

Overall Score:

57 - Very Weak

Legal Framework Score:

69 - Weak

Actual Implementation Score:

44 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁷³Civil 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:

The right to associate is constitutionally guaranteed.

References:

Liberian Constitution, Chapter III, Article 17

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 law does not prohibit legally registered CSOs from receiving domestic or outside funding.

References:

Liberia Business Corporation Act of 1976

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:

The law requires CSOs to disclose their sources of funding.

References:

Liberia Business Corporation Act of 1976

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?

92

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:

No government interference with the registration of CSOs was reported during this period.

References:

Interview with NGO social scientist/researcher, Monrovia, August 5, 2006

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

CSOs are very active in the policy-making process regarding anti-corruption projects.

References:

The Analyst, Civil Society Groups Forge United Front," July 1, 2006 Monrovia, Liberia

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:

There were no reports of a CSO being shut down for its stand on anti-corruption activities.

References:

Interview with NGO social scientist/researcher, Monrovia, August 5, 2006

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:

There were no reports of the government imprisoning members of CSOs for their stand on corruption.

References:

Interview with NGO social scientist/researcher, Monrovia, August 5, 2006

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:

There were no reports of physical harm to civil society activists working on corruption issues.

References:

Interview with NGO social scientist/researcher, Monrovia, August 5, 2006

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:

There were no reports of civil society activists being killed for working on corruption issues.

References:

Interview with NGO social scientist/researcher, Monrovia, August 5, 2006

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?

100

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

YES | NO

Comments:

The right to organize, including trade unions, is one of the fundamental rights guaranteed by the constitution of Liberia.

References:

Liberian Constitution, Chapter III, Article 17

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

Comments:

There were no reports of obstruction of citizens' constitutionally guaranteed right to organize.

References:

Interview with NGO social scientist/researcher, Monrovia, August 5, 2006

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:

In law freedom of the media is a fundamental right guaranteed by the constitution

References:

Liberian Constitution, Chapter III, Article 15

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:

Freedom of speech is a constitutionally guaranteed right of all citizens.

References:

Liberian Constitution, Chapter III, Article 15

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?

81

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

100 | 75 | 50 | 25 | 0

Comments:

There were no reports of barriers to the registration of any news media.

References:

Interview with journalist, August 7, 2006, Monrovia, Liberia

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:

Citizens whose right to a media license is violated can seek legal redress.

References:

Liberian Constitution, Chapter III, Article 26

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

Comments:

There were no reports of unnecessary delays in disseminating media licenses, though there may have been administrative delays.

References:

Interview with journalist, August 7, 2006, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There were no reports of problems associated with obtaining a media license because of cost. Each class of media license has a fixed price. The rough cost of obtaining a media license in Liberia is between US\$500.00-US\$600.00.

References:

Interview with journalist, August 7, 2006, Monrovia, Liberia

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?

83

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

YES | NO

Comments:

Freedom of speech and of the press is guaranteed by the Liberian Constitution and cannot be limited by anyone, including the government.

References:

Liberian Constitution, Chapter III, Article 15

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:

There were no reports of self-censorship on corruption-related stories encouraged by the government, media owners or distribution groups.

References:

Interview with journalist, August 7, 2006, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There were no reports of government restraint in publishing corruption-related stories.

References:

Interview with journalist, August 7, 2006, Monrovia, Liberia

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?

44

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

YES | NO

Comments:

The law requires companies to list founders and high officials, including the board of directors.

References:

Liberia Business Law of 1976

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:

Liberian journalism has huge problems as a result of the civil wars: The way outlets sustain themselves has resulted in credibility problems. Stories and their placement can be bought and sold by outside interests, and campaign advertisements are often indistinguishable from news coverage.

References:

Interview with political party representatives, August 7 2006, Monrovia, Liberia

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:

Discontent exists over how the last elections were covered by the Liberian media, especially the print media. Parties or candidates that did not pay money reportedly did not receive fair coverage. Campaign advertisements are often indistinguishable from news coverage.

References:

Interview with political party representatives, August 7 2006, Monrovia, Liberia

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

75:

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

25:

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

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

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

Comments:

While the law requires equal access to state-owned media, it does not exist in practice because news stories are bought and sold by outside interests.

References:

Interview with political party representatives, August 7 2006, Monrovia, Liberia

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?

100

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

YES | NO

Comments:

There was no report of journalists imprisoned for reporting on corruption.

References:

Interview with political party representatives, August 7 2006, Monrovia, Liberia

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

Comments:

There was no report of journalists being physically harmed for reporting on corruption.

References:

Interview with journalist, August 7, 2006, Monrovia, Liberia

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 reports of journalists being killed for reporting on corruption.

References:

Interview with journalist, August 7, 2006, Monrovia, Liberia

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.

I-3. Public Access to Information

82

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:

The constitution guarantees citizens the right to knowledge and information, including government information except when restricted by law.

References:

Liberian Constitution, Chapter III, Article 15

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

Comments:

The constitution guarantees every citizen the right to seek legal redress if any of the rights provided for in the constitution are violated.

References:

Liberian Constitution, Chapter III, Article 26

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:

Citizens may seek access to public records through the administrations of each agency or institution. If citizens are denied access without any legal reason, they can seek redress through the judicial system.

References:

Liberian Constitution, Chapter III, Article 26

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

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

11. Is the right of access to information effective?

15

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

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

Comments:

While citizens' access to sensitive information may be delayed or denied, there were no reports of this occurring during the period under review.

References:

Interview with NGO Representative, August 5, 2006, Monrovia

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:

While records are free to citizens, administrative bottlenecks such as photocopying charges may delay the process.

References:

Interview with NGO Representative, August 5, 2006, Monrovia

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 were no reports of citizens appealing denials of government information.

References:

Interview with NGO Representative, August 5, 2006, Monrovia

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 were no reports of citizens resorting to appeals to access information. It could be that no one was denied access to information, or the information was not worth the time and money needed for an appeal.

References:

Interview with NGO Representative, August 5, 2006, Monrovia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There are no reports of the government denying citizens access to the public record. It could be that no one was denied access to information, or the information was not worth the time and money needed for an appeal.

References:

Interview with NGO Representative, August 5, 2006, Monrovia

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

75:

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

25:

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

Category II. Elections

II-1. ⁷¹Voting & Citizen Participation

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

50

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

YES | **NO**

Comments:

The constitutional guaranteed universal and equal adult suffrage to all citizens who meet the legal requirements.

References:

Chapter VIII, Article 77Section(b), Liberia Constitution, 1986. See also The Electoral Reform law, 2004, Sections 1- 3

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

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

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

YES | NO

Comments:

The Liberian Constitution establishes specific intervals for the elections of members of the legislatures, the president and vice-president.

References:

Chapter V, Articles 47 & 48 for both houses of senate and representative: and chapter VI, Articles 50&51 for the president and vice president, Liberia Constitution, 1986

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

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

13. Can all citizens exercise their right to vote?

50

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

100 | 75 | 50 | 25 | 0

Comments:

By law, every citizen that meets the legal requirements has the right to vote and be voted for. Although the 2005 elections was free and fair, the election commission was accused of not providing equal access to all citizens. For example, the Southeastern Council for Peaceful Elections in Liberia accused the NEC of seeking to disenfranchise thousands of voters, especially from the Southeastern region because most populated areas never had access to voter registration.

References:

The Analyst: NECs Result Out! Confirms Disproportionate Representation Central, Northern Blocs Up; Southeast Plummet,” May 25, 2005; “Error Or Make-Up NEC Publishes Conflicting Figures Raises Public Suspicion and Apprehension,” May 26, 2005; “NEC Starts Blame-Shifting, Puts The Analyst in the Line of Fire,” May 30, 2005

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:

Elections in Liberia are held by secret ballots as provided for in the constitution.

References:

Chapter VIII, Article 77(b), Liberian Constitution, 86

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:

Since the military coup of 1980, elections in Liberia have never been held on scheduled. National elections were changed by the 1980 coup, and a new schedule was ushered by the 1986 Constitution. After the 1985 elections, the new schedule was interrupted by the civil wars. Since then, elections in Liberia have been out of the ordinary. The most recent was a result of the Accra Peace agreement between the warring factions in the Liberian conflict.

References:

Comprehensive Peace Agreement between the Government of Liberia and Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) and Political Parties Accra, Articles XVIII & IX, V

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?

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

YES | NO

Comments:

The constitution provides every citizen with the right to form a political party.

References:

Chapter III, Articles 17 & 77(a), Liberian Constitution, 1986

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

Comments:

All citizens who meet the legal requirements have a right to run for political office.

References:

Chapter VII, Article 77(b), Liberian Constitution, 1986

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:

All citizens who meet the legal requirements are able to form political parties. There were no reports of opposition by the government to formation of a political party by any group of citizens for the period under review.

References:

Lead Social Scientist/Researcher for Liberia interview, Political Party Representatives, 8th August 2006, Monrovia, Liberia

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

75:

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

25:

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

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

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

Comments:

All citizens who meet the legal requirements have a right to run for political office.

References:

Chapter VII, Article 77(b), Liberian Constitution, 1986

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:

Opposition parties are represented in the legislature of Liberia.

References:

See the October 2005 National Election Results as announced by the NEC of Liberia, Monrovia, Liberia

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

Comments:

The Liberian Constitution authorizes the National Election Commission to conduct and oversee all elections.

References:

Chapter X Article 89(b), Liberia Constitution, 1986

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?

80

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

YES | NO

Comments:

The national election commission is an autonomous public commission that should be freed from political influence.

References:

Chapter X Article 89(b), Liberia Constitution, 1986

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

Comments:

While the law states this body is autonomous, in practice it is difficult to achieve autonomy because appointments fall within the power of the president, whose appointments reflect political favoritism. The current chairman of the national election commission is a former member of the Liberian People's Party who was among the few that crossed over to the Unity Party in 1997 along with Amos Sawyer, current head of the Good Governance Commission of Liberia.

References:

See Country Reports on Human Rights Practices-2005, US Department of State: <http://www.state.gov>. Also an interview with Sogbeh, Amos Resident of Monrovia.

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:

The NEC may not have sufficient staff to fully perform. There were reports of several towns and villages left out of the voter registration process because the NEC lacked sufficient manpower and logistics.

References:

The Analyst: NECs Result Out! Confirms Disproportionate Representation Central, Northern Blocs Up; Southeast Plummet,” May 25, 2005; “Error Or Make-Up NEC Publishes Conflicting Figures Raises Public Suspicion and Apprehension,” May 26, 2005; “NEC Starts Blame-Shifting, Puts The Analyst in the Line of Fire,” May 30, 2005

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:

The NEC does not delay the announcement of election results.

References:

See the October 11 National Election Results as announced by NEC, Monrovia , Liberia: 2005

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:

The election commission may act but often ignores the facts and moves on. On June 10 2005, the NEC moved swiftly to investigate the controversy over alleged illegal pre-election activities by the Liberia Action Party and its standard-bearer Varney Sherman. As a result of that investigation, the NEC fined the party US\$3,000. In another election, the New Deal Party challenged the result, alleging electoral violations including vote buying by the ruling party on the date of the election. After the investigation, the NEC acknowledged that was a criminal offence but failed to act.

References:

The Analyst: 'NEC Strikes LAP, Sherman With US\$3,000,' June 10, 2005; 'New Deal Rejects Outcome Of RiverCess Election,' June 6, 2006; 'New Deal Cries Foul in Rivercess By-Election,' June 5, 2006

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?

96

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

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

Comments:

There are reports that many villages in Nimba, Lofa, Bong and the Southeastern regions never had access to voter registration. Some were not able to register during the registration period because walking distances to registration centers in some cases were too long or, as in the case of one village in Margibi county, villagers were simply unaware of the registration process as they had not been reached by NEC.

References:

See EU Mission Report on Liberia, 3/2/2006 p.6

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

75:

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

25:

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

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

YES | NO

Comments:

The law guarantees every citizen the right to seek legal redress if any of their rights, outlined in the constitution, are violated.

References:

Chapter VIII, Article 83 (c), Liberia Constitution, 1986

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:

Complaints of electoral violations can be appealed through the judicial system. In September 2005, the Supreme Court ruled against the NEC, which had denied independent candidates registration, and allowed the candidates seven days to hand in their corrected application to the NEC.

References:

European Union Observation Mission Final Report, 3/2/2006, pp. 7&8

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:

For this reporting period, there were no reports of the security apparatus supporting a particular candidate.

References:

Interview with Political Party Representatives, 8th August 2006, Monrovia, Liberia

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

75:

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

25:

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

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

YES | NO

Comments:

The law recognizes election observers in Liberia, and their status is regulated by a code of conduct promulgated by the NEC

References:

Liberia Electoral Reform Law, 2004, Section 13

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:

There were no reports of election observers being denied access to polling stations.

References:

Interview with NGO human rights activist, Monrovia, 5th August 2006

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

75:

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

25:

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

18. Are there regulations governing political financing?

100

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

YES | NO

Comments:

The law provides limitations on private contributions to political parties, especially from corporate and business organizations, and labor unions.

The Electoral Reform law of 2004 provides as follow:

Elections expenses shall not be incurred or authorized by a candidate and or party beyond the Liberian dollar equivalent of the following amount:

For President in the excess of Two Million United States Dollars (US\$2,000,000.00).

For Vice President in the excess of One Million United States Dollars (1,000,000.00).

For Senator in the excess of Six Hundred Thousands United States Dollars (600,000.00)

For a Representative in the excess of four Hundred Thousand United States Dollars (400,000.00)

For any other candidate in the excess of Seventy Five Thousands united states Dollars (75,000.00). (Source: Republic of Liberia, the Electoral Reform Law, Dec, 17, 2004. Ministry of Foreign Affairs, Monrovia, Liberia, Dec. 23, 2004)

References:

Liberian Constitution, Chapter VIII, Article 82, Sections a&b; also see Liberia Electoral Reform law Section 20 for all other restrictions.

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

Comments:

The law provides limitations on private contributions to political parties.

References:

Liberian Constitution, Chapter VIII, Article 82, Sections a&b; also see Liberia Electoral Reform law Section 20 for all other restrictions.

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

Comments:

The law prohibits donations from corporate entities. The Constitution states that:

Any citizen or citizens, political party association or organization, being of Liberian nationality or origin, shall have the right to contribute to the funds or election expenses of any political party or candidate; provided that corporate and business organizations and labor unions shall be excluded from making and contribution to the funds or expenses of any political party. The Legislature shall by law prescribe the guidelines under which such contributions may be made and the maximum amount which may be contributed.”

References:

Liberian Constitution, Chapter VIII, Article 82(a)

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

Comments:

The law provides limitations on political parties' expenditures.

References:

Liberia Electoral Reform law Section 20

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

Comments:

The law requires disclosure of donations to political candidates and parties.

References:

Liberian Constitution, Chapter VIII, Article 82(c)

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

Comments:

The law requires that auditing of political parties and independent candidates be done by the NEC.

References:

Liberian Constitution, Chapter VIII, Article 82(c)

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?

8

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.

Comments:

The limits on individual donations to candidates and political parties are not effective because the NEC does not have the ability to enforce the law.

References:

Interview with NGO human rights activist, Monrovia, 5th August 2006

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.

Comments:

While there were no reports of violations of this law, the limits on corporate donations to candidates and political parties are ineffective because the NEC does not have a practical mechanism to regulate this limitation.

References:

Interview with NGO human rights activist, Monrovia, 5th August 2006

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

75:

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

25:

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

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

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

Comments:

This rule is ineffective because the NEC does not have the ability to regulate or monitor its effectiveness.

References:

Interview with NGO human rights activist, Monrovia, 5th August 2006

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

75:

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

25:

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

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

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

Comments:

The NEC initiated investigations based on reports filed by the Campaign Monitoring Coalition made up of the following organizations:

Center for Transparency and Accountability in Liberia
Foundation for Human Rights and Democracy
National Human Rights Center of Liberia
Liberia Institute of Public Opinion

The Chairman of the Commission presided over the hearings. However, no punishment was meted out.

References:

Interview with NGO human rights activist, Monrovia, 5th August 2006

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Although the NEC is empowered with the legal authority to impose penalties on offenders for violating campaign finances law, there is no evidence that this power has been used.

References:

Interview with NGO human rights activist, Monrovia, 5th August 2006

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no information to suggest that contributions to political parties and candidates were audited during the period under review, though the commission may need time since the elections just ended.

References:

Interview with NGO human rights activist, Monrovia, 5th August 2006

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?

83

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

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

Comments:

Political parties and candidates usually disclose data relating to financial support and expenditures within a reasonable time period as required by law.

References:

Liberian Constitution, Chapter X, Articles 82(c) & 83(b), 1986

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There are no reports suggesting that any citizen found it difficult to access the financial record of a particular political party or candidate in a reasonable period of time.

References:

Interview with NGO Representative, August 5 2006, Monrovia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There are no reports suggesting that any citizen found it difficult to access the financial record of a particular political party or candidate in a reasonable period of time.

References:

Interview with NGO Representative, August 5 2006, Monrovia

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. ~~E7~~ Executive 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:

Every citizen has the right to sue the government whenever his/her rights are violated by the government.

References:

Liberian Constitution, Chapter III, Article 26, 1986

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?

94

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

100 | 75 | 50 | 25 | 0

Comments:

The chief executive sometimes gives reasons for decisions on critical questions, though often late or after many denials. An example is the government's request for Taylor to be turned over to the war crimes tribunal. The government denied that such a request was made, only admitting it after pressure from the public.

References:

see <http://www.news24.com> Retrieved August 7, 2006

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:

The supreme court has judiciary review power, so can review the activities of the executive when constitutional questions arise in relation to activities of the executive branch.

References:

Liberian Constitution, Chapter I, Article 2, para. 2., 1986

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:

The judiciary reviews the activities of the executive when necessary. For example, On November 7th, Liberia's Supreme Court served a writ to subject the budget and various concession agreements to legal review after being petitioned by a coalition of various local human rights groups and lawyers who claimed that the passage of the budget and the signing of long-term concession agreements with Mittal Steel and Firestone Natural Rubber Company violated the constitution and other statutory laws. The Court cancelled the stay order in mid-November citing the urgent need for funds, but the stay order on the concession agreements continues to be upheld.

References:

EIU Online Store, Country Report Liberia
<http://store.eiu.com/index.asp?> Retrieved August 20, 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

Comments:

The chief executive's use of executive orders for establishing new regulations, policies, or government practices should follow standards set by the legislature: Otherwise, they could be challenged in court. However, some circumstances permit such legally questionable orders. The diamond and timber sectors of Liberia have been restricted by an embargo imposed by the UN Security Council since 2001 because the United Nations Panel on Liberia concluded that illicit trade in Liberia's natural resources fueled and prolonged the country's civil war and that of neighboring Sierra Leone. In accordance with the recommendations of the Forest Concession Review Committee, composed of representatives from government, international and non-governmental agencies, Executive Order #1 was issued on February 2nd, cancelling all timber concession agreements concluded by past regimes.

References:

Executive Order #1, 02/07/2006, Monrovia, Liberia

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:

The president of Liberia can be investigated and prosecuted for crimes committed in office only after he or she leaves. However, the legislature can investigate and impeach the president and vice-president for treason, bribery, violation of the constitution or gross misconduct.

References:

Liberian Constitution, Chapters VI, Articles 61&62, 1986

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:

The law does not provide immunity from prosecution for ministers or other government officials.

References:

Liberian Constitution, Chapter VI, Article 61&62, 1986

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?

13

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

YES | **NO**

Comments:

The law does not require the president or other government officials to disclose assets before taking office. However, several presidents have advocated declaration of assets, though follow-through is spotty.

References:

see <http://www.analystliberia.com>, posted July 1, 2006. Retrieved:08/07/2006

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**

Comments:

The law provides no formal guidelines for regulating gifts and hospitality offered to members of the executive branch. However, the constitution states that no government shall engage in any activity that may be against public policy or constitute a conflict of interest, and or demand and receive any other perquisites, emoluments or benefits, directly or indirectly, while serving government duties.

References:

Liberian Constitution, Chapter XI, Article 90(a & b), 1986

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:

There are no expressed legal regulations for that. However, the constitution states that no government shall engage in any activity that may be against public policy or constitute a conflict of interest, and or demand and receive any other perquisites, emoluments or benefits, directly or indirectly, while serving government duties.

References:

Liberian Constitution, Chapter XI, Article 90(a&b), 1986

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 law does not require the president or other government officials to disclose assets before taking office. However, several presidents have advocated declaration of assets, though follow-through is spotty.

References:

The Liberia daily Observer: Asset Declaration- First Step to Transparency," January 19, 2006

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

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

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

YES | NO

Comments:

There is no law restricting officials from entering the private sector after leaving government. Because the country does not currently have a pension scheme that will provide for former government employees, such a restriction would be unfair.

References:

Interview with House of Representatives employee, August 8 2006, Monrovia, Liberia.

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no legal foundation for such a regulation. The government must put certain economic conditions in place before even thinking about passing this kind of law.

References:

Interview with House of Representatives employee, August 8 2006, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Since there is no effective regulation of gifts and hospitality to government officials and no asset declaration, it is difficult to monitor their income after leaving office.

References:

Interview with House of Representatives employee, August 8 2006, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Most government officials that declared their assets did so voluntarily. In order to make sure assets are audited before leaving office, it must be made mandatory.

References:

Interview with House of Representatives employee, August 8 2006, Monrovia, Liberia.

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?

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

YES | **NO**

Comments:

No records indicate there is a law to this effect. Declaration of assets is regarded as a policy of the present government that is yet to be fully implemented.

References:

The Liberia daily Observer: Asset Declaration- First Step to Transparency," January 19, 2006

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

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

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

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

Comments:

Asset disclosure is still a policy declaration that is yet to be fully implemented. However, some have declared their assets in the newspapers.

References:

The Liberia daily Observer: Asset Declaration- First Step to Transparency," January 19, 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 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

Comments:

While there will be no problem in accessing this kind of record, asset disclosure is still a policy declaration that is yet to be fully implemented.

References:

The Liberia daily Observer: Asset Declaration- First Step to Transparency,” January 19, 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.

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:

Officially, the party is separate from the state. In practice, it is difficult to make this kind of distinction because the government implements parties' agenda; therefore, it is difficult to distinguish party policy from that of the government.

References:

Interview with House of Representatives employee, August 8 2006, Monrovia, Liberia.

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?

75

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

YES | NO

Comments:

The judiciary has the power to declare any law contradicting the constitution null and void. To this end, the judiciary has the power to review the activities of the legislative branch.

References:

Liberian Constitution, Chapter I, Article 2, 1986

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

While there is a legal foundation for such a review, there are no reports to suggest that the judiciary reviewed the activities of the legislature during the period under investigation.

References:

Liberian Constitution, Chapter I, Article 2, 1986

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

Comments:

Although members of the legislature are protected from arrest while attending, going to or returning from sessions of the legislature, they can be prosecuted for treason, felony or breach of the peace.

References:

Liberian Constitution, Chapter V, Article 42, 1986

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:

Members of the legislature are not required to file asset disclosure forms. The only related law on the books is the election guidelines, which require all those seeking legislative positions to declare their assets.

References:

Section 15.2 of the regulations for the by-election, House of Representatives, District#1, Rivercess County, 2006

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**

Comments:

Liberia does not have a law that restricts national legislators or other officials from entering the private sector after leaving government.

References:

Interview with House of Representatives employee, August 8 2006, Monrovia, Liberia.

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

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

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

YES | NO

Comments:

The constitution states that no government shall engage in any activity that may be against public policy or constitute a conflict of interest, and or demand and receive any other perquisites, emoluments or benefits, directly or indirectly, while serving government duties.

References:

Liberian Constitution, Chapter XI, Article 90(a&b), 1986

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**

Comments:

There is no law that requires the independent auditing of the assets of members of the national legislature, besides the constitutional mandates of the NEC.

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

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

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

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

Comments:

There has been no evidence of any post-government restriction on private sector employment for the National Legislators. No such law exists, and since the country does not currently have a pension scheme that will provide for former government employees, such a restriction would be unfair.

References:

Interview with House of Representatives employee, August 8 2006, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no effective regulation of gifts and hospitality to legislators because there is no effective mechanism in place, such as asset declaration or independent auditing.

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

Comments:

There is no law that requires the independent auditing of the assets of members of the national legislature, besides the constitutional mandates of the NEC.

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?

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

YES | **NO**

Comments:

There is no law that gives citizens the rights to access the asset records of legislators.

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

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

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

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

Comments:

There is no evidence of such a regular practice, probably because there is no law to that effect, though in practice some records were available online.

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

75:

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

25:

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

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

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

Comments:

There is no evidence of such a regular practice, probably because there is no law to that effect, though in practice some records were available online.

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?

50

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

YES | NO

Comments:

The law provides for freedom of knowledge and information. Therefore, records of legislative processes and documents are public record that citizens have the right to access.

References:

Chapter III, Article 15(b), Liberia Constitution, 1986.

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

While there may be some administrative delay, there were no reports of citizens denied access to legislative process and documents for the period under investigation.

References:

Interview with House of Representatives employee, August 8 2006, Monrovia, Liberia.

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

75:

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

25:

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

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

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

Comments:

There are no costs associated with obtaining access to these records, except for photocopies, etc.

References:

Interview with House of Representatives employee, August 8 2006, Monrovia, Liberia.

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.

43
III-3. Judicial Accountability

31. Are judges appointed fairly?

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

YES | NO

Comments:

The procedure for the selection of judges is transparent. The president nominates the judges, subject to confirmation by the Senate.

References:

Chapter VI, Article 54(c), Liberia Constitution, 1986

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

By law and in practice, nomination to the Supreme Court and low level courts has always been based on professional and practical experience. Candidates must have good moral character” and five years of legal practice as counselor at the Supreme Court Bar in order to be qualified for appointment as Supreme Court judge: low-level courts also require good moral character and at least three years of practice as an attorney or counselor of the Supreme Court Bar. However, for political reasons, sometimes there are deviations.

References:

Chapter VII, Articles 68(a&b) &69(a&b), Liberia Constitution, 1986; see The Forum, Reconsider Cllr. Janeh’s Nomination,” March 11, 2006.

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

75:

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

25:

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

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

YES | NO

Comments:

The constitution mandates that all judges be confirmed by the Senate

References:

Chapter VI, Article 54, Liberia Constitution, 1986

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?

33

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

YES | NO

Comments:

Judges are required by law to give legal reasons for every decision rendered by them. They must demonstrate that all evidence in the case was weighted impartially and all sides were given equal opportunity to make their case.

References:

The classic case is Marcus Jones et al vs. the NEC (2005).

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

Judges are required by law to give legal reasons for every decision rendered by them. They must demonstrate that all evidence in the case was weighted impartially and all sides were given equal opportunity to make their case.

References:

The classic case is Marcus Jones et al vs. the NEC (2005).

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

75:

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

25:

0: Judges commonly issue decisions without formal explanations.

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

YES | **NO**

Comments:

There is no special ombudsman for the judiciary. There have recently been calls from many quarters (of which the Judicial Service Commission was one) for the re-consideration of articles deleted by the constitutional revision commission of Liberia in 1983.

References:

Nanka, Winsley S., Proposals for constitutional reform in Liberia – Do it before the 2005 national elections,” www.theperspective.org. 2005: Retrieved August 21, 2006

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:

There is no special ombudsman for the judiciary. There have recently been calls from many quarters (of which the Judicial

Service Commission was one) for the re-consideration of articles deleted by the constitutional revision commission of Liberia in 1983.

References:

Nanka, Winsley S., Proposals for constitutional reform in Liberia – Do it before the 2005 national elections,” www.theperspective.org. 2005: Retrieved August 21, 2006

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no special ombudsman for the judiciary. There have recently been calls from many quarters (of which the Judicial Service Commission was one) for the re-consideration of articles deleted by the constitutional revision commission of Liberia in 1983.

References:

Nanka, Winsley S., Proposals for constitutional reform in Liberia – Do it before the 2005 national elections,” www.theperspective.org. 2005: Retrieved August 21, 2006

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no special ombudsman for the judiciary. There have recently been calls from many quarters (of which the Judicial Service Commission was one) for the re-consideration of articles deleted by the constitutional revision commission of Liberia in 1983.

References:

Nanka, Winsley S., Proposals for constitutional reform in Liberia – Do it before the 2005 national elections,” www.theperspective.org. 2005: Retrieved August 21, 2006

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?

58

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

YES | NO

Comments:

The legislature has the constitutional authority to amend the budget and control its implementation.

References:

Chapter V, Article 34(d (ii), Liberia Constitution, 1986

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

In practice there can be no major spending by the government without legislative approval.

References:

Chapter V, Article 34(d (ii), Liberia Constitution, 1986

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:

Although the legislature has some difficulties, the body is able to effectively monitor budgetary expenditures by the Executive.

References:

Interview with a member of the House of Representatives, August 15 2006, Monrovia, Liberia

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

75:

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

25:

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

34. Can citizens access the national budgetary process?

33

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

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

Comments:

Efforts were made by legislators to be transparent as possible: However, some budgetary items concerning national security are compromised behind closed doors.

References:

Interview with a member of the House of Representatives, August 15 2006, Monrovia, Liberia

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

Comments:

Although citizens may contribute to the budget process, their input has less effect since they are often not invited to the debating process.

References:

Interview with a member of the House of Representatives, August 15 2006, Monrovia, Liberia

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

75:

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

25:

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

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

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

Comments:

Citizens are able to access itemized budgetary allocations because they are public record. They should be able to know what is being done with their money.

References:

Interview with a member of the House of Representatives, August 15 2006, Monrovia, Liberia

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

75:

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

25:

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

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

100

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

YES | NO

Comments:

The law provides for a separate legislative committee to oversee revenues and appropriations.

References:

Chapter V, Article 38, Liberia Constitution, 1986.

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?

44

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

100 | 75 | 50 | 25 | 0

Comments:

Reports concerning budgetary implementation are formally issued through the head of the executive to the legislative branch. However, during the process of implementation, the house may request a particular ministry or agency to make a clarification if that clarification is essential to the functioning of the legislative branch. If the agency fails to comply, the legislators may use legal means to demand compliance.

References:

Chapter V, Article 44, Liberia Constitution, 1986.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

While some members of the committee may still be interested in fostering their party's agenda, members of the committee on revenues and appropriations are selected based on regional representation and generally act in a nonpartisan way.

References:

Chapter V, Article 38, Liberia Constitution, 1986. Such committee does not exist by law.

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

75:

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

25:

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

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

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

Comments:

While some members of the committee may still be interested in fostering their party's agenda, members of the committee on revenues and appropriations are selected based on regional representation and generally act in a nonpartisan way.

References:

Chapter V, Article 38, Liberia Constitution, 1986.

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:

There were no reports of this committee conducting any independent investigations.

References:

Interview with an employee of the House of Representatives, August 8 2006, Monrovia, Liberia.

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. ³³ Civil Service Regulations

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

50

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

YES | NO

Comments:

The Constitution Provides for the establishment of a Public Service Commission (PSC). The mandate of the PSC is to provide oversight for the work of the Civil Service Agency (CSA). Regrettably, the PSC has not been established.

References:

Chapter X Article 89(a), Liberia Constitution, 1986

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:

The Liberian Constitution fully guarantees against any misuse of authority to promote divisiveness.

References:

Chapter II, Articles 5 (c), 6&7 Liberia Constitution, 1986

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:

The Liberian Constitution provides appropriate legal mechanisms for anyone whose rights are violated to seek redress through a court of law.

References:

Chapter III, Article 26, Liberia Constitution, 1986

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**

Comments:

Although there is a law prohibiting government officials from engaging in activities which constitute a conflict of interest and from demanding and receiving any other perquisites, emoluments or benefits, directly or indirectly, on account of any duty required by Government," it makes no mention of prohibiting those found guilty from occupying future government positions.

References:

Chapter XI, Article 90(a&b), Liberia Constitution, 1986

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?

19

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

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

Comments:

Liberian civil servants are not an exception to the trend of political problems in Africa or other developing countries. Deep-rooted traditions of politically motivated recruitment of friends, relatives and political allies in the civil service characterizes this system. The CSA has had no control over the recruitment process, which developed over the years of the civil wars and still exists today.

References:

S. Agbenu and A Korda, Management Review of the Liberian Civil Service Agency Draft Report," prepared for the GRC with DFID support, April 2006

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:

While some civil servants have been recruited based on professional qualifications, a vast majority of those recruited over the past years of the civil wars were not.

References:

S Agbenu and A Korda, Management Review of the Liberian Civil Service Agency Draft Report,” prepared for the GRC with DFID support, April 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

Comments:

The hiring and firing processes over the past years has generally been based on nepotism, cronyism, or patronage. Even the present government is accused of practicing the same in its attempt to downsize.

References:

See the August 8 edition of the Analyst News Paper, Monrovia, Liberia
S. Agbenu and A Korda, Management Review of the Liberian Civil Service Agency Draft Report,” prepared for the GRC with DFID support, April 2006

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

Comments:

While some professional recruits have a clear-cut job description, a good number do not because of recruitment methods.

References:

S Agbenu and A Korda, Management Review of the Liberian Civil Service Agency Draft Report," prepared for the GRC with DFID support, April 2006

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Liberian civil servants are not only low-paid, but some do not receive bonuses. This has created friction with the government recently.

References:

See the Liberia Daily Observer, June 29, 2006; The Analyst News Papers, June 29 edition.

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:

There is no evidence to suggest that the government has published such a list during the period under investigation, possibly because recruitment methods (political influence, nepotism, cronyism, etc.) used during this period did not permit any transparent alternatives.

References:

S Agbenu and A Korda, Management Review of the Liberian Civil Service Agency Draft Report," prepared for the GRC with DFID support, April 2006

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 law provides for the establishment of a Civil Service Commission, which could be an avenue for an independent redress mechanism for civil servants. Regrettably, the Liberian Government has not acted upon this provision since the present constitution came into force in 1986. As a result there is mounting pressure for a constitutional amendment.

References:

Nanka, Winsley S.: Proposals for constitutional reform in Liberia – Do it before the 2005 national elections,” www.theperspective.org. Retrieved August 21, 2006.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Civil servants in Liberia are not only low-paid, but they are frequently not paid on time.

References:

The Liberia Daily Observer, June 29, 2006

The Analyst News Papers, June 29 edition

Liberia: Civil Servant Wage Row Hampers Rural Recovery,” www.irinnews.org. Retrieved August 10, 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.

Comments:

Although there is a law prohibiting government officials from engaging in activities which constitute a conflict of interest and from demanding and receiving any other perquisites, emoluments or benefits, directly or indirectly, on account of any duty required by Government," it makes no mention of prohibiting those found guilty from occupying future government positions.

References:

Chapter XI, Article 90(a&b), Liberia Constitution, 1986

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?

33

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

YES | NO

Comments:

The law that prohibits government officials, elected or appointed, from engaging in activity that shall be against public policy, or constitute conflict of interest," is a sufficient guide for any civil servant. The constitution provides for a system of redress for every citizen whenever individual or collective rights are violated.

References:

Chapter III Articles 17&26; Chapter XI, Article 90(a), Liberia Constitution, 1986

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

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

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

YES | NO

Comments:

There is no law restricting civil servants from entering the private sector after leaving office. This is a concern of many Liberians presently calling for such a law to be passed.

References:

Flomo, David (2015), "The Emerging Liberia: The Fight Against Corruption," www.theperspective.org; Retrieved August 20, 2016
interview with employee of the House of Representative, August 8 2006, Monrovia, Liberia.

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

Comments:

The law prohibits government officials, elected or appointed, from engaging in activities which constitute a conflict of interest and from demanding and receiving any other perquisites, emoluments or benefits, directly or indirectly, on account of any duty required by Government."

References:

Chapter XI, Article 90(a&b), Liberia Constitution, 1986

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:

There are no regulations in Liberia that restrict post-government private sector employment for civil servants. This has raised recommendations in the country for the establishment of the Anti-Corruption and Civil Servant Accountability Act of Liberia.

References:

Flomo, David (2005), "The Emerging Liberia: The Fight Against Corruption," www.theperspective.org; Retrieved August 20, 2006 interview with employee of the House of Representative, August 8 2006, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no effective regulation of gifts and hospitality to civil servants, including no assets declaration and no independent auditing.

References:

Chapter XI, Article 90(a & b), Liberia Constitution, 1986

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no effective means to enforce the law that prohibits government officials from engaging in activity that is against public policy, or constitutes a conflict of interest." This is one of the reasons for the debates on the establishment of the Anti-Corruption and Civil Servant Accountability Act of Liberia.

References:

Chapter XI, Article 90(a), Liberia Constitution, 1986

Flomo, David (205), The Emerging Liberia: The Fight Against Corruption. www.theperspective.org Retrieved August 20, 2006

Interview with employee of the House of Representatives, August 8 2006, Monrovia, Liberia.

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

75:

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

25:

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

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

0

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

YES | NO

Comments:

There is no law on assets disclosure in the country. There is a need for an Anti-Corruption and Civil Servant Accountability Act of Liberia: When such an act is passed, the assets of civil servants need to be classified as public record, making them accessible to citizens.

References:

Flomo, David (205), The Emerging Liberia: The Fight Against Corruption," www.theperspective.org; Retrieved August 20, 2006
interview with employee of the House of Representatives, August 8 2006, Monrovia, Liberia.

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

Such a tradition does not exist because there is no law to that effect. There is a need for an Anti-Corruption and Civil Servant Accountability Act of Liberia: When such an act is passed, the assets of civil servants need to be classified as public record, making them accessible to citizens.

References:

Flomo, David (205), The Emerging Liberia: The Fight Against Corruption," www.theperspective.org; Retrieved August 20, 2006 interview with employee of the House of Representatives, August 8 2006, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

While this could be possible, regrettably, there is no such practice because there is no law to that effect. There is a need for an Anti-Corruption and Civil Servant Accountability Act of Liberia: When such an act is passed, the assets of civil servants need to be classified as public record, making them accessible to citizens.

References:

Flomo, David (205), The Emerging Liberia: The Fight Against Corruption," www.theperspective.org; Retrieved August 20, 2006 interview with employee of the House of Representatives, August 8 2006, Monrovia, Liberia.

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)?

38

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**

Comments:

Because there is no law to protect whistle-blowers, many people do not have the courage to report cases of corruption for fear they may be victims of their actions. However, the existing culture does permit most people to report occurrences without fear of reprisal.

References:

Liberia Capacity Building for the Civil Service (CISCAB), Program Project Memorandum And Framework, DRAFT 1, June 2006

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.

Comments:

Although there is no law to protect whistle-blowers, the existing culture permits people to openly report cases of corruption, graft, abuse of power, or abuse of resources without fear of negative consequences. At the same time, there were no reports of whistle-blower victims for the period under investigation.

References:

Liberia Capacity Building for the Civil Service (CISCAB), Program Project Memorandum And Framework, DRAFT 1, June 2006

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

Comments:

For matters relating to the abuse of power or violations of related labor laws, private sector employees can report them to the relevant authority and be protected by law.

References:

Labor Law as enacted by the National Legislature

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:

Citizens have the right to report such incidents without fear of reprisal when they violate labor-related laws.

References:

Labor Law as enacted by the National 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?

6

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

100 | 75 | 50 | 25 | 0

Comments:

Liberia does not have a professional anti-corruption agency or any form of reporting system. Concerns about corruption and the economic governance of Liberia led international donors to draft a three-year anti-corruption plan called the Liberia Economic Governance and Action Plan (LEGAP). The Liberian government presented a counter-proposal called the Governance and Economic Management Assistance Programme (GEMAP). An independent anti-corruption commission is planned.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 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

Comments:

Presently, such a structure does not exist. Because of the corruption epidemic in the country, Liberia is under the guidance of GEMAP.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 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

Comments:

No independent internal structure exists to handle corruption in Liberia. However, whenever there is an allegation, the institution concerned usually sets up an ad hoc independent committee to investigate. The committee usually acts swiftly to bring the matter to conclusion.

References:

The News (Monrovia), Deputy Police Boss Drops in Corruption Web," July 31 2006

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

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

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

42d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

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

Comments:

No independent internal structure exists to handle corruption in Liberia. However, whenever there is an allegation, the institution concerned usually sets up an ad hoc independent committee to investigate. The committee usually acts swiftly to bring the matter to conclusion.

References:

The News (Monrovia), "Deputy Police Boss Drops in Corruption Web," July 31 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.

22
IV-3. Procurement

43. Is the public procurement process effective?

75

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

YES | NO

Comments:

The law on public procurement prohibits conflicts of interest and calls for its disclosure: It also prohibits abetting corrupt or fraudulent practices, coercion or collusion.

References:

Part IX, Section 131(c&d), An Act Creating The Public Procurement and Concessions Commission," approved September 8, 2005

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private gain for public procurement officials.

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

43b. In law, there is mandatory professional training for public procurement officials.

YES | NO

Comments:

The law does not provide for the training of public procurement officers. However, it provides that the agency be staffed with persons trained and knowledgeable in procurement and the utilization of consultants with the necessary expertise in procurement.

References:

Part IX, Section 131(c&d), An Act Creating The Public Procurement and Concessions Commission," approved September 8, 2005

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

NO: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, or voluntary.

43c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

Comments:

The law on public procurement was strictly enforced. All previous contracts are presently renegotiated to ensure that they meet legal requirements. Liberian President Ellen Johnson-Sirleaf signed her first executive order on February 2nd which cancelled all timber concessions in Liberia.

References:

Executive Order #1, February 2, 2006, Monrovia, Liberia

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

Comments:

Although, the law on procurement prohibits conflict of interest and other corruption, there is no law that regulates the spending of public procurement officers.

References:

Part IX, Section 131(c&d), An Act Creating The Public Procurement and Concessions Commission," approved September 8, 2005

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

Comments:

The Act provides equal access to all bidders by means of promoting open competition and fostering participation in procurement proceedings and concession agreements by qualified suppliers. It further provides equal access without discrimination to all eligible and qualified providers of goods, works and services and fair and equitable treatment of all bidders.

References:

PART I (d & e) and Part V 46(1), An Act Creating The Public Procurement and Concessions Commission," Approved: September 8, 2005

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

43f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:

The law states that public procurement by means of the sole-source procurement method should be permitted only in circumstances where, for example, the estimated value of the procurement exceeds the threshold set in the schedule; or when there is no response to a national bidding proceeding, etc.

References:

See PART V 55(a- e), 56(1-2)& 57 (1) (b), (c), (d) and (e), An Act Creating The Public Procurement and Concessions Commission," Approved: September 8, 2005

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

Comments:

By law, unsuccessful bidders can instigate an official review of procurement decisions by lodging a complaint with the procuring or concession entity within fourteen (14) days of receipt of the complaint.

References:

See PART VIII 25(1(a-c) &4,) An Act Creating The Public Procurement and Concessions Commission," Approved September 8, 2005

YES: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

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

43h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

Unsuccessful bidders can challenge procurement decisions in a court of law only after review procedures outlined in the Act have been exhausted. There is an Appeals and Review Panel which review the decisions of the Commission. The decision of the Appeals and Review Panel is final and may be appealed only in a court of competent jurisdiction.

References:

See PART VIII 26(3), An Act Creating The Public Procurement and Concessions Commission," Approved September 8, 2005

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

Comments:

Companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids. The Act also states that any person convicted thereof is subject to a fine or a term of imprisonment not exceeding two (2) years or both.

References:

See PART IX 38(1-2(a&b), An Act Creating The Public Procurement and Concessions Commission," Approved September 8, 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

Comments:

Although there is a law on the books regulating this question, for this reporting period there were no reports of a company being

barred from a bidding process because of its previous record. Possible reasons include that at the time the Act came into force, the transitional government was on its way out, and the new post-war administration is still reviewing previous contracts.

References:

See PART IX 38(1-2(a&b), An Act Creating The Public Procurement and Concessions Commission," Approved September 8, 2005

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?

96

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

YES | NO

Comments:

The Act did not directly provide citizen accessibility. However, it states that the executive director of the Commission should ensure that administrative rulings of the Complaints, Appeals and Review Panel and directives of the Commission be made promptly available to the public.

References:

See PART IX 140, An Act Creating The Public Procurement and Concessions Commission," Approved September 8, 2005

YES: A YES score is earned if procurement rules are, by law, open to the public.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

44b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

The Act provides that the executive director of the Commission make administrative rulings of the Complaints, Appeals and Review Panel and directives of the Commission available to the public. It further states that all contracts need to be made public when the contract award's estimated value is above: a) US\$25,000.00 for the procurement of goods; b) US\$10,000.00 for the procurement of services; and c) US\$50,000.00 for the procurement of works.

References:

See IX 140, and Schedule Thresholds 1(a-C), "An Act Creating The Public Procurement and Concessions Commission," Approved September 8, 2005

YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

44c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice and law, results of bidding and all other decisions are available to the public as required by the bidding term of reference.

References:

See IX 140, and Schedule Thresholds 1(a-C), "An Act Creating The Public Procurement and Concessions Commission," Approved September 8, 2005

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

75:

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

25:

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

44d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The records of all biddings are subject to the constitutional provision concerning citizens' right to knowledge and information. Consequently, such information should be made available in the press, online, and the cost to the public should be small.

References:

Chapter III, Article 15(b), Liberia Constitution, 1986.

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

75:

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

25:

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

44e. In practice, major public procurements are widely advertised.

100 | 75 | 50 | 25 | 0

Comments:

All major contracts' value stipulated in the Schedule Thresholds are widely advertised for bid.

References:

See IX 140, and Schedule Thresholds 1(a-C), An Act Creating The Public Procurement and Concessions Commission," Approved September 8, 2005

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.

Comments:

In practice, results of all bidding and other decisions are made available to the public as required by the bidding terms of reference. There were no reports of citizens not being able to access results of bids.

References:

See IX 140, and Schedule Thresholds 1(a-C), "An Act Creating The Public Procurement and Concessions Commission," Approved September 8, 2005

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?

0

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

YES | **NO**

Comments:

Liberia does not have a law for privatization: However, the constitution guarantees equal protection for all, including the right to life, liberty, security, property, privilege or any other rights except those limited by court judgment.

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**

Comments:

Liberia does not have a law governing privatization: However, the constitution prohibits elected or appointed public officials from engaging in acts which constitute a conflict of interest, and or demanding and receiving any other perquisites, emoluments or benefits, directly or indirectly, on account of any duty required by Government.”

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**

Comments:

Liberia does not have a law governing privatization: However, the constitution prohibits elected or appointed public officials from engaging in acts which constitute a conflict of interest, and or demanding and receiving any other perquisites, emoluments or benefits, directly or indirectly, on account of any duty required by Government.”

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?

0

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

YES | **NO**

Comments:

There is no law regulating privatization of public corporation in Liberia. However, the constitution gives citizens the right to knowledge and information. This provision provides citizens the right to be informed and know about the activities of the government, i.e. it compels the government to make any such endeavors public.

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**

Comments:

Liberia does not have a law that regulates privatization of public corporations. However, the constitution gives citizens the right to knowledge and information. This provision provides citizens the right to be informed and know about the activities of the government, i.e. it compels the government to make any such endeavors public.

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**

Comments:

There is no law on privatization that gives citizens the right to access the terms and conditions of privatization bids within a reasonable time 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 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

Comments:

There is no law on privatization that gives citizens the right to access the terms and conditions of privatization bids within a reasonable time 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 V. Oversight and Regulation

V-1. ⁴⁹ National Ombudsman

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

0

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

YES | NO

Comments:

Liberia does not have a national ombudsman office or its equivalent. As a result, the Accra Peace Agreement established a Governance Reform Commission which ensures transparency and accountability in all government institutions and activities, including acting as the Public Ombudsman.

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?

0

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

YES | **NO**

Comments:

Liberia does not have a law establishing an ombudsman that could protect the government from political interference.

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

48b. In practice, the ombudsman is protected from political interference.

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

Comments:

Liberia does not have a law establishing an ombudsman that could protect the government from political interference.

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

48c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

Liberia does not have a law establishing an ombudsman that could protect the government from political interference.

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

48d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Liberia does not have a law establishing an ombudsman that would allow it to hire a professional full-time staff.

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

48e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

Liberia does not have a law concerning an ombudsman that could provide any form of independence for such an agency.

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

75:

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

25:

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

48f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Liberia does not have a law establishing an ombudsman that would allow such an agency (or agencies) to receive regular funding.

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

48g. In practice, the agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

Liberia does not have a law establishing an ombudsman that would allow such an agency (or agencies) to make reports publicly available.

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

48h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Liberia does not have a law establishing an ombudsman that would allow such an agency (or agencies) to initiate investigations.

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

75:

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

25:

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

48i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Liberia does not have a law establishing an ombudsman that would allow such an agency (or agencies) to impose penalties on 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

Comments:

Liberia does not have a law establishing an ombudsman that would allow the government to act on its findings.

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.

100 | 75 | 50 | 25 | 0

Comments:

Liberia does not have a law establishing an ombudsman that would allow such an agency (or agencies) to alert the public within a reasonable time period.

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

49. Can citizens access the reports of the ombudsman?

0

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

YES | **NO**

Comments:

Liberia does not have a law establishing an ombudsman that would allow such an agency (or agencies) to let citizens access its reports.

YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

49b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

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

Comments:

Liberia does not have a law establishing an ombudsman that would allow such an agency (or agencies) to let citizens within a reasonable time period.

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

75:

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

25:

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

49c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

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

Comments:

Liberia does not have a law establishing an ombudsman that would allow such an agency (or agencies) to let citizens access its reports for a reasonable cost.

References:

The Comprehensive Peace Agreement Between the Government of Liberia and the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) and Political Parties” (Accra 18th August 2003) is not an equivalent to this provision.

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

75:

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

25:

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

V-2. Supreme Audit Institution

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

50. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

Comments:

The Constitution provides for the establishment of a General Auditing Commission (GAC), as an autonomous body. Like the Civic Service Commission, it has not been established. However, there is a General Auditing Office that was established by an Act of legislature in 1972. Prior to 1956, the General Auditing Office was established by an Act of the National Legislature, as the Bureau of Audits, to pre-audit requisitions, vouchers and payrolls in connection with the disbursement of public monies. This activity was subsequently amended under Chapter 32, Sections 740 -744 of the Executive Law of Liberia in 1956 to audit all accounts of the Government of Liberia in the manner prescribed in the Revenue and Finance Law of Liberia. Later on in 1972, the Executive Law of Liberia was amended, with its Chapter 53, Sections 1 – 11, establishing the General Auditing Office. The National Transitional Legislative Assembly (NTGL) in terms of Chapter X Article 89 paragraph 1c again amended chapter 53 of the Executive law of 1972 on June 16, 2005. That amendment changed the nomenclature of the GAO to GAC. Although the GAO audits all government accounts, it is not equivalent to GAC because the GAO is under the influence of the executive.

References:

Executive Law of Liberia as amended, with its Chapter 53, Sections 1 – 11, establishing the General Auditing Office (GAO).

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?

25

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

YES | **NO**

Comments:

The auditor-general and the deputies are appointed by the president, with the advice and consent of the Senate. The auditor-general is appointed for a term of four years and can be eligible for re-appointment. The auditor-general can be removed by the president for gross malfeasance or physical disability or incompetence. The auditor-general serves at the will and pleasure of the president. Therefore, there is no independence or autonomy.

References:

See the Executive Law of Liberia, Chapter 53, Sections 2, (No date)

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

51b. In practice, the head of the agency is protected from removal without relevant justification.

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

Comments:

Though the auditor-general can be removed by the president for gross malfeasance or physical disability or incompetence. The auditing general serves at the will and pleasure of the president. Therefore, there is no independence or autonomy.

References:

See the Executive Law of Liberia as amended, with its Chapter 53, Sections 1 – 11, establishing the General Auditing Office (GAO).

Chapter X Article 89(c) Liberia Constitution, 1986).

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

51c. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The GAO has a professional full time staff.

References:

See the Executive Law of Liberia as amended, with its Chapter 53, Sections 1 – 11, establishing the General Auditing Office (GAO)

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

51d. In practice, agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

While there are some professionals occupying the offices of the GAO, most appointments there are based on party or political connections; therefore, it is difficult to talk about independence. They serve at the will and pleasure of the president.

References:

See the Executive Law of Liberia as amended, with its Chapter 53, Sections 1 – 11, establishing the General Auditing Office (GAO)

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

Comments:

The GAO received regular funding.

References:

See the Executive Law of Liberia as amended, Chapter 53 Sections 1 – 11, establishing the General Auditing Office (GAO)

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

51f. In practice, the agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

There were no reports of auditing records being made public to the legislature or the general public by the General Auditor office. The law provides for an annual report to be made to the Legislature on the activities of the General Auditing Office and the results of audits.

References:

See the Executive Law of Liberia, Chapter 53, Sections 7, (No date).

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

51g. In practice, the government acts on the findings of the agency.

100 | 75 | 50 | 25 | 0

Comments:

The is no evidence that government took action on audit reports because there were no audits conducted the by the GAO for this reporting period, possibly because the international community audited in this period.

References:

See Final Report of ECOWAS Team of Investigators on Economic Crime in Liberia, June 18, 2005

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

51h. In practice, the supreme audit institution is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

The GAC is not yet functional. As for the GAO, there were no reports or records to indicate that it had initiated an audit without an outside request or ever done so, possibly because the international community audited in this period.

References:

See Final Report of ECOWAS Team of Investigators on Economic Crime in Liberia, June 18, 2005

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?

33

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

YES | NO

Comments:

The law provides citizens no direct access to audit results; However, the constitution guarantees the right to information on the activities of the government. This provision provides citizens the right to access the results of any audit conducted by this body, because the public has the right to know how taxes are spent.

References:

See the Executive Law of Liberia, Chapter 53, Sections 7,; Chapter III, Article 15(b), Liberia Constitution, 1986

YES: A YES score is earned if all supreme auditor reports are available to the general public.

NO: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

52b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There were no reports of any audit conducted for this period by the GAO, perhaps due to the fact that Liberia was in a transition and most government activities, including auditing, were conducted by the International community.

References:

See Final Report of ECOWAS Team of Investigators on Economic Crime in Liberia, June 18, 2005

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

75:

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

25:

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

52c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There was no audit conducted by the GAO for this reporting period for the reason stated above.

References:

See Final Report of ECOWAS Team of Investigators on Economic Crime in Liberia, June 18, 2005

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.

53
V-3. Taxes and Customs

53. In law, is there a national tax collection agency?

100

53. In law, is there a national tax collection agency?

YES | NO

Comments:

The Ministry of Finance of Liberia regulates fiscal policy regarding taxation and spending and provides general accounting for the government.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002;
Nanka, Winsley S.: Liberia's Finance Minister Sayeh: Restructure the Ministry of Finance," www.theperspective.org. Retrieved August 12, 2006.

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?

50

54a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Ministry of Finance has full-time tax collectors.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002;
Nanka, Winsley S.: Liberia's Finance Minister Sayeh: Restructure the Ministry of Finance," www.theperspective.org. Retrieved August 12, 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

Comments:

The tax collectors are full-time employees of the Ministry of Finance, and their activities are funded by the budget of the ministry.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002

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?

25

55. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

There are allegations that government officials and big corporations do not respect tax laws. For example, the National Transitional Government of Liberia launched a vigorous campaign in 2004 to collect corporate and personal taxes, but were pressured not to touch certain individuals or corporations.

References:

Liberia's 'Big Fish' in tax evasion, www.analystliberia.com. Retrieved August 12, 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

Comments:

There is a Bureau of Custom, Excise and Sales Tax that operates within the administrative structure of the Ministry of Finance

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002;

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?

50

57a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The bureau has a full time staff headed by a commissioner who should have a bachelor's degree or its equivalent with four years working experience at senior customs officer level.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002;

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

Comments:

The bureau found part of the budgetary allotments for the Ministry of Finance; therefore, it receives regular funding.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002;

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

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

25

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

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

Comments:

Tax collection is infected with special interest, so it is hard to envision a uniform application of tax law.

References:

Liberia's 'Big Fish' in tax evasion, www.analystliberia.com. Retrieved August 12, 2006

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

V-4. Financial Sector Regulation

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

100

59. In law, is there a financial regulatory agency overseeing publicly listed companies?

YES | NO

Comments:

The financial regulatory agency overseeing public corporations (publicly subsidized companies) is the Ministry of Finance of Liberia. The ministry has authorization to manage, direct and coordinate the financial affairs of the country. It also has the mandate to collect revenue, arrange loans, disburse government funds and service the national debt. Accordingly, all companies registered and operating in Liberia must file financial statements with the ministry. It may order the closure of any business for tax evasion and send any company over to the Justice Ministry for prosecution for defrauding the government.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002

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**

Comments:

The Ministry of Finance, which is responsible for financial regulation, is not free from political influence. The minister and all other senior deputies and directors serve at the will and pleasure of the of president.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 200

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

60b. In practice, the agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The ministry has a full time professional staff.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

60c. In practice, the agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The ministry receives regular funding from the government.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

60d. In practice, when necessary, the financial regulatory agency independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

When necessary, the ministry can independently initiate investigations.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002

100: When irregularities are discovered, the agency is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

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

25:

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

60e. In practice, when necessary, the financial regulatory agency imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The ministry may impose a penalty based on the gravity of the case; otherwise, the culprit is sent to court for further prosecution.

References:

Terms of Reference, Prepared by the Department of Administration, Ministry of Finance: 2002

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?

21

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

YES | NO

Comments:

All financial reports of public corporations are required to be made public. For example, the final report of ECOWAS on economic crime in Liberia and the audit report of Robert International Airport submitted by Ernst & Young to the European Commission are available to the public.

References:

See Final Report of ECOWAS Team of Investigators into Economic Crime in Liberia," June 18 2005
Systems and Financial Audit of Roberts International Airport. Vol. 2. March 2005

YES: A YES score is earned if the financial information of all publicly traded companies is required by law to be public.

NO: A NO score is earned if any category of publicly- owned or publicly-traded company is exempt from this rule, or no such rules exist.

61b. In practice, the financial records of publicly listed companies are regularly updated.

100 | 75 | 50 | 25 | 0

Comments:

The Bureau of State Enterprises collects data on state-owned enterprises for annual, periodic and special reports and submits them to government . According to the Ernst & Young Financial Audit report (2005), Roberts Airport, like many of the SOEs, does not regularly furnish the bureau with copies of its financial statements and budgets.

References:

Systems and Financial Audit of Roberts International Airport. Vol. 2. March 2005

100: Publicly traded companies always disclose financial data, which is generally accurate and up to date.

75:

50: Publicly traded companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule.

25:

0: Financial data is not available, or is consistently superficial or otherwise of no value to investors.

61c. In practice, the financial records of publicly listed companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

Comments:

There were no reports for the period under investigation to show that the public corporations in Liberia have been audited. This may be due to the fact that Liberia was in transition and many activities including auditing were conducted by the international community.

100: Financial records of all public companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of public companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: Publicly traded companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

61d. In practice, citizens can access the records of disciplinary decisions imposed by the government on publicly-listed companies.

100 | 75 | 50 | 25 | 0

Comments:

There were no records to indicate that the government imposed disciplinary action on publicly listed companies during the period under review. The GAO may not have conducted an audit because it was conducted by the international community.

References:

See Final Report of ECOWAS Team of Investigators into Economic Crime in Liberia," June 18 2005
Systems and Financial Audit of Roberts International Airport. Vol. 2. March 2005

100: These records are freely available to all citizens through a formal official process.

75:

50: These records are available to all citizens, with some exceptions.

25:

0: These records are generally not available through official processes.

61e. In practice, citizens can access the financial records of publicly listed companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Citizens could not access financial records on publicly listed companies because there were no financial records available in the period under investigation. The GAO may not have conducted an audit because it was conducted by the international community. All audits conducted by the international community are available to the public.

References:

See Final Report of ECOWAS Team of Investigators into Economic Crime in Liberia," June 18 2005
Systems and Financial Audit of Roberts International Airport. Vol. 2. March 2005

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

75:

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

25:

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

61f. In practice, citizens can access the financial records of publicly listed companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Citizens could not access financial records on publicly listed companies because there were no financial records available in the period under investigation. The GAO may not have conducted an audit because it was conducted by the international community. All audits conducted by the international community are available to the public.

References:

See Final Report of ECOWAS Team of Investigators into Economic Crime in Liberia," June 18 2005
Systems and Financial Audit of Roberts International Airport. Vol. 2. March 2005

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

75:

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

25:

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

67
V-5. Business Licensing and Regulation

62. Are business licenses available to all citizens?

69

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

YES | NO

Comments:

Under the law, every Liberian citizen has the right to own property/business. No citizen can be denied this right except by the order of the court.

References:

See Chapter III Articles 11(c) & 15(c) Liberia Constitution, 1986
Business Corporation Act 2002 Amendments, Volume II of the Liberian Codes Revised (1998-2000)

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required.

62b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

Comments:

Whenever this right is denied, citizens can seek redress through the court.

References:

See Chapter III Articles 26, Liberia Constitution, 1986

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:

Although there may be some administrative bottlenecks, business licenses can generally be obtained in a reasonable period of time.

References:

Interview with businessmen, August 16 2006, Monrovia

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:

Although there may be some administrative bottlenecks, business licenses can generally be obtained in a reasonable period of time.

References:

Interview with businessmen, August 16 2006, Monrovia

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?

63

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

YES | NO

Comments:

Although business facilities must be operated in compliance with all environmental laws and with the required permits, approvals and controls, the law is always not applied uniformly.

References:

www.analystliberia.com11/22/2006 Big Fish in tax evasion,” retrieved August 12, 2006

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:

Business inspections are not conducted in a uniform manner.

References:

www.analystliberia.com11/22/2006 Big Fish in tax evasion,” retrieved August 12, 2006

100: Business inspections by the government (i.e. health, safety, or environmental inspections) are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government (i.e. health, safety, or environmental inspections) are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections (i.e. health, safety, or environmental inspections) are routinely carried out by the government in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. ⁵⁶Anti-Corruption Law

64. Is there legislation criminalizing corruption?

64a. In law, attempted corruption is illegal.

YES | NO

Comments:

Conflict of interest by government officials is illegal under the constitution of Liberia.

References:

Chapter XI, Article 90(a&b), Liberia Constitution, 1986

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

Comments:

Receiving gifts or bribes is illegal under the constitution of Liberia.

References:

Chapter XI, Article 90(a&b), Liberia Constitution, 1986

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

64c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

Comments:

It is illegal to offer bribes under the constitution of Liberia.

References:

Chapter XI, Article 90(a&b), Liberia Constitution, 1986

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

64d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

Comments:

It is illegal to solicit bribes under the constitution of Liberia.

References:

Chapter XI, Article 90 (a&b), Liberia Constitution, 1986.

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

Comments:

Conflict of interest by government officials is illegal under the constitution of Liberia. For example, Chinese telecommunications manufacturer ZTE is facing criminal charges in Liberia along with another company, AFRIPA/ALINK, and the country's new Deputy Minister for finance, Francis Karpeh, for tampering with public records" and "unfair business practices" among other charges.

References:

Daily Observer: "TELECOM Bidders In Court For Illegal Contract," February 17 2006

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

64f. In law, using public resources for private gain is illegal.

YES | NO

Comments:

Under the law it is illegal to use public resources for personal benefit. This could take many forms (theft, bribery, extortion, etc.). For example, the Deputy Police Director, Alfred Karley, was caught in a gasoline scandal for allegedly using gasoline for his personal use. He was investigated and turned over to the Justice Ministry for prosecution.

References:

<http://www.analystnewspaper.com/> retrieved 15th August2006

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

64g. In law, using confidential state information for private gain is illegal.

YES | NO

Comments:

Illegally using confidential state information for private gains constitute a criminal offence because it could used to provide intelligence to enemies of the state.

References:

See Chapter XI, Article 90 (a&b), Liberia Constitution, 1986

YES: A YES score is earned if using confidential state information for private gain is illegal.

NO: A NO score is earned if this is not illegal.

64h. In law, money laundering is illegal.

YES | NO

Comments:

Liberia does not have a law to specifically combat money laundering. As a result, Liberia has been used as a point for major transshipment of illegal diamonds and illegal arms trading during the civil war.

References:

Diamond Trade Still Vulnerable to Money Laundering, Says U.S. Report, <http://www.professionaljeweler.com/archives/news/2004>. Retrieved August 16, 2006.

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

64i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

Comments:

Conspiracy to commit a crime is illegal under the constitution of Liberia. For example, Chinese telecommunications manufacturer ZTE is facing criminal charges in Liberia along with another company, AFRIPA/ALINK, and the country's new Deputy Minister for finance, Francis Karpeh, for tampering with public records" and "unfair business practices" among other charges.

References:

Daily Observer: TELECOM Bidders In Court For Illegal Contract," February 17 2006

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?

0

65. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

Comments:

Liberia does not have an independent agency that addresses the question of corruption. Concerns about corruption led international donors to draft a three-year anti-corruption plan called the Liberia Economic Governance and Action Plan (LEGAP). The Liberian government presented a counter-proposal called the Governance and Economic Management Assistance Programme (GEMAP). Because of chronic corruption, Liberia is under the guidance of GEMAP. As one of its mandates, GEMAP is to help set up an independent anti-corruption commission.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 2006

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?

0

66a. In law, the agency (or agencies) is protected from political interference.

YES | **NO**

Comments:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 2006

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**

Comments:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 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:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 2006

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

Comments:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 2006

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

Comments:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 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

Comments:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 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

Comments:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 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

Comments:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 2006

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

66i. In practice, when necessary, the agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 2006

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?

0

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

100 | 75 | 50 | 25 | 0

Comments:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 2006

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

67b. In practice, citizens can complain to the agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:

Presently, such a structure does not exist. Liberia adopted GEMAP to combat the high level of corruption in the country.

References:

http://www.liberianobserver.com/about_liberia/action_planforliberia.html, retrieved August 20, 2006

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.

VI-3. Rule of Law

0

68. Is there an appeals mechanism for challenging criminal judgments?

67

68a. In law, there is a general right of appeal.

YES | NO

Comments:

The law provides every citizen the right to an appeal

References:

Chapter III, Article 2(b), Liberia Constitution, 1986

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

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

68b. In practice, appeals are resolved within a reasonable time period.

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

Comments:

Liberia has just gone through a terrible 14 years of civil war that affected many aspects of life in the country, and the justice delivery system was not an exception. Sometimes the delay in hearing appeals can be the fault of both defense lawyers and the prosecutors, not because justice is being denied but because of administrative problems.

References:

Interviews with prosecutor and magistrate judge, August 17 2006, Monrovia, Liberia.

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

68c. In practice, citizens can use the appeals mechanism at a reasonable cost.

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

Comments:

While there may be some administrative/procedural bottlenecks, the law recognizes the need for expeditious and inexpensive filing and hearing of appeals. In some instances it is affordable, while in some cases not. depending on the type and level of case.

References:

Interviews with legal experts, Monrovia.

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?

50

69. In practice, do judgments in the criminal system follow written law?

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

Comments:

Not all judgments in criminal cases follow the protocols of written law. For example, Liberia's legal system accommodates traditional systems in order to strengthen its own power, but statutory and customary laws are often mixed in criminal cases by customary court judges who have no education about statutory laws.

References:

Liberia: Resurrecting the Justice System, Africa Report N°107, April 6 2006. <http://www.crisisgroup.org>.

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 state normally enforces court rulings. In *The Coalition for Transformation of Liberia (COTOL) vs. the National Election Commission (NEC)*, the Supreme Court ruled in favor of COTOL in a 4-1 ruling, and this ruling was enforced by the state.

References:

Liberia Election Watch, <http://www.cartercentr.org>. Retrieved 17th August 2006

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?

75

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

YES | NO

Comments:

The independence of the judiciary is guaranteed by the constitution. The judiciary is an independent branch of government, whose members can only be removed from office through impeachment by the legislative branch.

References:

Chapters I & VII, Articles 3, & 71, Liberia Constitution, 1986

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation and managing the budget of the courts).

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

71b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The independence of judges was observed, and there were no reports that in practice, the works of judges were tampered with for the period under investigation.

References:

Chapters I & VII, Article 71, Liberia Constitution, 1986
Interview with magistrate judge, Monrovia, 12 January 2006

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

Comments:

The law provides that every citizen be tried before a court of competent jurisdiction. There is no selective way of assigning cases to judges in Liberia as they must be within the competence and jurisdiction of the assigned court.

References:

Chapter III, Article 21(f), Liberia Constitution, 1986

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

71d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

Comments:

Judges can only be removed through impeachment by national legislators in cases of proven misconduct, gross breach of duty, inability to perform the functions of their office, or conviction in a court of law for treason, bribery or other crimes.

References:

Chapter VII, Article 71, Liberia Constitution, 1986

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

Comments:

There were no reports of judges being assaulted because of their involvement in a corruption case during the period under review.

References:

Interview with justice of the peace, Monrovia, August 12 2006

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

Comments:

There were no reports of judges being killed because of their involvement in a corruption case during the period under review.

References:

Interview with justice of the peace, Monrovia, August 12 2006

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?

71

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

100 | 75 | 50 | 25 | 0

Comments:

There were no reports that judicial decisions were rendered based on racial or ethnic bias for the reporting period.

References:

Interview with magistrate judge, Monrovia, 12 January 2006

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

73b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

There were no reports of women denied full access to the judicial system during this reporting period because of gender biases.

References:

Interview with magistrate judge, Monrovia, 12 January 2006

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence.

73c. In practice, the state provides legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

There were no violations of the guarantee of legal aid by the state to people who cannot afford it for the period under investigation.

References:

Chapter III, Article 21(i)

Interview with magistrate judge, Monrovia, 12 January 2006

100: State-provided legal aid is basic, but well trained and effective in representing the rights of indigent defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some indigent defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most indigent defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

73d. In practice, citizens earning the median yearly income can afford to bring a legal suit.

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

Comments:

Affordability of litigation depends on the type and level of cases.

References:

Interview with businessmen, Monrovia, January 16 2006

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:

A small retail business can generally afford to bring a legal action when its rights are violated, depending on the type and level of case.

References:

Interview with businessmen, Monrovia, January 16 2006

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:

Most courts that hear such cases are located in big cities. Therefore, citizens in rural areas often cannot afford the cost.

References:

Interview with businessmen, Monrovia, January 16 2006

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?

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

100 | 75 | 50 | 25 | 0

Comments:

While appointments to this category of positions are based on professional criteria, most professional selections are based on political or family loyalty. For example, the present Defense Minister, Brownie J. Samukai, and the Director of the National Security Agency, Fombah Sirleaf, are related to President Ellen Sirleaf.

References:

Listing of government officials: <http://www.state.gov/r/pa/eibgn6618.htm>. Retrieved August 15, 2006

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

75:

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

25:

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

74b. In practice, the agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The agency has budgetary allotments to carry out its function.

References:

2006/2007 Annual Budget as submitted to the National Legislature, Monrovia, Liberia

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:

The agencies are not free of political influence because they are appointed by and serve at the will and pleasure of the president.

References:

Interview with human rights activist, Monrovia, August 9 2006

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?

58

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

YES | NO

Comments:

No such independent agency exists. The only means available is the court. Another options is the Independent Human Rights Commission.

References:

Interview with human rights activist, Monrovia, August 9 2006

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions.

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

75b. In practice, the independent reporting mechanism responds to citizen's complaints within a reasonable time period.

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

Comments:

No such independent agency exists. The only means available is the court. The Independent Human Rights Commission is another option for citizens, but it is generally underfunded.

References:

Interview with human rights activist, Monrovia, August 9 2006

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:

No such law exists.

References:

Interview with human rights activist, Monrovia, August 9 2006

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:

No such agency exists.

References:

Interview with human rights activist, Monrovia, August 9 2006

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:

No law enforcement official is exempt from prosecution in Liberia. All citizens are equal before the law.

References:

Chapter III, Article 15 (c), Liberia Constitution, 1986

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.

Comments:

There were no reports that law enforcement officials were exempted from prosecution for the period under investigation. For example, the Deputy Police Director, Alfred Karley, was caught in a gasoline scandal for allegedly using gasoline for his personal use. He was investigated and turned over to the Justice Ministry for prosecution.

References:

<http://www.analystnewspaper.com>. Retrieved 15th August2006

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.