



Rights: Discrimination – AII Findings

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Six indicators (71-76) within the Rights subcategory (2.1) assess whether the government offers citizens protection against discrimination. The first two of these indicators (71-72) assess in law and in practice protections against ethnic discrimination. The next two (73-74) do the same for religious discrimination. The final two (75-76) then focus on LGBT discrimination.

Ethnic Discrimination Findings

- **Only 10 of the countries assessed have specific laws explicitly protecting the rights of ethnic minorities.**

General constitutional provisions were relatively common, but lacked sufficient legal protections to operationalize the protections. For instance, in the Democratic Republic of Congo the Constitution contains general provisions obligating the state to ensure and promote peaceful and harmonious coexistence of all ethnic groups, but there is no detailed legal provision that prohibits ethnic discrimination, nor that guarantees minority rights. An example of the a country that has full legal protections is Mauritius, where the Equal Opportunity Act of 2008 goes beyond a general constitutional provision and provides more explicit protections against discrimination, including that based on ethnic motivations.

| Discrimination Indicators |
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| 71 In law, the rights of ethnic minorities are protected. |
| 72 In practice, the government protects ethnic minorities from discrimination. |
| 73 In law, citizens cannot be discriminated against based on their religion. |
| 74 In practice, the government protects citizens from discrimination based on religious beliefs. |
| 75 In law, citizens cannot be discriminated against based on their sexual orientation. |
| 76 In practice, the government protects LGBT citizens from discrimination based on sexual orientation. |

- **Across the continent, few government outlets are in practice responsive to minority complaints of discrimination.** The majority of the countries (35) earned a score of 0 and only two received high scores (75 or 100). For example, Botswana received the lowest scores for both the laws and their implementation since reports suggest the government expects minority groups to behave like other groups in order to fit in and ‘subdue’ their differences, perpetuating existing stereotypes. Alternatively, South Sudan is an example of a country that earned a YES on the legal component, yet earned a 0 score on the implementation, with the research noting the larger tribes exercise relative dominance, with no effective means of recourse for minority ethnicities. Emblematic of the fewer high scoring countries, in South Africa minorities are generally well responded to by the Human Rights Commission, which keeps detailed records of its ensuing investigations and case finalizations.



Religious Discrimination Findings

- **Half of the countries (27) have laws that guarantee citizens' freedom of religion**, including the rights to fully manifest their religion through teaching, practices, or worship, as well as protection from discrimination based on religious beliefs.
- **However, few have an outlet for complaints or they exist but fail to investigate and provide timely responses.** Few countries perform well here (only 11% earned a score of 75 or higher, and 30% earned a moderate score of 50). For instance, in Tunisia in January 2014 a Jewish citizen was nominated for the position of Minister of Tourism, but the ANC Parliament refused his candidacy because of his faith. An example of high scoring country is Cape Verde, where the Human Rights Commission receives discrimination complaints and launches investigations. A highly performing system also exists in Sierra Leone, where tolerance of the two main religions (Muslim and Christian) exists and churches and mosques coexist peacefully next to each other.

Sexual Orientation Discrimination Findings

- **Only South Africa provides clear legal protections of LGBT rights.** In the rest of Africa, many legal codes at best are silent on the issue and at worst continue to criminalize homosexual acts. For instance, in Botswana such acts are punished with imprisonment of up to seven years, while in Burundi the penal code provides for imprisonment of between 3 months and 2 years. Elsewhere, such as in Nigeria, a new anti-gay law was signed in January 2014, providing penalties of up to 14 years imprisonment. The research reports that this has led to an increased amount of harassment of suspects, especially in the north of the country – including police investigations. However, some countries are taking progressive steps. While there may be no entity specialized in protecting LGBT rights, several countries reported that an increasing number of citizens have openly declared their sexuality, such as in Benin. In Lesotho, an NGO defending LGBT rights facilitated a film screening for community leaders, religious leaders and police officers to promote understanding and acceptance. The Comoros allows a political party of only LGBT citizens, and in Kenya - although the Penal code outlaws LGBTs- the Kenyan government offers protections whenever they are in danger, and has generally made progress towards granting rights to LGBT citizens.
- **An exception.** Interestingly, in Mauritius the Equal Opportunity Act of 2008 was designed to provide a solution to discrimination based on sexual orientation, yet the penal code has continued to criminalize sodomy. An ongoing movement continues to advocate for decriminalizing it.
- **These two indicators on LGBT rights were among the very lowest scoring indicators in the entire assessment** (indicators 75 and 76 ranking 107th and 105th, respectively, out of 110 indicators).



Observations

- In 2015, the highest scoring countries in terms of average scoring across these six indicators were South Africa and Mauritius, followed by South Sudan, Mozambique, Uganda, and Cape Verde. The lowest scoring countries all scored 0 in each of these six indicators: Libya, Algeria, Egypt, Morocco, Somalia, Equatorial Guinea, Mauritania, Djibouti, Tunisia, and the Central African Republic.

It is important to note that aggregate scores mask very substantial - and very informative – country-level differences that can be found in the disaggregated data. An interested user benefits from exploring the data in detail, focusing on individual indicators and the country context described in the researcher’s comment and sources. The indicators are designed to be granular in order to provide actionable information for each country covered, so should be viewed individually for the clearest view of each country’s performance - and opportunities for improvement.

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Table 1: Rights: Discrimination Indicators

| | #71 | #72 | #73 | #74 | #75 | #76 | Average |
|-----------------------|-----|-----|-----|-----|-----|-----|---------|
| Libya | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Algeria | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Egypt | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Morocco | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Somalia | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Equatorial Guinea | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Mauritania | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Djibouti | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Tunisia | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| CAR | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Burundi | 0 | 0 | 0 | 25 | 0 | 0 | 4 |
| Mali | 0 | 0 | 0 | 25 | 0 | 0 | 4 |
| Cote d'Ivoire | 0 | 0 | 0 | 25 | 0 | 0 | 4 |
| Madagascar | 0 | 0 | 0 | 50 | 0 | 0 | 8 |
| Gabon | 0 | 0 | 0 | 50 | 0 | 0 | 8 |
| Comoros | 0 | 50 | 0 | 0 | 0 | 0 | 8 |
| Ghana | 0 | 0 | 0 | 50 | 0 | 0 | 8 |
| Burkina Faso | 0 | 50 | 0 | 25 | 0 | 0 | 13 |
| Eritrea | 0 | 0 | 100 | 0 | 0 | 0 | 17 |
| Chad | 0 | 50 | 0 | 50 | 0 | 0 | 17 |
| Zimbabwe | 0 | 0 | 100 | 0 | 0 | 0 | 17 |
| Niger | 0 | 50 | 0 | 50 | 0 | 0 | 17 |
| Angola | 0 | 0 | 100 | 0 | 0 | 0 | 17 |
| Tanzania | 0 | 0 | 100 | 0 | 0 | 0 | 17 |
| Nigeria | 0 | 0 | 100 | 0 | 0 | 0 | 17 |
| Liberia | 0 | 0 | 100 | 0 | 0 | 0 | 17 |
| Togo | 0 | 50 | 0 | 50 | 0 | 0 | 17 |
| Malawi | 0 | 50 | 0 | 50 | 0 | 0 | 17 |
| Swaziland | 0 | 0 | 100 | 0 | 0 | 0 | 17 |
| Senegal | 0 | 50 | 0 | 50 | 0 | 0 | 17 |
| Botswana | 0 | 0 | 100 | 0 | 0 | 0 | 17 |
| Sudan | 100 | 0 | 0 | 0 | 0 | 0 | 17 |
| Rwanda | 0 | 25 | 100 | 0 | 0 | 0 | 21 |
| Cameroon | 0 | 25 | 100 | 0 | 0 | 0 | 21 |
| Zambia | 0 | 25 | 100 | 25 | 0 | 0 | 25 |
| Ethiopia | 0 | 25 | 100 | 25 | 0 | 0 | 25 |
| The Gambia | 0 | 0 | 100 | 50 | 0 | 0 | 25 |
| Guinea-Bissau | 0 | 0 | 100 | 50 | 0 | 0 | 25 |
| Guinea | 0 | 0 | 100 | 50 | 0 | 0 | 25 |
| Seychelles | 0 | 0 | 100 | 50 | 0 | 0 | 25 |
| Lesotho | 0 | 0 | 100 | 25 | 0 | 25 | 25 |
| Benin | 100 | 25 | 0 | 25 | 0 | 0 | 25 |
| Sao Tome and Principe | 0 | 25 | 100 | 50 | 0 | 0 | 29 |
| Congo Brazzaville | 100 | 25 | 0 | 50 | 0 | 0 | 29 |
| Namibia | 100 | 25 | 0 | 50 | 0 | 0 | 29 |
| Sierra Leone | 0 | 0 | 100 | 100 | 0 | 0 | 33 |
| Congo DRC | 0 | 0 | 100 | 100 | 0 | 0 | 33 |
| Kenya | 100 | 0 | 100 | 0 | 0 | 0 | 33 |
| Cape Verde | 0 | 50 | 100 | 75 | 0 | 25 | 42 |
| Uganda | 100 | 25 | 100 | 25 | 0 | 0 | 42 |
| Mozambique | 100 | 0 | 100 | 50 | 0 | 0 | 42 |
| South Sudan | 100 | 0 | 100 | 100 | 0 | 0 | 50 |
| Mauritius | 100 | 100 | 100 | 100 | 0 | 100 | 83 |
| South Africa | 100 | 75 | 100 | 100 | 100 | 50 | 88 |