

Overall Score:

77 - Moderate

Legal Framework Score:

90 - Strong

Actual Implementation Score:

64 - Weak

Category I. Civil Society, Public Information and Media

I-1. ⁷²Civil 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

Comments:

According to the Constitution, there are indeed legal provisions that allow for the free assembly of groups that promote good governance or anti-corruption. This is protected by law, regardless of political ideology, religion or objectives. Further directives issued by the Ministry of Justice reinforce the Constitution by providing acts that limit the formation of such groups if they have violent intentions.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995
1960 Civil Code of Ethiopia: Civil Code of the Empire of Ethiopia
Proclamation No. 165 of 1960 — Chapter 2. Associations, Art. 404. Definition, Art. 405. Partnerships, Art. 406. Trade Unions, Art. 407. Groupings of a Religious Character, Art. 408. Memorandum of Association, Art. 409. Obligation to Draw Up Statutes, Art. 410. Purpose of Statutes, Art. 411. Contents and Form of Statutes, Art. 413. Deposit of Statutes.

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

Comments:

The Ministry of Justice of The Federal Democratic Republic of Ethiopia, as a responsible organization that administers the registration of NGOs, is mandated by law to ensure the right of NGOs to accept donations and project support for their work from domestic or foreign sources.

References:

Ethiopian Human Rights Commission Establishment Proclamation, Proclamation No. 210/2000
Institution of the Ombudsman Establishment Proclamation, Proclamation No. 211/2000
Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001
Anti-Corruption Special Procedure and Rules of Evidence Proclamation, Proclamation No. 236/2001
Anti-Corruption Special Procedure and Rules of Evidence (Amendment) Proclamation, Proclamation No. 239/2001
Ethiopian Women's Development Fund Establishment Proclamation, Proclamation No. 240/2001

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:

Anti-corruption/good governance CSOs are required to publicly disclose their sources of funding through annual audit reports. The reports must be publicly presented to the Assembly of their trustees and to the Ministry of Justice of The Federal Democratic Republic of Ethiopia in order for their registrations to be renewed.

References:

Ministry of Justice, Federal Democratic Republic of Ethiopia
Regulations regarding the registration and administration of Non Governmental Organizations requires anti-corruption/good governance CSOs to disclose sources of funding.

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?

42

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:

Registration is mandatory, and CSOs need to fulfil criteria for accountability before they can register. These include the Memorandum and Articles of Association, nature of leadership and public standing of members in the governing board. Previously lengthy and cumbersome, the procedure has been improved recently, to the point where the registration office claims that CSOs can complete their registration within hours.

References:

Ministry of Justice, Federal Democratic Republic of Ethiopia
Regulations for Registration and Administration of NGOs

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

References:

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001
Article 7, sub-articles 1-18 define the vast powers and duties of the Commission: The Commission shall have the power and the duty to combat corruption and other impropriety by creating awareness through educating the public about the effects of corruption and through promoting ethics in public service and in the society where CSOs are involved.

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**

Comments:

The arrests of ActionAid staffer Danie Bekele and OSJ leader Netsanet Demisse are unfortunate and regrettable. Bekele and Demisse represent two among 109 people arrested, according to the Government, for insurrection or perpetrating violence” or even outright “attempted genocide” or “hell-bent” on violent usurpation of power (<http://www.washingtonpost.com/wp-dyn/content/article/2006/12/14/AR2006121400820.html>). In spite of charges by human right groups that feel the charges are trumped up (fabricated or not depending on who you are talking to), the government claims that it is for the courts to decide. International human rights organizations have raised serious concerns about the trials but the justice system remains unfazed and has continued to hear evidence at its own pace.

References:

Costantinos, BT (1996) Mapping and Relating to Civil Society Organisations in Ethiopia Research paper, European Union.

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

Comments:

Despite the questionable basis for the arrests of Bekele and Demisse, there is no evidence that their incarceration was entirely

predicated on their work on corruption issues that were damaging to the government.

References:

Ministry of Justice, Federal Democratic Republic of Ethiopia

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:

Reports by The Christian Relief and Development Association and reports by several media outlets – such as Reporter and Fortune – alongside sources from The Ministry Of Justice of The Federal Democratic Republic of Ethiopia have positively indicated that such harassments have not been reported by security forces or other organizations.

References:

Christian Relief and Development Association Reports
Media Reports – Reporter, Fortune Newspapers
Ministry Of Justice, Federal Democratic Republic of Ethiopia

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

Comments:

Reports by The Christian Relief and Development Association and reports by several media outlets -such as Reporter and Fortune – alongside sources of The Ministry Of Justice of The Federal Democratic Republic of Ethiopia have positively indicated that no individual has been reported killed by security forces or other interests because of their work on anti-corruption.

References:

Christian Relief and Development Association Reports
Media Reports – Reporter, Fortune Newspapers
Ministry Of Justice, Federal Democratic Republic of Ethiopia

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:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995
Proclamation No. 1/1995, The Ethiopia Civil Code
1960 Civil Code of Ethiopia: Civil Code of the Empire of Ethiopia;
Proclamation No. 165 OF 1960 – Chapter 2. Associations, Art. 404. Definition, Art. 405. Partnerships, Art. 406. Trade Unions, Art. 407. Groupings of a religious character, Art. 408. – Memorandum of Association, Art. 409. Obligation to Draw Up Statutes, Art. 410. Purpose of Statutes, Art. 411. Contents and Form of Statutes, Art. 413. Deposit of Statutes

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:

Television footage of the inter/intra party debates preceding the May 2005 election
Interviews with workers in various government and private sector institutions

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:

Article 29, paragraph 3, states that freedom of the press shall specifically include the following elements: (a) Prohibition of any form of censorship, (b) Access to information of public interest. 4. In the interest of the free flow of information, ideas and opinions which are essential to the functioning of a democratic order, the press shall, as an institution, enjoy legal protection to ensure its operational independence and its capacity to entertain diverse opinions. 5. Any media financed by or under the control of the State shall be operated in a manner ensuring its capacity to entertain diversity in the expression of opinion. 6. These rights can be limited only through laws which are guided by the principle that freedom of expression and information cannot be limited on account of the content or effect of the point of view expressed. Legal limitations can be laid down in order to protect the well-being of the youth, and the honour and reputation of individuals. Any propaganda for war as well as the public expression of opinion intended to injure human dignity shall be prohibited by law".

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Article 10: Human and Democratic Rights –

1. Human rights and freedoms, emanating from the nature of mankind, are inviolable and inalienable
2. Human and democratic rights of citizens and peoples shall be respected.

Article 29 – Right of Thought, Opinion and Expression

1. Everyone has the right to hold opinions without interference.
2. Everyone has the right to freedom of expression without any interference. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of his choice.
3. Freedom of the press and other mass media and freedom of artistic creativity is guaranteed.

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:

Television footage of the political party debates leading to the 2005 election have amply demonstrated the upholding of the provisions in the Constitution of The Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Article 29 Right of Thought, Opinion and Expression

1. Everyone has the right to hold opinions without interference.

2. Everyone has the right to freedom of expression without any interference. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of his choice.

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?

56

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

100 | 75 | 50 | 25 | 0

Comments:

Under Emperor Haile Selassie and under the Derg there were no independent public media. The Ethiopian People's Revolutionary Democratic Front (EPRDF) regime opened the gates to a broad diversity of publications, but publishers often failed to meet the minimal standards of professional journalism, due to lack of adequate training and the absence of institutionalized journalism standards, as Professor Donald Levine noticed in his book. The result was a plethora of publications that often paid no attention to confirming sources, checking accuracy of facts, and offering balanced reporting. Indeed, in some cases newspapers functioned just like the organ of a political party, not as media designed to inform and enlighten public opinion. At the same time, in its fear of political criticism, the government clamped down harshly on the private press, year after year, failing to guarantee space for dissent while helping it find ways to become more responsible and professional.

Things took a turn for the better in 2004. Every year since 1991 the international association of journalists Reporters Without Borders had included PM Meles Zenawi on the list of national leaders whom they identified as enemies of the free press. In 2004, for the first time, the Prime Minister's name was removed from that list. It was then that preparations for open political debates in public forums were solidly laid. The Parliament began to consider legislation to provide rules by which a free press could operate in a country lacking institutional safeguards against abuses, even though the Ministry of Information continued to express more fear than encouragement. In 2005, the Prime Minister's name was returned to the RWB list of enemies of a free press.

References:

Notes on a Free and Responsible Press in Ethiopia, Donald N. Levine (aka Liben Gebre Etyopiya) <http://www.eineps.org/forum/viewtopic.php?t=11>

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:

Commercial Code of the Empire of Ethiopia, Proclamation No. 166 of 1960 – Section 2. Registration – Art. 100.

(1) Any Ethiopian or foreign person or business organisation carrying out commercial activities within the Empire of Ethiopia shall be registered.

(2) The provisions of sub-art. (1) shall apply in particular: (a) to any Ethiopian or foreign person who is a trader with the meaning of Art. 5 of this Code; (b) to any Ethiopian or foreign business organisation which is a commercial business organisation within the meaning of Art. 10 of this Code; (c) to any foreign public carrying out commercial action and to any commercial representatives or agents of foreign States, public institutions or undertakings.

Art. 123. Matters to be prescribed.- Regulations shall be made by the Ministry of Commerce and Industry for the purpose of carrying into effect the provisions of this Title

References:

Article 37 Right of Access to Justice

1. Everyone has the right to bring a justifiable matter to, and to obtain a decision or judgement by, a court of law or any other competent body with judicial power.

2. The decision or judgement referred to under sub-Article 1of this Article may also be sought by: (a) Any association representing the collective or individual interest of its members; or (b) Any group or person who is a member of, or represents a group with similar interests.

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:

Interviews with Fortune and Reporter Newspaper Editors, January 2005

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

References:

Ministry of Information, Ministry of Revenues, Federal Democratic Republic of Ethiopia

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?

100

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

YES | NO

Comments:

Article 42.- Principle.

(1) Notwithstanding the provisions of Articles 32-41, the provisions of this Chapter shall apply in the case of crimes relating to the mass media with a view to ensuring freedom of expression while preventing abuse.

(2) Crimes relating to the mass media are those which are committed by means of newspapers, books, leaflets, journals, posters, pictures, cinemas, radio or television broadcasting or any other means of mass media.

(3) The crimes may be committed against the honour of other persons, public or private safety or any other legal right protected by criminal law, and are committed where communication is made to the public through the mass media.

References:

Proclamation No. 414/2004 The Criminal Code of The Federal Democratic Republic of Ethiopia, May 9, 2005
Addis Ababa Chapter IV – Participation in Crimes Relating to the Mass Media

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:

Interviews with Transparency International local Chapter, Addis Ababa, June 2006 actually indicate that the media coverage of corruption-related issues through official and unofficial means is encouraged to a point where whistle-blowers are continuously providing information on graft and corruption to the Federal Ethics and Anti-Corruption Commission.

References:

Federal Ethics and Anti-Corruption Commission Establishment Proclamation NoA33/2005.
11th Year No.18, Addis Ababa, February 2, 2005

Interviews with Transparency International local Chapter, Addis Ababa, June 2006

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

References:

Federal Ethics and Anti-Corruption Commission Establishment Proclamation NoA33/2005.
11th Year No.18, Addis Ababa, February 2, 2005

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?

75

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

YES | NO

References:

Commercial Code of the Empire of Ethiopia, Proclamation No. 166 of 1960
Section 2. Registration – Art. 100 Persons to be registered.

(1) Any Ethiopian or foreign person or business organisation carrying out commercial activities within the Empire of Ethiopia shall be registered.

(2) The provisions of sub-art. (1) shall apply in particular: (a) to any Ethiopian or foreign person who is a trader with the meaning of Art. 5 of this Code; (b) to any Ethiopian or foreign business organisation which is a commercial business organisation within the meaning of Art. 10 of this Code; (c) to any foreign public undertaking carrying out commercial action and to any commercial representatives or agents of foreign States, public institutions or undertakings.

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:

Several editors and journalists at the major media outlets have been prosecuted for altering coverage in exchange for political favors, but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

References:

Several rulings of the Ethiopian courts on editors and journalists and the revocation of licences of media houses

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:

Having closely followed the electoral process for over two months, the European Union Election Observer Mission (EU EOM) reached the following conclusions prior to election day:

On the positive side, the current electoral process can be characterized by:

1. Participation of all relevant political forces in the electoral race.
2. Fair access to publicly owned media by all parties.
3. The creation of a public space as a result of unprecedented debates broadcast on radio and television between opposition and government allowing a genuine exchange of views on issues of public concern.
4. Increasing voter registration estimated at no less than 85 percent of all eligible population. Voter lists contained 25,605,851 people registered in 2005, 48 percent of which were women. These figures compare with 21,834,806 and 21,337,379 in 2000 and 1995 respectively. Two points should be noted here. First, the registration increase rate between 2000 and 2005 is close to that of the estimated growth of the population (3 percent per annum), and is much higher than the increase in registered voters in the two previous elections. Second, that 48 percent of the registered were women both in 2005

- and 2000 may reflect the fact that there still exists a certain degree of female under-registration since the female population is generally 1-2percent higher than the male population in most societies around the world.
5. Although final accurate statistics are still being compiled, voter turnout as a percentage of registered voters should be very high.
 6. Increased number of candidates and of women candidates with respect to previous elections. The total number of candidates for the House of Peoples' Representatives increased between 2000 and 2005 from 1080 to 1847 (71percent increase). As for Regional Councils, the total number of candidates increased from 2,164 to 3,762 (74 percent increase). As regards women candidates, the increase was still more spectacular. The total number of women candidates to the House of Peoples' Representatives rose from 91 to 253 (178 percent increase); and from 278 to 700 to the Regional Councils (152 percent increase). Also as a proportion of all candidates, women's share amounted to 14 percent in 2005 as opposed to a mere 1percent in 2000 for the House of Peoples' Representatives. As for the Regional Councils, the share of women candidates amounted to 19 percent in 2005 by comparison with 13 percent in 2000. This reflects initiatives undertaken by some parties, mainly by EPRDF to boost women's participation through candidate quotas.
 7. Establishment of a Joint Political Party Forum at national and constituency levels, meeting regularly with the electoral authorities with the purpose of discussing and, as appropriate, solving current campaign and electionadministration problems.
 8. The adoption of EPRDF of a Code of Conduct for its membership, and the agreement within the Joint Political Party Forum of a Code of Conduct binding all competing parties.
 9. Special training on electoral issues for the police and the judiciary.
 10. The signature by EPRDF, main opposition coalition CUD, and some other parties of a non-violence pact on the eve of Election Day.
 11. Invitation of international observers by the Government of Ethiopia for the first time.
 12. The peaceful character of massive rallies of EPRDF and CUD at the closure of the campaign in Addis Ababa.

In another report the EU EOM states that

There has been a notable opening-up of the state-owned media to the parties contending the elections. The distribution of print space and airtime for the main coalitions challenging the ruling party was generously applied; going on occasions even beyond the time allotted by the Broadcasting Authority. The successful live broadcast of debates with the main political actors through the public radio and television outreach was another sign of what should be considered an effort on the side of the Government to establish a mechanism for genuine political debate.

As for the editorial coverage, the state-owned media devoted a similar amount of attention to the party in power and to the two main coalitions contesting the elections. On average, the tone of the information was slightly more favourable when referring to the EPRDF. By contrast, some private media, more specifically print publications, covered the campaign in a fairly partisan manner.

However, the Mission deplores some verbal excesses in which the parties engaged during the campaign, such as the comparison of some political contenders with the Rwandan Interhamwe militia and Hotel Rwanda". Although heated discussion form part of election campaigns everywhere, such blatantly abusive comparisons did not contribute to a peaceful electoral atmosphere.

References:

European Union Election Observer Mission Report Ethiopia 2005
Preliminary Statement, Hilton Hotel, Addis Ababa, May 17, 2005, 11:00 AM.

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

References:

European Union Election Observer Mission Report Ethiopia, 2005
Preliminary Statement, Hilton Hotel, Addis Ababa, May 17, 2005, 11:00 AM.

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?

67

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

YES | **NO**

Comments:

According to the Committee to Protect Journalist, Ethiopia is fourth in the world in terms of number of journalists in prison. Efforts to verify that a journalist has been detained because of his/her work investigating corruption – broadly defined as “abuses of power” – as opposed to claims by the government that the reporter has been inciting “insurrection” (see PM Meles’s interview (<http://www.washingtonpost.com/wp-dyn/content/article/2006/12/14/AR2006121400820.html>)) must be carefully weighed.

References:

Interview with sources from the Ministry of Information
Reports of private media outlets (Reporter, Capital and Fortune – 2005, 2006)

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:

Reports of the independent press in Ethiopia throughout 2005

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

Comments:

There were no documented cases of journalists being killed because of covering corruption-related issues during the study period.

References:

Reports of the independent press in Ethiopia throughout 2005

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.

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

67

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

YES | NO

Comments:

These rights can be limited only through laws, which are guided by the principle that freedom of expression and information cannot be limited on account of the content or effect of the point of view expressed. Legal limitations can be laid down in order to protect the well-being of the youth, and the honour and reputation of individuals. Any propaganda for war as well as the public expression of opinion intended to injure human dignity shall be prohibited by law. Any citizen who violates any legal limitations on the exercise of these rights may be held liable under the law.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995
Part Two – Democratic Rights – Article 29 Right of Thought, Opinion and Expression:

1. Everyone has the right to hold opinions without interference.
2. Everyone has the right to freedom of expression without any interference. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of his choice.
3. Freedom of the press and other mass media and freedom of artistic creativity is guaranteed. Freedom of the press shall specifically include the following elements: (a) Prohibition of any form of censorship. (b) Access to information of public interest.
4. In the interest of the free flow of information, ideas and opinions which are essential to the functioning of a democratic order, the press shall, as an institution, enjoy legal protection to ensure its operational independence and its capacity to entertain diverse opinions.
5. Any media financed by or under the control of the State shall be operated in a manner ensuring its capacity to entertain diversity in the expression of opinion.

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:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995
Part Two- Democratic Rights – Article 29 Right of Thought, Opinion and Expression:

1. Everyone has the right to hold opinions without interference.
2. Everyone has the right to freedom of expression without any interference. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of his choice. These rights are protected by a plethora of articles in the civil and penal code.

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**

Comments:

Though there is no institutionalized mechanism, one of the debates regarding the pending bill on press law is whether or not to incorporate a freedom of information act in it.

Proclamation No. 360/2003, Ethiopian Information and Communication Technology Development Authority Establishment, Proclamation , Page 2325 provides some legal basis for the execution of the constitutional provision on freedom of information.

Power and Duties – The Authority shall have the powers and duties to:

1. Present study based proposals to formulate and amend Information Communication Technology Development Policy, strategy, codes and directives and implement same upon approval.
2. Advice and support the concerned organs to protect violations of social and individual constitutional rights that may be caused by the use of the technology, and to deter and offset national security problems that may arise from the utilization of information and communication technology.
3. Facilitate the building of information communication technology policy implementation capacity of government institution; and ensure implementation of same upon approval.
4. Issue standards necessary for the collection, preservation, aggregation, analysis and dissemination of information as well as for ascertaining the security and reliability of same; and follow up its implementation.
6. Regulate the allocation, give address register and monitor government domain names for a coordinated and standardized development of national, institutional and sectorial information.
14. Make information and communication technology play the vital role in the implementation national development programmes to fasten economic development of the nation.

References:

Part Two – Democratic Rights – Article 29 Right of Thought, Opinion and Expression

1. Everyone has the right to hold opinions without interference.
2. Everyone has the right to freedom of expression without any interference. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of his choice.
3. Freedom of the press and other mass media and freedom of artistic creativity is guaranteed. Freedom of the press shall specifically include the following elements:
 - (a) Prohibition of any form of censorship.
 - (b) Access to information of public interest.
4. In the interest of the free flow of information, ideas and opinions which are essential to the functioning of a democratic order, the press shall, as an institution, enjoy legal protection to ensure its operational independence and its capacity to entertain diverse opinions.

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.

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

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

References:

Interviews with lawyers specializing in appeals for information and CSOs engaged in advocacy activities

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 are hundreds of court documents in which citizens demand information for litigation purposes where such information has been withheld by government but has eventually been disclosed through the courts. Recently, in the infamous corruption cases involving billions of Birr of Commercial Bank of Ethiopia loans, business people successfully obtained information from the government that supported their case.

References:

Proclamation No. 33412003

Proclamation to Provide for the Authentication and Registration of Documents

Municipality of Addis Ababa

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:

There are hundreds of court documents in which citizens demand information for litigation purposes where such information has been withheld by government but has eventually been disclosed through the courts. Recently, in the infamous corruption cases involving billions of Birr of Commercial Bank of Ethiopia loans, business people successfully obtained information from the government that supported their case.

References:

Proclamation No. 33412003
Proclamation to Provide for the Authentication and Registration of Documents
Municipality of Addis Ababa

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

Comments:

There are hundreds of court documents in which citizens demand information for litigation purposes where such information has been withheld by government but has eventually been disclosed through the courts. Recently, in the infamous corruption cases involving billions of Birr of Commercial Bank of Ethiopia loans, business people successfully obtained information from the government that supported their case.

References:

Municipality of Addis Ababa

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

References:

Court documents testify to the fact that those denied access to documents can sue the government successfully to receive reasons for the denial.

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

56
II-1. Voting & 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

Comments:

Sub-article 2. The right of everyone to be a member of his own will in a political organization, labour union, trade organization, or employers' or professional association shall be respected ie (he or she meets the special and general requirements stipulated by such organization). 3. Elections to positions of responsibility within any of the organizations referred to under sub-Article 2 of this Article shall be conducted in a free and democratic manner. 4. The provisions of sub-Articles 2 and 3 of this Article shall apply to civic organizations which significantly affect the public interest.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.

Article 38 The Right to Vote and to be Elected

1. Every Ethiopian national, without any discrimination based on colour, race, nation, nationality, sex, language, religion, political or other opinion or other status, has the following rights: (a) To take part in the conduct of public affairs, directly and through freely chosen representatives; (b) On the attainment of 18 years of age, to vote in accordance with law; (c) To vote and to be elected at periodic elections to any office at any level of government; elections shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

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

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Article 54 Members of the House of Peoples' Representatives

1. Members of the House of Peoples' Representatives shall be elected by the People for a term of five years on the basis of universal suffrage and by direct, free and fair elections held by secret ballot.

Proclamation No. 187/1999 Proclamation to make the Electoral Law of Ethiopia

Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005 Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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?

83

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

100 | 75 | 50 | 25 | 0

Comments:

The Carter Center reported that the May 2005 elections, the third to be held under the current constitution, showed great promise in the deepening of Ethiopian democracy. For the first time in history the majority of Ethiopian voters were presented with choices when they went to the polls. We believe that Ethiopia has made tremendous strides toward democracy in the last several months, including more open debate, greater political participation, large rallies, and enormously high voter turnout on election day”.

“The European Union Election Observation Mission (EU EOM), under the leadership of Ana Gomes, Member of the European Parliament (MEP), has been present in Ethiopia since March 18, 2005. The EU EOM came to Ethiopia at the invitation of the Government of Ethiopia and the National Electoral Board (NEB) and following Memoranda of Understanding with The Government and NEB. Since its arrival in country, the EU EOM has been following campaign developments both from its headquarters in Addis Ababa and through its 26 regional 2-member teams of long term observers. Most constituencies have been visited on at least one occasion. On election day, more than 200 observers were deployed, including a Delegation of 9 members of the European Parliament led by Anders Wijkman, MEP, 2 members of the Parliament of Ireland, and 4 observers from Norway. In total the EU observers visited 1034 polling stations in all regions of the country except the Somali region, where elections are scheduled for August 21. On election day, Ambassadors of EU Member States and the Head of the Delegation of the European Commission in Ethiopia joined the Chief Observer in visiting a number of polling stations. The content of this report is based on the information collected by the EU observers.

Overall assessment in view of international democratic standards: The EU EOM's assessment of these elections is made against international standards notable among which is Article 25 of the International Covenant for Civil and Political Rights (ICCPR) of 1966, ratified by the Federal Democratic Republic of Ethiopia, where eight democratic principles are established: periodic elections; universal and equal suffrage; right to stand for public office; right to vote; secret ballot; genuine elections allowing for the free expression of the will of the people.

The Mission congratulates the entire Ethiopian citizenry for the high voter turnout as well as the over 350,000 electoral officials of different ranks who have made materially possible the overall conduct of elections. The fact should be highlighted that the elections were generally held in a peaceful and orderly manner. Moreover, and in spite of organizational shortcomings, both the electoral officers and the public at large showed an example of patience and dedication. On the organizational side, the elections of May 15 were generally well prepared and effectively conducted, albeit with certain shortcomings set out below. Indeed, the administrative procedures and the overall conduct of polling by the NEB and sub-national electoral authorities were more transparent and efficient than ever before. Moreover, it should be recognized that, by comparison with previous elections, those of May 15 were characterized by greater political inclusiveness.

In particular, conditions existed for the exercise of certain rights and freedoms including: freedom of association with the participation of all relevant political parties, freedom of expression and assembly, and an equal right to a secret vote. Nevertheless, the overall political environment in which the elections took place contained a number of elements which limited the full exercise of suffrage and the free expression of the will of the people. In particular the EU EOM expresses its serious concern regarding threats and intimidation against supporters of opposition parties including isolated cases of murder. Moreover, new restrictions were introduced into the overall legal framework. Examples were the amendments to the Penal Code on matters affecting the media, which came into force on May 8; and the ban affecting the majority of civil society organizations wanting to act as domestic electoral observers. Such measures could be questioned in ordinary circumstances, but even more so having been introduced just days before the election. Nevertheless, a positive development resulted by ruling twice of the Federal High Court and the Supreme Court overturning the NEB directive, which asserted the role of the judiciary. National observers did participate albeit the ruling of the Court came for many too late to allow widespread mobilization.”

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995
European Union Election Observation Mission Ethiopia 2005- Preliminary Statement on the Election Appeals Process, The Re-Run of Elections and the Somali Region Elections
Sheraton Hotel, Addis Ababa, August 25, 2005, 11:00 AM

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:

Carter Center Repors that Openings around the country occurred relatively smoothly and on time, with most delays only lasting 20 minutes to an hour. All election officials were present and electoral materials accounted for at the time of openings. Any delays in openings seem simply to have been caused by election officials taking care to carry out procedures properly and the extensive time it took to sign and stamp all ballots. Many polling stations commenced voting before the total ballot count was completed. As a result, some stations were counting and stamping ballots throughout the day. The environment throughout most of the country was calm and peaceful. Voter turnout was overwhelming, and while citizens had to wait in extremely long lines, they showed remarkable patience. In the late afternoon, the NEB announced that all citizens who were in line at 6 p.m. would be allowed to vote, which alleviated some concerns. Thus, citizens who wished to vote were able to do so.

Some irregularities in procedures did occur, the most notable being that ID cards were not always checked. While officials consistently asked for voter cards, they failed to be equally diligent on the presentation of ID documents. As mentioned before, ballots were not all counted and marked before openings. Limited accounts of underage voting were reported. Party representatives and domestic and community observers were present in most of the polling stations, though more so in urban than in rural areas. Remarkably, there were almost no reports of problems from such individuals, although opposition party headquarters did submit a list of problems and allegations to Carter Center staff.

The EU EOM notes that

The European Union Election Observation Mission (EU EOM), under the leadership of Ana Gomes, Member of the European Parliament (MEP), has been present in Ethiopia since March 18, 2005. The EU EOM came to Ethiopia at the invitation of the Government of Ethiopia and the National Electoral Board (NEB) and following Memoranda of Understanding with THE Government and NEB. Since its arrival in country, the EU EOM has been following campaign developments both from its headquarters in Addis Ababa and through its 26 regional 2-member teams of long term observers. Most constituencies have been visited on at least one occasion. On election day, more than 200 observers were deployed, including a Delegation of 9 members of the European Parliament led by Anders Wijkman, MEP, 2 members of the Parliament of Ireland, and 4 observers from Norway. In total the EU observers visited 1034 polling stations in all regions of the country except the Somali region, where elections are scheduled for August 21. On election day, Ambassadors of EU Member States and the Head of the Delegation of the European Commission in Ethiopia joined the Chief Observer in visiting a number of polling stations. The content of this report is based on the information collected by the EU observers.

Overall assessment in view of international democratic standards: The EU EOM's assessment of these elections is made against international standards notable among which is Article 25 of the International Covenant for Civil and Political Rights (ICCPR) of 1966, ratified by the Federal Democratic Republic of Ethiopia, where eight democratic principles are established: periodic elections; universal and equal suffrage; right to stand for public office; right to vote; secret ballot; genuine elections allowing for the free expression of the will of the people.

The Mission congratulates the entire Ethiopian citizenry for the high voter turnout as well as the over 350,000 electoral officials of different ranks who have made materially possible the overall conduct of elections. The fact should be highlighted that the elections were generally held in a peaceful and orderly manner. Moreover, and in spite of organizational shortcomings, both the electoral officers and the public at large showed an example of patience and dedication. On the organizational side, the elections of May 15 were generally well prepared and effectively conducted, albeit with certain shortcomings set out below. Indeed, the administrative procedures and the overall conduct of polling by the NEB and sub-national electoral authorities were more transparent and efficient than ever before. Moreover, it should be recognized that, by comparison with previous elections, those of May 15 were characterized by greater political inclusiveness.

In particular, conditions existed for the exercise of certain rights and freedoms including: freedom of association with the participation of all relevant political parties, freedom of expression and assembly, and an equal right to a secret vote.

Nevertheless, the overall political environment in which the elections took place contained a number of elements which limited the full exercise of suffrage and the free expression of the will of the people. In particular the EU EOM expresses its serious concern regarding threats and intimidation against supporters of opposition parties including isolated cases of murder. Moreover, new restrictions were introduced into the overall legal framework. Examples were the amendments to the Penal Code on matters affecting the media, which came into force on May 8; and the ban affecting the majority of civil society organizations wanting to act as domestic electoral observers. Such measures could be questioned in ordinary circumstances, but even more so having been introduced just days before the election. Nevertheless, a positive development resulted by ruling twice of the Federal High Court and the Supreme Court overturning the NEB directive, which asserted the role of the judiciary. National observers did participate albeit the ruling of the Court came for many too late to allow widespread mobilization.”

References:

Report of the National Electoral Board of Ethiopia, Addis Ababa, August 2005

Final Statement on The Carter Center Observation of the Ethiopia 2005 National Elections, September 2005

European Union Election Observation Mission Ethiopia 2005- Preliminary Statement on the Election Appeals Process, The Re-Run of Elections and the Somali Region Elections

Sheraton Hotel, Addis Ababa, August 25, 2005, 11:00 AM

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:

Local elections have been postponed for another year by Parliament citing (1) the delay in the 2005 counting of the votes for three months as allegations and counter allegations were made by political candidates and parties that delayed the announcement of exit polls; (2) that the violence that ensued after the 2005 elections might spill over to local elections and that a certain cooling off period was needed to heal the wounds of the violence; and (3) the current session of Parliament started off after almost a year's delay while negotiations were being facilitated between the EPRDF and the CUD/UEDF by international brokers that culminated with close to 90% of the opposition taking their seats.

References:

Electoral Board of Ethiopia

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?

80

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

YES | NO

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Part Two – Democratic Rights – Article 31 Freedom of Association

Every person has the right to freedom of association for any cause or purpose. Organizations formed, in violation of appropriate laws, or to illegally subvert the constitutional order, or which promote such activities are prohibited.

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:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Part Two – Democratic Rights- Article 38 The Right to Vote and to be Elected

1. Every Ethiopian national, without any discrimination based on colour, race, nation, nationality, sex, language, religion, political or other opinion or other status, has the following rights: (a) To take part in the conduct of public affairs, directly and through freely chosen representatives;

3. Elections to positions of responsibility within any of the organizations referred to under sub-Article 2 of this Article shall be conducted in a free and democratic manner.

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:

Final Statement on The Carter Center Observation of the Ethiopia 2005 National Elections, September 2005 – The 2005 Elections. The May 15 Pre-election Period: Starting in March, the Center maintained a field presence in Ethiopia. Six medium term observers were deployed in early April across the country to observe the political environment, election preparations, and the campaign. In contrast to previous elections, the pre-election campaign period provided sufficient conditions for a credible and competitive electoral process:

- 1.The ruling Ethiopian Peoples Revolutionary Democratic Front (EPRDF) and the Government of the Federal Democratic Republic of Ethiopia took the initiative to level the electoral playing field. Electoral law was amended to streamline the candidate nomination process, eliminating the requirement of 500 signatures on nomination papers for party nominees and reducing the residence requirement for candidates from five years to two.
- 2.The NEBE demonstrated greater openness and dynamism. It established a system of joint political party forums at the national and sub national level. These provided a partially effective means of resolving problems among the parties and among the parties and the Board. In addition, the NEBE established a website to post the latest election news.
- 3.Opposition parties benefited from guaranteed access to state-owned electronic media under the formula devised by the Minister of Information in implementation of the electoral law. Access to the radio appears to have been particularly important as this medium has broad reach throughout the country. A broad range of civil society organizations conducted civic education and organized a series of widely-discussed, live televised debates. Ethiopian citizens saw that government officials could be challenged without retribution. The competing parties pledged a code of conduct, while the ruling party issued its own comprehensive code to its members, specifically barring many of the abuses that opposition parties had complained of in the past.
- 4.Candidates campaigned widely and effectively. Most dramatically, the electoral campaign climaxed in its final week with large and peaceful campaign rallies by major contenders in Addis Ababa.
- 5.International observers were invited to observe the entire electoral process.

The result of these developments was that more than 90 percent of the races for the 547 seat House of Peoples Representatives were contested by both opposition parties and the ruling party in marked contrast to previous elections. For the first time a large majority of Ethiopian citizens was presented with a choice at the polls, and control of the national government hinged on the electoral process.

References:

Final Statement on The Carter Center Observation of the Ethiopia 2005 National Elections, September 2005 – The 2005 Elections.

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.

Comments:

The Final Statement on The Carter Center Observation of the Ethiopia 2005 National Elections, September 2005 – states that the May 15 parliamentary elections were Ethiopia's third national elections following elections in 1995 and 2000. The 2005 elections took place in a highly contested environment and in a diverse country where regional considerations are influential and with the majority of voters in rural areas. In contrast with previous national elections, the 2005 elections were sharply contested and offered Ethiopian citizens a democratic choice for the first time in their long history. The ruling party took the initiative to negotiate with the opposition and level the playing field, and agreed to a number of important electoral reforms that created conditions for a more open and genuinely competitive process. The early negotiations between parties were, in and of themselves, a step forward for the democratization process in Ethiopia.

References:

Media footage of the pre-election political party activities

Final Statement on The Carter Center Observation of the Ethiopia 2005 National Elections, September 2005 – The 2005 Elections. The May 15 parliamentary elections were Ethiopia's third national elections following elections in 1995 and 2000. The 2005 elections took place in a highly contested environment and in a diverse country where regional considerations are influential and with the majority of voters in rural areas. In contrast with previous national elections, the 2005 elections were sharply contested and offered Ethiopian citizens a democratic choice for the first time in their long history. The ruling party took the initiative to negotiate with the opposition and level the playing field, and agreed to a number of important electoral reforms that created conditions for a more open and genuinely competitive process. The early negotiations between parties were, in and of themselves, a step forward for the democratization process in Ethiopia.

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.

Comments:

A minority in the opposition have refused to take their seats in the parliament protesting over election irregularities. Some have been charged with treasonable offences and are awaiting trial in custody. The leaders of the CUD, journalists and civil society activists are included on the list. This happens against the plea of local religious leaders and the international community for the CUD to join the parliament. The United States welcomes the conclusion of Ethiopia's landmark parliamentary elections, the results of which were certified on September 5 and the September 15 conclusions of the Carter Center concerning the credibility of the elections. These elections stand out as a milestone in creating a new, more competitive multi-party political system in one of Africa's largest and most important countries. Because reported election irregularities raised concerns about transparency, we will work with the international community and the Ethiopian government and parties to strengthen the electoral process. We strongly urge all the political parties to participate in the political process and to play responsible roles as the elected representatives of the Ethiopian people. The governing Ethiopian People's Revolutionary Democratic Front (EPRDF) has the responsibility to reach out to the opposition parties to ensure their full involvement in governance. We call on all newly elected members of parliament to take their seats, and to serve under Ethiopia's constitution. We urge the Ethiopian government and all political parties to address the deficiencies in the electoral process, to avoid violence, and to cooperate in advancing democracy.

References:

All opposition parties that won seats in the 2005 elections are represented in the legislature. 2006 Parliament Report

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?

100

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

YES | NO

References:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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?

65

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

YES | NO

References:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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

Comments:

Despite significant efforts by the election administration to Establish a complex system to deal with complaints, overall the process failed to provide an effective remedy to the parties. Re-runs of elections went peacefully and orderly, albeit without opposition representation and with militia and security forces present around and inside polling stations of some sensitive constituencies. Somali Region elections, despite the high turnout, can be summarised as poorly organized and marred by serious irregularities.

References:

European Union Election Observation Mission Ethiopia 2005
Preliminary Statement on the Election Appeals Process, The Re-Run of Elections and the Somali Region Elections
Sheraton Hotel, Addis Ababa, August 25, 2005, 11:00 AM

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

Comments:

On 17 May the EU EOM commended the massive turnout in the most competitive elections the country has experienced” and pointed out that on Election Day atmosphere was peaceful. On 24 May the EU EOM regretted the way in which votes were counted at constituency levels and the way the publication of results was being handled by the electoral administration, the government and political parties, especially the EPRDF. It noted that “these practices, taken as a whole, are seriously undermining the transparency and fairness of the elections. They also risk increasing the scope for manipulation and consequently putting in doubt public confidence in the process.”

The reference to the outside election observer's comments is predicated on the fact that these international observers were projected as the most "legitimate" sources of information regarding the elections. The opposition had demonized the electoral authorities as EPRDF-partisan in spite of their acceptance of the Board as a legitimate body at the beginning of the elections.

References:

European Union Election Observation Mission Ethiopia 2005
Preliminary Statement on the Election Appeals Process, The Re-Run of Elections and the Somali Region Elections
Sheraton Hotel, Addis Ababa, August 25, 2005, 11:00 AM

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

Comments:

On 24 May the EU EOM regretted the way in which votes were counted at constituency levels and the way the publication of results was being handled by the electoral administration, the government and political parties, especially the EPRDF. It noted that these practices, taken as a whole, are seriously undermining the transparency and fairness of the elections. They also risk increasing the scope for manipulation and consequently putting in doubt public confidence in the process."

The Board has indeed imposed sanctions on violators on several occasions and sent letters of reprimands on other occasions.

The reference to the outside election observer's comments is predicated on the fact that these international observers were projected as the most "legitimate" sources of information regarding the elections. The opposition had demonized the electoral authorities as EPRDF-partisan in spite of their acceptance of the Board as a legitimate body at the beginning of the elections.

References:

European Union Election Observation Mission Ethiopia 2005
Preliminary Statement on the Election Appeals Process, The Re-Run of Elections and the Somali Region Elections
Sheraton Hotel, Addis Ababa, August 25, 2005, 11:00 AM

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?

75

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

100 | 75 | 50 | 25 | 0

Comments:

The NEBE is to be commended for its electoral preparations and successes in implementing the May 15 voting process. The increased transparency and responsiveness of the NEBE was an improvement over previous elections. The NEBE showed remarkable flexibility and responded in an inclusive and timely fashion to the demands to replace the complaints process that had proved inadequate.

References:

Final Statement on The Carter Center Observation of the Ethiopia 2005 National Elections, September 2005
The 2005 Elections, The May 15 Pre-election Period

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

References:

Proclamation No. 187/1999
Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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:

Though Ethiopia maintains multi-party system, free economy, liberties of speech, organization, faith and movement, it is being blamed for falling much short of democratic standards. The regime — it is widely argued — falsified the results of May elections, shot and massacred protestors, imprisoned opposition leaders, and prepares to punish them as traitors. Ethiopian communities in Europe and the USA exert pressure on local public opinion shapers, who for their part call for cutting aid and forcing the regime to accept mediation in internal affairs.

Opposition groups have successfully sued the ruling party and the electoral Board in court. Judge Yalew Teshome's judgment of June 9, 2005 criticized the National Election Board for acting not only contrary to the Law but also contrary to the Board's own word . . . that it will not issue provisional announcements under whatever guise."

References:

Haggai Erlich (2005) Ethiopia – Homemade Democracy and Riots, Tel Aviv, Israel

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:

The Reporter, Fortune, Addis Zemen (the official government mouth piece) reported on this regularly in the post-election period.

References:

Terrence Lyons, Ethiopia in 2005: The Beginning of a Transition
George Mason University, January 25, 2006

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 overly 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

References:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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 NEBE is to be commended for its electoral preparations and successes in implementing the May 15 voting process. The increased transparency and responsiveness of the NEBE was an improvement over previous elections. The NEBE showed remarkable flexibility and responded in an inclusive and timely fashion to the demands to replace the complaints process that had proved inadequate. However, there are several areas of concern with respect to the NEBE's performance in the course of the election.

The NEBE imposed severe restrictions on domestic election observation. On the eve of the election the Supreme Court overturned the NEBE's regulations on the types of domestic organizations it was prepared to grant credentials for election monitoring, but by then it was too late for domestic observers to deploy widely. Observer reports by these groups might have helped to reduce the complaints and confusion that emerged during the election. Three US-based non-governmental organizations (NDI, IRI, and IFES), which could have provided invaluable assistance to the electoral process, were expelled in the months prior to the election.

References:

Final Statement on The Carter Center Observation of the Ethiopia 2005 National Elections, September 2005
The 2005 Elections, The May 15 Pre-election Period

European Union Election Observation Mission Ethiopia 2005
Preliminary Statement on the Election Appeals Process, The Re-Run of Elections and the Somali Region Elections
Sheraton Hotel, Addis Ababa, August 25, 2005, 11:00 AM

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.

80 II-3. Political Financing

18. Are there regulations governing political financing?

0

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

YES

NO

References:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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?

0

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**

References:

The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system

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

References:

The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system.

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

References:

The majority of expenditures are made outside of the formal limitation system.

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

References:

The electoral board investigates on its own.

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

References:

The electoral board does not effectively penalize offenders.

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

References:

Party and candidate finances are not audited, or the audits performed have no value in tracking contributions.

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

References:

Final Statement on The Carter Center Observation of the Ethiopia 2005 National Elections, September 2005
The 2005 Elections, The May 15 Pre-election Period

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 regular 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

References:

Final Statement on The Carter Center Observation of the Ethiopia 2005 National Elections, September 2005
The 2005 Elections, The May 15 Pre-election Period

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

References:

Final Statement on The Carter Center Observation of the Ethiopia 2005 National Elections, September 2005
The 2005 Elections, The May 15 Pre-election Period

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. ⁶⁹Executive Accountability

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

100

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

YES

NO

Comments:

1. Everyone has the right to bring a justiciable matter to, and to obtain a decision or judgement by, a court of law or any other competent body with judicial power.
2. The decision or judgement referred to under sub-Article 1 of this Article may also be sought by: (a) Any association representing the Collective or individual interest of its members; or (b) Any group or person who is a member of, or represents a group with similar interests.

References:

- Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995 Article 37 Right of Access to Justice 1. Everyone has the right to bring a justiciable matter to, and to obtain a decision or judgement by, a court of law or any other competent body with judicial power.
2. The decision or judgement referred to under sub-Article 1 of this Article may also be sought by: (a) Any association representing the Collective or individual interest of its members; or (b) Any group or person who is a member of, or represents a group with similar interests.

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?

81

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

100 | 75 | 50 | 25 | 0

Comments:

Members of the executive have given reasons for their policy decisions through various media, usually the national television and radio that are owned by the Government. Initially, independent media were not invited to these press conferences, which were attended by the Prime Minister. That changed later and several of them were invited to these sessions.

References:

Parliamentary sessions of the Federal Democratic Republic of Ethiopia
Media footage of the Prime Minister's and ministers' interviews with national and international reporters
Government white papers

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

Comments:

They shall also exercise the jurisdiction of the Federal High Court. 3. Notwithstanding the Provisions of sub-Articles 1 and 2 of this Article; (a) The Federal Supreme Court has a power of cassation over any final court decision containing a basic error of law. Particulars shall be determined by law. (b) The State Supreme Court has power of cassation over any final court decision on State matters which contains a basic error of law. Particulars shall be determined by law. 4. State High Courts shall, in addition to State jurisdiction, exercise the jurisdiction of the Federal First-Instance Court.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995
Article 80 Concurrent Jurisdiction of Courts
1. The Federal Supreme Court shall have the highest and final judicial power over Federal matters.
2. State Supreme Courts shall have the highest and final judicial power over State matters.

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:

Prof Donald Levin states that to be sure, there may well be more independence in the court system already than ‘usually’ implied (something about which little secure knowledge exists), but consider that Judge Yalew Teshome’s judgment of June 9, 2005 criticized the National Election Board for acting “not only contrary to the Law but also contrary to the Board’s own word . . . that it will not issue provisional announcements under whatever guise.” Even so, how could anyone make a blanket claim about an independent judiciary when the executive branch can appoint and dismiss court officials at will, as for example the dismissal of a dozen federal judges and more than half of the Addis Ababa Regional court judges in the 1990s? How could anyone claim an independent judiciary exists when judges who voice opinions considered out of line can be in trouble, as when Judge Bertukan Mideksa, whose judicial order to release Ato Siye Abrha was overturned by executive fiat, was allegedly denied due promotion, or the case of Judge Amir Yusuf of Harar, an impeccably well-trained and highly responsible judge, who was reportedly dismissed from his position for voicing some opinions of which the Government disapproved”.

References:

Levin, Donald Reply to Getz Sost, EINEPS Publication, 2006

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

References:

2005 Annual Report of the Executive to the Assembly

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

Comments:

Article 63 Immunity of Members of the House of the Federation,

1. No member of the House of the Federation may be prosecuted on account of any vote he casts or opinion he expresses in the House, nor shall any administrative action be taken against any member on such grounds.
2. No member of the House of the Federation may be arrested or prosecuted without the permission of the House except in the case of flagrant violation of the law.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Article 63 Immunity of Members of the House of the Federation

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

Comments:

Article 63 Immunity of Members of the House of the Federation,

1. No member of the House of the Federation may be prosecuted on account of any vote he casts or opinion he expresses in the House, nor shall any administrative action be taken against any member on such grounds.
2. No member of the House of the Federation may be arrested or prosecuted without the permission of the House except in the case of flagrant violation of the law.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Article 63 Immunity of Members of the House of the Federation

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?

44

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

YES | NO

References:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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

Comments:

See also the Federal Civil Servants Proclamation No. 262/20P2 – Proclamation No. 398/2004 Art. 59. No civil servants may demand or accept any gift in return of services rendered or expected.”

References:

Proclamation No. 187/1999

Proclamation to make the Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

Proclamation No. 438/2005

Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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

Comments:

The Auditor General shall audit and inspect the accounts of ministries and other agencies of the Federal Government to ensure that expenditures are properly made for activities carried out during the fiscal year and in accordance with the approved allocations, and submit his reports thereon to the House of Peoples' Representatives.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Article 101 The Auditor General

2. The Auditor General shall audit and inspect the accounts of ministries and other agencies of the Federal Government to ensure that expenditures are properly made for activities carried out during the fiscal year and in accordance with the approved allocations, and submit his reports thereon to the House of Peoples' Representatives.

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

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

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

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

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

References:

Anti-Corruption Special Procedure and Rules of Evidence (Amendment) Proclamation, Proclamation No. 239/2001
Revised Federal Ethics and Anti-Corruption Commission Establishment Proclamation, Proclamation No. 433/2005
Revised Anti-Corruption Special Procedure and Rules of Evidence Proclamation, Proclamation No. 434/2005

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

References:

They are audited by the police once the Assembly indicts them.

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?

33

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

YES | NO

References:

Relevant provision on access to information and media code of conduct

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

References:

There is no record that citizens' groups have tried to acquire such documents.

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:

There is no record that citizens' groups have tried to acquire such documents.

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?

50

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

100 | 75 | 50 | 25 | 0

Comments:

The ruling party is, in principle, separate from the state. Nonetheless, in practice, as a dominant party in the state, the ruling party has all the discretions to command state institutions at will and within the prescribed frame of the law. Here again, there is a need for capacity building that the government has launched a few years ago.

One of the important reform measures undertaken by the new government following its accession to power, in May 1991, is rectification of the shortcomings of the civil service by eliminating redundant institutions, unbundling and contracting of activities and hence reducing the number of employees on the government payroll. As a result, considerable success was registered in terms of realizing pockets of relatively effective government performances.

However, as the problems the civil service inherited from the previous regime could not automatically disappear, and aware that the goal of creating a democratic system of governance and a market economy was not going to succeed unless the civil service is changed, the Government decided to initiate a program of systematic reform that focuses on creating an enabling environment for the civil service, build its institutional and human resource capacity and introduce improved management systems and practices into its operations. For this purpose it set up a special task force, in November 1994, to diagnose the capacity of the civil service and take stock of the problems constraining its efficiency and effectiveness.

The task force undertook an in-depth review of the management arrangement and operations of the civil service from federal to woreda levels and reported its findings to the Government in February 1996. The report confirmed the existence of a number of problems and weaknesses constraining the performance of the civil service. These included:

- 1) Concentration of management on administration and control of inputs and activities rather than in achieving government policies;
- 2) Inability of management systems to effectively respond to the changing environment in which the civil service operates;
- 3) Lack of accountability for failure to meet expected performance results;
- 4) Prevalence of negative public perception of government bureaucracy as a hindrance in their lives (rather than a facilitator) with needless and time consuming procedures;
- 5) Underdevelopment of positive attitude towards public service;
- 6) Excessively hierarchical arrangements resulting in little real delegation;
- 7) Under paid, under skilled and demoralized staff; and
- 8) Increasing incidence of corruption, embezzlement and fraud.

In March 1996, the Government launched the second development phase of the reform program to address reported problems and improve the performance of the civil service on 5 fronts, namely:

- (a) Expenditure Management and Control (EM&C) including procurement, budgeting process, auditing and accounting reforms, review of fees and charges, and an overhaul of the internal and external control systems, development and introduction of new and improved financial administration legal frameworks and associated regulations and directives;
- (b) Human Resource Management (HRM) including overhaul of the Civil Service Law, which was in force for many years, and reform of systems and procedures governing job classification and grading, remuneration and conditions of service, performance appraisal and time management, recruitment, selection, promotion and transfer, human resource planning, and human resource information system (HRMIS)
- (c) Service Delivery (SD) concerned with the development and introduction of a comprehensive service delivery policy, complaints handling mechanisms, and service standards to facilitate positive changes in the culture, attitude and work practice of government officials towards the provision of effective and equitable public services;
- (d) Top Management Systems (TMS) involving reforms to enhance the quality and speed of decision-making through the development of top officials' and senior managers' capacity to manage, and to improve systems and processes governing the development and management of institutions policy, annual and strategic planning, performance evaluation and monitoring, delegation of responsibilities, and reporting; and
- (e) Ethics focusing on the development and implementation of mechanisms and best practices to combat corruption and impropriety, as well as, enhancing accountability and transparency within the civil service and the government.

With the determination to build a dynamic, effective, efficient, performance oriented and morally upright civil service that translates its development objectives into reality, and to address the problems faced by the civil service, through new approaches and systems, and capacity building measures, the Government articulated the vision for the civil service of the future and set the objectives of the CSR initiative.

References:

Levin, D, 2006. 'Reflections on Ethiopia's Post Election Ordeals' published in Fortune, Vol. 7 No. 316 on May 21, 2006 [Getz #5 in this series]

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?

33

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

YES | **NO**

Comments:

Article 62 Powers and Functions of the House of the Federation

1. The House has the power to interpret the Constitution.
2. It shall organize the Council of Constitutional Inquiry.
3. It shall, in accordance with the Constitution, decide on issues relating to the rights of Nations, Nationalities and Peoples to self-determination, including the right to secession

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

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**

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

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:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

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

Comments:

Article 7, sub-articles 1-18 define the vast powers and duties of the Commission: The Commission shall have the powers and duties: g) Article 7, sub-article 7 to register or cause the registration of the assets and financial interests of public officials and other public employees compellable to do so as specified by law.

References:

Anti-Corruption Special Procedure and Rules of Evidence (Amendment) Proclamation, Proclamation No. 239/2001

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:

They can serve in any sector they wish to make a living in.

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**

References:

The guidelines are general and do not specify what is and is not appropriate.

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:

There are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures.

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

References:

Legislators can routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues.

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

References:

Regulations governing gifts (however general or specific they are) and hospitality to national legislators are routinely ignored and unenforced until criminal investigation ensues.

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:

Legislative branch asset disclosures are audited only when there is reasonable suspicion of criminal intent; notwithstanding the constitutional provision that stipulate no member of the House may be arrested or prosecuted without the permission of the House except in the case of flagrante delicto”.

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?

50

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

YES | NO

Comments:

If assets disclosures are available, they are accessible through the freedom of the press and other mass media and freedom of artistic creativity. Freedom of the press shall specifically include the following elements: (a) Prohibition of any form of censorship. (b) Access to information of public interest.

References:

Article 29 Right of Thought, Opinion and Expression

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

References:

Court orders may be necessary in most cases, therefore the process takes a longer time.

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

References:

Retrieving records may require a visit to the specific office where the records are kept and will often require the intervention of higher officials to release them.

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?

92

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

YES | NO

References:

Article 29 Right of Thought, Opinion and Expression
(b) Access to information of public interest

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

References:

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

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

References:

Records are free to all citizens, or available for the cost of photocopying.

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.

47
III-3. Judicial Accountability

31. Are judges appointed fairly?

100

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

YES | NO

References:

There is a formal process for selecting national level justices.

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

References:

National-level judges are selected on criteria such as relevant professional training, qualification in legal training, and experience.

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

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Article 74 Powers and Functions of the Prime Minister

7. He selects and submits for approval to the House of Peoples' Representatives nominations for posts of Commissioners, the President and Vice-President of the Federal Supreme Court and the Auditor General.

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?

71

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

YES | NO

References:

The Criminal Procedure Code Proclamation 1961

Art. 149. Judgment and sentence.

(1) When the final addresses including the addresses under Art. 156, if any, have been concluded, the court shall give judgment. The judgment shall be dated and signed by the judge delivering it. The judgment shall contain a summary of the evidence, shall give reasons for accepting or rejecting evidence and shall contain the provisions of the law on which it is based.

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

References:

Judges are compelled to give substantial reasons for their decisions, but some exceptions occur in delaying bail cases for persons apprehended in relation to graft and grand corruption cases for public officials.

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

References:

Institution of the Ombudsman Establishment Proclamation, Proclamation No. 211/2000

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

Comments:

The objective of the institution shall be to see to bringing about good governance that is of high quality, efficient and transparent, and that is based on the rule of law, by way of ensuring that citizens' rights and benefits provided for by law are respected by organs of the executive.

References:

Institution of the Ombudsman Establishment Proclamation, Proclamation No. 211/2000

1) The Institution of the Ombudsman is hereby established as an autonomous organ of the federal Government having its own juridical personality.

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

References:

The Institution of Ombudsman, though limited in effectiveness, is still fair in its application of power.

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

References:

The ombudsman does not effectively penalize offenders. Punishments are dictated by other law enforcement agencies.

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?

83

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

YES | NO

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Article 55 Powers and Functions of the House of Peoples' Representatives

11. It shall levy taxes and duties on revenue sources reserved to the Federal Government, it shall ratify the Federal budget.

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

References:

All significant government expenditures are routinely approved by the legislature.

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:

Various capacity building activities have been launched to improve the abilities of legislators to accomplish their work more efficiently.

References:

Legislators have some staff and financial resources but are limited by a shortfall of technical capacity to adequately perform all of their budgetary oversight functions. Various capacity building activities have been launched to improve the abilities of legislators to accomplish their work more efficiently.

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?

67

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

References:

Budget debates are publicly disseminated via national TV, radio and other media and attended by all who seek to do so. Records of budget proceedings are published in the official gazette and are easily accessible.

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:

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

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

References:

Citizens, journalists and CSOs can access itemized lists of budget allocations as these are in the public domain.

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

References:

Proclamation 14/1995 House of Peoples' Representatives Legislative Procedure
Art 5., Standing Committees of the House

1) The House shall have the following Standing Committees: (a) the Legal Affairs Committee;(b) the Budgetary Affairs Committee;(c) the Economic Affairs Committee;(d) the Defence and Security Committee; (e) the Foreign Affairs Committee; (f) the Social Affairs Committee; (g) the Committee for the Administrative Affairs of the House; (h) the Mass Media and Cultural Affairs Committee; (i) the Women's Affairs Committee.'

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?

56

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

100 | 75 | 50 | 25 | 0

References:

Ministries and agencies submit regular, formal reports of expenses to a budget committee upon the request of the Committee, the House or the Executive.

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

References:

The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution, according to proportion of their representation.

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

References:

This committee is commonly influenced by political forces belonging to the ruling party as it has absolute majority in the House.

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:

This mandate is given to the Auditor General

2. The Auditor General shall audit and inspect the accounts of ministries and other agencies of the Federal Government to ensure that expenditures are properly made for activities carried out during the fiscal year and in accordance with the approved allocations, and submit his reports thereon to the House of Peoples' Representatives.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995
Article 101 The Auditor General

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. ⁸⁷ Civil 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

Comments:

The Preamble to the Federal Civil Servants Proclamation No. 262/20P2 – Proclamation No. 398/2004 states that whereas it has become necessary, to promulgate a law on the administration of civil servants compatible with the progress of the country and a federal structure of Government; whereas it is appropriate to undertake human resource management reform to make the Federal Civil Neutral, effective, sustainable, transparent and development oriented.

References:

Federal Civil Servants Proclamation No. 262/20P2 – Proclamation No. 398/2004

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

Comments:

- 2) A vacant position shall be filled only by a person who meets the qualification required for the position and scores higher than other candidates.
- 3) Without prejudice to the provisions of Sub-Articles (1) and (2) of this Article, preference shall be given to: a) female candidates; and b) members of nationalities comparatively less represented in the government office, having equal or close scores to that of other candidates.
- 4) Notwithstanding the provisions of Sub-Articles (1)-(3) of this Article, priorities of appointment shall be given to candidates with disabilities who meet the minimum passing score.

References:

Federal Civil Servants Proclamation No. 262/20P2 – Proclamation No. 398/2004

Art 13. Filling of vacancies

- 1) There shall be no discrimination among job seekers or civil servants in filling vacancies because of their ethnic origin, sex, religion, political outlook or any other ground.

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

Comments:

Part Ten – Establishment of the Administrative Tribunal

- 1) An Administrative Tribunal which hears and decides appeals brought by-civil servants is hereby established.

References:

Federal Civil Servants Disciplinary and Grievance Procedure Council of Ministers Regulations, Council of Ministers Regulations No. 77/2002

Federal Civil Servants Proclamation No. 262/20P2 – Proclamation No. 398/2004

Part Ten- Establishment of the Administrative Tribunal

1) An Administrative Tribunal which hears and decides appeals brought by-civil servants is hereby established

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:

Federal Civil Servants Proclamation No. 262/20P2 – Proclamation No. 398/2004

Part Three Staffing and Performance Evaluation , Chapter 1, Selection and Recruitment, 11. Eligibility

1) The following shall not be eligible to be civil servants: (a) a person under the age of 18 years; (b) a person who has been convicted by a court of competent jurisdiction of any crime committed in connection with his duties as a civil servant or breach of trust, theft or fraud, unless he has been reinstated in accordance with the law.

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?

67

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

100 | 75 | 50 | 25 | 0

References:

Civil servants are typically independent, yet are sometimes commonly influenced by political or personal matters. They may bring a case to the judicial system challenging politically-motivated firings.

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:

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

References:

Public Sector Capacity Building Programme (PSCAP) Meritocracy Review of the Ethiopian Civil Service, Final Report, Addis Abeba, March 28, 2006

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:

Ministry of Capacity Building Public Sector

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:

Federal Democratic Republic of Ethiopia, National Capacity Building Strategy Report, 2002

Federal Democratic Republic of Ethiopia, Agriculture Led Industrialization Strategy Report 2002

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

References:

Ministry of Capacity Building Public Sector
Capacity Building Program (PSCAP), Consolidated Civil Service Reform (CSR), Action Plan for Public Sector Capacity Building (2004-2008), Civil Service Reform Program Office
Addis Ababa, Dec 2003

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:

The Civil Service Commission has a roster of public service positions already filled but this is not publicly published.

References:

The government rarely publishes such a list.

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 Administrative Tribunal that has the power to hear and decide on efficiently-brought appeals deals with redress, but can be subject to political pressure on certain occasions.

References:

Ministry of Capacity Building Public Sector
Capacity Building Program (PSCAP), Consolidated Civil Service Reform (CSR), Action Plan for Public Sector Capacity Building (2004-2008), Civil Service Reform Program Office
Addis Ababa, Dec 2003

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

Comments:

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

References:

Report of the Prime Minister to the House, 2006

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

References:

Public Sector Capacity Building Programme (PSCAP) Meritocracy Review of the Ethiopian Civil Service Final Report
Addis Abeba, March 28, 2006

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?

42

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:

Federal Civil Servants Proclamation No. 262/20P2 – Proclamation No. 398/2004

Art. 58. Conflict of Interest

- 1) Any civil servant shall report in writing to his superior every case in which a conflict between his private interest or that of his relative or friend and his duties has arisen.
- 2) Where the case stated in Sub-Article (1) of this Article arises and if the superior to whom the same is reported finds it necessary may assign another civil servant to execute the duty.

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

References:

No such restrictions exist.

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:

Federal Civil Servants Proclamation No. 262/20P2 – Proclamation No. 398/2004

Art. 59. Gifts- No civil servant may demand or accept any gift in return of services rendered or expected.

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**

Comments:

Former Government officials and civil service members are not restrained from entering the private sector.

References:

Public Sector Capacity Building Programme (PSCAP) Meritocracy Review of the Ethiopian Civil Service Final Report
Addis Ababa, March 28, 2006

Ministry of Capacity Building Public Sector
Consolidated Civil Service Reform (CSR), Action Plan for Public Sector Capacity Building (2004-2008), Civil Service Reform
Program Office
Addis Ababa, Dec 2003

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

References:

Public Sector Capacity Building Programme (PSCAP) Meritocracy Review of the Ethiopian Civil Service Final Report
Addis Ababa, March 28, 2006

Ministry of Capacity Building Public Sector
Consolidated Civil Service Reform (CSR), Action Plan for Public Sector Capacity Building (2004-2008), Civil Service Reform
Program Office
Addis Ababa, Dec 2003

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

References:

Public Sector Capacity Building Programme (PSCAP) Meritocracy Review of the Ethiopian Civil Service Final Report
Addis Ababa, March 28, 2006

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?

75

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

YES | NO

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Article 10: Human and Democratic Rights

Article 29 – Right of Thought, Opinion and Expression (b) Access to information of public interest

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

References:

Public Sector Capacity Building Programme (PSCAP) Meritocracy Review of the Ethiopian Civil Service Final Report
Addis Ababa, March 28, 2006

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

References:

Public Sector Capacity Building Programme (PSCAP) Meritocracy Review of the Ethiopian Civil Service Final Report
Addis Ababa, March 28, 2006

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)?

88

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:

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001
Revised Federal Ethics and Anti-Corruption Commission Establishment Proclamation No A33/2005.
11th Year No.18, Addis Ababa, February 2, 2005

h)Article 7, sub-article 8 facilitate the condition, for the protection of physical and job security of witnesses and whistle-blowers, provide protection of the same in accordance with the law.

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:

The celebrated case is the incarceration and eventual conviction and sentencing of former Prime Minister (PM) Tamrat Layne. The former PM received an amount of about US\$16 million from a wealthy investor; the payoff was brought to the attention of the Government. In a televised parliamentary investigation, the defendant admitted to the crime and was sent to jail. Those civil servants who blew the whistle and the investor who provided the public loan” to the former PM were protected from prosecution by the attorney.

The case of the Muger Cement Factory managers and business people that took loans from the Commercial Bank of Ethiopia is another case in point. They were indeed acquitted after a lengthy investigation and incarceration; while some others are still facing various trials. The case was initiated by sources working close to the defendants who brought the case to the Federal Ethics and Anti-Corruption Commission, which then took the case to court. The Federal Ethics and Anti-Corruption Commission actually has Ethics and Anti-Corruption “agents” assigned to receive and process such information from whistleblowers. Whistleblowers and auditors and auditing firms involved in the investigation are routinely brought as witnesses by the Commission without any harm occurring to them – so far.

References:

Public Sector Capacity Building Programme (PSCAP) Meritocracy Review of the Ethiopian Civil Service Final Report
Addis Ababa, March 28, 2006

Costantinos, BT (2004) Priming the role of the legislature in combating graft and grand corruption. Paper presented to the Ethiopian Legislature.

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:

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001
Revised Federal Ethics and Anti-Corruption Commission Establishment Proclamation No A33/2005.
11th Year No.18, Addis Ababa, February 2, 2005

h) Article 7, sub-article 8 facilitate the condition, for the protection of physical and job security of witnesses and whistle-blowers, provide protection of the same in accordance with the law.

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 celebrated case is the incarceration and eventual conviction and sentencing of former Prime Minister (PM) Tamrat Layne. The former PM received an amount of about US\$16 million from a wealthy investor; the payoff was brought to the attention of the Government. In a televised parliamentary investigation, the defendant admitted to the crime and was sent to jail. Those civil servants who blew the whistle and the investor who provided the public loan” to the former PM were protected from prosecution by the attorney.

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References:

Demeke, G. 2005, Elements of Successful Anti-Corruption Strategy. Paper presented to the Ethiopian Legislature

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?

88

42a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Report of the Federal Ethics and Anti-Corruption Commission, 2006

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

References:

Report of the Federal Ethics and Anti-Corruption Commission, 2006

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

References:

Report of the Federal Ethics and Anti-Corruption Commission, 2005
Reporter Newspaper – 2005, 2006 coverage

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

References:

Reports from Newspapers – Fortune, Capital, Reporter
Report of the Federal Ethics and Anti-Corruption Commission, 2005, 2006

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.

88 IV-3. Procurement

43. Is the public procurement process effective?

90

43a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

References:

Proclamation No. 430/2005, Determining procedures of Public Procurement and Establishing its Supervisory Agency

Proclamation No. 57/1996 Federal Government of Ethiopia Financial Administration Proclamation
Part Eleven Procurement and contracts

54. Mode of Procurement – All goods and services shall be procured on the basis of directives issued by the Ministry, and these directives shall outline the manner in which goods and services are procured and the form in which information pertaining to such procurement is made public.

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

References:

Proclamation No. 430/2005, Determining procedures of Public Procurement and Establishing its Supervisory Agency

Federal Civil Servants Proclamation No. 262/20P2 – Proclamation No. 398/2004

Public Sector Capacity Building Programme (PSCAP) Meritocracy Review of the Ethiopian Civil Service Final Report
Addis Ababa, March 28, 2006

Ministry of Capacity Building Public Sector Capacity Building Program, Consolidated civil service reform, Action plan for public sector capacity building (2004-2008) Civil service reform program office
December 2003 Addis Ababa

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

References:

Costantinos, BT (2004) Priming the role of the legislature in combating graft and grand corruption. Paper presented to the Ethiopian Legislature.

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:

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001
Revised Federal Ethics and Anti-Corruption Commission Establishment Proclamation No A33/2005.
11th Year No.18, Addis Ababa, February 2, 2005

b) Article 7, sub-article 2 to prevent corruption by studying or causing to be studied the practices and procedures in Public Offices and Public Enterprises to secure the revision of methods of work which may be conducive to corrupt practices as well as follow up their implementation; and inform or remind the relevant body, when deemed essential, to take the proper measures or give decision, and advise or assist on same, upon request, any other persons.

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:

Proclamation No. 57/1996 Federal Government of Ethiopia Financial Administration Proclamation
Part Eleven Procurement and contracts 54. Mode of Procurement

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

References:

Proclamation No. 57/1996 Federal Government of Ethiopia Financial Administration Proclamation
Part Eleven Procurement and contracts 54. Mode of Procurement

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:

Civil Code of the Empire of Ethiopia, Proclamation No. 165 Of 1960
Book IV – Obligations, Title XI Contracts

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

References:

Civil Code of the Empire of Ethiopia, Proclamation No. 165 Of 1960
Book IV – Obligations, Title XI Contracts

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:

Proclamation No. 430/2005, Determining procedures of Public Procurement and Establishing its Supervisory Agency

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001

Revised Federal Ethics and Anti-Corruption Commission Establishment Proclamation No A33/2005.

11th Year No.18, Addis Ababa, February 2, 2005

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

References:

Proclamation No. 57/1996 Federal Government of Ethiopia Financial Administration Proclamation

Part Eleven- Procurement and Contracts

54. Mode of Procurement – All goods and services shall be procured on the basis of directives issued by the Ministry, and these directives shall outline the manner in which goods and services are procured and the form in which information pertaining to such procurement is made public.

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?

100

44a. In law, citizens can access public procurement regulations.

YES | NO

References:

Ministry Of Finance and Economic Development Procurement Guidelines

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

References:

Proclamation No. 430/2005, Determining procedures of Public Procurement and Establishing its Supervisory Agency

Proclamation No. 57/1996 Federal Government of Ethiopia Financial Administration Proclamation
Part Elevent Procurement and Contracts

54. Mode of Procurement – All goods and services shall be procured on the basis of directives issued by the Ministry, and these directives shall outline the manner in which goods and services are procured and the form in which information pertaining to such procurement is made public.

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

References:

Ministry of Finance and Economic Development Procurement Guidelines

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

References:

Records are free to all citizens, or available for the cost of photocopying. They can usually be obtained from private vendors.

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

References:

All major tenders are advertised in the national papers and tender documents are available for sale with a deposit.

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

References:

For a payment of a small fee, they can be bought from the appropriate ministry or agency.

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?

92

45a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

References:

Proclamation No. 146/1998 Privatization of Public Enterprises Proclamation,
19. Powers and Duties

d) determine bid evaluation criteria for the selection of investors participating in privatization.

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:

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001

Revised Federal Ethics and Anti-Corruption Commission Establishment Proclamation No A33/2005.

11th Year No.18, Addis Ababa, February 2, 2005

d)Article 7, sub-article 4. investigate and prosecute or cause the investigation and the prosecution of any alleged or suspected corruption offences specified in the criminal code or in other laws where they are committed by public officials or public employees or other persons in Public Offices or Public Enterprises, or in the Regional offices relating to subsidies granted by the Federal Government to the Regions;

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:

The former board chairman of the Privatization Agency is facing legal suits for alleged conflict of interest.

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?

46a. In law, citizens can access the terms and conditions of privatization bids.

YES | NO

References:

Proclamation No. 146/1998 Privatization of Public Enterprises Proclamation

d) determine bid evaluation criteria for the selection of investors participating in privatization

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:

Proclamation No. 146/1998 Privatization of Public Enterprises Proclamation

g) take all necessary measures to publicize the privatization programme and its implementation

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:

Records can be obtained within two days.

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.

100 | 75 | 50 | 25 | 0

References:

Records are free or available for the cost of photocopying.

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

88
V-1. National Ombudsman

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

47. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

References:

Institution of the Ombudsman Establishment Proclamation, Proclamation No. 211/2000

1) The Institution of the Ombudsman is hereby established as an autonomous organ of the federal Government having its own juridical personality.

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?

84

48a. In law, the ombudsman is protected from political interference.

YES | NO

References:

Institution of the Ombudsman Establishment Proclamation, Proclamation No. 211/2000

1) The Institution of the Ombudsman is hereby established as an autonomous organ of the federal Government having its own juridical personality.

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

References:

The Ombudsman is an independent federal institution, yet it is sometimes influenced in its work by political incentives.

Inigo Gilmore in Addis Ababa, Sunday December 4, 2005, The Observer
Democratic Dawn in Ethiopia Fades as Abuses Come to Light, Post-election Protests Have Resulted in A Wave of Arrests

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

References:

Institution of the Ombudsman Establishment Proclamation, Proclamation No. 211/2000
Art 3. Establishment
2) The Institution shall be accountable to tile House.

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.

Comments:

One of the important reform measures undertaken by the new government following its accession to power, in May 1991, is rectification of the shortcomings of the civil service by eliminating redundant institutions, unbundling and contracting of activities and hence reducing the number of employees on the government payroll. As a result, considerable success was registered in terms of realizing pockets of relatively effective government performances.

However, as the problems the civil service inherited from the previous regime could not automatically disappear, and aware that the goal of creating a democratic system of governance and a market economy was not going to succeed unless the civil service would be changed, the Government decided to initiate a program of systematic reform that focuses on creating an enabling environment for the civil service, build its institutional and human resource capacity and introduce improved management systems and practices into its operations. For this purpose it set up a special task force, in November 1994, to diagnose the capacity of the civil service and take stock of the problems constraining its efficiency and effectiveness.

The task force undertook an in-depth review of the management arrangement and operations of the civil service from federal to woreda levels and reported its findings to the Government in February 1996. The report confirmed the existence of a number of problems and weaknesses constraining the performance of the civil service. These included:

- 1) Concentration of management on administration and control of inputs and activities rather than in achieving government policies;
- 2) Inability of management systems to effectively respond to the changing environment in which the civil service operates;
- 3) Lack of accountability for failure to meet expected performance results;
- 4) Prevalence of negative public perception of government bureaucracy as a hindrance in their lives (rather than a facilitator) with needless and time consuming procedures;
- 5) Underdevelopment of positive attitude towards public service;
- 6) Excessively hierarchical arrangements resulting in little real delegation;
- 7) Under-paid, under skilled and demoralized staff; and
- 8) Increasing incidence of corruption, embezzlement and fraud.

In March 1996, the Government launched the second development phase of the reform program to address reported problems and improve the performance of the civil service on 5 fronts, namely:

- (a) Expenditure Management and Control (EM&C) including procurement, budgeting process, auditing and accounting reforms, review of fees and charges, and an overhaul of the internal and external control systems, development and introduction of new and improved financial administration legal frameworks and associated regulations and directives;
- (b) Human Resource Management (HRM) including overhaul of the Civil Service Law, which was in force for many years, and reform of systems and procedures governing job classification and grading, remuneration and conditions of service, performance appraisal and time management, recruitment, selection, promotion and transfer, human resource planning, and human resource information system (HRMIS)
- (c) Service Delivery (SD) concerned with the development and introduction of a comprehensive service delivery policy, complaints handling mechanisms, and service standards to facilitate positive changes in the culture, attitude and work practice of government officials towards the provision of effective and equitable public services;
- (d) Top Management Systems (TMS) involving reforms to enhance the quality and speed of decision-making through the development of top officials' and senior managers' capacity to manage, and to improve systems and processes governing the development and management of institutions' policy, annual and strategic planning, performance evaluation and monitoring, delegation of responsibilities, and reporting; and
- (e) Ethics focusing on the development and implementation of mechanisms and best practices to combat corruption and impropriety, as well as, enhancing accountability and transparency within the civil service and the government.

With the determination to build a dynamic, effective, efficient, performance oriented and morally upright civil service that translates its development objectives into reality, and to address the problems faced by the civil service, through new approaches and systems, and capacity building measures, the Government articulated the vision for the civil service of the future and set the objectives of the CSR initiative.

References:

Report of the Ombudsman to the House, 2006

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

References:

Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

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

References:

Federal Government Budget, 2005

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

References:

Prime Minister's Report to the House, 2006

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

References:

Prime Minister's Report to the House, 2006

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

References:

When rule violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

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

References:

Prime Minister's Report, 2006

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 politically 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.

References:

Oral communication with Organization for Social Justice

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?

92

49a. In law, citizens can access reports of the ombudsman(s).

YES | NO

Comments:

- 1) A complaint may be lodged by a person claiming to have suffered from maladministration or, by his spouse, family member, his representative or by a third party.
- 2) The Institution may, in consideration of the gravity of the maladministration committed, receive anonymous complaints.
- 3) Prior to lodging a complaint with the Institution in respect of an act of maladministration from which he has suffered, any person shall bring the complaint before the relevant organs.
- 4) Without prejudice to the provision of Article 7 hereof, the right to lodge complaints, as under this Proclamation shall be no bar to the institution of criminal or civil proceedings over the same case.
- 5) The Institution shall receive and investigate complaints free of any charge.

References:

Institution of the Ombudsman Establishment Proclamation, Proclamation No. 211/2000
Part Three – Rules Of Procedure Of The Institution
22.The Right to Lodge Complaints

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

References:

Reports can be obtained within a week and are uniformly available; there are no delays for politically sensitive information.

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

References:

Reports are free to all citizens, or available for the cost of photocopying.

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

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995
Article 101 The Auditor General Proclamation

Proclamation No. 68/1997 Office of the Federal Auditor General Establishment

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?

84

51a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:

Article 5. Appointment and Accountability of the Federal Auditor General

- 1) The Federal Auditor General who heads the Office of the Federal Auditor General shall be appointed by the Council of Peoples' Representatives upon recommendation by the Prime Minister.
- 2) The Federal Auditor General shall be accountable to the Council of Peoples' Representatives and, between sessions shall be accountable to the President of the Federal Republic.

References:

Proclamation No. 68/1997 Office of the Federal Auditor General Establishment Proclamation
Art 5. Appointment and Accountability of the Federal Auditor General

- 1) The Federal Auditor General who heads the Office of the Federal Auditor General shall be appointed by the Council of Peoples' Representatives upon recommendation by the Prime Minister.
- 2) The Federal Auditor General shall be accountable to the Council of Peoples' Representatives and, between sessions, shall be accountable to the President of the Federal Republic.

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

References:

Independent Report of the Auditor General to the House, 2005-2006

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

References:

Report of the Auditor General to the House, 2005-2006

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

References:

Independent Press Report, 2005

Report of the Auditor General, 2005-2006

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:

Fiscal Budget Gazette, 2005-2006

PM's Report to the House, 2005-2006

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

References:

Report to the House, 2005-2006

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:

This report by the auditor general refers to the 7.2 billion Birr (US\$838 million) provided as budget support to the Regional States but not accounted for. The PM stated that, while accepting the report of the Auditor General and saying it must be respected on all counts, he took strong objection because the Constitution provides that the Auditor General is to audit only federal funds and not the funds of the autonomous Regional States.

References:

PM's Report to the House, 2005-2006

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

References:

Proclamation No. 68/1997 Office of the Federal Auditor General Establishment Proclamation

The Constitution – Article 101 The Auditor General

2. The Auditor General shall audit and inspect the accounts of ministries and other agencies of the Federal Government to ensure that expenditures are properly made for activities carried out during the fiscal year and in accordance with the approved allocations, and submit his reports thereon to the House of Peoples' Representatives.

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?

100

52a. In law, citizens can access reports of the agency.

YES | NO

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Article 10 Human and Democratic Rights

(b) Access to information of public interest.

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

References:

Records can be obtained within two days.

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

References:

Reports are available for the cost of photocopying.

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.

95
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

References:

Proclamation No. 61/1997 Federal Inland Revenue Authority Establishment Proclamation

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

References:

PM's Report to the House, 2005-2006

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:

Report of the Agency, 2005-2006

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:

See also the International Monetary Fund report that sufficient taxes are not being collected by the revenue ministry. It was under this pretext of its inability to collect post-profit tax that the Government introduced Value-Added Taxes (VAT) to be collected from customers as they undertake transactions.

The government has also produced several reports to Parliament regarding the low levels of tax collection.

References:

Report of the Agency, 2005-2006

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

References:

Proclamation No. 125/1998 Customs Authority (Amendment) Proclamation

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:

Report of the Agency, 2005-2006

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:

Report of the Agency, 2005-2006

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?

50

58. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

References:

2005-2006 Report of the Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001

Revised Federal Ethics and Anti-Corruption Commission Establishment Proclamation No A33/2005.

11th Year No.18, Addis Ababa, February 2, 2005

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

References:

Proclamation No. 27712002, Public Enterprises Supervising Authority and the Industrial Development Fund Establishment Proclamation

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?

80

60a. In law, the financial regulatory agency is protected from political interference.

YES | NO

References:

Proclamation No. 57/1996 Federal Government of Ethiopia Financial Administration Proclamation

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

References:

PM's Report to the House, 2005-2006

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

References:

PM's Report to the House, 2005-2006

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

References:

Report of the Ministry of Finance and Economic Development, 2005-2006

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

References:

Report of the Ministry, 2005-2006

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?

92

61a. In law, citizens can access the financial records of publicly listed companies.

YES | NO

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995
Article 29 Right of Thought, Opinion and Expression
(b) Access to information of public interest.

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

References:

Proclamation No. 27712002, Public Enterprises Supervising Authority and the Industrial Development Fund Establishment Proclamation

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

References:

Proclamation No. 68/1997 Office of the Federal Auditor General Establishment Proclamation

Art 5. Appointment and Accountability of 'the Federal Auditor General

1) The Federal Auditor General who heads the Office of the Federal Auditor General shall be appointed by the Council of Peoples' Representatives upon recommendation by the Prime Minister.

2) The Federal Auditor General shall be accountable to the Council of Peoples' Representatives and, between sessions, shall be accountable to the President of the Federal Republic.

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

References:

These records are available for free to all citizens through a formal official process.

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.

References:

Records can be obtained within two days

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.

References:

Records are free to all citizens, available for the cost of photocopying.

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.

62a. In law, anyone may apply for a business license.

YES | NO

References:

Proclamations to amend the commercial registration and business licensing proclamation:

Proclamation No. 67/1997,

Proclamation No. 171/1999,

Proclamation No. 376/2003,

Proclamation No. 328/2003

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

References:

Proclamations to amend the commercial registration and business licensing proclamation:

Proclamation No. 67/1997,

Proclamation No. 171/1999,

Proclamation No. 376/2003,

Proclamation No. 328/2003

Proclamation No. 67/1997 Commercial Registration and Business Licensing Proclamation, Page 367

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:

Licenses can be obtained within roughly one day to one week.

References:

Annual reports of the Chamber of Commerce
Annual Reports of the Ministry of Trade and Industry

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:

Licenses can be obtained for as little as US\$20 cost to the organization

References:

New Economic Policy, 1992
Proclamation No. 67/1997 Commercial Registration and Business Licensing Proclamation, Page 367

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?

63a. In law, basic business regulatory requirements for meeting health, safety, and environmental standards are transparent and publicly available.

YES | NO

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Civil Code of Ethiopia, 1961

Environmental Codes of Ethiopia, 2004

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:

The municipality and the sub-cities had started to regularly inspect businesses for environmental hygiene and enforced regulations.

The inspections have however been very lax recently, as the newly-appointed mayor has yet to assert his position on the matter.

References:

Municipality of Addis Ababa inspection reports

The Reporter newspaper (Amharic edition) – prints from the last six months

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.

89
VI-1. Anti-Corruption Law

64. Is there legislation criminalizing corruption?

100

64a. In law, attempted corruption is illegal.

YES | NO

References:

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001
Revised Federal Ethics and Anti-Corruption Commission Establishment, Proclamation No A33/2005.
11th Year No.18, Addis Ababa, February 2, 2005

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:

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001
Revised Federal Ethics and Anti-Corruption Commission Establishment, Proclamation No A33/2005.
11th Year No.18, Addis Ababa, February 2, 2005

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

References:

Criminal Code, Art. 401-417

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

References:

Criminal Code, Art. 410-417

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:

Criminal Code, Art. 401-417

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

References:

Criminal Code, Art. 401-417

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

References:

Federal Civil Servants Proclamation No. 262/20P2 – Proclamation No. 398/2004
Criminal Code, Art. 401-417

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

References:

Criminal Code, Art. 684

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

References:

Criminal Code, Art. 38 Criminal Conspiracy.

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

References:

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001
Revised Federal Ethics and Anti-Corruption Commission Establishment, Proclamation No A33/2005.
11th Year No.18, Addis Ababa, February 2, 2005

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:

Article 4 Revised Federal Ethics and Anti-Corruption Commission Establishment Proclamation NoA33/2005 states that notwithstanding the provisions of Sub-Article 2 of Article 3 of this Proclamation, the Commission shall be free from any interference or direction by any person with regard to cases under investigation or prosecution or to be investigated or prosecuted. Article 3 is the Establishment of the Commission – sub article 1. The Federal Ethics and Anti-Corruption Commission is hereby established as an independent Federal Government body.

References:

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001
Revised Federal Ethics and Anti-Corruption Commission Establishment, Proclamation No A33/2005.
11th Year No.18, Addis Ababa, February 2, 2005

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:

PM's Report to the House, 2005-2006

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

Comments:

The Federal Ethics and Anti-Corruption Commissioner was transferred from the Federal Ethics and Anti-Corruption Commission to her current position. Private newspapers (The Reporter) reported that the Commissioner had exceeded her authority, curtailing the administration of business both in the public and private sectors.

References:

The commissioner became the head of the Administration of Rented Houses in 2005.

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:

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

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:

PM's Report to the House, 2005-2006

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:

Federal budget of 2005-2006

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

References:

Report of the Commission, 2005-2006

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

References:

Federal Ethics and Anti-Corruption Commission, Establishment Proclamation, Proclamation No. 235/2001

Revised Federal Ethics and Anti-Corruption Commission Establishment, Proclamation No A33/2005.

11th Year No.18, Addis Ababa, February 2, 2005

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

References:

When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government.

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?

75

67a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

The agency acts on complaints quickly.

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

References:

Whistleblowers can report abuses of power without fear of negative consequences.

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.

86
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

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995
Proclamation 14/1995 – House of Peoples’ Representatives Legislative Procedure
Institution of the Ombudsman Establishment Proclamation, Proclamation No. 211/2000
Federal Civil Servants Disciplinary and Grievance Procedure Council of Ministers Regulations, Council of Ministers Regulations No. 77/2002
Proclamation No. 438/2005 Proclamation to make Electoral Law of Ethiopia Conform with the Constitution of the Federal Democratic Republic of Ethiopia (Amendment) Proclamation

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

References:

Various reports of the judicial system

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

References:

In most cases, the appeals mechanism is an affordable option to middle-class citizens seeking to challenge criminal judgments.

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

References:

Judgments in the criminal system are made according to the established legal code and conduct. Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

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?

100

70. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

Comments:

The purpose of this study is to assess the causes of land disputes and implementation of court decisions. The study basically covers land dispute cases filed in the High Court and the Supreme Imperial Court of Ethiopia. Land dispute cases disposed by the High Court (1st instance) and the Supreme Imperial Court (appellate jurisdiction) during the above mentioned 13 year-period, have been selected primarily because:

1. It gives an opportunity to examine the types and causes of land disputes, which arose immediately after the coming into force of the Ethiopia Civil Code, the law governing land ownership, usufruct and other forms rights.

2. It gives a better chance of comparing the land tenure systems and rights on land in the different parts of the empire.
3. Land-dispute cases during these periods, a couple of years before the nationalisation of land included, are normally more interesting to look into.

Out of the total of 19,608 civil dispute cases from 1952 – 1965, 10,294 constituted land-dispute cases. These figures indicate cases which were filed and resolved by the High Court and Supreme Imperial Court during the above mentioned period. A sample of 50 files from each year was randomly chosen. Out of the 500 files studied for the 10 year-period, the most common types of land- dispute cases have been chosen for the purpose of this study.

References:

Lem Ethiopia, Land Tenures and Legal History of Land Dispute and Resolution in Ethiopia Survey Volume 12 – No.1 1995, Addis Ababa

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?

94

71a. In law, the independence of the judiciary is guaranteed.

YES | NO

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

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.

References:

National level judges are typically independent, although they are sometimes influenced in their judgments by political incentives.

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:

Ethiopia has an objective system that is transparent to the public and that equitably or randomly assigns cases to individual judges.

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

References:

There are specific, formal rules for removal of a justice.

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:

There were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period.

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:

There were no documented cases of judges being killed related to their involvement in a corruption case during the study period.

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?

79

73a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

References:

Judicial decisions are not affected by racial or ethnic bias.

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

References:

Women enjoy full and equal status in the eyes of the courts.

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

References:

The state provides well-trained lawyers to represent the rights of indigent defendants.

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

References:

The legal system is an affordable option to middle-class citizens seeking to redress a grievance.

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 legal system is an affordable option to a small retail business seeking to redress a grievance.

References:

GCA/ALF- Study on the Political Transition Ch. 10, Rule of Law
Addis Ababa, 1995

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:

Courts are available at the district level in all districts, although some citizens may be unable to reach a courtroom at low cost due to location in remote areas of the nation.

References:

Public Sector Capacity Building Programme (PSCAP) Meritocracy Review of the Ethiopian Civil Service Final Report
Addis Ababa, March 28, 2006

Ministry of Capacity Building Public Sector Capacity Building Program, Consolidated Civil Service Reform, Action Plan for Public Sector Capacity Building (2004-2008), Justice Reform Program
Addis Ababa, December 2003

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?

67

74a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

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

The reference to Prof. Levin's comments is provided to show the close linkages between law enforcement and the judiciary, the latter of which ultimately has to receive complaints concerning the independence of law enforcement. The Police Commissioner is appointed by the Prime Minister subject to the approval of the House of Representatives which is dominated by the ruling party.

References:

Levin, Donald (2006) Getz Sost. EINEPS, Los Angeles www.eineps.org/forum

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:

Law enforcement agencies (police, Federal Ethics and Anti-Corruption Commission, the Attorney General) have budgets sufficient to fulfill their basic mandate, although some reports indicate that they are stretched out in the courts, where shortage of judges can drag cases for many years.

References:

Law enforcement agencies (police, Federal Ethics and Anti-Corruption Commission, the Attorney General) budget submission and parliamentary approval – reports of organizations and parliament

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.

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

Comments:

According to Professor Levin, the opposition leaders and the Government officials both argue eloquently on behalf of upholding the rule of law. The former maintain that their aim is not to gain power but to secure precedents for democratic parliamentary norms. The Government's decision not to grant bail to the (political) prisoners on grounds that the charges against them are not bailable. To be sure, there may well be more independence in the court system already than some imply (something about which little secure knowledge exists), but consider that Judge Yalew Teshome's judgment of June 9, 2005 criticized the National Election Board for acting "not only contrary to the Law but also contrary to the Board's own word . . . that it will not issue provisional announcements under whatever guise." Even so, how could anyone make a blanket claim about an independent judiciary when the executive branch can appoint and dismiss court officials at will, as for example the dismissal of a dozen federal judges and more than half of the Addis Ababa Regional court judges in the 1990s? How could anyone claim an independent judiciary exists when judges who voice opinions considered out of line can be in trouble, as when Judge Bertukan Mideksa, whose judicial order to release Ato Siye Abrha was overturned by executive fiat, was allegedly denied due promotion, or the case of Judge Amir Yusuf of Harar, an impeccably well-trained and highly responsible judge, who was reportedly dismissed from his position for voicing some opinions of which the Government disapproved. The root of these problems is structural. For one thing, the court system does not have its own budget. For another, the Prime Minister holds authority to appoint judges. What is more, lower-level decisions are routinely subjected to intervention and review by higher-level courts, rather than being referred to them through an appeal process. Problems due to this structure, in place for more than a decade, were aggravated when, following Judge Bertukan's decision in the Siye case, Parliament passed hasty legislation that gave the Government the right to hold without bail anyone accused of corruption. That wipes out the last vestige of independence on the part of the court system. (What is more, it threatens the economy by instilling fear throughout the business community). Again I say that we must respect the forms of a systematic, independent, speedy completion of their trial "as a step toward advancing the role of an independent judiciary." Donors have completed and provided to the Speaker of Parliament a study on regulation of the media in the UK, Canada, Germany and India. The report addresses issues related to freedom of expression as well as the responsibility of journalists to provide accurate information. The Speaker has indicated that the report will be distributed to opposition leaders as soon as it is finalized in preparation for both discussions within the political dialogue as well as hearings in the Parliament. The National Electoral Board is currently developing a plan to address weaknesses identified by another study, which include chronic understaffing and a lack of effective management structures. And a fourth pillar of the democratization process, the institution of an independent judiciary, could become the subject of a fourth initiative. My observations remain fallible and subject to correction, as do those of anyone who attempts to work on public issues. What is absolutely clear and irrefutable is the value of open dialogue, and the pressing need to take small steps to support that dialogue in contemporary Ethiopia.' "

The recent investigation by the Inquiry Commission into the killings of 197 people in the aftermath of the 2005 elections has brought scores of family members of the deceased, police officers, and government workers to provide evidence. The chair of the Commission (now in asylum abroad) claims that the Government has indeed interfered with the conclusion arrived at by the Commission members. The claim indirectly indicts the government for having a hand in interfering with police to achieve a political objective — to silence opponents of the regime.

References:

Levin, Donald (2006) Getz Sost. EINEPS, Los Angeles www.eineps.org/forum

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?

88

75a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

Comments:

An independent commission has been set up by Parliament to investigate excessive police action during the civil strife in Gambella and after election riots in June and November 2005. It has yet to report its findings to the Parliament.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Institution of the Ombudsman

The Human Rights Commission

Proclamation No.47811005. A proclamation to establish an independent inquiry commission to investigate the disorder occurred on June 8, 2005 in Addis Ababa, as well as the incidents that took place between November 1 and November 10, 2005, and between November 14 and November 16, 2005 in Addis Ababa and in some parts of the country.

The objective of the Commission is to investigate the disorder and its consequence as well as to submit a report to the House of Peoples' Representatives of the Federal Democratic Republic of Ethiopia. The Commission shall investigate: (a) whether the force to control the disorder was excessive or not, (b) Whether the handling of human rights matters related to the problem was conducted in accordance with the constitution and the rule of the law. (c) the damage caused to life and property as the result of the incident.

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.

Comments:

The ombudsman responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

Actions of various government law enforcement agencies using proclamations such as Proclamation No. 398/2004 An Inquiry Commission to Investigate the Conflict Occurred in Gambela Regional State on December 13, 2003; Establishment Proclamation and Proclamation No. 47811005 An Inquiry Commission to Investigate the Disorder Occurred in Addis Ababa and in Some Parts of the Country.

References:

Reports of Office of the Ombudsman, 2005
Reports of the Ethiopian Women Lawyers Association, 2001-2004

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:

There have been high level court cases including the case of former Prime Minister Tamrat Layne, who is now serving a 16-year sentence for soliciting and obtaining US\$16 million from a businessman.

References:

Federal Ethics and Anti-Corruption Commission

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:

The Federal Ethics and Anti-Corruption Commission investigation without bail has been, according to many ex-prisoners of the Commission, abused by political motives and has resulted in businessmen and bankers spending over five years languishing in jails without bail, only to be released free.

This will create despondency among the public that this has been an instrument of politics rather than fighting corruption.

References:

Federal Court Proceedings 2005/2006: Federal Ethics and Anti-Corruption Commission is currently investigating public officials without bail. (These cases are related to bank loans to businesses amounting to a couple of billion Birr).

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:

Court documents testify with reference to the Criminal Code that has the relevant provisions for law enforcement officers to be fully accountable for their actions under the law and decisions by the courts on law enforcement officials.

References:

Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995

Criminal Code – Chapter II, Crimes Committed by Public Servants Against Public Office
Section 1.- Corruption Crimes Committed by Public Servants in Breach of Trust and Good Faith,
Art 407. Abuse of Power.

(1) Any public servant who, with intent to obtain for himself or to procure for another an undue advantage or to injure the right or interest another: a) misuses his official position or the power proper to his office, whether by a positive act or by a culpable omission; or exceeds the power with which he is officially invested; or is punishable, according to the circumstances of the case with simple imprisonment for not less than one year, or with rigorous imprisonment not exceeding ten years and fine, where there is no express provision in this Code concerning the matter.

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:

Law enforcement officials are not immune from criminal proceedings, although there was a necessity to set up an independent inquiry commission to investigate the disorder occurred on June 8, 2005 in Addis Ababa, as well as the incidents that took place between November 1 and November 10, 2005, and between November 14 and November 16, 2005 in Addis Ababa and in some parts of the country.

Proclamation No.47811005. A proclamation to establish an independent inquiry commission to investigate the disorder occurred on June 8, 2005 in Addis Ababa, as well as the incidents that took place between November 1 and November 10, 2005, and between November 14 and November 16, 2005 in Addis Ababa and in some parts of the country. The objective of the Commission is to investigate the disorder and its consequence occurred as well as to submit a report to the House of Peoples' Representatives of the Federal Democratic Republic of Ethiopia.

The Commission shall investigate: (a) whether the force to control the disorder was excessive or not, (b) Whether the handling of human rights matters related to the problem was conducted in accordance with the constitution and the rule of the law. (c) the damage caused to life and property as the result of the incident.

References:

Reporter Newspaper cites several cases where an incumbent prime minister, a defence minister, policemen and security forces have been subject to the rule of law over the past two years.

Draft Report of the The Commission on the inquiry as to the role of the security forces in the June and November 2005 killings.

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.