, and this right is largely upheld in practice. A diverse range of groups, including LGBT+ and environmental organizations, hold regular rallies and protests without government interference. In October 2020, widespread protests forced the government to withdraw a proposed tax increase and IMF loan agreement. Some of the protests turned violent; authorities reported that more than 100 police officers were injured, including when protesters responded with firebombs and other types of violence as officers tried to dismantle roadblocks.

As for Non-Governmental Organizations (NGOs), including those engaged in human rights work, they are active and encounter some obstacles. An example is that in March 2019, Indigenous land rights activist Sergio Rojas was murdered at his home. Prosecutors sought to close the case without resolution in September 2020, but a court ruled in December that the investigation must continue.

Labor unions are free to organize and mount frequent protests and strikes with minimal governmental interference, however the law requires a minimum of 12 employees to form a union, which may negatively impact union rights at small enterprises. Moreover, rates of union membership in the private sector are low, due in part to discrimination by employers against union members. Employers have been known to occasionally fire workers who attempt to form unions.

Along with the aforementioned, there were recurring strikes in 2019, including a strike by Social Security Service workers. In January 2020, President Alvarado signed into law a bill restricting strikes by public sector employees. Among its features are limits on permitted justifications for strikes, and salary suspensions for workers who participate in strikes deemed illegal. This had an impact on Costa Rica's last Freedom House report, 2021, making it go down one point on Freedom of Association.

Continuously, in terms of property rights, they are generally protected. Individuals are free to establish businesses, and the business and investment climate is relatively open, although the complicated bureaucracy can deter entrepreneurs seeking to establish a business. In 2020, the Superintendency of Financial Institutions (SUGEF) was given oversight over real estate agencies to improve the transparency of real estate transactions. Costa Rica was also removed in 2020 from the Office of the United States Trade Representative's watch list regarding the protection of intellectual property rights.

Despite legal protections, domestic workers, particularly migrant workers, are subject to exploitation and forced labor. Employers often ignore minimum wage and social security laws, and the resulting fines for violations are insignificant. Child labor is a problem in the informal economy. Sex trafficking and child sex tourism are also serious problems. The US State Department's 2020 *Trafficking in Persons Report* noted an increased number of investigations and convictions and an

increase in anti-trafficking funds. However, the report noted ongoing failures to adequately disburse anti-trafficking funds and effectively coordinate referral mechanisms with civil society groups.

Finally, the number of asylum seekers from Nicaragua has increased sharply since a political crisis erupted there in 2018. More than 80,000 Nicaraguans have fled to Costa Rica, and approximately 50,000 have applied for asylum. Although the law entitles asylum seekers to access public services, discrimination prevents them from claiming those benefits, and legal restrictions limit employment opportunities for asylum seekers. Anti-Nicaraguan discrimination rose in 2020 as a result of the COVID-19 pandemic.

Section V- Rule of Law

- The right of every person to be free from arbitrary arrest or detention; to be free from torture and other cruel, inhuman or degrading treatment or punishment; and to receive due process of law, including to be presumed innocent until proven guilty in a court of law.
- That the aforementioned rights, which are essential to full and effective participation in a democratic society, be enforced by a competent, independent and impartial judiciary open to the public, established and protected by law.
- That elected leaders uphold the law and function strictly in accordance with the constitution of the country concerned and procedures established by law.

Rule of law:

In the case of Rule of law, the judicial branch is generally independent and impartial. Supreme Court judges are elected by a supermajority of the legislature. Prosecutors and the judges are able to investigate public officials. In February 2020, the Attorney General's Office opened a criminal investigation into President Alvarado and other high-ranking officials in connection with alleged misuse of Costa Ricans' personal information by a data analysis office within the presidency. The investigation, along with a parallel inquiry by legislators, continued at year's end.

In addition, due process rights are enshrined in the constitution, and they are protected for the most part. However, there are often substantial delays in judicial processes, at times resulting in lengthy pretrial detention.

Unfortunately, violent crimes in Costa Rica have increased in recent years. In 2020, the country documented 568 murders, a rate of approximately 11.1 murders per 100,000 people. Criminal groups transport drugs along the Pacific coast, and the government has reported that many homicides there are related to organized crime and drug trafficking. There are reports of occasional police abuses of detainees and civilians, including violence and degrading treatment; confirmed cases are generally investigated and prosecuted.



Source: Infosegura Report

Alongside, overcrowding, poor sanitation, insufficient access to health care, and violence remain serious problems in Costa Rica's prisons. Although Costa Rica did not have a reported case of COVID-19 in prisons until July 2020, by mid-December over 2,700 prisoners and staff had tested positive for the virus, and 13 prisoners had died. Recurrent abuse by prison police has not been thoroughly investigated due to victims' reluctance to file formal complaints.

As related to social power, the constitution outlines equal rights for all people, but these rights are upheld unevenly. Indigenous people, who compose 3 percent of the population, continue to face discrimination, particularly in regard to land rights and access to basic services. Land disputes between Indigenous and non-Indigenous peoples have been a source of tension for years. A 1977 Indigenous Law formalized Indigenous groups' exclusive rights to some territories, but the government has failed to implement the law or provide compensation to non-Indigenous settlers who continue to occupy the land. Conflict with settlers has resulted in Indigenous groups being targeted in recent years by harassing lawsuits and violence committed with impunity. Bribri leader Sergio Rojas was murdered in 2019, and in February 2020 Brörán leader Yehry Rivera was killed and Bribri leader Mainor Ortiz Delgado was shot and wounded in connection with land disputes. All three had previously been granted protectionary measures by the Inter-American Commission on Human Rights (IACHR). As for Costa Ricans of African descent, they have also faced discrimination in health care, education, and employment. In July 2020, the legislature passed a law punishing acts of racism and xenophobia that occur in sports venues.

For women and minority groups, the cases do not distinguish much from the above. Women experience discrimination due to entrenched gender stereotypes, which can limit their equal access to employment, health services, and the justice system. Executive orders prohibit discrimination on the basis of sexual orientation and gender identity, and the government has expressed commitment to the protection of LGBT+ people. However, law enforcement officials have discriminated against LGBTIQ+ people, and there have been reports of attacks by police on transgender sex workers.

Recommendations:

We recommend the Governing Council to renew Costa Rica's membership to the Community of Democracies. We advise Costa Rica to take into consideration the concerns raised by civil society in this report particularly now that a new Government has taken office.



This report has been developed by the Civil Society Pillar Costa Rican Focal Point (Fundación para la Paz y la Democracia), with the support of the Secretariat of the CSP (Fundación Multitudes).

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