

Overall Score:

57 - Very Weak

Legal Framework Score:

70 - Weak

Actual Implementation Score:

37 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁵²Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

100

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

References:

Item 55, Egypt constitution

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

References:

Law no. 84 / 2002 of the social institutions & communities

YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

Comments:

CSOs are required to inform the concerned authority of the name of their donors and the amount offered.

References:

Item 56 of law 84 / 2002

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

58

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | 75 | 50 | 25 | 0

Comments:

Generally, item 11 in the law 84 for the year 2002, concerning CSOs, forbids political activities and activities that threaten national unity, or activities that disagree with the general discipline and morals. These are loose categories that give a wide discretionary authority to the administration. This is considered a serious legal obstacle.

Although the administration allows establishing organizations and national associations working on good governance and transparency, it seeks to block their work if they discuss corruption. This happened when the government stopped the activities of the Egyptian Association for Transparency, which led its chief, Dr. Hassan Issa, to sue.

References:

Legal obstacles facing civil society activities, page 29 Arab program for human rights' activists." www.aphra.org

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

100 | 75 | **50** | 25 | 0

Comments:

Anti-corruption/good governance CSOs actively engage in the political process in many ways, either through presenting projects for political reform, monitoring human rights, calling for democracy, enhancing the public awareness of citizens rights, promoting the values of political participation or watching the elections. The administrative court passed a ruling on 6/11/2005 giving CSOs the right to monitor the parliamentary elections from the candidature until the final results. The court, considered this national monitoring to be a guarantee of the integrity of the elections.

References:

A sentence of the administrative court on 6/11/2005 regarding the right of CSOs to monitor the elections .

100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | NO

References:

no sources

YES: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period.

NO: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are civil society activists safe when working on corruption issues?

100

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

References:

no sources

YES: A YES score is earned if there were no CSO activists imprisoned related to work covering corruption.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the p

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

Comments:

Although cases of forgery and other violations by security forces occurred during the last election those can not be directly considered corruption” in the sense of this indicator.

References:

Absence of media reports.

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist’s work.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

References:

no sources

YES: A YES score is earned if there were no documented cases of CSO activists being killed related to a corruption case in the specific study period.

NO: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual’s history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

75

4a. In law, citizens have a right to organize into trade unions.

YES | NO

References:

Law 189/1951 modified by law 6/2002 and its executive regulation list no 25/2002.

YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | **50** | 25 | 0

References:

Law 189/1951.

100: Trade unions are common and are an important part to the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

I-2. Media

5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

YES | NO

Comments:

Item 48, Egypt Constitution guarantees freedom of the media and prohibits the censorship of newspapers and closing or blocking

them. There are two exceptions; during a war and during an emergency case, a limited censorship can be imposed by law to protect the national security.

References:

Item 48, Egypt Constitution.

YES: A YES score is earned if freedom of the press is guaranteed in law, including all political parties, religions, and ideologies.

NO: A NO score is earned if any specific publication relating to government is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

Comments:

Every one can express himself through the several means (publishing, drawing, speaking etc.) in accordance with the law.

Egyptian law and the constitution guarantee freedom of the media and speech. The legislation department (Fatwa) of the State Council stated that the Supreme Council for Islamic Affairs has the right to review artistic works related to religion (the head of the legislation commission at that time was the Islamic intellectual Mr. Tarig Al Bishry).

Regarding sectarian issues, the national unity law prohibits any act that may disturb the relationship between Muslims and Christians. The civil associations law and political parties law also prohibit the establishment of such organizations on sectarian grounds. There are no laws that prohibit direct criticism of the president. The independent press, in particular Dastour Constitution" newspaper routinely criticizes the president.

References:

Item 47, Egypt Constitution.

YES: A YES score is earned if freedom of individual speech is guaranteed in law, including all political parties, religions, and ideologies.

NO: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form media entities?

38

6a. In practice, the government does not create barriers to form a media entity.

Comments:

Practically, the law 96/1995 which organizes press forbids individuals from possessing or issuing newspapers. This contradicts Item 209 of Egypt Constitution regarding the freedom of newspapers issuing and the right of individuals and entities to possess them. It also puts restrictions on issuing newspapers by entities and grants the right to possess a newspaper to limited companies with a minimum of one million Egyptian Pounds capital. After these long procedures, an entity that requests permission should obtain first a licence from the Supreme Council of Press.

In addition, according to the Law 13/1979 (modified by the Law 223 /1989), the state monopolizes the radio and television networks and forbids radio and television belonging to individuals except through limited companies backed by large amounts of capital.

References:

- 1 – Law 96/1995, item 209 Egypt Constitution, law 13/1979 modified by law 223 /1989.
- 2 – Press between the hammer and the anvil,” a report of the Egyptian Organization for Human Rights, www.eahr.org.

100: Media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system.

75:

50: Formation of media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. Division of broadcast bandwidth is widely viewed to be used as a political tool.

6b. In law, where a media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

Comments:

There are two appeal mechanisms:

- 1) Through the Egyptian State Information Service, which is a government organization that follows the Ministry of Information.
- 2) If the appeal is denied, and when this denial violates Item 48 of the Egyptian Constitution or Law 3/1998, the applicants can appeal through the normal courts.

References:

- 1 – Item 48, Egyptian constitution concerning the freedom of mass media.
- 2 – Law 3/1998 concerning the establishment of the media companies.

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied media license. A YES score is also earned if no license is necessary.

NO: A NO score is earned if there is no appeal process for media licenses.

6c. In practice, where necessary, citizens can obtain a media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Law 13/1979.

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

According to the Law 96/1995, not only individuals but also institutions, limited companies and associations, are prohibiting from getting a licence for a daily newspaper without depositing one million Egyptian pounds in the bank as an insurance, and 250,000 Egyptian pounds for a weekly newspaper (item 45).

As for radio and television networks, according to Law 13/1979, entities can't get a licence without depositing about 50 million Egyptian pounds at least. This is an extremely large sum.

References:

Law 96/1995, Law 13/1979.

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are the media able to report on corruption?

58

7a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

References:

A report of Al-moltaka, an organization for development of dialogue and human rights, www.moltaka.org.

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

7b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

Press laws give the government authority to censor and to hinder the newspapers in case of emergency (which has been announced in Egypt since 1981 till now). It also allows the president (being the military commander) or anyone who represents the president to watch, hinder and confiscate the letters, messages, newspapers, publications, prints and all methods of expression, propaganda and advertisement before publishing them.

In year 2005/2006 more than 25 sentences were decided in publishment cases against journalists. 60 journalists were summoned by different prosecutors and 16 were physically attacked because of their work.

References:

1- law 162/1958

2 – www.moltaka.org

3 – Press between the hammer and the anvil,” a report of the Egyptian Organization for Human Rights, www.eahr.org.

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

7c. In practice, there is no prior government restraint on publishing corruption-related stories.

100 | 75 | **50** | 25 | 0

Comments:

The laws and restrictions on journalism and the work of civil society don't allow the society the required independence and the necessary sources to find those who are responsible of fighting corruption. Although the law gives journalists the right to get news and information, there are dozens of laws that threaten that right: issuing newspapers is still forbidden for individuals; issuing licences for newspapers is conditional on the agreement of the Prime Minister; many laws restrict the right to exchange information.

One of these laws is the law 2/1975 concerning forbidding the publication of official documents, another is the law 58 (penal code and its modifications, especially number 29/1982 ,199/1983 ,97/1992 ,93/1995). The penal code is full of items which restrict freedom of opinion and expression. The emergency law 162/ 1958 is considered a restriction on these rights that it gives the administration the authority to watch newspapers, and to confiscate, delay and close them. In addition to the authority given to the attorney general to prohibit publishing concerning certain crimes, as well the imprisonment penalty on publication crimes and summoning journalists before the prosecutor in corruption cases or harming them physically to prevent them from reporting such cases .

References:

1 – (law 159/1981) concerning limited companies , modified by law 3/1998 , emergency law 162/1958 , penal code law 58 .
2 – a study about transparency, Sherif Al-hilali, Ibn Roshd Center.

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. In countries where illiteracy is higher, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material.

8. Are the media credible sources of information?

8a. In law, media companies are required to disclose their ownership.

YES | NO

References:

1 – Law 159/1981 concerning limited media companies modified by law 3/1998.

2 – Press between the hammer and the anvil,” a report of the Egyptian Organization for Human Rights, www.eahr.org.

YES: A YES score is earned if media companies are required by law to disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being disclosed.

8b. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:

Journalists represent the corner stone in the freedom of press. They have the ability to communicate with people. As the press represents one of the most important communication means in the society, most of the journalists in the national or the independent newspapers work according to the charter of journalism honesty, which encourage objective criticism set on documents and credibility without any malicious or false information. The constitution and many of its judgements have laid the principles of press freedom and brought out the right to criticism as a guaranteed right for a correct national construction, a right that should be equally guaranteed to every citizen.

The main problem with journalism is the 25 cases against journalist, the summoning of 60 journalists before the prosecutor. Most of the accused journalists have insufficient documentation of high-level corruption cases, due to the many restrictions and obstacles preventing information exchange.

References:

A report of development dialogue and human rights forum, www.moltaka.org.

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to sell” favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

8c. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

Comments:

The national newspapers have greatly sided with the candidates of the ruling party (national party) and covered their conferences on a large scale. At the same time they marginalized other political parties and leaders, while the other private and independent newspapers have been more neutral than national mass media in both quality and quantity.

The television has also sided with the national party and its candidates without any objectivity or balance, while the news satellite channels such as Al-Jazeera, Al-Hurra, Al-Arabia showed a large number of violations and trespasses such as violence, police interference, depriving electors of voting and attacking judges. Meanwhile, the Egyptian television spoke about calm elections.

The national television channels attacked the Muslim Brother group which created a feeling of sympathy with them, due to the absence of trust between the citizens and the state institutions .

The performance of the mass media has decreased in terms of presenting the candidates and the political parties' programs. The Cairo Center for Human Rights reported independent candidates earned 24 percent of coverage, despite the fact that 80 percent of all candidates are independents. The national party and its candidates had the biggest share with 69 percent of coverage with a great difference from other opposing parties (El Tagamoa 9 percent, El Ghad 6 percent, El Wafd 1 percent) while El Nasrey party, El Amal party and Muslim Brothers group didn't have any share in the television coverage.

References:

www.eicds.org

www.egptcrc.org/en/index/htm

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

8d. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

Comments:

The official mass media inclines to the ruling party, obliterates facts and presents an unfair picture of both the political parties and the opposing candidates. As for the programs aiming at showing the candidates by themselves and their programs, the television channels have often intended to ignore them and to limit the time specified for them.

References:

www.hrinfo.net/egypt/c.pe

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

9. Are journalists safe when investigating corruption?

33

9a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES

NO

Comments:

In the past year(s) all journalists who investigated corruption have been sentenced to prison.

References:

1- In 17/4/2005 , Abdel Naser Alzoheery , Alaa Alghatreefy and Yousef Al Awamy were sentenced to one year in prison and a fine of 5000 pounds for each because they offended the minister of housing and construction.

2 – In 7/2/2006 Amira Shalash, the journalist of Alfagr newspaper, was sentenced to one year in prison because of publishing news of the official investigations with a corruption accusation. This sentence was passed in only 7 minutes. Case no. 1381/2006.

3 – Ibraheem Issa (chief editor of al Dostor newspaper) and Sahar Zaki (editor of the same newspaper) were sentenced to one year in prison and a fine of 10,000 pounds.

4 – Press between the hammer and the anvil,” a report of the Egyptian Organization for Human Rights, www.eahr.org.

YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist’s work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

References:

Press between the hammer and the anvil," a report of the Egyptian Organization for Human Rights, www.eahr.org.

YES: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues.

NO: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

9c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

References:

A report of Development Dialogue and Human Rights Forum.

YES: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period.

NO: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

56

I-3. Public Access to Information

10. Do citizens have a legal right of access to information?

33

10a. In law, citizens have a right of access to government information and basic government records.

YES | NO

Comments:

Although the constitution allows for citizen access to government information, there are many laws that prevent citizens from accessing government information and records and give this right only to the states. The penal code contains many laws that restrict freedom of expression. The emergency law gives the administration the authority to censor the messages, newspapers and printers and to close publication houses. The attorney general has the right to prohibit information publishing in some cases.

References:

- 1 – law 121/1975 concerning the use of official documents
- 2 – penal code , law 58 and its modifications 29/1982 , 199/1983 ,97/1992 , 93/1995
- 3 – penal code , items 86 ,89b , 103 , 187 ,188 , 191 , 192 ,193 , 194 , 302 , 306
- 4 – emergency law 162/1958

YES: A YES score is earned if there is a formal right to access any government documents. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request. There should be a formal process for requesting this information.

NO: A NO score is earned if there is no such right.

10b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

References:

- 1 – law 162/1958
- 2 – emergency law

YES: A YES score is earned if there is a formal process of appeal for rejected information requests.

NO: A NO score is earned if there is no such formal process.

10c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | NO

References:

law 121/1975

YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

11. Is the right of access to information effective?

0

11a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Although the constitution includes the right to access to information, which obliges authorities to give and to publish this information, it is not granted in practice, as the area of exceptions has increased to include national security information, personal data and central institutions. It is too easy to create obstacles preventing access to information by using these loose terminations.

There are many laws that prevent citizens from accessing information easily, such as the law of the central authority of statistics” which forbids publishing government information without permission from the mentioned authority. This permission must be obtained through official channels. That means through another official authority and it must show a reason to get this permission. The government has also reduced the appeal suits of citizens whose access to information are denied. Some previous laws include provisions abolishing this right. Some other laws give the authority of judgment in these appeal suits only to administrative institutions that are not able to check the power of the executive authority.

References:

- 1 – law 35/1960
- 2 – criminal procedures law 150/1950 and its modifiers
- 3 – law 313/1956 modified by law 14/1967 concerning the armed forces
- 4 – law 100/1971 modified by 1/1981 concerning the general intelligence
- 5 – law 20/1936 modified by law 97/1992 concerning the prints
- 6 – law 121/1975 modified by law 22/1983 concerning documents
- 7 – law 256/1954
- 8 – egyptian visions of corruption issue – a research paper on global integrity report 2004 ” , Negad Alborai

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

11b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There is no access to information mechanism at a reasonable cost.

References:

Egyptian views of corruption," a paper about the transparency organization report, political research center.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

11c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The government has reduced appeals by sending these suits to the administrative court which often confirms the government request of refusing access to information requests, citing the many laws that hinder the right of to information.

References:

Egyptian views of the corruption," a paper about the transparency organization report, Political Research Center.

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

11d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Egyptian views of corruption,” a paper about the transparency organization report, Political Research Center.

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

11e. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

Comments:

To deny an information request, the government rely on several laws that definitely prohibit such a procedure. Such as:

Law 121/1975 (modified by law 22/1983) concerning official documents. This law prohibits publishing or using official documents related to the high policy or national security of the state or documents that the constitution or the law haven't determined publishing them as soon as they have been produced. This system can prohibit document publishing for 50 years maximum when the national high interest requires that. It also punishes by three to five years to imprison anyone who obtains non-published documents or photocopies without a ministers council agreement.

Law 356/1954 and the executive procedures list for the government archive prohibit citizen from access to any government archives, records, documents, papers, all the kinds of official forms that may be used and conserved for a year or more.

Penal code, Item 80 punishes anyone who spreads a state secret even if has been already published.

After a quick reading of the laws that restrict freedom of information exchange, we find that there are no legal texts that obligate the government to present information to anyone. The legal system also restrains the right to access to information of the citizens, press and CSOs.

References:

- 1 – law 121/1975 modified by law 22/1983 concerning the official documents
- 2 – law 356/1954
- 3 – the executive procedures list for the government archive , ninth chapter , item 31
- 4 – penal code , item 80

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

Category II. Elections

II-1. ⁵⁸Voting & Citizen Participation

12. Is there a legal framework guaranteeing the right to vote?

100

12a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

References:

Egypt Constitution, item 62

YES: A YES score is earned if the right to vote is guaranteed to all citizens of that country. A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

12b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments:

Law 73/1956 concerning the political rights and its modifiers and law 38/1972 concerning the parliament require that elections be held at a regular intervals.

References:

1- law 73/1956 modified by law 38/1972

YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

13. Can all citizens exercise their right to vote?

50

13a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:

In practice, not all adults can vote.

Law 73/1956 (modified by law 76/1976) exempted some categories from practising their political rights such as armed forces, police officers. Item 2 (modified by law 23/1972) includes more categories, such as people whose money is under custody and anyone sentenced to prison in crimes described in agricultural reform law, prices law, supply law, customs law, as well as those who have been fired from the public sector or the government for reasons related to honour in the last five years.

References:

1 – law 73/1956 modified by law 76/1976

2 – item 2 modified by law 23/1972

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

13b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

Comments:

Many violations occurred in the last parliamentary election. Ballots were not secret or protected either inside or outside voting sites; this was proven by the reports of CSOs which monitored the election.

The phenomenon of collective voting for collectors, especially those who support the ruling party, as well as breaking up the boxes by violence, prevailed in hundreds of election sites. In addition, the election monitors confirmed, in several accidents blank ballots were found outside the election sites and filled in. This is considered one of the most important violations.

References:

Reports of many CSOs concerning monitoring of parliamentary election.

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

13c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

Comments:

The parliamentary election is held every five years. Since 1995 until now three elections are done according to the individual system, not the proportional list system; this was after testing both systems. However, the last election (2005) proved the need for a return to the proportional list system because of the abuse of capital and individual power, which discourages real representation for all social groups.

References:

Law 173/1956 modified by law 76/1976.

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

14. Are citizens able to participate equally in the political process?

60

14a. In law, all citizens have a right to form political parties.

YES | NO

Comments:

Although it's a legal right for all citizens to form political parties, the law 40/1977 and its modifications in 2005 attempt to control formation of political parties by giving wide authorities to the Committee of Parties' Affairs. The committee is mostly formed from ruling National Democratic Party members, such as the minister of interior, the minister of justice and its chairman is the chairman of the Shoura Council who is certainly one of the leaders of the ruler party, in addition to public figures appointed by the President.

This affirms that the committee follows both the executive authority and the ruling party. Since its establishment, the committee has refused the majority of requests to form parties presented from actual political powers and several citizens who don't believe in the current political parties. One more exciting thing is that the committee exceeded its authorities – relying on its relationship with the executive authority – by changing parties' presidents and closing parties' newspapers.

References:

law 40/1977 and its modifications

YES: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

NO: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

14b. In law, all citizens have a right to run for political office.

YES | NO

References:

law 40/1977

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if Individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

14c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:

According to the law 40/1977, all citizens are able to form political parties except the categories specified by the law 73/1956 modified by the law 220/1994, and they are:

1 – criminal sentenced persons.

2 – under-custody persons.

3 – persons who are sentenced to imprisonment in robbery , cheque , escaping from the military obligation crimes.

4 – elections' crimes makers.

5 – ex-civil servants who were fired because of reasons that are related to honor.

References:

1 – law 40/1977.

2 – law 73/1956 modified by the law 220/1994.

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

14d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:

In practice, there are many obstacles which prevent citizens from running for political office, such as the low economic level of life, the high percentage of illiteracy, the negativism which is a presidential component in the prevailing political culture, some defects in the legal framework represented in laws which control the political life especially the parties' aspects, the absence of effective programs for political parties, the lack of trust in the ability of the political parties to reach the rule according to the democracy mechanisms.

References:

Prof. Hoda Metkees, papers of rule and political regime, faculty political science, Center for Developing Countries Studies & Research, page 11

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

14e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:

The opposition parties achieved weak results in the last parliamentary elections for different reasons. They got only 10 seats (6 for Al Wafd , 2 for Altagmoa and 1 for each the wings of Alghad) in addition to 2 seats for Alkarama under the establishment party. This is out of a total of 454 parliamentary members .

References:

Report of the national front for elections monitoring on the parliamentary elections 2005, edited by Prof. Waheed Abdel Mageed, page 12.

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

II-2. Election Integrity

15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

15. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

Comments:

There are several agencies and sets of election monitoring, such as:

1- The national campaign for election monitoring, which includes four NGOs (the Arab Organization for Criminal Reform, the Democracy Development Group , Andalus Center for Forgiveness and Anti-Violence Studies and the Human Rights Association for Prisoners Assistance).

2 – The civil coalition for election monitoring, which includes nine NGOs (the Egyptian Organiztion for Human Rights, the Egyptian Human Rights Instituition for Training, Sawasia Center for Human Rights, Syndicates and Labor Services House, Land Center for Human Rights, Shumuu Center for Human Rights, the Legal Assistance Association for Human Rights, Al Marsad Al Madany for Human Rights, Al Mahrousa Center, Ibn-Roshd Communit, etc...)

3 – the Independent Committe for Election Monitoring, which includes 16 organizations (Ibn Khaldoun Center, the Egyptian Association for Transparency, Maat Center, etc...)

References:

1 – a judgement of the Administrative Court on 16/11/2005

2 – report of the national campaign for election monitoring on the parliamentary election 2005, pages 84-94

YES: A YES score is earned if there is an agency or set of agencies/entities formally assigned to ensure the integrity of the election process.

NO: A NO score is earned if no agency or set of agencies/entities that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police.

16. Is the election monitoring agency effective?

45

16a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

Comments:

See also:

1) Dr. Samer Sulieman: Political Participation in the Parliamentary Elections of 2005,” The Egyptian Association for Community Participation Enhancement, (Cairo 2006).

2) The report of Marsad Madani: “Human Rights on the legislative elections in Egypt 2005,” (Cairo 2006).

3) Dr. Wahied Abd El Magied’s report: “National Campaign for Monitoring the Elections- Legislative Elections 2005 (Cairo 2006).

4) The Independent Commission for Monitoring Elections 2005’s “The evaluation of the performance of the media,” final report

2006.

5) "Information Report of the Legislative Elections," Cairo Institute for Human Rights Studies, (Cairo 2006).

References:

The judgement of the Administrative Court on 6/11/2006 concerning the protection of these agencies from political interference.

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies being contested in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no election monitoring agency.

16b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

References:

See:

- 1) Dr. Samer Sulieman: Political Participation in the Parliamentary Elections of 2005," The Egyptian Association for Community Participation Enhancement, (Cairo 2006).
- 2) The report of Marsad Madani: "Human Rights on the legislative elections in Egypt 2005," (Cairo 2006).
- 3) Dr. Wahied Abd El Magied's report: "National Campaign for Monitoring the Elections- Legislative Elections 2005 (Cairo 2006).
- 4) The Independent Commission for Monitoring Elections 2005's "The evaluation of the performance of the media," final report 2006.
- 5) "Information Report of the Legislative Elections," Cairo Institute for Human Rights Studies, (Cairo 2006).

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

16c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

There are no full-time staff for election monitoring, only temporary staff.

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

16d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

References:

Reports of many agencies such as: the national campaign, the national coalition and other CSOs.

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

16e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:

No sources.

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

17. Are elections systems transparent and effective?

29

17a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

Comments:

The system of voter registration has many defects that disprove its transparency. There are defects that allow forgery, such as similar names. These defects affected about 60 percent of ballots in 2000. Moreover, several names are repeated in the same list which allows many people to vote more than once.

In addition, the police stations responsible for preparing the voter lists erase certain names, considering them dead according to their date of birth, which results in erasing names of voters who are still alive. The most serious defect is the violations committed by major candidates that some of them move the names of their employees from the lists in their original areas to the lists of the major responsible candidates' areas; this phenomenon is called group registration.

Law 73/1956 concerning the political rights affects badly the public elections and allows to create elective interests allies and leads to the repeating of registration and to register people in wrong areas to assist a certain candidate or a certain party. The phenomenon of group registration led to keep the parliamentary representation inside the same family and concentrates the role of big families.

In the last parliamentary elections the phenomenon of group registration represented a major violation against the democratic essence of election process; its use clearly profits certain candidates and a certain party.

References:

1- Law 73/1956, item 11.

2 – The Egyptian community for social participation, a report on social participation, page 33.

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost" voting by non-existent voters is common.

17b. In law, election results can be contested through the judicial system.

YES | NO

Comments:

Concerning elections results, they can be contested through the normal courts.

Concerning the rightness of the parliament membership, it can be contested through the cassation court.

References:

Law 73/1956 modified by law 22/1994.

YES: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

NO: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

17c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

Despite several judgments passed by both the administrative court and the high court challenging the membership for over 50 percent of the 2000 – 2005 parliament who represented the National Party, the parliament didn't take any action against those offender members, relying on a strange norm invented by the parliament itself in mid-eighties (the era of Dr. Refaat Almahgoob, the ex- president of the parliament). The strange norm pretends that the decision of legality of membership is made only by the parliament itself. Cosequently, appeals of election results are not taken seriously. However, the decisions of illegality of a parliament member reflect the wishes of the ruling party.

References:

Dr. Ahmed Thabet, "The conference of the future of reform and change in Egypt," 20-21 November 2005, page 3.

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

17d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

Although the reports of the organizations that monitored the last parliamentary election didn't mention any interference by the military, they reported police interferences in most election zones. Since the early morning, the security forces were directing voters to vote for the candidates of the ruler party and to prevent the voters supporting the Muslim Brothers' candidates, opposing parties' candidates and independent candidates from entering the voting sites. This led in several cases to clashes between the electors and the police which consequently arrested them. The aggravation of this phenomenon led some judges responsible for election sites to go out and bring the prevented voters by themselves to vote inside the sites.

References:

- 1 – a report, the National Campaign for Election Monitoring
- 2 – a report, the Independent Campaign for Election Monitoring
- 3 – a report, the Civil Coalition for Election Monitoring

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

17e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

Comments:

Concerning the domestic observers, the Administrative Judgement Court passed a decision on 16/11/2005 which stated that the

domestic observers have the right to monitor the elections.

Although Egyptian laws don't give international observers the right to monitor the elections (hence the NO score here), some of the international organizations and embassies monitored the elections and the government didn't prevent them.

References:

Waheed Abdel-almajeed, "The report of the national campaign for parliamentary elections monitoring 2000," page 80.

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

17f. In practice, election observers are able to effectively monitor elections.

100 | 75 | **50** | 25 | 0

Comments:

The last parliamentary elections in 2005 witnessed severe violations concerning the observers who monitored the elections in all zones. The violations included arrest, threats of killing and kidnapping, chasing out of the polling sites, and confiscating the observers ID's, which were issued by the High Committee of Elections. These violations were done by police or ruling party agents so that they would be able to manipulate the vote without observers reporting these violations. The High Committee for Elections, and its chief, the Minister of Justice took no action to stop these violations.

References:

1 – The final report of the independent committee for election monitoring on the last parliamentary elections 2005," issued by Ibn Khaldoun Center, Dr. Saad Eldin Ibrahim.

2 – the report of Almarsad Almadany for Human Rights on the Parliamentary Elections 2005.

3 – the report of the National Campaign for Election Monitoring on the Parliamentary Elections 2005.

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

18. Are there regulations governing political financing?

100

18a. In law, there are regulations governing private contributions to political parties.

YES | NO

References:

Law 40/1977

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties.

NO: A NO score is earned if there is no regulation of private contributions to political parties.

18b. In law, there are limits on individual donations to candidates and political parties.

YES | NO

References:

Law 177/2005

YES: A YES score is earned if there are any limits, regardless of size, on individual contributions to political candidates and political parties. A YES score is earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18c. In law, there are limits on corporate donations to candidates and political parties.

YES | NO

References:

Law 40/1977

YES: A YES score is earned if there are any limits, regardless of size, on corporate contributions to political candidates and political parties. A YES score is earned if contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to candidates or political parties. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

18d. In law, there are limits on total political party expenditures.

YES | NO

References:

Law 40/1977

YES: A YES score is earned if there are any limits, regardless of size, on political party expenditures. A YES score is earned if all party expenditures are prohibited.

NO: A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

18e. In law, there are requirements for disclosure of donations to political candidates and parties.

YES | NO

References:

Law 40/1977

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties or candidates.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties or candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

18f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | NO

References:

Law 41/1977

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of candidate and party finances. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties and candidates or if such requirements exist but allow for candidates or parties to self-audit.

19. Are the regulations governing political financing effective?

42

19a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

Comments:

The limits on individual donations to candidates and political parties are not effective. Donations happen far from supervision and registration; they are often made from the donor to the candidate directly.

However, according to the Law 177/2005, registered donations given by individuals to political parties are discounted from the taxes of the donor. These registered donations are included in the parties' financial reports.

References:

1 – Law 177/2005

2 – www.sis.gov.eg

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which individuals can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

Comments:

The donors' names must be announced within a month of accepting the funds, which are then discounted from the corporate taxes. According to the law, the state (as the first institution) funds every registered party with 100,000 Egyptian pounds to support administrative activities. Moreover, the state offers a fund of 5,000 Egyptian pounds if any of the party' candidates got a seat in either the parliament or the Shoura Council, to a maximum of 500,000 Egyptian pounds. Generally the corporate funds for the parties don't exceed 100,000 Egyptian pounds in the financial year and these donations are registered in the party's regular records.

References:

www.sis.gov.eg

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which companies can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making to donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

19c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

Comments:

In addition to the government funding, which reaches 100,000 L.E for the party each year, there are other resources for the party: the donations of the members, the income of the party's newspapers and books and printing houses and many other resources. With all these financial resources, there are many ways to fund the party without submitting to oversight.

References:

Law 40/1977 modified by Law 177/2005, concerning the political parties.

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

19d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

100 | 75 | **50** | 25 | 0

Comments:

According to the penal code, the party's money is considered public money. Moreover, the representatives and the workers of the political party are considered civil servants. In case of financial crimes, they are all submitted to the law of illegal earning. The general prosecutor informs the head of the Political Parties Committee, who in his turn asks the High Administrative Court to close the party and to liquidate its money as well as determine the entity to which this money reverts. Moreover, the court has to hold a session of closing the party within thirty days since the date of the session.

References:

Law 177/2005 .

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to political financing. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

19e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

Comments:

The law 40/1977 (modified by law 177/2005) concerning the political parties states that the Central System for Accounting should monitor political parties. The Central System for Accounting periodically examines the records of the parties, including the revenues and expenditures documents as well as any other financial affairs. The System prepares an annual report on all accounts of the party and informs the head of the Political Parties Committee of these reports.

However, since the legalization of political parties in 1976 until now, no party has driven to the court for financial violations except in the cases of the political conflicts inside the party itself. However, the employees and the accountants of the party usually

regulate the financial affairs, so that the party avoids problems with the monitoring agency.

References:

Law 40/1977 modified by Law 177/2005

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

19f. In practice, contributions to political parties and candidates are audited.

100 | 75 | **50** | 25 | 0

Comments:

It's too difficult to audit contributions to political parties and candidates. For example, the presidential election law stated that the expenditures of each candidate's propaganda doesn't exceed 500,000 pounds, but the campaign of the candidate Mohammed Hosny Mubarak exceeded several millions pounds. There was no auditing of the contributions of several institutions, companies, businessmen and individuals in this campaign.

The parliamentary elections witnessed so many violations of the expenditure limits, we could mention many aspects of these violations. At the least, we mention the elective bribery (the purchasing of voters), where the price of an individual voice was from 20 pounds to 1000 pounds. This phenomenon has been aggravated as soon as businessmen joined party work and the Parliament. In the parliamentary elections, businessmen are motivated by the idea of investing money to gain more through the parliament and authority.

References:

The report of the national campaign for monitoring the parliamentary elections, 2005.

100: Political party and candidate finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party and candidate finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party or candidate may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party and candidate finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

20. Can citizens access records related to political financing?

0

20a. In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Political parties and candidates don't disclose data on their financial support and expenditures at all, because the ruling party and its candidates don't have any transparency. They break the law they made. Thus, the ruling party and the opposing parties insist on the secrecy of their financial data.

Moreover, the Muslim Brothers have been competitive with them in the last parliamentary elections (2005) in terms of purchasing votes, using bribes or in using donations, gifts and services as means of propaganda.

References:

A report of the National Campaign for Election Monitoring on the Parliamentary election of 2005.

100: Political parties and candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties and candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties and candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regularly withheld from public disclosure.

20b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can not access the financial records of political parties and candidates at all.

For the previously mentioned reasons, the party and its candidates insist on not disclosing its financial records. This opacity can cover up major violations of the election laws.

References:

A report of the national campaign for election monitoring on the parliamentary election 2005.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

20c. In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can not access the financial records of political parties and candidates at all.

References:

A report of the national campaign for election monitoring on the parliamentary election 2005.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category III. Government Accountability

III-1. ²⁰Executive Accountability

21. In law, can citizens sue the government for infringement of their civil rights?

21. In law, can citizens sue the government for infringement of their civil rights?

YES | NO

References:

Egyptian constitution, item 71

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

22. Can the chief executive be held accountable for his/her actions?

31

22a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

Comments:

The chief executive doesn't give reasons for his/her policy decisions unless he is asked to do so by the parliament (as stated in the constitution, item 86) through asking Ministers (according to item 125 of the constitution), or if ministers are asked by press.

The work of the press to watch the government's performance is not well defined by the constitution, it states only that the press should work freely, and express public opinion (item 107, the Egyptian constitution). Moreover, there is no legal commitment from the chief executive towards the press to give reasons for his/her policy decisions.

References:

1 – Egyptian constitution, items 86, 125 and 107

2 – UNDP website

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

22b. In law, the judiciary can review the actions of the executive.

YES | NO

References:

Egyptian constitution, item 68

YES: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

22c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | **25** | 0

Comments:

According to the emergency law (applied since 1981 until now), the Military Courts, Security of the State Courts and the Political Parties Courts are not subject to judicial review.

References:

Judgments, Applied study in the light of the relation between the criminal procedures law and the constitution," Center of Prisoners Assistance, page 27

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on

instructions from the executive in order to initiate a legal or constitutional review.

22d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

Comments:

The Egyptian bureaucracy has an old history, and it's difficult for the chief executive to use orders to create new policies. There is an absence of trust between the top and the base .

References:

The style of governing," The Center of Developing Countries Study and Research, page 16

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

23. Is the executive leadership subject to criminal proceedings?

100

23a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

References:

Egyptian constitution, item 85

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

23b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

References:

Egyptian constitution, items 159 and 160

YES: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

24. Are there regulations governing conflicts of interest by the executive branch?

63

24a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

References:

Law 62/1975 concerning the illegal gain.

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

24b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

References:

Law 62/1975 concerning the illegal gain

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

24c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

References:

Law 62/1975 concerning the illegal gain

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

24d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

References:

Law 62/1975 concerning the illegal gain

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

24e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

Comments:

This is never enforced in practice (see Fagr newspaper, January 23, 2006, page 8).

References:

Law 62/1975 concerning illegal gain

YES: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

24f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

Comments:

The present government of Dr. Ahmed Nazif is called the government of businessmen, such as:

Dr. Hatem Elgably, the minister of health who is the greatest investor in medicine and hospitals (the owner of Dar alfouad hospital).

Mohammed Mansour the minister of transport who owns more than 30 percent of the City Cab project.

Dr. Zoheir Granah , the minister of tourism who owns the greatest tourism companies.

The insult of conflict of interest will always chase the government of Dr. Ahmed Nazif, as there are no rules governing the work of the businessmen as ministers. As such, observers can not measure the commitment of those ministers. Without these rules, the political life suffers.

References:

Al-Fagr newspaper, January 23, 2006, page 8.

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

24g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

Comments:

The regulations governing gifts and hospitality offered to members of the executive branch are not effective. On the contrary, these regulations are completely absent. That opens the gate to non-financial bribery such as gifts, sexual bribes, trips, goods and the high cost of hospitality which is considered a good way to obtain services.

References:

Nahdet Misr, weekly independent newspaper, 26-27/1/2006, page 5

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

24h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

Comments:

Executive branch asset disclosures (defined here as ministers and above) are not audited.

A few years ago, the Court of Cassation, which is the highest court in the country, acquitted the former governor of Giza, Abdel Hamid Hassan. The Court of Cassation ruled that proving the possession of a civil servant's real estate and lands is the responsibility of the overseeing institutions and not the accused public employee, as he is not obliged to present evidence for the source of his property, although his asset disclosures don't include this wealth and record only his salary.

References:

The Marriage of Authority and Wealth, unpublished book, Saber Ahmed Nail, page 110.

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

25. Can citizens access the asset disclosure records of the heads of state and government?

0

25a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | **NO**

References:

Law 122/1975 modified by law 22/1983 concerning the maintenance of the official documents of the state.

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

25b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:

Although Egypt has signed international agreements concerning the free access to information and there are many Egyptian laws which guarantee this right. In practice, there are many obstacles and many other laws and many institutions that restrain the free access to information, such as the law of the Public Authority of Statistics, and the law of the Central System of Accounting, and law 121/1975 and law 256/1954 and law 93/1995, as well as the Administrative Overseeing Authority, the Central System of Accounting and the Illegal Earning System. All these systems hinder public access to the asset disclosure records of the heads of state and government.

References:

Laws 121/1975, 256/1954, 93/1995

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

The marriage of the authority and wealth, Saber A.Nail, page 71-30

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

26. In practice, is the ruling party distinct from the state?

0

26. In practice, is the ruling party distinct from the state?

100 | 75 | 50 | 25 | 0

Comments:

Although the ruling party monopolizes the Egyptian political system, it completely depends on the state institutions. It's difficult to find real distinction between the ruling party and the government.

The bureaucratic systems of the state and the ruling party are almost incorporated. The ruling party looks like a state system. This interference hindered the party development and its efficiency.

References:

The political parties and the presidential election, Dr. Amr Alshobaky, the community of prisoners assistance, the conference of the political reform and change in Egypt, 21-22/11/2005, Cairo.

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

III-2. Legislative Accountability

27. Can members of the legislature be held accountable for their actions?

100

27a. In law, the judiciary can review laws passed by the legislature.

YES | NO

References:

Item 99, the Egyptian constitution.

YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

27b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

Comments:

The judiciary watches the legality of the laws passed by the parliament through the High Constitutional Court, in addition to the reports presented by the Court of Cassation to the parliament to judge the validity of some parliamentary memberships.

In the past years, the entanglement between the judiciary and the legislature has increased because of the increase of the judgments of the High Constitutional Court concerning the illegality of some laws that were passed by the parliament, as well as the increasing appeals of the parliamentary memberships which were accepted by the Court of Cassation.

References:

1 – Egyptian constitution, item 92.

2 – the mechanisms and the obstacles of the parliamentary work, democracy developing group, 1998, page 129.

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

27c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

References:

Egyptian constitution, item 99

YES: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

NO: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings.

28. Are there regulations governing conflicts of interest by members of the national legislature?

14

28a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

References:

law 62/1975

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.

28b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | NO

References:

Egyptian constitution, item 95

YES: A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

28c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | NO

Comments:

The law 38/1972 concerning the parliament doesn't include any provision that regulates this matter.

References:

law 38/1972.

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

28d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | **NO**

References:

Items 95 and 96, the Egyptian constitution.

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

28e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | **0**

Comments:

There are no regulations restricting post-government private sector employment for national legislators.

Item 95 of the Egyptian constitution states that national legislators are not allowed (during their parliamentary membership) to buy or sell or rent or make deals using public money, nor can they be suppliers or contractors in any business related to the public money.

References:

Item 95 of the Egyptian constitution.

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

28f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

There are no regulations governing gifts and hospitality offered to national legislators.

References:

No regulations.

100: The regulations governing gifts and hospitality to national legislators are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to legislators. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

28g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

References:

No regulations are in place.

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Legislative branch asset disclosures are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

29. Can citizens access the asset disclosure records of members of the national legislature?

0

29a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | **NO**

References:

law 472/1979 concerning the maintenance of official documents

YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

29b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:

Citizens can not access these records at all.

References:

law 472/1979.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

29c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | 50 | 25 | **0**

Comments:

Citizens can not access these records at all.

References:

law 472/1979 .

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

30. Can citizens access legislative processes and documents?

0

30a. In law, citizens can access records of legislative processes and documents.

YES | **NO**

References:

law 472/1979

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

30b. In practice, citizens can access these records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can not access these records at all.

References:

law 472/1979 .

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access these records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can not access these records at all.

References:

law 472/1979

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

29 III-3. Judicial Accountability

31. Are judges appointed fairly?

0

31a. In practice, there is a transparent procedure for selecting national-level judges.

YES | **NO**

References:

law 46/1972, concerning the judiciary.

YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight.

31b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | 50 | 25 | **0**

Comments:

There are no professional criteria required for the selection of national-level judges. There is an ongoing struggle to issue the new law of the judiciary. This is a struggle against the executive authority to get some legal power for the judiciary.

There is a very large gap between the written laws and what really happens. The role of the judiciary is mostly abolished and it's only kept as a decoration which is used by the executive authority only when it wants. The general assembly of the Club of Judges held in Alexandria on 15/4/2005 resulted in declaring the necessity of issuing the new law of judiciary which sets the judge free from the domination of the government. The items of the suggested law concentrate on modifying the current law 46/1972 which gives wide authority to the government to interfere in the judges' affairs.

The suggested law includes increasing the authorities of the Supreme Council of Judgment and confining the authorities of the Minister of Justice to administrative supervision, preventing him from selecting the heads of the courts, as well as specifying an independent budget for the judiciary and transferring the judicial inspection from the Ministry of Justice to the Supreme Council of Judgment. The suggested law includes the approval of the Supreme Council of Judgment on the presidential decree of appointing the General Attorney and the General Lawyer as well as other prosecution members. These demands have been supported by the general assembly of the Club of Judges in Cairo on 13/5/2005.

References:

The report of the national campaign for parliamentary elections, Prof. Waheed Abdel mageed, page 75.

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

31c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | **NO**

Comments:

According to the law 46/1972, the President is the the head of the Supreme Council of the Judicial Institutions.

References:

the law 46/1972

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

32. Can members of the judiciary be held accountable for their actions?

79

32a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

References:

items 176 and 178 of the procedure law

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

32b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

Comments:

Certainly, members of the national-level judiciary give reasons for their decisions and the judgments including legal adaptation which are always enclosed in the core of the written judgment.

References:

law 46/1982 concerning the judiciary

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

32c. In law, there is an ombudsman (or equivalent agency or mechanism) for the national-level judicial system.

YES | NO

Comments:

The ombudsman for the national-level judicial system is the head of the judicial inspection committee. He is the assistant of the Minister of Justice for the judicial inspection affairs.

References:

law 46/1982 concerning the judiciary

YES: A YES score is earned if there is a ombudsman or equivalent mechanism for the judicial system. A judicial ombudsman is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a judicial ombudsman.

32d. In law, the judicial ombudsman (or equivalent agency or mechanism) is protected from political interference.

YES | **NO**

References:

law 46/1982 concerning the judiciary

YES: A YES score is earned if there are formal rules establishing that the judicial ombudsman is operationally independent from political interference by the executive, legislative or judicial branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial ombudsman. A NO score is given if the judicial ombudsman function is carried out by an inherently subordinate organization, such as an executive ministry or legislative committee.

32e. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) initiates investigations.

100 | **75** | 50 | 25 | 0

Comments:

The committee of the judicial inspection which is appointed by the Minister of Justice initiates investigations if the complaints are about the job's exigencies.

References:

law 46/1982 concerning the judiciary

100: The ombudsman aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The ombudsman is fair in its application of this power.

75:

50: The ombudsman will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The ombudsman, though limited in effectiveness, is still fair in its application of power.

25:

0: The ombudsman rarely investigates on its own or cooperates in other agencies' investigations, or the ombudsman is partisan in its application of this power.

32f. In practice, when necessary, the judicial ombudsman (or equivalent agency or mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The committee of the judicial inspection initiates investigations and if it's a serious conviction it holds a committee of efficiency. This committee decides whether to fire the offending judge or punish him. However, if the conviction is criminal he is imprisoned.

References:

law 46/1982 concerning the judiciary

100: When rules violations are discovered, the ombudsman is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The ombudsman enforces rules, but is limited in its effectiveness. The ombudsman may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The ombudsman does not effectively penalize offenders. The ombudsman may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The ombudsman may be partisan in its application of power.

III-4. Budget Processes

33. Can the legislature provide input to the national budget?

8

33a. In law, the legislature can amend the budget.

YES | NO

Comments:

Item 86 of the Egyptian constitution states that the Parliament approves the general plan of the social and economic development and the general budget of the State. Item 118 states that the Parliament is not allowed to amend the suggested budget without government approval. The interior regulation of the Parliament specifies the procedures for discussing the suggested laws concerning the plan and the budget which include discussing the amendments and obtaining the government approval.

References:

- 1 – items 86 and 118 , the Egyptian constitution .
- 2 – items 133 and 136 , the interior regulation of the Parliament .

YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can approve, but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

33b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

The government approves the public expenditures, not the parliament.

References:

Items 86 and 181, the Egyptian constitution.

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

33c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:

The legislature hasn't sufficient capacity to monitor the budget process or provide input or changes. So the number of the

members who attend the budget discussion in the Parliament is very low (about 20% of all the members). Moreover, the role of Parliament members in this process is only to demand the government to provide additional amounts to meet the local needs.

References:

items 86 and 181, the Egyptian constitution

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

34. Can citizens access the national budgetary process?

33

34a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

Comments:

Item 86 of the Egyptian constitution states that suggested budget should be presented to the Parliament at least 2 months before the financial year. The budget process has several stages; the Ministry of Finance prepare the suggested budget, then presents it to the Parliament which presents it to its Committee of Plan and Budeget, which studies it and then presents it again to the Parliament to be approved. The Central System for Accounting follows and oversees the acheivement of the budget by the different ministries and institutions and presents its reports to the Parliament.

References:

Sherif Ahmed Sherif, the general budget of the State, public management studies center, faculty of economic and political sceinces, Cairo university, page 7.

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

34b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

References:

Item 118, the Egyptian constitution

100: Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or CSOs have no formal access to provide input to the budget debate.

34c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

Comments:

Only Parliament members can access budget allocations. Citizens can access this information only through the mass media and this news is insufficient.

References:

item 118, the Egyptian constitution.

100: Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

35. In law, is there a separate legislative committee which provides oversight of public funds?

100

35. In law, is there a separate legislative committee which provides oversight of public funds?

YES | NO

Comments:

The Committee of Budgets and Planning makes reports on the budget and suggests the necessary amendments. It is also authorized to request data and to discuss with concerned institutions. It then presents the reports to the parliament.

References:

Ahmed Essam Eldin Omar, "The General Budget," Center of Public Management Studies, faculty of economic and political sciences, Cairo University, page 19.

YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists. A NO score is earned if there is a body executing this function but it is not under the direction of the legislature.

36. Is the legislative committee overseeing the expenditure of public funds effective?

19

36a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

Comments:

This is the duty of the Central System for Accounting, which presents annual reports to the Parliament. These reports, along with the reports made by the Committee of Budgets and Planning are considered guidelines to prepare the new budget.

References:

law 144/1988

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

36b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

Comments:

Party representation is one of the most important elements that affect the performance of the Committee, which consists of the heads of the 18 committees of the Parliament. They all are members of the ruling party, so it is the only committee that doesn't include any opposition members. The committee excludes any positions held by the opposition parties.

References:

Ali Al-Abady, "The innovation of the parliamentary performance: a guide for the Parliament member," The Group for Democracy Development, page 56

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

36c. In practice, this committee is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

As mentioned, the committee is considered a pure one-party committee.

References:

law 144/1988

100: This committee operates independently of the political process, without incentive or pressure to render favorable judgments on politically sensitive issues. Investigations are rarely praised or criticized by political figures.

75:

50: This committee is usually independent but is sometimes influenced by negative or positive political incentives. This may include public praise or criticism by the government.

25:

0: This committee is commonly influenced by personal or political forces or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties that ultimately influence the committee's behavior and decision-making. Negative incentives may include threats, harassment or other abuses of power by the government.

36d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

Comments:

The committee makes investigations only through the Central System for Accounting, which requires the permission of the President. It presents its reports to the committee and the Parliament.

References:

the law governing the Central System for Accounting

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

Category IV. Administration and Civil Service

IV-1. ⁶²Civil Service Regulations

37. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

37a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

References:

law 47/1978 concerning the civil servants, published in the official newspaper on 20/7/1978

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

37b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

References:

Items 28:75, law 47/1978 concerning the civil servants, published in the official newspaper on 20/7/1978

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

37c. In law, there is an independent redress mechanism for the civil service.

YES | NO

References:

1 – law 47/1978 concerning the civil servants , published in the official newspaper on 20/7/1978 .

2 – an interview with Safwat Alnahhas ;head of the Central System for Management, Nahdet Misr newspaper, 23/3/2006 .

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. Civil servants are able to appeal the mechanism’s decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists.

37d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

References:

Item100, law 47/1978 concerning the civil servants, published in the official newspaper on 20/7/1978

YES: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

NO: A NO score is earned if no such rules exist.

38. Is the law governing the administration and civil service effective?

58

38a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

There are many corruption cases that show that the civil servants are not protected from political interference at all, such as the cases known as the parliamentarians of drugs” and “the parliamentarians of loans.”

References:

Al-wafd newspaper 8/4/2004

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

38b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | **50** | 25 | 0

Comments:

Bribery, cronyism and nepotism continue to play a significant role in Egypt when it comes to civil service appointments.

References:

law 47/1978 concerning the civil servants

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

38c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | **25** | 0

References:

Al-wafd newspaper 8/4/2004

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

38d. In practice, civil servants have clear job descriptions.

100 | 75 | **50** | 25 | 0

References:
law 47/1978

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable means to map positions to both human capital requirements (including the position's authority and responsibilities) and base pay.

75:

50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

25:

0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

38e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | **75** | 50 | 25 | 0

Comments:

Civil servant bonuses constitute only a small fraction of total pay. For example, the deputy minister's bonus doesn't exceed 75 pounds, the general manager bonus doesn't exceed 72 pounds, the first class employee bonus 60 pounds, second and third class from 48 to 60 pounds, fourth and fifth from 18 to 24 pounds and sixth 18 pounds.

References:
Item 40, law 47/1978.

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

38f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled, but unfortunately, nepotism, cronyism and patronage affect badly the appointments of civil service positions.

References:

Al-Wafd newspaper, 8/April/2004, Files of patronage," page 9.

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

38g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

Comments:

The weakness of the redress mechanism and the high percentage of unemployment resulted in poor performance. More than 25 percent of the man power is unemployed.

The head of the Central System for Management announced that 1,000,000 public employees have no specific duties, which causes a serious defect: some positions suffer from a bad shortage while employees in other positions exceed the required number. The Human Development Report 2002 stated that the state should vacate 100,000 jobs annually to reform the administrative system.

References:

An interview with Safwat Alnahhas; head of the Central System for Management, Nahdet Misr newspaper, 23/3/2006.

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

75:

50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

25:

0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

38h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

References:

the public budget 2005

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

38i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

Comments:

Corrupted civil servants, once fired, build private businesses using the relationship networks established through their illegal actions, so they don't need government employment.

References:

items 86 and 92 of the law 47/1978

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

39. Are there regulations addressing conflicts of interest for civil servants?

58

39a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES

NO

References:

1 – articles 12 and 12 of item 77 , law 47/1978 .

2 – law 46/1982 concerning the judiciary .

3 – the law of the banks .

4 – the law of companies .

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

39b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES

NO

Comments:

Article 8 of item 77 of law 47/1978 states that it's prohibited for the ex-civil servant to announce any information he had known through its governmental job. Article 9 prohibits the ex-civil servant from keeping any original official papers.

References:

articles 8 and 9, item 77, law 47/1978.

YES: A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

39c. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

References:

article 14, item 77, law 47/1978.

YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

NO: A NO score is earned if there are no such guidelines or regulations.

39d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

References:

Nahdet Misr newspaper 27/1/2006, Corruption Files," page 8

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

39e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

Citizens present gifts to civil servants to obtain services. In the past 20 years, this behavior became a social tradition which is stronger than any law.

References:

The mechanisms for fighting corruption in Egypt,” Samir Abdel Sameai Zaki, the Administrative Overseeing Agency, page 64.

100: The regulations governing gifts and hospitality to civil servants are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to civil servants. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

39f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

Comments:

Actually, the contrast between the personal interests and the civil service requirements is new in the Egyptian society. Although there are many laws that govern this conflict, we still need more specific regulations.

References:

Al-Fagr newspaper, 22/Jan./2006, page 8

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

40. Can citizens access the asset disclosure records of senior civil servants?

0

40a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | **NO**

Comments:

According to the mentioned laws, citizens can not access the asset disclosure records of civil servants at all levels.

References:

law 356/1954 and the regulation of the governmental archive, law 35/1960 concerning the numbering and statistics, the law of the public civil workers no. 47/1978.

YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

40b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:

Citizens can not access the asset disclosure records of senior civil servants at all.

References:

Law 356/1954 and the regulation of the governmental archive, law 35/1960 concerning the numbering and statistics, the law of the public civil workers no. 47/1978

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

40c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can not access the asset disclosure records of senior civil servants at all.

References:

law 356/1954 and the regulation of the governmental archive , law 35/1960 concerning the numbering and statistics , the law of the public civil workers no. 47/1978 .

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

IV-2. Whistle-blowing Measures

41. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

0

41a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

References:

law 2/1977 concerning the establishment of Illegal Earning System

YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

41b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants can be legally punished just for reporting corruption. The law 2/1977 of the Illegal Earning System sets penalties for this. This applies to anyone who reports cases of corruption if the report is incorrect or has bad intentions. This is true even if the person who is accused doesn't sue the reporter.

The penalty for reporting corruption, if the corruption is not proven, is at least six months in prison and a 100 to 500 pound fine.

Asset disclosure lists are prepared by the concerned person himself and that gives corrupted employees the chance to present untrue information about their property. Moreover, the property of lands and real estates in Egypt are usually not registered. Thus, it is difficult to prove the property of the corrupted employees. All of this pushes civil servants to avoid reporting corruption cases to avoid the penalty in case of false whistle-blowing.

References:

law 2/1977.

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

41c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | **NO**

References:

law 2/1977 concerning the Illegal Earning System

YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

41d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | **0**

Comments:

The law 2/1977 sets penalties for those who can't prove the rightness of the information which they present to accuse someone of corruption. It is too difficult to prove that because of many easy legal ways to prove the contrary from the part of the accused person. This has led the Illegal Earning System to rely on the complaints from unknown sources, which are mostly neglected.

References:

law 2/1977

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

42. Is there an effective internal mechanism (i.e. phone hotline, e-mail address, local office) where civil servants can report corruption?

63

42a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

As one of the overseeing systems, the Administrative Prosecution investigates financial and administrative crimes, and it has the authority of turning the accused person over to the criminal courts. It has a full-time staff of professional investigators.

References:

law 117/1958 concerning the administrative prosecution

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

42b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

According to law 117/1958, the Administrative Prosecution receives regular funding.

References:

law 117/1958

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

42c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to the report of the Head of the Administrative Prosecution, the backlog of public sector corruption cases reached 10,000 cases between 2001 to 2003, so the time period to act on complaints is not reasonable.

References:

the report of the Head of the Administrative Prosecution 2004

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

42d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The Administrative Prosecution investigates disciplinary crimes either administrative or financial ones. It has the authority to turn the accused persons over to the criminal courts without reopening investigations by the general prosecution. When the case isn't required to be viewed by the criminal court, the administrative prosecution can turn the accused persons to the other disciplinary authorities determined by the law.

References:

law 117/1958

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

31 IV-3. Procurement

43. Is the public procurement process effective?

85

43a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

References:

item 39 of the law 89/1998 concerning the public auctions (procurement)

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private gain for public procurement officials.

NO: A NO score is earned if no such rules exist.

43b. In law, there is mandatory professional training for public procurement officials.

YES | NO

Comments:

There is no mention of that in the law.

References:

law 89/1998 concerning the public auctions

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

NO: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, or voluntary.

43c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

Comments:

There are many exceptions of these regulations, such as the limited auction where only specific competitors are selected, the local auction where only the local competitors are selected (items 3,4 and 5 of the mentioned law). Moreover, according to item seven, the direct contracting is legal by taking permission from the head (chief) of the institution or the concerned minister or governor. In cases of extreme necessity, the Prime Minister is authorized to set special regulations or conditions for the public auctions.

References:

items 3, 4, 5 and 7 of the law 89/1998

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

43d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

References:

item 28 of the law 89/1998

YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

NO: A NO score is earned if no such mandate exists.

43e. In law, major procurements require competitive bidding.

YES | NO

References:

article A, item15, law89/1998

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

43f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:

Apart from the previous mentioned exceptions, items 9,10,11,12,13 and 14 limit the extent of sole sourcing.

References:

items 9,10,11,12,13 and 14, law 89/1998

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

NO: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

43g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

References:

item 40, law 89/1998

YES: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

NO: A NO score is earned if no such process exists.

43h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

Although there is an office in the ministry of finance dedicated to following the complaints related to the governmental contracts, unsuccessful bidders can present their complaints related to any violations in the procurement process to the General Prosecution.

References:

item 41 , law89/1998

YES: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

NO: A NO score is earned if no such process exists.

43i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

References:

item 40, law89/1998

YES: A YES score is earned if there are formal procurement blacklists, preventing convicted companies from doing business with the government.

NO: A NO score is earned if no such process exists.

43j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

Guilty companies are eliminated from the contractors and suppliers lists, and the General Institution of Government Services is informed of the decision to publish it in the institutional bulletins. The guilty company can register again to the contractors and suppliers lists if the cause of the elimination is not repealed according to a decision of the General Prosecution or a determinative judgment .

References:

law 89/1998 .

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

44. Can citizens access the public procurement process?

79

44a. In law, citizens can access public procurement regulations.

YES | NO

References:

item 2, law 89/1998

YES: A YES score is earned if procurement rules are, by law, open to the public.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

44b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

The reasons for procurement decisions are publicly announced through an advertisement board dedicated to this purpose (one week for each decision). The concerned authority must select a clear-view place to put the board. Moreover, all the bidders are informed of the decision through registered letters to their addresses which are written in the procurement documents.

References:
item 40, law 89/1998

YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

44c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can access public procurement regulations within a week of presenting the procurement

References:
item 40, law 89/1998

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

44d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens who want to access to public procurement regulations must pay a temporary insurance, which is a sum of money determined by the concerned institution. This must not exceed two percent of the estimated total amount .

References:
item 17 , law 89/1998

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

44e. In practice, major public procurements are widely advertised.

100 | 75 | 50 | 25 | 0

Comments:

Major public procurements are widely advertised either inside or outside Egypt. The advertising is through daily newspapers or other wide-spread mass media.

References:

item 2, law 89 /1998

100: There is a formal process of advertising public procurements. This may include a government Web site, newspaper advertising, or other official announcements. All major procurements are advertised in this way.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

44f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can access the results of major public procurement bids through the advertisement board dedicated to this purpose. The concerned authority must select a visible place to put the board. In addition, all the bidders are informed of the decision through registered letters to their addresses which were written in the procurement documents.

References:
item 2, law 89/1998

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

IV-4. Privatization

45. Is the privatization process effective?

83

45a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

References:
law 43/1974 concerning investments

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

45b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

References:

- 1 – items 158 and 95 of the Egyptian constitution
- 2 – law 203/1991

YES: A YES score is earned if there are formal regulations defining and regulating conflicts of interest for government officials involved in privatization.

NO: A NO score is earned if there are no such formal regulations.

45c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | **50** | 25 | 0

References:

law 11/1968 modified by law 2/1972

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

46. Can citizens access the terms and conditions of privatization bids?

81

46a. In law, citizens can access the terms and conditions of privatization bids.

YES | NO

References:

law 89/1998 concerning governmental bids

YES: A YES score is earned if there is a formal process of publishing the details of privatization bids that makes information available to all citizens.

NO: A NO score is earned if there is no formal publication process, or if any citizens are excluded by law from accessing this information.

46b. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

References:

law 89/1998 concerning governmental bids

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

46c. In practice, citizens can access the terms and conditions of privatization bids within a reasonable time period.

100 | **75** | 50 | 25 | 0

References:

law 89/1998 concerning governmental bids

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

46d. In practice, citizens can access the terms and conditions of privatization bids at a reasonable cost.

Comments:

Anyone who wants to access the terms and conditions of privatization bids must pay five percent of the total estimated price as a refundable insurance. The money is refunded if the bidder doesn't win the procurement.

References:

law 89/1998 concerning governmental bids

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category V. Oversight and Regulation

V-1. ~~92~~ National Ombudsman

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

Comments:

The national ombudsman is the general attorney, Mr. Abel Majeed Mahmoud. He receives the citizens' complaints and he brings the public legal suit.

References:

no sources

YES: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

NO: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

48. Is the national ombudsman effective?

75

48a. In law, the ombudsman is protected from political interference.

YES | NO

References:

item 65, Egyptian constitution

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

48b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The ombudsman is appointed by the President and follows the Minister of Justice.

References:

law 46/1982

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

48c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The General Prosecutor, who is the head of the ombudsman agency, and its members are protected from removal.

References:

item 67, law 35/1984

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

48d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The members of the General Prosecution Agency are considered public employees, so they follow the executive branch and represent it in the courts to defend the public interests. They have a special legal position, although they follow the executive branch, they are not purely administrative employees.

References:

the Egyptian judgement system, the center of judgement independence, page 18.

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

48e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

The members of the General Prosecution Agency follow their chiefs, so they are not fully independent as the judges. Although the General Prosecution members follow the Minister of Justice, they are not just administrative employees, so the Minister is allowed to give orders to the General Prosecution members but he can't do their work. Moreover, if the General Prosecution brings a claim despite the Ministry orders, the claim is considered correct and it must be viewed by the court.

References:

law 46/1972

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

48f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The ombudsman agency receives regular funding through the annual budget of the Ministry of Justice.

References:

law 46/1982 .

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

48g. In practice, the agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

The agency makes publicly available reports through the mass media concerning the public opinion cases.

References:

no sources

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

48h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The legislator gave the General Prosecution several authorities and mandates, the General Prosecution has the exclusive authority to bring the criminal claim and to manage it. The duty of the General Prosecution members is to defend the public interest.

References:

item 21, law 35/1984 concerning the judiciary

100: The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

48i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The General Prosecution can only present its opinion in the legal case to assist the judge to apply the law in the best way. In practice, according to the law of preservative imprisonment, the judge of investigation who is a General Prosecution member is authorized to impose the penalty of imprisonment for several periods that can reach six months. This is considered an exceptional penalty.

References:

The Egyptian judgement system," Naser Amin, page 22

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

48j. In practice, the government acts on the findings of the agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

In many cases, the government acts on the findings of the agency. For example, the Ministry of the Interior must carry out all the instructions of the General Prosecution Agency, which result from investigations concerning the prisons' positions.

References:

The Egyptian judgement system," Naser Amin, page 20

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman's reports are acted on, though some exceptions may occur for politicallly sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman reports are often ignored, or given superficial attention. Ombudsman reports do not lead to policy changes.

48k. In practice, the agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The General Prosecution gives the order to arrest the accused person(s), make the necessary inspections, start the investigations within 24 hours, and it allows a lawyer to access to the documents of the case one day before the investigation. Then it sends the case papers to the partial court as soon as it finishes the investigation.

References:

The Egyptian judgement system, the center of judgement independence," Naser Amin, page 21.

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

49. Can citizens access the reports of the ombudsman?

0

49a. In law, citizens can access reports of the ombudsman(s).

YES | **NO**

References:
law 46/1982 .

YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

49b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:
Citizens can not access the reports of the ombudsman at all.

References:
law 46/1982 .

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

49c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | **0**

Comments:

Citizens can not access the reports of the ombudsman at all.

References:

no sources

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

V-2. Supreme Audit Institution

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

Comments:

The Central System for Accounting is the national supreme audit institution. It was established by law 129/1964 to oversee the financial and administrative aspects of all public institutions, companies or banks that control public money. The law was modified by law 144/1988 which explained the mandates of the System in overseeing state money and assisting the Parliament in its mission of oversight.

References:

The official newspaper, issued on 23/9/1988.

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

51. Is the supreme audit institution effective?

41

51a. In law, the supreme audit institution is protected from political interference.

YES | **NO**

Comments:

The law 144/1988 moved the supervision on the System from the Parliament to the President This is a serious problem facing the System.

References:

official newspaper, 9/6/1988

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

51b. In practice, the head of the agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | **0**

Comments:

This protection was removed in 1988. According to the law 126/1964, the head of the Central System for Accounting was protected from removal, however, as the law was modified by the law 144/1988, the head of the Central System for Accounting is no longer protected from removal. First, the head of the System was being appointed by the President for a period of four years but he was protected from removal, now he is still appointed by the president but he is not protected from removal.

References:

law 126/1964 modified by law 144/1988

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

51c. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Central System for Accounting has a professional, full-time staff with a great deal of experience in the System since its establishment 40 years ago.

References:

law 126/1964 modified by law 157/1988

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

51d. In practice, agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

Law 144 of 1988 reduced the effectiveness of the Central System for Accountability and cost it an important degree of independence. Where once it was part of the legislature, now it reports to the executive. The Central System for Accountability is no longer insulated from interference, has no immunity, and its authorities are diminished in favor of the Minister for Administrative Development.

References:

items 27 and 28 , law 144/1988

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

51e. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

The corruption and the marriage of the wealth and the authority," Saber A. Nail page 32

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

51f. In practice, the agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

The reports of the Central System for Accounting are available only to the President and the Parliament. Such reports have never been discussed publicly in Parliament.

References:

law 144/1988

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

51g. In practice, the government acts on the findings of the agency.

100 | 75 | **50** | 25 | 0

Comments:

The role of the agency is overseeing and the auditing in order to find violations. The agency then requests from the government to present the offender to the disciplinary court whose decisions bring only administrative actions.

The government does not seriously consider the findings of the agency. For example, the Central System for Accounting found out that, in 2002, the government had spent US\$35 million through 600 loans and grants from foreign countries. The System sent 15 letters to the economic committee of the Parliament requesting the documentation of this expenditure but none have presented answers to this request until now.

References:

The corruption and the marriage of the wealth and the authority," Saber A. Nail page 29

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

51h. In practice, the supreme audit institution is able to initiate its own investigations.

100 | **75** | 50 | 25 | 0

Comments:

To make sure that convenient actions concerning the financial violations are taken, the agency reviews the decisions made by the institutions under its overseeing authority.

Within 30 days of receiving the full documents, the System is allowed to ask the institution that made the decision concerning a financial violation to review this decision. If there is no response from the concerned institution, the head of the System is allowed to request to present the offender to the disciplinary court within the following 30 days.

References:

article 3, item 5, law 144/1988

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

52. Can citizens access reports of the supreme audit institution?

0

52a. In law, citizens can access reports of the agency.

YES | **NO**

Comments:

Only the President and the Parliament are allowed to access to the reports of the Central System for Accounting.

References:

law 144/1988

YES: A YES score is earned if all supreme auditor reports are available to the general public.

NO: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

52b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | **0**

Comments:

Only the President and the Parliament are allowed to access to the reports of the Central System for Accounting.

References:

law 144/1988

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Only the President and the Parliament are allowed to access to the reports of the Central System for Accounting.

References:

law 144/1988

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

47
V-3. Taxes and Customs

53. In law, is there a national tax collection agency?

100

53. In law, is there a national tax collection agency?

YES | NO

Comments:

The General Agency for Taxes was established after ending the foreign privileges. The agency was established by the law 14/1939 (modified by the law 157/1981) which stated two taxes: a tax of individuals, and a tax of companies. The law was modified again by the law 187/1993 which modified the individuals' income tax. In 2005, a new law (91/2005) was issued. This law includes the establishment of a supreme council for taxes which follows the Prime Minister.

References:

items 139 and 140 of the law 91/2005, the official newspaper, 9/June / 2005.

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

54. Is the tax collection agency effective?

100

54a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

There is a specialized institute to train the employees of the agency. Also there is a professional training center for those who work on sales tax. The employees of the agency work according to the laws and the lists of the taxes. All the estimation and collection procedures should be carried out in the frame of the good-intention and the employees should guide the citizens to the correct and convenient legal procedures to guarantee their rights.

References:

The official newspaper, issue 23, 9 / June / 2005.

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

54b. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:
the public budget

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

55. In practice, are tax laws enforced uniformly and without discrimination?

50

55. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

According to the report of the Central System for Accounting on 18 April, 2004 which was issued at the end of the five-year plan (1997/98 until 2001/02), the tax collection income is dropping, due to corruption which takes place between the tax officials and the owners.

In the same time, the government cut the tax of the public employees salaries. There is a general feeling of anger among the citizens because the government collects the full taxes of the average citizens while businessmen gain incredible profits by evading tax payment. The government gives facilities and advantages to big businesses that work in the field of hotels and tourism and constuction, but doesn't give facilities or advantages to the small businesses which provide jobs for millions of people.

References:

Saber Ahmed Nail, The marriage of wealth and authority," pages 66-67

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

56. In law, is there a national customs and excise agency?

100

56. In law, is there a national customs and excise agency?

YES | NO

Comments:

Khedivi Ismaiel, who was the governor of Egypt issued a high decree in 1884 concerning the Egyptian customs list. Then the law of customs was issued in 1930. In 1963 the government issued another law for customs (law 66/1963).

References:

Egyptian government website

YES: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

NO: A NO score is earned if that function is spread over several agencies, or does not exist.

57. Is the customs and excise agency effective?

88

57a. In practice, the customs and excise agency has a professional, full-time staff.

100 | **75** | 50 | 25 | 0

References:

item 25, law 66/1963

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

57b. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:
the public budget

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

25

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

The Egyptian government supports the credit sector. It also gives facilities and advantages to the big businesses that work in the field of hotels and tourism and construction but doesn't give facilities or advantages to the small businesses which provide jobs for millions of people.

References:

Saber A.Nail, The marriage of wealth and authority," page 67.

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

V-4. Financial Sector Regulation

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

100

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

YES | NO

Comments:

The Central Authority of Accounts was established according to law 129/1964, aiming at financial and administrative oversight on all public institutions, companies and banks whose capital includes public money. Then this law was modified (law 144/1988) which stated that purpose of the Authority – according to its original law – is to oversee the state money as well as public entities money (public companies) and to help the parliament to achieve its oversight duties.

References:

- 1- law 129/1964 modified by law 144/1988
- 2 – the official newspaper, issue no. 23, 9 June 1988

YES: A YES score is earned if there is an agency tasked with overseeing publicly listed companies in the public interest and ensuring that disclosure rules are met.

NO: A NO score is earned if this function is spread over several agencies or does not exist.

60. Is the financial regulatory agency effective?

40

60a. In law, the financial regulatory agency is protected from political interference.

YES | **NO**

Comments:

The most serious defect in the law 129/1964 (modified by the law 144/1988) concerning the Central System of Accounts is transferring its subordination from the parliament (which is the system in charge of overseeing the executive authority) to the President (who is the head of the executive authority). He appoints the government and the head of the Central System of Accounts at the same time. Logically, the President is concerned with not exposing the defects of the government that he appoints.

Moreover, the President made other modifications by the law 157/1998 that abolish the overseeing role of the Central System on public expenditures. The recent modification states that the President appoints the head of the Central System for Accounts for four renewable years, and his resignation is to be accepted by a Presidential decision. This means that the head of the Central System follows the President and remains in his position only based on the goodwill of the President and his assistants.

References:

1 – law 129/1964 modified by law 144/1988 and law 157/1998

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

60b. In practice, the agency has a professional, full-time staff.

100 | **75** | 50 | 25 | 0

Comments:

The Central System for Accounts has technical and administrative experts who served during the past four decades since its establishment. The duties committed to the System include overseeing, either the expenditures or the revenues as well as the documents referring to them. This has provided a special administrative and financial position for the employees of the System as suits their role, so they can perform their role honestly.

References:

The marriage of money and authority,” Saber A.Nail, page 111

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

60c. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The Central System for Accounts receives regular funding as being subordinated to the presidential institution. Moreover, it is financially distinguished as its employees earn the highest salaries as they oversee more than 500 million pounds.

References:

the public budget .

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

60d. In practice, when necessary, the financial regulatory agency independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

In spite of the expansion into overseeing all financial and administrative activities for all administrative units in the state, the System has no authority to punish the offenders or even to direct them to the administrative or general prosecutor. This weakens the system's oversight role and its reports are neglected.

References:

item 5, 3rd article, law 144/1988

100: When irregularities are discovered, the agency is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

60e. In practice, when necessary, the financial regulatory agency imposes penalties on offenders.

100 | 75 | 50 | 25 | **0**

Comments:

Law 144/1988 doesn't give the System sufficient authority to achieve perfect oversight based on the power of restraining and punishing the offenders. It also doesn't enable the System to direct the financial violations stated in its report to the general prosecutor or the administrative prosecutor. The fact is that its reports are useless.

References:

law 144/1988

100: When rules violations are discovered, the agency is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partis

61. Can citizens access the financial records of publicly listed companies?

29

61a. In law, citizens can access the financial records of publicly listed companies.

YES | **NO**

Comments:

Item 31 of the ninth chapter of the government archive regulation forbids public access to any of the government archives, records, documents papers or forms used by all ministries or public institutions and their branches even if they aren't used any more. They are kept after that for one year or more according to their legal usage purpose.

References:

1- law 256/1954

YES: A YES score is earned if the financial information of all publicly traded companies is required by law to be public.

NO: A NO score is earned if any category of publicly- owned or publicly-traded company is exempt from this rule, or no such rules exist.

61b. In practice, the financial records of publicly listed companies are regularly updated.

100 | 75 | 50 | 25 | 0

Comments:

Egypt is one of the countries that cares about setting a model for the companies management in cooperation with the National Bank. Regarding the transparency of the accounts and audit system, there is a general interest in getting transparent financial reports in a way that enables comparing the local standards of accounting and auditing with the international accounting standards IAS and the international auditing standards ISA.

References:

Dr. Alaa Alkhwaga, "The concept of governing the companies," a paper presented to the Conference of Good Governance and Development, Center of Developing Countries Studies and Research 2003, page 10

100: Publicly traded companies always disclose financial data, which is generally accurate and up to date.

75:

50: Publicly traded companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule.

25:

0: Financial data is not available, or is consistently superficial or otherwise of no value to investors.

61c. In practice, the financial records of publicly listed companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

Comments:

The regulation of public company management applied in Egypt go along with international principles (39 out of 48 principles) as the laws governing companies and financial market state the same principles, and its applications agree with the international standards in a perfect or semi-perfect way. This indicates good performance.

One of the most important steps to support these principles is the issuing of the law of deposit and central registration and its executive regulation. These new regulations consist of 35 items that aim at establishing a developed mechanism for circulation to set the rules of transparency and announcing and to limit using any information unavailable to the rest of the competitors so as to maintain the investors' rights, and this through financial punishments on companies that don't compel to these regulations.

References:

1 – the decision of the minister of commerce about modifying some regulations related to the Egyptian accounting standards so as to go along with the international standards and continuing developing the current legislations, such as the unified law of companies, the new law of capital, the law of organizing the profession of accounting and auditing and finally the law of organising the competition and forbidding monopoly.

2 – the past source

100: Financial records of all public companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of public companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: Publicly traded companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

61d. In practice, citizens can access the records of disciplinary decisions imposed by the government on publicly-listed companies.

100 | 75 | 50 | 25 | 0

Comments:

These decisions are considered official documents.

References:

law 122/1975, law 22/1983, law 93/1995, law 121/1975.

100: These records are freely available to all citizens through a formal official process.

75:

50: These records are available to all citizens, with some exceptions.

25:

0: These records are generally not available through official processes.

61e. In practice, citizens can access the financial records of publicly listed companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can not access the financial records of publicly listed companies at all.

References:

law 122/1975, law 22/1983, law 93/1995, law 121/1975

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

61f. In practice, citizens can access the financial records of publicly listed companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can not access the financial records of publicly listed companies at all.

References:

law 122/1975, law 22/1983, law 93/1995, law 121/1975

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

62. Are business licenses available to all citizens?

69

62a. In law, anyone may apply for a business license.

YES | NO

References:

- 1 – law 8/1997 concerning the investment
- 2 – law 159/1981

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

62b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

Comments:

To avoid long periods of litigation procedures, the government is establishing specialized economic courts to judge these disputes. The government has already prepared the unified law of companies which will be viewed by the parliament in the next legislative period.

References:

- Egyptian government website, investment gate. See:
- <http://www.egypt.gov.eg/english/default.asp>
 - http://www.investment.gov.eg/MOI_Portal_AR/

YES: A YES score is earned if there is a formal process for appealing a rejected license.

NO: A NO score is earned if no such mechanism exists.

62c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

One of the obstacles which face investors in Egypt is the interference between the Financial Market Agency and the Investment Agency which tries to apply the system of the unique window that enables investor to establish a company without facing the service provider in a shorter time. One more obstacle is the centerlization of decision making. However, according to item 56 of the executive regulations list for the law 8/1997, the Investment Agency is obliged to issue business licenses within 60 days.

References:

item 56 of the executive regulations list for the law 8/1997

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months.

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

62d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

According to the executive regulations list for the law 8/1997, for obtaining business license, the limited company which applies for a license must present a bank certificate of 25 percent as a credit of its financial capital in its account under-establishment, while the limited liability company must present a bank certificate of 100 percent as a credit of its financial capital in its account under-establishment.

References:

item 8 of the executive regulations list for the law 8/1997 concerning the guarantees and advantages of investment

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

63. Do businesses receive equitable regulatory treatment from the government?

75

63a. In law, basic business regulatory requirements for meeting health, safety, and environmental standards are transparent and publicly available.

YES | NO

Comments:

The 46 items of the law 8/1997 mention all the basic requirements which are transparent and publicly available. Moreover, the executive regulations list for the mentioned law explains in detail all the standards. .

References:

law 8/1997 and its executive regulations list issued by the Prime Minister decree number 2108/1997

YES: A YES score is earned if basic regulatory requirements for meeting health, safety, and environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

63b. In practice, business inspections by the government are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

According to item 58 of the executive regulations list for the law 8/1997, the General Agency for Investment and Free Zones inspects businesses in a uniform manner. In some cases, the Prime Minister is allowed to give the authorities of the General Agency for Investment and Free Zones to another agency.

The agency abolishes the licence in two cases :

- 1 – attempt on or attacking the inspection officials or resisting them or hindering their missions during the inspection process
- 2 – a clear violation on the laws or the regulations issued by the General Agency for Investment and Free Zones .

These two cases are loose concepts and can be interpreted according to personal whim.

References:

item 58 of the executive list regulations list for the law 8/1997

100: Business inspections by the government (i.e. health, safety, or environmental inspections) are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government (i.e. health, safety, or environmental inspections) are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections (i.e. health, safety, or environmental inspections) are routinely carried out by the government in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. ⁶⁸Anti-Corruption Law

64. Is there legislation criminalizing corruption?

89

64a. In law, attempted corruption is illegal.

YES | **NO**

Comments:

There is no legal definition of corruption. There are many shapes of corruption, such as the bribery, the misuse of public money and other forms of the illegal earning, but this corruption is a political definition and not a legal definition. The Egyptian law doesn't include the expression "corruption" but it includes crimes which are legally considered corruption crimes. Finally, we can not call such crimes "corruption crimes" before the final judgments which condemn the accused.

References:

Nahdet Misr newspaper, "The corruption is the origin of the catastrophe, reportage," pages 6-7, issue 557, 26-27/1/2006

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

64b. In law, extortion is illegal.

YES | NO

References:

Nahdet Misr newspaper, 26-27/1/2006, pages 6 and 7

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

64c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

Comments:

The Egyptian legislature understood the danger of the bribe – that the violation in this crime is against the integrity of the public service. So they dedicated the third chapter of the penal code for this crime. Item 107 specifies the penalties for the bribe, the bribed and for the dealer (commissioner) when necessary. However, the same item frees the briber and the dealer if they confess to the crime in order to encourage the discovery of such crimes.

References:

penal code items 103 to 111

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

64d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

Comments:

The penalty of the bribe-giver and the dealer can be decreased or completely abolished in case of presenting information before the crime that leads to stop the bribed party while he is receiving the bribe. But the same advantage is not provided for the person who receives the bribe. He always faces the full penalty anyway.

References:

penal code items 103 to 111

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

64e. In law, bribing a foreign official is illegal.

YES | NO

References:

penal code item 112

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

64f. In law, using public resources for private gain is illegal.

YES | NO

Comments:

The Egyptian legislature stated that public money is not only money which is directly owned by the state, but also any money that is owned or submitted to the management or supervision of the institutions mentioned in item 112 of penal code, such as the syndicates, unions, communities and economic units. The use of public resources for private gain is illegal.

References:

item 112, Egyptian penal code

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

64g. In law, using confidential state information for private gain is illegal.

YES | NO

Comments:

According to the seventh article of item 77 of the public civil workers' law, it is forbidden for any public employee to present any information about his work through mass media. The eighth article of the same item prohibits disclosure of any matters that the employee has known because of his work. The ninth article prohibits keeping original official documents even if they are related to his personal job. There are many penalties for this crime, such as firing.

References:

A lecture of Magdy Algallad, editor in chief of Almasry Alyoum newspaper, 18/9/2006, the liberal forum in Cairo

YES: A YES score is earned if using confidential state information for private gain is illegal.

NO: A NO score is earned if this is not illegal.

64h. In law, money laundering is illegal.

YES | NO

Comments:

Law 80/2002 includes 20 items which determine the general framework of this crime, the ways to fight it and the penalties for the offenders. Item 5 of this law gives authority of the judicial policing to the officials of the anti-laundering money unit in the Central Bank. Items 14 and 15 set penalties for those who commit or tried to commit a money laundering crime, the penalties don't exceed seven years to imprisonment and a fine (twice the money which is subjected to the crime).

References:

The official newspaper, issue no. 20 repeated, 22/5/2002

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

64i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

Comments:

Item 48 of the penal code states that every one participates in a criminal agreement is punished to imprisonment.

References:

The illegality of the criminal agreement, Mohammed Salah and Ihab Sallam, the Prisoners Assistance Human Rights Center, Cairo, 2002.

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

Comments:

The most important agencies to address corruption are:

1 – the Administrative Overseeing Agency which was established 40 years ago to address government corruption. Its members have the judicial police authority, but the most serious obstacle in its performance that it needs presidential permission before arresting a guilty employee during his job because the Agency follows the Presidential Institution.

2 – the Central System for Accounting which was established by the law 129/1964 to oversee the administrative and the financial aspects in all the public institutions, companies and banks. The mentioned law was modified by the law 144/1988, so the duty of the System became only to assist the Parliament in overseeing missions without any authority of imposing penalties for offenders or even turning them to the General or the Administrative Prosecution.

3 – the System of Illegal Earning which was established by the law 11/1968 to address the illegal earning and this law was named after the famous comment "Where did you get that?" The law obliges the responsible to present an asset disclosure list before entering the public service, after leaving it and every five years. The mentioned law was modified by the law 2/1977 in which the fifth item states that every citizen (without any exceptions) should present an asset disclosure list including his wife and his under-age children's properties. Although the System has the authority of the investigation judge, in practice, it doesn't investigate any corruption cases because the law imposes penalties for the liar and the bad-intention reporter to imprisonment for nine months and a fine of 100 to 500 pounds. That leads citizens to avoid reporting any corruption cases.

4 – The Administrative Prosecution is considered one of the most important overseeing agencies in Egypt It investigates disciplinary crimes either administrative or financial crimes. It also has the authority to turn the guilty person over to the criminal courts without reopening investigations by the General Prosecution. The law 117/1958 concerning the Administrative Prosecution was modified several times which deformed the original legal texts.

References:

law 129/1964 modified by law 144/1988

law 11/1968 modified by law 2/1977

law 117/1958

YES: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

NO: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

66. Is the anti-corruption agency effective?

66a. In law, the agency (or agencies) is protected from political interference.

YES | **NO**

Comments:

According to the law, the mentioned agencies follow the executive authority, which allows political interference.

References:

law 129/1964 modified by law 144/1988

law 11/1968 modified by law 2/1977

law 117/1958

YES: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

66b. In practice, the agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | **0**

References:

law 129/1964 modified by law 144/1988

law 11/1968 modified by law 2/1977

law 117/1958

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

66c. In practice, the head of the agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

References:

no sources

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

66d. In practice, appointments to the agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

References:

law 129/1964 modified by law 144/1988

law 11/1968 modified by law 2/1977

law 117/1958

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

66e. In practice, the agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

The marriage of the money and the authority,” pages 111:140

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

66f. In practice, the agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

References:

The public budget of Egypt.

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency’s funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

66g. In practice, the agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

the agencies make reports, but they are not available to the public.

References:

Lack of media reporting

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

66h. In practice, the agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The agencies follow the Presidency, which limits its powers to carry out its mandate. In addition, some items in the laws decrease the efficiency of these agencies.

References:

law 144/1988

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

66i. In practice, when necessary, the agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The agencies don't initiate investigations without permission of the executive institution which follows either the President or the

References:
law 144/1988

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

67. Can citizens access the anti-corruption agency?

13

67a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | **25** | 0

Comments:

Citizens can not access all the anti-corruption agencies. They can access only the System of Illegal Earning. The law permits citizens to report corruption cases directly to the System but it sets penalties for misinformation and malicious reporters as explained in the whistleblower protection indicators.

References:
law 2/1977

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

67b. In practice, citizens can complain to the agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:

The law of the System of Illegal Earning sets penalties for those who can't prove the rightness of their reports.

References:

law 2/1977

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48
VI-3. Rule of Law

68. Is there an appeals mechanism for challenging criminal judgments?

83

68a. In law, there is a general right of appeal.

YES | NO

Comments:

The appeal is the reviewing of a case in a court higher than the court which passed the first judgment so that the principle of litigation into two grades is fulfilled. The laws which organize the appeal state that the first judgment is not sufficient and the citizen has the right to obtain two judgments in the same case even if the first one is correct. The regulation states that all the judgments issued by first grade court can be appealed and this is a guarantee to achieve the best available justice that the appeal allows people to evitate the defects which may penetrate the first judgments.

References:

Prof. Mohammed Nour Shehata, The procedures of litigation and the ways to appeal the judgments,” Cairo University, page 269

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

NO: A NO score is earned if there is no such process.

68b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Appeals are resolved within a reasonable time period (40 days since the appeal is presented). This period is 15 days in urgent cases .

References:

item 227, the law of judicial procedures

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

68c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The appaels are added to the cases' list of the concerned court after paying the entire official fees. The cost (fees) doesn't exceed 50 egyptian pounds and this is a reasonable cost .

References:

item 227, the law of judicial procedures

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments.

69. In practice, do judgments in the criminal system follow written law?

100

69. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

All the judgments in the criminal system follow written law except very few cases in which judges who belong to the political Islamic trend passed judgments relying on the Islamic Shari'a, which is considered the source of legislation.

References:

the Egyptian judgement system

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

70. In practice, are judicial decisions enforced by the state?

75

70. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

Comments:

The judicial decisions are enforced by the state through the Police of Judgment Enforcement which follows the ministry of interior. The performance of the Police of Judgment Enforcement is not entirely competent because some of those wanted escape, use bribery to avoid arrest, and the difficulty associated with accessing shanty towns and the desert areas. The implementation of computers has helped matters in recent years.

References:

The laws restraining the political rights,” Abdallah Khalil, the Egyptian organization for human rights .

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

71. Is the judiciary able to act independently?

50

71a. In law, the independence of the judiciary is guaranteed.

YES | NO

Comments:

The judiciary is independent and the courts of different types and grades issue their judgments according to the law.

References:

item 165, Egyptian constitution

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

71b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

National level judges are not protected from political interference. The Club of Judges presented a project of suggested modifications on the current judiciary law no. 46/1972. The project defines the aspects of political interference and dependence of judiciary. It states that the mentioned law gives the government large authorities to interfere into the judges affairs. The project includes also makes suggestions to enlarge the authorities of the Supreme Council for Judgment, to prevent the Minister of Justice from choosing the heads of the courts and to make his role only the administrative overseeing. It suggests to grant an independent budget to the judges and to transfer the judicial supervision from the ministry of justice to the Supreme Council for Judgment. The project also makes the approval of the Supreme Council for Judgment on the presidential decree a condition to appoint both the general prosecutor and the general attorney and the rest of prosecutor agents. The project calls for the full judiciary overseeing in the public elections.

References:

The project of the Egyptian judges to modify the judiciary law and its descriptive book, issued by the Club of Judges, Cairo.

100: National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

71c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

References:

law 46/1972, items 62, 65 and 78.

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

71d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

Comments:

Article 168 of the Egyptian constitution stipulates that judges are protected from arbitrary removal, and article 107 of law 46 of 1972 stipulates that judges are protected from removal with relevant justification related to their performance, but from other indicators assessed in this category it's clear that in practice these protections are not guaranteed.

References:

law 46/1972, item 107

YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

72. Are judges safe when adjudicating corruption cases?

100

72a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

References:

no sources

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

72b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

References:

no sources

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

73. Do citizens have equal access to the justice system?

50

73a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

Judicial decisions are not affected by racial or ethnic bias. There is not even a single case that was affected by racial or ethnic bias. But in some cases there were some judgments which were affected by the Islamic trend such as the famous case of Prof. Nasr Hamed Abuzeid. The judiciary, through its several grades, doesn't allow any judgments that are not derived from the Egyptian constitution which completely refuses ethnic bias. Item 40 of the Egyptian constitution confirms that all citizens are equal in rights and public duties, and allows no discrimination on racial, ethnic, language or religion bases.

References:

item 40, Egyptian constitution

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

73b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

Women don't have full access to the judicial system. The discrimination in some of Egyptian laws on the base of gender limits the involvement of women in public work and prevents her from using her rights provided by the Egyptian constitution. We can summarize the causes of this problem as following:

1 – the social discrimination against woman in the public work from both the society and the family

2 – the woman herself is not so interested in using her rights on the public scale, such as the political participation , education ..etc.

3 – poverty and illiteracy are also considerable reasons

References:

Dr. Nadia Ramses Farah, The arab woman social and legal positions,” The Arabic Institute for Human Rights, page 254

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence.

73c. In practice, the state provides legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

The right to counsel, whether in-person or through an agent, is provided to the defendant by the Egyptian constitution (item 69). In the law, the state commits to provide legal counsel for defendants in criminal cases who cannot afford it. In practice, although the state provides legal counsel for such defendants, the weakness of the performance of the lawyers in such cases deforms the whole process so that it looks like a decoration, not a human rights process.

References:

Egyptian constitution, item 69

100: State-provided legal aid is basic, but well trained and effective in representing the rights of indigent defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some indigent defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most indigent defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

73d. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

Citizens earning the median yearly income can not afford to bring a legal suit, because of the high costs of the several stages of the legal suit (first grade, appeal and cassation), in addition to the costs of the lawyers during the three stages.

References:

The Egyptian judgement system.

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits.

73e. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

The official cost of bringing a legal suit doesn't exceed 100 Egyptian pound and this is a reasonable cost, but the lawyer fees raise the total cost of the legal suit so that a typical small retail business can not afford it.

References:

the Egyptian judgement system

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits.

73f. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

Comments:

The first instance courtrooms (the partial court) and the second instance courtrooms (the court of appeals) are always accessible to citizens at low cost that they are mostly in the local capitals of the regions . But most citizens can't reach the high grade courts such as the Court of Cassation and the Supreme Constitutional Court and the High Administrative Court at low cost due to location.

References:

The Egyptian judgement system.

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

VI-4. Law Enforcement

74. Is the law enforcement agency (i.e. the police) effective?

50

74a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Appointments to the police are made according to professional criteria. The police officers receive academic education in the

police academy, learning law and all police sciences as well as the possibility of specialized studies, such as social police officers, doctors, or the high studies in Mubarak academy for police. Moreover, the intermediate cadre of the police leaders are trained in the institutes of police assistants.” It’s a rank between police officer and police individual, police assistants are most probably good at reading and writing. They receive military training then are directly appointed to the police.

References:

law 109/1971 .

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

74b. In practice, the agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The budget of the police and security represents 12.4 percent of the state’s public buget. This percentage which is between 10 percent and 12.4 percent is the development of the budget of the ministry of interior in comparison with the public budget during the years between 1991 and 2002. The total expenditure during the years 1991/1992 until 2001/2002 is about 32.1 million Egyptian pounds with average of 3 million a year spent on the Ministry of Interior, the police and the jails.

References:

Abdel Khalek Farouk, the general budget of the state and human rights, the community of legal aid, page 264

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency’s ability to fulfill its mandate.

74c. In practice, the agency is protected from political interference.

Comments:

According to item 184 of the Egyptian constitution, the police is a regular civil institution. Its supreme head is the President. The police performs its duties to serve the people, maintain the peace and security and to watch over keeping order and public security in the framework of regulations and laws. The police law number 109/1971 stated these duties. However, the mentioned law is full of legislative inadequacy according to which the police work has become originally carrying out the instructions of the direct chief, the Minister of Interior.

Moreover, the items of the law and the decisions of the Minister of Interior made the police a tool of political restriction in the hand of the government, and give the Minister the opportunity to interpret the laws and misuse them in the direct dealing with politicians, opposing powers and ordinary people.

References:

- 1 – item 184 , Egyptian constitution
- 2 – law 109/1971

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

75. Can law enforcement officials be held accountable for their actions?

67

75a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

References:

- 1 – items 162 and 210, criminal procedures law.

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions.

NO: A NO score is earned if there is no such mechanism.

75b. In practice, the independent reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

The general attorney responds to the complaints of the citizens against policemen and law enforcement officials according to the political circumstances. There are some cases where delay is necessary like the case of violations against the journalists on 25th of May, 2005 and there are cases related to young police officers in police stations who subject people to severe torture.

References:

item 42 of the Egyptian constitution

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

75c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:

According to law 109/1971, there is a military judicial council inside the Ministry of Interior, and it's considered a disciplinary court of police officers. It punishes anyone who commits any of the following crimes: corruption, torturing, bribery and misusing authority. In most of the cases, it produces administrative punishments starting from reducing ranks until suspending from work for a specific period. However, it doesn't send these violations and crimes to the court and the punishments are usually unvalued and are done in an administrative departmental way.

References:

law 109/1971

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity is separate from the regular police department.

NO: A NO score is earned if no such agency/entity exists.

75d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

Comments:

When necessary, the agency independently initiates investigations into allegations of corruption by law enforcement officials by its disciplinary councils, but the sentences are administrative that don't correspond to the committed crimes. This aims at benefiting from the legal rule: It is not allowed to pass two sentences for the same crime, and the first sentence is to be executed." This first sentence is mostly the disciplinary military court's sentence which doesn't exceed suspending from work for six months, and this arrangement is followed to avoid the sentence which will be passed by the ordinary court that may be a sentence of imprisonment or removal. Thus, the rapid independent investigations into allegations of corruption aim to protect the corrupt officials.

References:

law 109/1971.

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

75e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

Comments:

According to the law of criminal procedures, items 162, 210 and 232, in addition to the general attorney instructions, the cases of the police are dealt with only through the general attorney's office.

References:

law of criminal procedures, items 162, 210 and 232

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

75f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

Comments:

Although law enforcement officials are not immune from criminal proceedings, the Egyptian legislation has put some obstacles in front of the litigations against them. Item 162 and item 210 don't allow appealing these orders or sentences if they are issued against the official for a crime that he has committed during carrying out his work .

Moreover, the second article of item 232 of the law of criminal procedures states that if the suit is against a public employee or a policeman, he is not obliged to attend in person before the court in case the crime has taken place during carrying out his work. Moreover, preventing appeal there are the filing (freezing) decisions on such cases which deprives the claimer from litigating in the normal court directly. For more protection, the legislator has protected the public employees even if their actions are illegal or issued by an employee who doesn't have the right to take such actions but he just think that these actions are ordered by a chief whose obedience is a must. The legislator has allowed the criminal actions taken by law enforcement officials as long as this good intention is fulfilled.

References:

The restrictive laws of civil and political rights in the Egyptian legislations," The Egyptian Organization for Human Rights, Abdallah Khali, page 75-76

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.