

Overall Score:

53 - Very Weak

Legal Framework Score:

67 - Weak

Actual Implementation Score:

36 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁴⁴Civil 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 Egyptian law guarantees the freedom to form CSOs and gives them the right to oppose corruption and to support good governance. It prohibits the establishment of CSOs whose activities are secret, violent, military or hostile to society.

References:

Law no. 84/2002 concerning NGOs, article 11
The Egyptian Constitution, article 55.

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 Egyptian law guarantees the freedom of CSOs to raise and accept funds and donations from both local and foreign sources on condition that they obtain the approval of the executive agency Ministry of Social Solidarity- in accordance with the bylaw of the NGOs law no. 84 issued in 2002. However, CSOs are not allowed to get money from local or foreign sources unless they get a permission from the Ministry of Social Solidarity. Books, newsletters and specialist journals are exempted from getting this permission.

References:

Law no. 84/2002 concerning NGOs

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

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

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

YES | NO

Comments:

CSOs have the right to raise and accept funds and donations both from local and foreign agencies that are authorized to work in Egypt. Contracts between COSs and donors are organized by articles 1, 2 and 3 of the bylaw of the law no. 84/2002. The bylaw makes it obligatory for CSOs to notify the executive agency the Ministry of Social Solidarity about the amount of the grant and donor details.

References:

Article 56 of the bylaw of the NGOs Law no. 84/2002

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

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

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

25

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:

Despite the fact that the executive agency the Ministry of Social Solidarity creates no legal barriers to the organization of new anti-corruption/good governance CSOs, the government intervenes to shut down CSOs that work for disclosing corruption issues. For example, the executive agency suspended the activities of the Egyptian Transparency organization, which urged its chairman, Dr. Hassan Isa, to start a lawsuit against the executive agency. In a similar situation, the chairman of the Association for Combating Corruption and Over-Taxation litigated against the Ministry of Social Solidarity for closing the organization.

References:

An interview with Dr. Hassan Isa, in the driving force for political reform in Egypt, a symposium held in the Pyarmiza hotel, Cairo, on Nov. 29-30, 2005;

An interview with Mr. Mohammad Al-Ashkar in the headquarters of the Association for Combating Corruption and Over-Taxation Feb. 11, 2007.

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 actively engaged in the political and policymaking process in several ways: carrying out political reform projects, monitoring the state of human rights, promoting democratic transition, acquainting the citizens with their rights and reinforcing political participation. Prior to the 2005 parliamentary elections, a judgment was passed by the administrative judiciary court in its session on Nov. 6, 2005, that gives CSOs the right to monitor the proceedings of the general elections. CSOs are still gaining new lands in the area of influencing the political and policymaking process.

References:

Akram Habeeb,

The Role of CSOs in Promoting Democracy, in the meeting of the Egyptian organization for human rights about civil society July, 2002.

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:

In practice, the government shut down Ahalina (our people) organization that worked in Shoubra Al-Khima district with a decision by the governor of Kalyoubiya only because it published some executive transgressions in the newsletter of the organization in the beginning of 2007 (a meeting with Iman Oaf, the executive director of Ahalina organization in Shoubra Al-Khima district, on Dec. 24, 2006). The government shut down the syndicate services house in Nagi Hammady, Upper Egypt, on March 29, 2007. Then it shut down its branch in Mahala Al-Kabera on April 3, 2007, and then the central office in Hewan. In response, the syndicate services house resorted to judiciary to abolish the shut down decrees (CSOs' campaign for the right to assemble, the Arab network for human rights information).

References:

An interview with Mr. Mohammad Al-Ashkar in the headquarters of the Association for Combating Corruption and Over-Taxation Feb. 11, 2007.

Nahdit Masr newspaper,
Civil Society and Corruption- The Politics of Glance Lowering.
Jan. 26-27, 2006, weekly issue

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?

33

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

YES | NO

Comments:

Last year, Howaida Adli from the Jazeera satellite channel was put in prison while she was investigated for video tapes containing clips showing Egyptian citizens being brutally tortured in police stations. She was brought to the Supreme State Security Court only for disclosing the inhuman treatment by the security forces that Egyptians find in all places. Mohammad Kattary was also prosecuted for publishing a book entitled "The Forgery of State Security." Four editors in chief of independent newspapers were brought before the court accused of insulting and defaming the leaders of the NDP ruling party. Shahenda Mikled was prosecuted because of publishing a book entitled "In Defense of Farmers". 45 members of the Muslim Brothers group were arbitrarily arrested and presented to military courts in jail.

References:

The Arab Network of Human Rights Information,
Internet Is a Hard-Minded Opponent To The Egyptian Government, P. 13;

Hesham Mubarak
Center for Legal Assistance, press release, Sept. 19, 2007

YES: A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

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 person 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. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

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

YES | NO

Comments:

Several civil society activists have been physically harmed over the past year. 180 students in Azhar University were hurt and arbitrarily arrested when they protested against a provision preventing their colleagues to vote in the student council. Because of the intervention in the election process, these students formed an alternative student council but police forces arrested them in a violent way and hurt many of them. 33 members of "That is Enough" [Kifayah] movement were arbitrarily arrested before a demonstration the movement declared it would organize on March 15, 2007.

References:

The Arab Network of Human Rights Information,
Internet Is a Hard-Minded Opponent To The Egyptian Government, P. 13

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. YES is a positive score.

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:

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

References:

The archive of the state-owned, opposition and independent papers.

YES: A YES score is earned if there were no documented cases of CSO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

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

4. Can citizens organize into trade unions?

75

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

YES | NO

Comments:

The law gives citizens the right to organize into trade unions. Law no. 189/1951, amended by law no. 6/2002 and its bylaw allow establishing trade chambers and trade unions and organizing their work. That law makes the membership of trade chambers and trade unions obligatory for trade workers, gives the executive agency the Supply Ministry the authority to appoint half of their board of governors and gives the minister of Supply the authority to disperse their board of governors and appoint half of the board of governors of the general union of trade chambers. Article 56 of the Egyptian Constitution permits establishing syndicates and unions on a democratic basis.

References:

Law no. 6 /2002 for organizing trade chambers
The Egyptian Constitution, article 56.

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:

In practice, citizens cannot organize themselves into trade unions or syndicates. One of the demands of workers in the 2006-2011 election period was to give this right to all workers. In Egypt there are 19.3 million workers, and only 4.1 million of them are members in syndicate organizations. The forgery of 2006-2011 elections made syndicate organizations part of the government system. This same situation also applies to professional syndicates, most of which were frozen by law no. 100/1993 that was amended by law no. 5/1995. Overall, members in labor and professional associations are just a small portion of the paid workers, as the majority of workers lack any form of syndicate association.

References:

Hesham Moubarak
Transformations of the Egyptian Working Class in Market Economy and Privatization,
Center for Law Services, The Worker Series, vol. 2, PP. 102-103.

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 guaranteed. Article 48 of Egyptian Constitution protects the freedoms of press, printing, publication and information media. Censorship and suspending or shutting down newspapers by executive decrees are also banned. Only in the state of emergency and at times of war can the government impose limited censorship on newspapers, publications and information media in matters that pertain to general safety or national security in accordance with the law.

References:

The Egyptian Constitution, article 48.

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

NO: A NO score is earned if any specific publication relating to government affairs 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:

In law, the freedom of individual speech is guaranteed and each citizen has the right to express their points of view and publish them in all available forms in accordance with the law and self-criticism and constructive criticism for the safety of the national system.

References:

The Egyptian Constitution, article 47.

YES: A YES score is earned if freedom of individual speech is guaranteed in law, including to 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 print media entities?

44

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

100 | 75 | 50 | 25 | 0

Comments:

In practice, the government does create barriers to forming print media entities. In contradiction with the Egyptian Constitution that guarantees the freedom of all citizens and political parties of possessing and issuing newspapers, law no. 96/1995 prohibits and seizes the right of normal citizens to possess or issue newspapers. This law imposes restrictions on establishing newspapers by physical and virtual persons as it treats newspapers as joint-stock companies and cooperatives and it requires a big sum of money for persons wanting to establish joint-stock companies to issue newspapers. Law no. 13/1979 that was modified by law no. 223/1989 confirms the state monopoly of possessing radio and television stations and prohibits individuals from establishing radio and television networks unless they are done as joint-stock companies, for which millions of Egyptian pounds would be needed. Law no. 3/1998 made the approval of the head of the Minister's Council a condition for allowing joint-stock companies to be established.

References:

The Egyptian Organization for Human Rights
www.eohr.org/or/htm

100: Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of print 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.

25:

0: Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

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

YES | **NO**

Comments:

Law no. 159/1981 for organizing media joint-stock companies and modified with law no. 3/1998 allows for a formal appeals process, through the courts, in case a print media license was denied, if the joint-stock company meets the legal conditions.

References:

Law no. 3/1998 for organizing media joint-stock companies

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens can obtain a print media license in different time periods. The time to get a license depends on the position and attitude of the government towards the persons trying to get the license – whether these are supporting or opposing the government. One of the prerequisites for issuing a newspaper is to get the approval of the Supreme Council of Press to the joint-stock company that is going to issue papers. The leftist Al-Badeel” (the alternative) newspaper was delayed for a year because the Supreme Council of Press was resistant to giving the license despite the fact that all the prerequisites for establishing joint-stock companies were satisfied. Under the pressure of civil society organizations, the Supreme Council of Press gave its consent in July 2007.

References:

Al-Masry Al-Yawoum (the Egyptian today) newspaper, Dec. 23, 2006

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 print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

According to law no. 96/1995 only organizations, joint-stock companies and cooperatives, not individuals, can obtain a print media license for a daily newspaper after depositing 1 million Egyptian pounds (US\$182.540) in bank as an insurance, and 250,000 Egyptian pounds (US\$45,635) for a weekly newspaper. Law no. 13/1979 for organizing radio and television networks stipulates that the media joint-stock companies wanting to launch a network or a TV channel must deposit 50 million Egyptian pounds (US\$9.1 million) in bank as an insurance. This is, of course, an unreasonable, crippling precondition.

References:

Law no. 96/1995 for organizing issuing newspapers, article 45.
Law no. 13/1979 for organizing radio and television networks.

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 citizens able to form broadcast (radio and TV) media entities?

44

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

Comments:

According to law no. 13/1979 and modified with law no. 223/1989, the state monopolizes the ownership of radio and television networks. Thus, radio and television in Egypt express the view points of the government, while other view points have no place in the Egyptian radio and television.

References:

Law no. 13/1979 and modified with law no. 223/1989 for organizing radio and television networks.

100: Broadcast 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. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of broadcast 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: Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

Comments:

According to law no. 3/1998 for organizing media joint-stock companies, a formal process to appeal a denied broadcast media license is permitted. When the media joint-stock companies meet the criteria posed by the law, they can appeal the refusal of the Ministry of Information. The court can give them the license to work.

References:

Law no. 3/1998 for organizing media joint-stock companies.

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

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

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

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

Comments:

In practice, joint-stock companies can obtain a broadcast (radio and TV) media license in different time periods. In practice there is no fixed period of time for obtaining a broadcast (radio and TV) media license. The time to get a license depends on the position and attitude of the government towards the persons trying to get the license – whether they supporting or opposing the government. Political parties (such as Al-Wafd) and religious groups (such as the Egyptian church) suffered a lot to obtain licenses of this kind. Political conditions, the relationship with the political regime and the focus of the channel are the main factors that determine the whole matter. For sports channels, there can be no objection. But for channels for political parties and religious groups there would so many objections, and the time period for obtaining the license would be longer.

References:

Law no. 3/1998 for organizing media joint-stock companies.

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.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

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

Comments:

Law no. 3/1998 stipulates that media joint-stock companies must deposit 50 million Egyptian pounds (US\$9.1 million) in bank as insurance. This makes it very difficult for individual citizens to obtain a broadcast (radio and TV) media license. Only some political parties and businessmen can meet that condition.

References:

Law no. 3/1998 for organizing media joint-stock companies;
interviews with the leaders of Al-Wafd political party;
Several media reports

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.

8. Can citizens freely use the Internet?

25

8a. In practice, the government does not prevent citizens from accessing content published online.

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

Comments:

Without legal basis, the government prevents citizens from accessing the content or sites that it wants to hide from them. Government does not completely control the internet in the way it controls traditional media (radio, television and newspapers). Internet is much more freer than other information media. However, government practices have intangible control over the internet.

Preventing opposition web-sites is not regular, but it is publicly discussed in Egypt. For example, the government prohibited the web-site of the "People Newspaper" representing the Labor Party and overlooked all massive criticisms. On Sept. 1, 2004, the government also prohibited the website of Akhwan Mouslmeen group (Muslim Brothers) (www.ikwanonline.com). One of the most famous prohibited web-sites was that of the Egyptian opposition to bequeathing presidency in Egypt to Gamal Mubarak, son of president Mubarak (www.egyptiantalks.org) that was launched as part of the web-site of the opposition political party: Al-Wafd.

Other websites prohibited include Egypt Affairs Forum (www.masreayti.org), Save Egypt Front (www.saveegyptfront.org) in January 2006, Freedom Forums (www.horrya...), all of which call for political reform and democratic transition and oppose bequeathing presidency in Egypt to Gamal Mubarak, son of president Mubarak. Because of their political use, Blog web-sites are among the ones fought against by the government, either by corrupting the web-site (internet detectives phenomenon) or by compelling organizers of these sites to shut them down.

(The Arab Network for Human Rights Information

An Obstinate Opponent- The Internet and Arab Countries, 2006, PP. 151-152.)

References:

Law no. 10/2003 for organizing communications;
Government statistics;
Media reports;
Academic studies;

The Arab Network for Human Rights Information

An Obstinate Opponent- The Internet and Arab Countries, 2006, PP. 151-152.

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content online.

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

Comments:

The government censors citizens in their treatments on the internet. The government established a separate unit in the Interior Ministry under the name The Administration for Fighting The Crimes Pertaining To Computers and World Wide Web” -known among internet users as “internet police” – to be responsible for monitoring and following the crimes resulting from technological developments making use of more advanced technological systems.

Gen. Samy Bahnasawy, undersecretary and assistant of the Interior minister and director of the general administration for information and documentation to which the new administration was added, declared that “the work groups in the new administration follow internet problems on daily basis, monitor and examin all treatments, especially data and information movement to and from the external world. In case of identifying illegal actions endangering the security and stability of the state, they immediately intervene in coordination with other specific administrations”. (Ibid, P. 153).

That new administration has a website (www.ccd.gov.eg) of one page only that includes the telephone number and email of the administration where citizens can inform of internet activities that deserve intervention by the Interior Ministry. (Amr Khalaf, There Is No Law for Internet Crimes, Nahdat Misr newspaper, issue 627, 18/4/2006.)

Since 2002, the new administration arrested many political activists and journalists. Among those were Kareem Amr who were sentenced to spend four years in prison for blogs he published on some internet sites such as www.koran903.blogspot.com. In the case of Hala Helmy Bottros, known as Hala Al-Masry, who used to publish in a blog entitled “Cops without Boundaries” www.halaelmasry.blogspot.com the government harassed her, “unknown people” beat her father, and she and her husband were arrested and signed a commitment to shut down the blog.

References:

Media reports

Court cases

Laws organizing communications

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

42

9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

Comments:

the Egyptian Constitution and several laws guarantee the freedom of expression. Articles 46, 47, 48 and 49 are clear in securing free expression. In Egypt, there are laws that contradict the constitution that are contested as such in the Supreme Constitutional Court. Yet, there are no laws or regulations that prohibit reporting news even if it damages the reputation of a public figure, including the president of the republic. There are articles for abuse and defamation in the Criminal Law. Also in the new press law that substituted law no. 96/1995 there is an article related to insulting the president of the republic, if it is certain for the court that the news and reports are not objective or far from constructive criticism.

References:

Nahdit Misr newspaper, Dec. 14-15, 2006
The Egyptian Constitution
The Criminal Law
The Press Law

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.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

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

Comments:

Governmental censorship is imposed on all information media, including newspapers, radio and television. Article 3 of the emergency law no. 162/1958 that has been in effect since President Mubarak held office in 1981 gives the president of the government, as the military governor, and his representatives the authority to give orders to censor letters, newspapers, newsletters, publications and to seize, arrest and shut down all means of expression, propaganda and advertisement. In its documentation, the Egyptian Organization of Human Rights found that all individuals and media organizations that were legally pursued were those who wrote about government corruption. Many prominent writers and intellectuals writing in opposition and independent newspapers questioned the ability of information media to make progress towards free expression considering that the constitution gives the president massive authorities, among them the ability to muzzle his opponents.

References:

The Emergency Law no. 162/1958,
Nahdit Misr newspaper, Dec. 14-15, 2006
The Egyptian Organization of Human Rights

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.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

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

Comments:

The restraints and reservations put upon newspapers in publishing corruption-related stories diminish the freedom of newspapers and all information media to disclose corruption-related issues. Although the law and constitution guarantee the right of journalists to find news and information, in practice this is hindered by tens of laws and regulations. There are several laws that restrict the freedom of news and information sharing. Among them are law no. 2/1975 concerning publishing official documents, law no. 58 and its amendments, law no. 29/1982, law no. 199/1983, law no. 97/1992, law no. 96/1995 and law no. 162/1958 (the emergency law) that gives the president of the government, as the military governor, and his representatives the authority to prohibit publishing, censoring, arresting, seizing and shutting down newspapers. The Attorney General also has the authority to prevent publishing news on particular crimes. Recent amendments of law no. 96/1995 allows the prosecutor the authority to keep defendants in prison for extended times in case of being accused of insulting the president of the government, judiciary members or the armed force symbols.

References:

Transparency, Popular Censorship, Freedom of Information And The Role of The Civil Society in Democratic Change, in the Driving Force of Political Reform, a seminar held in Ibn-Rushd Center for Development, Noc. 29-30, /2005;

Several laws.

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. This score is appropriate if in countries where illiteracy is high, 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. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

65

10a. In law, print media companies are required to disclose their ownership.

YES | NO

Comments:

In law, print media companies are required to disclose their ownership. Law no. 159/1981 concerning the joint-stock media companies, amended by law no. 3/1998 require print media companies to disclose their ownership.

References:

Law no. 3/1998
Law no. 159/1981

YES: A YES score is earned if print 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 types of entities or agents from being disclosed.

10b. In law, broadcast (radio and TV) media companies are required to disclose their ownership.

YES | NO

Comments:

In law, broadcast (radio and TV) media companies are monopolized by the government. As for joint-stock media companies, they are required to disclose their ownership.

References:

Law no. 3/1998

YES: A YES score is earned if broadcast 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.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

Comments:

By the nature of their role, journalists have the ability to influence and communicate with citizens. Most journalists and editors in national, opposition or independent newspapers adhere to the journalistic charter of integrity. This charter binds journalists to practice objective and document-based criticism and to avoid subjective, purposeful criticism. The Egyptian Constitution and judgments of the Constitutional Court in several cases established the freedom of expression and emphasized the right of constructive criticism. Professional weakness of some press reports are due to obstacles and chains posed upon free information access, not to the lack of professionalism among journalists.

References:

Risks of Being Exposed to Prison And Legal Pursuits: Lack or Misuse of Freedom, Al-Araby newspaper
Dec. 15, 2006

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.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

Comments:

in the last parliamentary elections, the national newspapers had clear bias for the candidates of the ruling National Democratic Party, while neglecting the independent and other political powers and parties. Independent newspapers were more neutral and fair in covering the events of the elections than the national state-owned ones, whether quantitatively or qualitatively. The Egyptian television was clearly biased in favor of the candidates of the ruling party. It was very far from offering balanced and objective reporting. At the time when Arab-speaking satellite channels such as Al-Jazeera, Al-Arabiya and Al-Houra disclosed several violations and transgressions including violence, organized violence, police intervention, preventing voters from entering election committees and assaults against the judges supervising the election process, the Egyptian TV was persisting in presenting a picture of a quiet, fair election process. Some other state-owned channels covered a few simple problems, but all state-owned TVs and newspapers joined forces in the attack against the Muslim Brothers group. Contrary to the goals of this coordinated attack, and perhaps because of it, the Muslim Brothers group gained the sympathy of ordinary citizens. The report by Cairo Institute for Human Rights Studies found that the rates of the television coverage of the last elections were 24 percent and 76 percent for independent and party candidates, respectively, despite the fact that the independent candidates constituted 80 percent of the total candidates. The candidates of the ruling party received the majority of the information coverage in all media, 69 percent, with a wide gap separating it from the next opposition political power: the leftist Tagamoua party (9 percent), the liberal Ghad (Tomorrow) party (6 percent) and the liberal Wafd (Delegate) party (1 percent). The Arab socialist Narist party, the Labor Party and the Muslim Brothers group received no coverage at all.

References:

www.cihrs.org

www.egyptcsrc.org/en/index/htm

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

75:

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

25:

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

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

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

Comments:

The state-owned media outlets are totally biased in favor of the ruling party, presenting an ambiguous and unbalanced view of the events in the election process. Political parties and independent candidates have no access to state-owned media outlets. Even in the TV programs that are supposed to give space to all candidates to present their election programs, the state-owned TV neglected opposition and independent candidates.

References:

www.hrinfa.net/egypt/cpe

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. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

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.

11. Are journalists safe when investigating corruption?

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | **NO**

Comments:

The journalist of Al-Jazeera channel, Howayda Taha, was preventively imprisoned while she was investigated for her videotapes showing torture in Egyptian police stations. The journalists Ibraheem Isa and Saher Zaki from Al-Dostour (Constitution) newspaper and Wael El-Ibrashy from Sout Al-Uma (Nation's Voice) newspaper were prosecuted for several charges, including insulting the president of the republic and defaming officials. They were sent to prison for periods ranging from one to three years. The public opinion and human rights organizations succeeded in reducing their punishment to forfeiture.

References:

Alwafd newspaper, Jan. 14, 2007
Nahdit Misr newspaper, Oct. 14, 2006

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

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. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

Comments:

In practice, over the past year, no journalists investigating corruption have been physically harmed.

References:

MEDIA REPORTS
INTERVIEWS WITH CIVIL SOCIETY LEADERS

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. A YES score is positive.

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.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

Comments:

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

References:

The archives of state-owned, opposition and independent papers.

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. A YES score is positive.

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.

55
I-3. Public Access to Information

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

33

12a. In law, citizens have a right of access to government information and basic government records.

YES | NO

Comments:

There are several laws that deprive citizens of the right of access to government information and basic government records. For example, the law no. 35/1960 for establishing and organizing the central system for public mobilization and statistics prohibits publishing any piece of information or records related to the government, and in case of violating this rule the system brings a lawsuit against the persons who committed that crime, and the sentence can mean prison time. In addition, the criminal proceedings law no. 150/1950 and its amendments, law no. 313/1956 amended by law no. 14/1967 concerning the armed force, law of the general intelligence no. 100/1971 amended by law no. 1/198, publications law no. 20/1936 amended by law no. 97/1992, law no. 121/1975 concerning documents amended by law no. 125/1983, and law no. 256/1954 are all laws that restrict citizens' right of access to government information and basic government records.

References:

Nejad Al-Boraiy,
Egyptian Views Regarding Corruption
a paper about the report of the Transparency organization,
Center for Political Research, Cairo University, 2004.

YES: A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. 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.

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

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

Comments:

The constitution shields all works and decisions by the administration from judicial censorship. The government abolished litigation and appeals processes included in previous laws which allowed the citizens to appeal against denied access to basic government records. Even if some laws allow for this, administrative agencies are not effective in their proceedings against the administrative department that denies the access to information.

References:

The Egyptian Constitution, article 68;

Nejad Al-Boraiy,
Egyptian Views Regarding Corruption
a paper about the report of the Transparency organization,
Center for Political Research, Cairo University, 2004.

YES: A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

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

12c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | NO

Comments:

In practice, there is no mechanism through which citizens can request government records.

References:

Nejad Al-Boraiy,
Egyptian Views Regarding Corruption
a paper about the report of the Transparency organization,
Center for Political Research, Cairo University, 2004.

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.

13. Is the right of access to information effective?

5

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens do not receive responses to access to information requests within a reasonable time period.

References:

Several media reports
Interviews with CSOs' leaders

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.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot use the access to information mechanism at a reasonable cost.

References:

The law organizing joint stock media companies.

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.

13c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot resolve appeals to access to information requests within a reasonable time period.

References:

Interviews with CSOs' representatives

Media reports

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.

13d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot resolve appeals to information requests at a reasonable cost.

References:

Several media reports
Interviews with CSOs' representatives

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.

13e. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the government does not give reasons for denying an information request.

References:

Several media reports
Interviews with CSOs' representatives

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. ⁴²Voting & Citizen Participation

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

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

Comments:

Although the constitution gives all citizens equally the right to vote, law no. 73/1956 amended by law no. 76/1976 and law no. 173/2005 exempts some groups from undertaking their political rights. It exempts members of the armed force and the police system so long as they are in service. With the successive amendments of the original law, new groups were deprived of pursuing this right for different periods of time: five years for those whose propriety was put under guardianship by a legal judgment, persons sentenced to prison for crimes mentioned in the land reform laws or supply and quotation laws, unless their honor is given back to them. The amendments also added to the groups deprived of the right to vote the persons who were previously dismissed from public sector or the government for dishonoring crimes, unless five years pass from the dismissal date.

References:

The report of the national campaign for monitoring the parliamentary elections 2005, edited by Waheed Abd-Al-Majeed, Human Rights Center for Helping Prisoners, 2006.

YES: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). 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.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments:

The Egyptian Constitution entails holding the parliamentary elections (the peoples' council) every five years, the elections of Shoura (consultation) council and the presidential elections every six years, Law no. 73/1956 regulates the election processes.

References:

The Egyptian Constitution, article 92 concerning the peoples' council.
The Egyptian Constitution, article 198 concerning the Shoura (consultation) council.
The Egyptian Constitution, article 77 concerning electing the president of the republic.
Law no. 73/1956 for undertaking political rights.

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.

15. Can all citizens exercise their right to vote?

58

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:

In law, the first article of law no. 73/1956 defines the age of 18 as the legal age for pursuing one's political rights for both males and females. It makes registering in election tables obligatory for both males and females equally. Article no. 4 of the law states that persons who are eligible to vote, registered in election tables and for whom there are no legal obstacles that prevent them from undertaking their political rights, have the right to run for and vote in elections.

But in practice, law no. 73/1956 exempts some groups from undertaking their political rights. It exempts members of the armed force and the police system so long as they are in service. With the successive amendments of the original law, new groups were deprived of pursuing this right for different periods of time: five years for those whose propriety was put under guardianship by a legal judgment, the persons sentenced to prison for crimes mentioned in the land reform laws or the supply and quotation laws, unless their honor is given back to them. The amendments also added to the groups deprived of the right to vote persons who were previously dismissed from the public sector or the government for dishonoring crimes, unless five years pass from the dismissal date.

References:

The report of the national campaign for monitoring the parliamentary elections 2005, edited by Waheed Abd-Al-Majeed, Human Rights Center for Helping Prisoners, 2006.;

Law no. 73/1956 for undertaking political rights

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.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the last parliamentary elections witnessed unique events, in which ballots were not secret or protected whether in inside or outside the election centers. Several reports of election monitoring groups by civil society organizations confirmed the prevalence of the collective voting, especially by the supporters of the ruling National Democratic Party, damaging ballot boxes after voting. Election monitoring groups documented several cases in which they caught unmarked ballot cards outside election centers that are to be marked in front of the candidates.

References:

Reports of:
The Shadow Committee for Monitoring Elections,
The Egyptian Independent Committee for Monitoring Elections,
The Civil Coalition for Monitoring Elections,
The National Campaign for Monitoring Parliamentary Elections 2005.

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.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

Comments:

In practice, election have regularly been held since 1995. From 1995, parliamentary elections of the Peoples' Council were held every five years as dictated by article 92 of the constitution. In the same period, elections of Shoura (consultation) Council were held every six years as dictated by article 198 of the constitution. What was new was the presidential elections that resulted from modifying article 76 of the constitution to electing the president of the republic by free, direct ballot (before modifying that article, the president of the republic was elected through a popular referendum after he/she gets the approval of two thirds of the members of Peoples' Council). Thus, September 2005 witnessed the first free, direct election of the president of the republic.

References:

The Egyptian Constitution, articles: 92, 198, 77.

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.

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

35

16a. In law, all citizens have a right to form political parties.

YES

NO

Comments:

In law, all citizens have the right to form political parties, unless they are stripped of the right to undertake their political rights. Yet, the political parties law no. 40/1977 and its amendments still restrict the forming of political parties. The law gives the authority to allow for the establishing of political parties to the Parties Affairs Committee, which is dominated by the ruling National Democratic Party. The Parties Affairs Committee mainly consists of the ruling party: the minister of interior, the minister of justice, head of Shoura (consultation) Council and public figures nominated by the president of the republic, who is at the same time the head of the ruling party. That committee is presided by the head of Shoura (consultation) Council, who is at the same time the general secretary of the ruling party. This confirms the fact that Parties Affairs Committee that has the authority to approve or reject new parties is no more than a branch of the executive authority and the ruling party. Since its establishment by virtue of law no. 40/1977, the committee rejected most demands for forming new parties. Moreover, this committee intervened in the internal affairs of the political parties. In many cases, it issued decrees changing the leaderships of several parties and shutting down party newspapers. Parties Affairs Committee still rejects forming political parties for political powers really existing among people. Many citizens see that the existing parties do not express their interests, and therefore resort to courts to affirm their right to form parties.

References:

Dr. Huda Mitix,
Governance and Political System
Faculty of Economics and Political Sciences, Center for Developing Country's Research, P. 19.

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.

16b. In law, all citizens have a right to run for political office.

YES

NO

Comments:

The law deprived many groups from running for political office and pursuing their political rights, and it extended the cases in which it is allowed to punish people by political isolation or civil death. Law no. 23/1978 for protecting the internal front and social peace defines the people deprived of practicing their political rights as those sentenced for economic and social crimes and those dismissed from the public sector or the government for dishonoring reasons. Moreover, the 2005 law for organizing political parties added to these groups the people who were convicted in crimes related to violating citizens' personal rights, especially their lives.

Restricting the ability to establish political parties in the new constitution is another way through which the ruling regime restrains citizens' right to run for political offices. The same way, the new constitution restricted the right to run for presidency to heads of political parties on condition that they obtain the consent of a certain number of the members of the Peoples' Council, the Shoura (consultation) Council, and all local popular councils in the governorates.

References:

Articles 171-178 and 309 of the Criminal Law.
Articles 2-8 of the decree protecting citizens' security, 1977
Articles 22-26 of law no. 40/1977 concerning political parties.
Law for organizing political parties, 2005
Law no. 95/1980;

The Egyptian Organization for Human Rights,
The Laws Restricting Civil and Political Parties in the Egyptian Legislation, PP. 208-218.

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.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:

In law, all citizens have the right to form political parties, unless they are stripped of the right to undertake their political rights. Yet, the political parties law no. 40/1977 and its amendments still restrict the forming of political parties. The law gives the authority to allow for the establishing of political parties to the Parties Affairs Committee, which is dominated by the ruling National Democratic Party. The Parties Affairs Committee mainly consists of the ruling party: the minister of interior, the minister of justice, head of Shoura (consultation) Council and public figures nominated by the president of the republic, who is at the same time the head of the ruling party. That committee is presided by the head of Shoura (consultation) Council, who is at the same time the general secretary of the ruling party. This confirms the fact that Parties Affairs Committee that has the authority to approve or reject new parties is no more than a branch of the executive authority and the ruling party. Since its establishment by virtue of law no. 40/1977, the committee rejected most demands for forming new parties. Moreover, this committee intervened in the internal affairs of the political parties. In many cases, it issued decrees changing the leaderships of several parties and shutting down party newspapers. Parties Affairs Committee still rejects forming political parties for political powers really existing among people. Many citizens see that the existing parties do not express their interests, and therefore resort to courts to affirm their right to form parties.

References:

Dr. Huda Mitix,
Governance and The Political System
Faculty of Economics and Political Sciences, Center for Developing Country's Research, P. 19.

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.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:

In practice, not all citizens can run for political offices. In addition to political isolation or civil death mentioned in previous answers, low socio-economic level, high rates of illiteracy and the widespread culture of passivity and non-participation all impede citizens from running for political offices. Restricting the ability to establish political parties is another way through which the ruling regime restrains the citizens' right to run for political offices, as the new constitution restricted the right to run for presidency to heads of political parties on condition that they obtain the consent of a certain number of the members of the Peoples' Council, the Shoura (consultation) Council, and all local popular councils in the governorates. This deprives all people of the right to run for presidency, as well as depriving the political powers of the right to establish their parties. Election forgery for the benefit of the candidates of the ruling party also damages the right of all citizens to run for political parties. Only people accepted by the ruling party have real access to political offices. All freedom-limiting laws, such as the state security law, the national unity law and the emergency law hinder the right and freedom of running for political offices.

References:

Dr. Huda Mitix,
Governance and The Political System
Faculty of Economics and Political Sciences, Center for Developing Country's Research, P. 19.

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.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:

In practice, opposition parties are weakly represented in the legislature. In the 2005 legislative elections, for several reasons, opposition parties obtained 10 seats only six for the liberal Al-Wafd party, two for the Tagmoua leftist party, one for the newly established liberal Al-Ghad party and two for the under-establishment Karama party from 454 total seats. The Muslim Brothers group, a legally prohibited group, obtained 88 seats, compared to 17 seats in the 2000 legislative elections. Members of that group in the legislature are considered independent, because the group is not legally recognized. Sometimes, the government overlooks the activities of that group, at other times it pursues its members arresting and sending them to military courts.

References:

Samer Solyman,
Political Participation in the 2005 Representative Elections: Obstacles and Requirements,
The Egyptian Association for Promoting Community Participation, Cairo, 2006.

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

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

0

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

YES

NO

Comments:

The most important modification to law no. 73/1956 is included in its amendment, law no. 173/2005: the addition of a new chapter entitled "The Higher Committee for Elections". That new committee is formed to supervise the election process instead of the Ministry of Interior. On Oct. 12, 2005, this committee issued a decree that allows CSOs to monitor elections on condition that they obtain the approval of the National Council for Human Rights. CSOs dealt suspiciously with this condition considering that it reduces their independence. Three CSOs appealed against the conditions put by the Higher Committee for Elections. On Nov. 6, 2005, the Administrative Court passed a sentence that approved the appeal and supported the right of CSOs to monitor election processes both inside and outside election centers, without being obligated to get the consent of the National Council for Human Rights.

References:

The Report of The National Campaign for Monitoring the Parliamentary Elections 2005,
edited by Waheed Abd-Al-Majeed,
Human Rights Center for Helping Prisoners, 2006, PP. 61-68.

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

NO: A NO score is earned if no domestic agency or set of domestic 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, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

18. Is the election monitoring agency effective?

20

18a. In law, the agency or set of agencies/entities is protected from political interference.

YES | **NO**

Comments:

The Egyptian law does not contain any clear statements that entail protecting election agencies/entities from political interference. Law no. 73/1956 and its amendment in law no. 173/ 2005 do not ordain establishing or accepting election agencies/entities. Forming election agencies/entities and coalitions in Egypt in 2005 was a result of the strong will of the civil society organizations based on the principle that says that the origin of things and actions is permission". Egypt's signing of the international conventions that guarantee this right for CSOs was another justification that supported attempts to monitor election processes.

References:

Law no. 173/2005 for undertaking political rights;

The sentence passed by the Administrative Court on Nov. 16, 2005, based on articles 19 and 29 of the Universal Declaration of Human Rights and the International Declaration for Human Rights Defenders, 1998.

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting 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 domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

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

Comments:

On Nov. 26, 2005, CSOs appealed against the minister of Interior as the head of the Higher Committee for Elections and against a previous decree given by the committee on Oct. 24, 2005, that prevents COSs from entering election centers, allows them to practice monitoring only outside election centers, deprives them of using the word monitoring", and entails obtaining the consent of the National Council of Human Rights (a governmental agency) to monitor elections. On Nov. 6, 2005, the Administrative Judiciary Court passed its sentence that considered domestic monitoring to be one the safeguards of the fairness of the elections, and took into consideration the correctness of the procedures, citizens' awareness, the protection of human rights, and the right of CSOs to monitor the election process in all its stages. The sentence also freed CSOs from the need to obtain the consent of the National Council of Human Rights to monitor the elections.

References:

Law no. 173/2005 for undertaking political rights;

The sentence passed by the Administrative Court on Nov. 16, 2005, based on articles 19 and 29 of the Universal Declaration of Human Rights and the International Declaration for Human Rights Defenders, 1998.

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.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

In practice, election monitoring agencies/entities do not have part-time staff for monitoring elections. These agencies temporarily contract election observers during the election processes according to specific criteria that guide the selection of such a large number of observers to cover the monitoring process in 26 governorates and 222 electorates. Prominent among these criteria were participating in previous elections (presidential or party elections), belonging to the same district, favoring women observers, having legal awareness and not belonging to any party. Observers must also pass the training given to them and sign the ethical code that entails neutrality and objectivity in monitoring.

References:

The sentence passed by the Administrative Court on Nov. 16, 2005, based on articles 19 and 29 of the Universal Declaration of Human Rights and the International Declaration for Human Rights Defenders, 1998.

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.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

Comments:

In practice, the election monitoring agencies/entities make reports during the election process in all electorates and give daily reports to information media. Following the elections cycle, the election monitoring agencies/entities make comprehensive reports containing analyses of the different aspects and results of the election process as a whole. All election monitoring agencies/entities issued final reports on the 2005 parliamentary elections shortly after the declaration of the election results.

References:

The Egyptian Association for Promoting Community Participation, "Political Participation in the 2005 Representative Elections", 2006;

The Human Rights Organization for Helping Prisoners, "Report of The Domestic Campaign for Monitoring Elections", 2006;

Ibn-Khaldoun Center for Developmental Studies, "Report of The Independent Commission for Monitoring Elections", 2006;

The Civil Observatory for Human Rights, "Report of The Civil Observatory for Human Rights on the Representative Elections", 2006;

Cairo Institute for Human Rights Studies, "Information Report on the Parliamentary Elections", 2006.

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.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

Comments:

In practice, the election monitoring agencies/entities cannot impose penalties on offenders for their violations of the standard rules in the election process. The role of these agencies was only restricted to observing, documenting and disclosing these violations in their reports. Even the judges – who were given the authority to supervise the election process, with all their legal power that authorizes them to take legal actions against those offenders – were not able to impose penalties on those offenders, mainly because of the connivance of the security system with the offenders. That connivance made judges' club" hold an emergent meeting on Nov. 22, 2005, in which they required the armed forces (military) to secure the election process based on article 26 of law no. 173/2005, which gives the head of the Higher Commission for Elections the authority to demand policemen or military forces, if necessary, to secure the election process.

References:

The Report of The National Campaign for Monitoring the Parliamentary Elections 2005,

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.

19. Are elections systems transparent and effective?

21

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the election system has several defects and shortcomings that leave no space for clearness or transparency. There are countless mistakes that give opportunity to forgery. Among these mistakes are the similar names in the voter registration tables. The ratio of these errors were as much as 60 percent in the 2000 representative elections. Repeated names in the same records is another error that allows persons to vote more than one time. On the contrary to their responsibility of reviewing election tables, police centers deliberately omit certain names in a phenomenon called virtual death". The most serious defect in the voter registration process is the phenomenon known as "collective registration," in which high government officials and candidates of the ruling party move the names of their employees to their electorates. This phenomenon results from the deliberate misuse of the permission law no. 73/1956 gives to voters to change their electorates. Collective registration gives way to interest conglomerations in elections, which in turn gives way to the phenomenon known as inheriting representative seats. In the last legislature election these errors were massively exploited by the candidates of the ruling party.

References:

The Egyptian Association for Promoting Community Participation
Political Participation in 2005 Representative Elections", 2006, P. 33.

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

75:

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

25:

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

19b. In law, election results can be contested through the judicial system.

YES | NO

Comments:

In law, election results can be contested through the judicial system. But the decisions of the Administrative Judiciary Court and the Court of Cessation that settled many election contests and appeals are not applied. The law gives citizens the opportunity to appeal to the administrative and cessation courts against election results and to contest the legislature membership, and courts accepted several appeals. But these judgments do not usually find ways to be implemented. For example, both the Courts of Administrative Judiciary and Cessation passed sentences that abolished the membership of more than half of the ruling party (the patriotic democratic party) in 2005 legislature election, but the legislature (Peoples’ Council) refused to apply these sentences based on the legislative claim raised by the legislature that gives it alone – away from the judiciary system- the authority to determine the correctness of its members, a phenomenon known in media reports as the legislature is the master of its decision”. This makes all court decisions concerning elections valueless. On the contrary, when the legislature, or more precisely the majority of the ruling party, decides to abolish the membership of independent or opposition members, two thirds of the members are soon arranged to dismiss those members.

References:

Dr. Ahmed Thabet,
The Conference on Reform and Change in Egypt, Nov. 20-21, 2006, P. 3.

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.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

Contrary to the decisions of the Courts of Administrative Judiciary and Cessation that abolish the election results of legislature members, the legislature claims it is the only arbitrator of all decisions pertaining to its members and disregards all these decisions. In the new constitution, a new article no. 93- was added, which gives the legislature the authority to determine the correctness/incorrectness of membership. According to that article, the Court of Cessation can only examine the appeals presented to it by the legislature, and even its decisions are not obligatory. These decisions are sent back to the legislature, which considers them within 60 days. Overall, membership can only be abolished by the legislature itself, with the consent of the majority (two thirds). The legislature selectively uses this authority to keep candidates of the ruling party and to dismiss independent and opposition members.

References:

Promoting Democracy Group
Mechanisms and Obstacles of the Parliamentary Work- a field study, P. 147.

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.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

The military often remains neutral in almost all civil events, but the security forces do not. The 2005 legislature elections, like all elections in Egypt and at all levels, witnessed massive interventions by the security forces. All election reports documented the immense intervention by the security forces. The basic intervention of the security forces is often to congregate and help the voters supporting the candidates of the ruling party and to terrify the voters supporting opposition or independent candidates, even by explicit force. As a result of this clear bias and intervention, the last legislature elections in 2005 witnessed several violent clashes between voters and security forces, in which many citizens were arrested or killed. The last Shoura (consultation) Council witnessed a widespread prevention of all voters from entering election centers, whether or not supporting candidates of the ruling party, that would be complemented by overall forgery of elections. Preventing voters from entering election centers forced judges supervising electorates to get out to help voters to enter and vote. Security forces beat and insulted many judges and prevented them from getting out of the election centers. In response, the chairman of Judges' Club (a syndicate association of the Egyptian judges), counselor Zakariya Abd Al-Aziz, threatened to call the military to keep peace basing his call on article 26 of law no. 73/1956, which gives the head of the Higher Committee for Elections the authority to call the police or the military if necessary to keep peace in election centers. But the military did not really intervened.

References:

The report of the National Campaign for Monitoring the Parliamentary Elections 2005, edited by Waheed Abd-Al-Majeed, Tthe Human Rights Center for Helping Prisoners, 2006;

The report of the Independent Campaign for Monitoring Elections, 2005;

The report of the Civil Coalition for Monitoring Elections, 2005;

Article 26 of law no. 73/1956 on undertaking political rights.

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

75:

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

25:

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

19e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

Comments:

In law, domestic and international election observers are not allowed to monitor elections. The Egyptian government refused any form of international monitoring considering it an intervention in domestic affairs and violation of its sovereignty. Instead, it said that judicial supervision of more than 13,000 judges, and the popular, civil and media monitoring (tens of domestic CSOs and NGOs and media channels, both domestic and international) are enough to establish the fairness of the election process (in 222 electorate consisting of 30,741 secondary centers and 329 general centers). Consequently, all monitoring was restricted to Egyptian human rights organizations on condition that they obtain the consent of the National Council for Human Rights (a governmental agency). On Nov. 16, 2005, the Court of Administrative Judiciary issued a sentence that affirms the independence of Egyptian CSOs and NGOs and their right to monitor elections without obtaining the approval of the National Council for Human Rights.

References:

The report of the National Campaign for Monitoring the Parliamentary Elections 2005, edited by Waheed Abd-Al-Majeed, The Human Rights Center for Helping Prisoners, 2006;

The report of the Independent Campaign for Monitoring Elections, 2005;

The report of the Civil Coalition for Monitoring Elections, 2005

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.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:

The last legislature elections held in 2005 witnessed massive violations against election observers in most election centers. These violations ranged from people being arrested, receiving death threats, being dismissed from election centers, and having the identity cards and monitoring permission cards confiscated. All these violations were made by security forces and affiliates of the ruling party to be able to forge elections in the absence of observers. The Higher Committee for Elections headed by the minister of Justice did not take any action to put an end to these violations.

References:

The report of the National Campaign for Monitoring the Parliamentary Elections 2005, edited by Waheed Abd-Al-Majeed, The Human Rights Center for Helping Prisoners, 2006;

The report of the Independent Campaign for Monitoring Elections, 2005;

The report of the Civil Coalition for Monitoring Elections, 2005;

The report of the Shadow Committee for Monitoring Elections, 2005.

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

75:

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

25:

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

14 II-3. Political Financing

20. Are there regulations governing political financing?

86

20a. In law, there are regulations governing private contributions to political parties.

YES | NO

Comments:

In law, there are regulations governing private contributions to political parties. These contributions are registered in the financial records of the political parties, and donors are given receipts. According to law no. 40/1977, amended by law no. 177/2005, private and member contributions are registered so as to be subtracted from the taxable income of the donors. Thus contribution data are disclosed to every financial checking apparatus.

References:

www.sis.gov.eg;

Law no. 40/1977, amended by law no. 177/2005

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.

20b. In law, there are limits on individual donations to candidates and political parties.

YES | NO

Comments:

In law, political parties must declare the donations received in the party's newspaper and any other daily newspaper within one month if the sum of the donation is greater than 10,000 pounds (US\$1,825) at one time or greater than 100,000 pounds (US\$18,254) per year. Donations are subtracted from the taxable income of the donors.

References:

Law no. 40/1977, amended by law no. 177/2005;

www.sis.gov.eg

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.

20c. In law, there are limits on corporate donations to candidates and political parties.

YES | NO

Comments:

Corporate donations to political parties or candidates must be declared within a month. The state (the greatest institution) support all registered political parties with a sum of 100,000 Egyptian pounds (US\$18,254) per year to support administrative activities of the party. In addition, the state gives all political parties 5,000 pounds (US\$912) for each member in the People's Assembly (legislature) or Shora (consultative) Council, with maximum of 500,000 pounds (US\$91,270) for every party. Corporate donations to parties and candidates often do not exceed 100,000 pounds a year, and are always registered in the records of the party.

References:

www.sis.gov.eg

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.

20d. In law, there are limits on total political party expenditures.

YES | NO

Comments:

In law, there are no limits on total political party expenditures, but law prevents political parties from spending their money on activities other than those that achieve the goals and purposes stated in the regulations and bylaws of the parties. Political parties must deposit their money in Egyptian banks and keep regular registers showing income and expenditure according to the regulations and bylaw of the party.

References:

Law no. 40/1977, amended by law no. 177/2005

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.

20e. In law, there are requirements for disclosure of donations to political candidates and parties.

YES | NO

Comments:

In law, political parties must declare the donations received in the party's newspaper and any other daily newspaper within one month if the sum of the donation is greater than 10,000 pounds (US\$1,825) at one time or greater than 100,000 pounds (US\$18,254) per year.

As for candidates, law no. 73/1956 gives the authority responsible for running the election process the Higher Committee for Elections the right to monitor donations to candidates and to make sure that candidates' expenditures do not exceed the maximum limit for expenditure defined by the committee.

References:

Law no. 40/1977, amended by law no. 177/2005;

Law no. 73/1956, amended by law no. 173/2005

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.

20f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | NO

Comments:

Law no. 40/1977, amended by law no. 177/2005 states that the Central Accounting Apparatus is the authority entitled to audit all financial transactions of political parties. The Central Accounting Apparatus is entitled to regularly audit all financial transactions of the political parties so as to make sure that the party's income and expenditure are correct. Political parties must give the Central Accounting Apparatus full opportunity to make all needed financial audits.

The Central Accounting Apparatus, an independent apparatus that directly follows the president of the republic, prepares an annual report on the financial affairs of political parties and notifies the head of the Political Parties Committee of these reports. In case there are financial breaches, the Central Accounting Apparatus binds the Political Parties Committee to notify the administrative prosecution and afterwards the Higher Administrative Court.

References:

Law no. 40/1977, amended by law no. 177/2005;

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.

20g. In law, there is an agency or entity that monitors the political financing process.

YES | NO

Comments:

Law no. 40/1977, amended by law no. 177/2005 gives the Central Accounting Apparatus the authority to monitor political financing process of all parties. Law no. 173/2005 established the High Committee for Elections and authorized it to monitor political financing process of all parties and candidates, whether in presidential or legislative elections. It is the first time in Egypt's political history that such a committee exists. The committee consists of the minister of Justice as its president and three working judges and six public figures, not belonging to any political party, as members. The People's Assembly nominates four members and the Consultative Council nominates the other two. The mandate of the committee is six years and is published by a decree of the president of the government.

Pervious election experiences proved that the High Committee for Elections is unable to run and monitor election and political financing processes. This violates the principle of equality between different parties and candidates. Certain parties and some candidates make use of large sums of money, while others are lacking minimal sources.

In the 2005 elections, political financing by political parties and candidates exceeded the maximum limit, 70,000 pounds (US\$12,777) for each candidate. The High Committee for Elections could not control these exceedings or hand guilty persons to the court.

References:

Law no. 40/1977, amended by law no. 177/2005;

Law no. 73/1956, amended by law no. 173/2005

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around political financing. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity.

21. Are the regulations governing political financing effective?

58

21a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.

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

Comments:

In practice, there are no limits on individual donations to candidates and political parties. These donations often take forms that cannot be monitored or registered and remain known only between the donor and the candidate. But individual donations to political parties are usually registered in the party's financial records and are subtracted from taxable income of the donors.

References:

Law no. 40/1977, amended by law no. 177/2005;

Samer Solaiman,
Political Participation in Legislative Elections,
The Egyptian Association for Community Participation, Cairo, 2006, P. 91.

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.

21b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

Comments:

Corporate donations to political parties or candidates must be declared within a month and are subtracted from the taxable income of the donors. The state (the greatest institution) supports all registered political parties with a sum of 100, 000 Egyptian pounds (US\$18,254) per year for the administrative activities of the party. In addition, the state gives all political parties 5,000 pounds (US\$912) for each member in the People's Assembly (legislature) or Shora (consultative) Council, with maximum of

500,000 (US\$91,270) pounds for every party. Corporate donations to parties and candidates often do not exceed 100,000 pounds a year, and always registered in the records of the party.

But in Egypt companies are still not involved in the political process. The only contribution allowed by companies and businessmen is that of supporting the president of the republic and the ruling party by businessmen related to the political regime. In the last presidential elections it was known that certain businessmen, who are at the same time ministers or legislators, heavily financed the advertising campaign of president Mubarak.

On the contrary, the government has been arresting businessmen and entrepreneurs suspected of financing the political activities (mainly in legislative and consultative elections) of the Muslim Brothers group, a politically prohibited group.

References:

www.sis.gov.eg;

Samer Solaiman,
Political Participation in Legislative Elections,
The Egyptian Association for Community Participation, Cairo, 2006, P. 91.

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.

21c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

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

Comments:

In addition to the state support of political parties (100,000 thousand Egyptian pounds (US\$18,254) per year), political parties have multiple sources of income: member fees and contributions, revenues of investing the party's funds in such activities as publishing papers and books and running its printing houses for commercial purposes.

In practice, all political parties, except the ruling National Democratic Party and to some extent Al-Wafd (Delegate) party, are in severe short of money. Only the ruling party because of its control of the country's resources and its mutual-interest relationships with businessmen, and Al-Wafd party as the party of the old and new feudal and capitalist class, are able to fund their campaigns or politically-related activities. Given the disinterest of businessmen in politics, their fear for supporting parties other than the ruling one, the very weak memberships of all parties and the weak support by the state, all parties in Egypt other than the ruling one are in severe shortage of money for funding their political activities.

References:

Samer Solaiman,
Political Participation in Legislative Elections,
The Egyptian Association for Community Participation, Cairo, 2006, P. 91.

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.

21d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Political parties' money is in law public money that is organized by the criminal law. Leaders and employees of political parties are dealt with as public servants and subsequently treated according to the Criminal Law and illegal profiting law no. 62/1975. In case of financial crimes, the head of the Political Party Committee goes to the Administrative Court, an independent authority, asking it to expeditiously dissolve the party and distribute its resources and determine the agencies to which party resources have to be returned. The court must resolve the issue in 30 days, at the most.

References:

Law no. 40/1977, amended by law no. 177/2005;
Law no. 62/1975 concerning illegal profiting

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.

21e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

In practice, law no. 40/1977, amended by law no. 177/2005 for organizing political parties states that the Central Accounting Apparatus an independent authority that directly follows the president of the republic – is the authority entitled to audit all financial transactions of political parties. In case there are financial breaches, the Central Accounting Apparatus notifies the Political Party Affairs Committee, which in turn informs the administrative prosecution and subsequently the Supreme Administrative Court. The High Committee for Elections, established by law no. 173/2005 for organizing political parties, is authorized to bring the offenders before the Supreme Administrative Court.

All these agencies do not impose penalties on offenders, they just convert the issue to the court.

References:

Law no. 40/1977, amended by law no. 177/2005;

Law no. 73/1956, amended by law no. 173/2005

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

75:

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

25:

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

21f. In practice, contributions to political parties and candidates are audited.

100 | 75 | 50 | 25 | 0

Comments:

In practice, it is difficult to audit the contributions to political parties and candidates. In the last presidential elections, the Higher Committee for Elections defined the maximum limit of advertising for one candidate not to exceed 500,000 pounds (US\$91,270), whereas the advertising campaign of the candidate Mohamed Hosni Mubarak (the president of the republic) exceeded several million pounds, in addition to the countless contributions by companies, businessmen and individuals.

The last legislative elections also saw surpasses of the maximum amount for advertising for the one candidate. The new phenomenon in this elections was the election bribery and vote-purchasing. The price of the one vote ranged from 20 pounds to 1,000 pounds (US\$3,6 to US\$182). That phenomenon resulted from the businessmen entering political battles on the side of the ruling party. As a result, most of the members of the ruling party in the current legislature are businessmen. As analyzed by the Report of the National Campaign for Monitoring the Parliamentary Elections 2005, those businessmen only sought to invest their money to get more money by means of the parliament inviolability.

References:

The Report of the National Campaign for Monitoring the Parliamentary Elections 2005, edited by Waheed Abd-Al-Majeed,

The Human Rights Center for Helping Prisoners, 2006, PP. 118-119.

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.

22. Can citizens access records related to political financing?

0

22a. 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:

In practice, political parties and candidates do not disclose data relating to financial support and expenditures within a reasonable or unreasonable time period. This is because the ruling party (NDP) and its candidates are the main and perhaps the only violators of the transparency principle in disclosing the data relating to financial support and expenditures. The example of the presidential elections mentioned in the answer to question 21f exemplifies the violations made by the ruling party and its candidates, even the president of the republic, in funding their election campaigns. Both majority and minority hide the data relating to financial support and expenditures and do not register them in their records. In the last legislative elections, the Muslim Brothers group competed with the ruling party and its candidates in buying votes, using violence and offering gifts and services.

References:

Law no. 73/1956, amended by law no. 173/2005;

The Report of the National Campaign for Monitoring the Parliamentary Elections 2005, edited by Waheed Abd-Al-Majeed,
The Human Rights Center for Helping Prisoners, 2006, PP. 118-119.

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

75:

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

25:

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

22b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.

Comments:

In practice, citizens cannot access the financial records of political parties and candidates within a reasonable or unreasonable time period. The main reason is the desire of the ruling party not to give citizens access to the financial records of political parties and candidates, only because these data are not the real advertised expenditures. The ruling party and its candidates use means that contradict with transparency and integrity.

References:

Law no. 73/1956, amended by law no. 173/2005;

The Report of the National Campaign for Monitoring the Parliamentary Elections 2005, edited by Waheed Abd-Al-Majeed,
The Human Rights Center for Helping Prisoners, 2006, PP. 118-119.

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.

22c. In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.

Comments:

In practice, citizens cannot access the financial records of political parties and candidates at a reasonable or unreasonable cost. Candidates of both the ruling party, the opposition and independent parties, all violate the principles that must govern the election process, mainly their financial records. All reports on the election processes cite several cases that exemplify these things.

References:

The Report of the Independent Committee for Monitoring Elections, 2005

;

The Report of the Independent Campaign for Monitoring Elections, 2005;

The Report of the Civil Coalition for Monitoring Elections, 2005;

The Media Report of the 2005 Parliamentary Elections,
Cairo Institute for Human Rights Studies, 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.

Category III. Government Accountability

III-1. Executive Accountability

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

100

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

YES | NO

Comments:

In law, citizens can sue the government for infringement of their civil rights according to article 71 of the Egyptian Constitution. These issues can be resolved within a reasonable time period.

References:

The Egyptian Constitution, article 71.

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

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

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

44

24a. In practice, the chief executive gives reasons for his/her policy decisions.

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

Comments:

In practice, the chief executive does not give reasons for his policy decisions unless required by the legislature, as guaranteed by articles 86 and 125 that give the legislature the authority to question the prime minister, his deputies and ministers. Also in response to press reports, the chief executive may give reasons. But the Egyptian Constitution does not enforce a decisive concept of monitoring governmental performance in relation to press investigations of government executives. It only states in article 107 that the press can freely practice its mission and express the attitudes and positions of the public opinion. Meanwhile, the constitution obligates the government executives to give reasons for their decisions and respond to press reports.

References:

The web-site of the UNDP in Egypt;
Articles 86, 125 and 107 of the Egyptian Constitution

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.

24b. In law, the judiciary can review the actions of the executive.

YES | NO

Comments:

According to article 68 of the Egyptian Constitution, the judiciary can review the actions of the executive. That article states that no procedure or decision is inaccessible to the judiciary.

References:

The Egyptian Constitution, article 68

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

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

24c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:

Article 68 of the Egyptian Constitution states that no executive acts or decisions are immune from the monitoring of the judiciary. Article 65 emphasizes the rule of law and the independence and immunity of the judiciary as a means for protecting rights and freedoms.

But in practice, the Egyptian legislature ignored these principles and issued exceptional laws and regulations and entrusted several agencies for bringing the lawsuit, but these agencies do not go before the judiciary. During the emergency law, in effect since 1981, judiciary can not resolve all suits or review all actions of the executives. The actions and decisions of the Military Court, the Political Party Court or the High State Security Court are dealt with as part of the sovereignty actions that are not submitted to the monitoring of the judiciary.

References:

The Human Rights Center for Helping Prisoners, Judicial Sentences- An Applied Study in Light of The Relationship between The Criminal Procedure Law and The Constitution, P 27.

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

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.

24d. 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:

Bureaucracy is well-established in Egypt. Everything is run centrally. In this atmosphere, the chief executive does not limit the use of executive orders for establishing new regulations, policies, or government practices.

References:

Center for Developing Country Studies and Research, Rule Style, in a symposium entitled "Good Governance", P. 16.

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

75:

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

25:

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

25. Is the executive leadership subject to criminal proceedings?

0

25a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | **NO**

Comments:

In law, the executive authority is not submitted to criminal procedures. Article 85 of the constitution subdues the president of the republic to criminal procedures. That is, he can be prosecuted for crimes he commits. In a special court, legal proceedings and penalties must be established for prosecuting the president of the republic. If the president is found guilty, he must be dismissed and all other penalties must be implemented. Accusing the president of the government of great treason or any crime necessitates a suggestion by two thirds of the People's Assembly at least. The law prosecuting the president of the republic has not yet been issued, nor the president of the republic has been accused since the issuing of the Egyptian Constitution in 1971. The same applies to the head of the Ministers' Council (not a prime minister).

References:

The Egyptian Constitution, articles 85, 137 and 160

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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.

25b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | **NO**

Comments:

Since the separation of the unity between Egypt and Syria and the abolition of all laws of the unity country, there is no law for

prosecuting minister-level officials.

Article 160 makes prosecuting ministers possible, but also in front of a special court that needs a law to specify its procedures and penalties. As in the case of the president of the republic, this law has not yet been issued. In many cases, ministers were prosecuted for their crimes after leaving office, according to criminal law. Among the ministers prosecuted were Mohey Idean Al-Ghareeb, minister of finance, Mostafa Al-Said, minister of economics and Abd-Al-Hameed Hassan, governor of Giza.

References:

Nahdit Masr (Egypt Rise) Newspaper, Jan. 26-27, 2006.

The Egyptian Constitution, articles 85, 137 and 160

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

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

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

50

26a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

Comments:

All public servants and state employees in Egypt, including the president of the republic, head of the Ministers' Council, ministers, governorates, legislators are required to file asset disclosure forms in the beginning of their mandate in public service and review them every five years, so as change in one's wealth can be detected. Law no. 11/1968 for illegal profiting, amended by law no. 2/1977 (article 5) states that all employees and public servants, with no exception, are required to file asset disclosure forms showing their own properties, and the properties owned by their spouses and children.

References:

The Egyptian Constitution, articles 85, 137 and 160

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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

26b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

Comments:

All public servants and state employees in Egypt, including the president of the republic, head of the Ministers' Council, ministers, governorates, legislators are required to file asset disclosure forms in the beginning of their mandate in public service and review them every five years, so as change in one's wealth can be detected. Law no. 11/1968 for illegal profiting, amended by law no. 2/1977 (article 5) states that all employees and public servants, with no exception, are required to file asset disclosure forms showing their own properties, and the properties owned by their spouses and children.

References:

Nahdit Masr (Egypt rise) Newspaper, Jan. 26-27, 2006.
The Egyptian Constitution, articles 85, 137 and 160

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.

26c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

Comments:

In accordance with article 77 of law no. 47/1978 for state employees, public servants are not permitted to directly or indirectly accept gifts, rewards, commissions or advances in exchange for doing their duties.

References:

Article 77 of law no. 47/1978 for state employees

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.

26d. 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:

In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (ministers and heads of state and government). The Central Accounting Apparatus (established by law no. 144/1988) audits the asset disclosure forms of ministers and heads of state and government. In case any citizen informs of illegal profiting or unreasonable growth in the wealth of public servants, The Illegal Profiting Apparatus (established by law no. 62/1975) investigates the information and converts the case to the court.

References:

Law no. 144/1988 for establishing the central accounting apparatus

Law no. 62/1975 for establishing the illegal profiting apparatus

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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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.

26e. 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 are no legal restrictions on heads of state and government and ministers to enter the private sector after leaving the government. Article 81 of the constitution states that while being in office the president of the republic cannot practice free careers, commercial, financial or industrial work; buy or lease any of state proprieties; sell to state any of his proprieties; barter anything with the state. The same applies to ministers according to article 158 of the constitution.

Thus the restrictions on heads of state and government and ministers entering the private sector apply only to their being in office. After leaving the government, they can freely enter the private sector.

References:

The Egyptian Constitution, articles 81 and 158

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. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

26f. 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:

In practice, there are no regulations for organizing post-government private sector employment for heads of state and government and ministers. The present government of Ahmed Nazef is mainly a government of businessmen. For example, the minister of Health, Hatim AlGabaly, is one of the biggest investors in medicine and hospital industries, the minister on Transportation, Mohamed Mansour, is the owner of a company that possesses more than 30 percent of taxi businesses, while Zoheir Garana, the minister of Tourism, is the owner of some of the biggest tourism businesses in Egypt.

References:

Fagr (Dawn) newspaper, Jan. 23, 2006

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.

26g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the regulations governing gifts and hospitality offered to members of the executive branch are not in effect as stated in item 14 of article 77 of law no. 47/1978. On the contrary, this and other laws pertaining to gifts and hospitality are completely ineffective. Thus, bribes and gifts of all kinds all widespread in Egypt.

References:

Nahdit Masr (Egypt Rise) Newspaper, Jan. 26-27, 2006, P. 5.

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

75:

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

25:

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

26h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

Comments:

In practice, executive branch asset disclosures (ministers and above) are supposed to be audited. Ministers and members of the two legislative councils use two means to deceive the asset disclosures forms: either they duplicate their asset disclosures forms when entering office, so as to cover the wealth that will be added after the years in the ministry or legislature, or when leaving office they sell all the properties they got while being in office to their sons and wives. Moreover, auditing asset disclosures forms by the Central Accounting Apparatus is no longer effective or important, especially after the sentence of the Cassation Court in the suit against Minister Abd-Al-Hameed Hassan, governor of Giza governorate.

References:

Sber Nail,
Corruption- Marriage of Authority and Wealth,
Khamaseen publishing house, Cairo, P 120.

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. Audits may be performed by entities known to be partisan or biased in their practices.

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

0

27a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | **NO**

Comments:

In law, citizens cannot access the asset disclosure records of the heads of state and government. Law no. 122/1975 amended by law 22/1983 concerning the preservation of official documents of state prevents citizens from accessing these documents.

References:

Law no. 122/1975, amended by law 22/1983 on preserving official documents of state

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

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

27b. 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:

In practice, citizens cannot access the asset disclosure records of the heads of state and government within reasonable or unreasonable time period. Although Egypt signed all international agreements that guarantee free access of information, many domestic laws and practices hamper it. Law of the central apparatus for general mobilization and statistics, law of the central accounting apparatus, law no. 122/1975, amended by law 22/1983, law no. 256/1954, law no. 97/1995, and different monitoring agencies, such as the administrative prosecution and the Illegal Profiting Apparatus, prevent citizens from accessing the asset disclosure records of the heads of state and government at all, although they are subsidiary to the executive branch, not independent agencies.

References:

Sber Nail
Corruption- Marriage of Authority and Wealth,
Khamaseen publishing house, Cairo, PP. 17-30.

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.

27c. 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:

In practice, citizens cannot access the asset disclosure records of the heads of state and government within reasonable or unreasonable time period. Although Egypt signed all international agreements that guarantee free access of information, many domestic laws and practices hamper it. Law of the central apparatus for general mobilization and statistics, law of the central accounting apparatus, law no. 122/1975, amended by law 22/1983, law no. 256/1954, law no. 97/1995, and different monitoring agencies, such as the administrative prosecution and the Illegal Profiting Apparatus, prevent citizens from accessing the asset disclosure records of the heads of state and government at all, although they are subsidiary to the executive branch, not independent agencies.

References:

Sber Nail
Corruption- Marriage of Authority and Wealth,
Khamaseen publishing house, Cairo, PP. 17-30.

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

75:

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

25:

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

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

0

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

Comments:

Despite the full monopoly of the ruling party in the Egyptian political system, this party is completely dependent on state agencies to the extent that it is now difficult to discriminate between this dominating party and the state's executive and security systems. There is a widespread attitude among state employees to join that party, sometimes by compulsion from heads of state and government, who are, at the same time, the head of the party. This makes it difficult to separate the ruling political party from the state systems and agencies. This interference both handicapped the ruling NDP from natural growth and inflicted the state with practicing political discrimination and bias.

References:

Amr Shobaki
Political Parties and Presidential Elections,
in Political Reform and Change in Egypt, a conference held on Nov. 12-22, 2006,
The Human Rights Association for Helping Prisoners, Cairo.

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

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the 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 bureaucracy 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

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

83

29a. In law, the judiciary can review laws passed by the legislature.

YES | NO

Comments:

In law, the judiciary reviews the constitutionality of laws passed by the legislature: whether they align with the constitution or not. Article 175 of the constitution gives the Supreme Constitutional Court the authority of judicially checking and interpreting laws passed by the legislature. Article no. 93 of the constitution entrusts the Court of Cassation with examining the correctness of appeals presented to the legislature when sent to it by the head of the legislature.

References:

The Egyptian Constitution, articles 93, 98, 99 and 175;

Democracy Promotion Group,
Mechanisms and Obstacles of Parliamentary Performance, 1998, P. 15.

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).

29b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the judiciary, represented in the Supreme Constitutional Court, checks whether or not laws passed by the legislature align with the constitution. The most important example was law no. 153/1999 for organizing non-governmental organizations, which was judged by the Supreme Constitutional Court to be unconstitutional, and consequently, the legislature in 2002 issued the present law no. 84 for NGOs avoiding the constitutional defect in the previous law. The Court of Cassation is authorized to examine the appeals against legislature members and sending its reports to the legislature, which has only the power to determine the correctness of the membership of its members. There has recently been a strong debate between the legislative and judicial powers in a phenomenon known as "rush laws", where the Supreme Constitutional Court judged several laws passed by the legislature to be unconstitutional, and the Court of Cassation issued several reports accepting the appeals against members of the legislature. On this last point, article 93 of the constitution gives the legislature, not any court, the ultimate authority in determining the correctness of its membership.

References:

Democracy Promotion Group,
Mechanisms and Obstacles of Parliamentary Performance, 1998, P. 129

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

75:

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

25:

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

29c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

Comments:

Article 99 of the Egyptian Constitution states that only in case of being arrested in a criminal act, are members of the National Legislature subject to criminal proceedings. In cases other than being arrested in a criminal act, there must be a prior permission from the legislature.

References:

Article 99 of the Egyptian Constitution

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.

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

29

30a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

Comments:

Law no. 62/1975 requires members of the National Legislature to file asset disclosure forms.

References:

Law no. 62/ 1975

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

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

30b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | **NO**

Comments:

In law, there are no restrictions for national legislators to enter the private sector after leaving the government. While being in the legislature, legislators are not allowed to be involved in investment transactions with the state, exploiting his/her membership in the legislature (article 95 of the Egyptian Constitution).

References:

Article 95 of the Egyptian Constitution

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.

30c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | **NO**

Comments:

In law, there are no regulations governing gifts and hospitality offered to members of the National Legislature because law no. 62/1975 for illegal profiting is no longer in effect. Of course members of the National Legislature are still required to file asset disclosure forms. But with overlooking law no. , members of the legislature are used to manipulate these forms, either by registering unreal properties when entering the legislature or conveying their properties to their sons and spouses when leaving the legislature. Moreover, the Illegal Profiting Apparatus no longer checks asset disclosure forms of members of the National Legislature. In addition to this neglect of checking asset disclosure forms of all state employees and public servants, if a citizen informs an investigation agency of employees, including legislators, whose wealth has unjustifiably increased and investigations do not confirm the allegations, he/she is sentenced to be imprisoned for two years – which, in turn, prevents citizens from making allegations. Finally, there are no regulations governing gifts and hospitality offered to members of the National Legislature.

References:

Sber Nail,
Corruption- Marriage of Authority and Wealth,
Khamaseen publishing house, Cairo, P. 120;

Law no. 62/1975 for illegal profiting

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.

30d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | NO

Comments:

Illegal Profiting Apparatus (established by law no. 62/1975) and the law of the Central Accounting Apparatus (established by law no. 177/2005 organizing political parties) (relatively independent authorities that directly follow the president of the republic) are entrusted with auditing the asset disclosure forms of members of the National Legislature. In light of what was stressed above pertaining the interference between state authorities and the ruling party, it is not expected that these agencies seriously check the asset disclosure forms of more than two thirds (364) of the members of the legislature, only because they belong to the ruling party, whose head is the head of these agencies: the president of the republic.

References:

Law no. 62/1975 for illegal profiting
Law no. 177/2005 for organizing political parties

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.

30e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

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

Comments:

In practice, there are no regulations restricting post-government private sector employment for national legislators. Only while being in the legislature, legislators are not allowed to get involved in investment transactions with the state, exploiting his/her membership in legislature (article 95 of the Egyptian Constitution).

References:

Article 95 of the Egyptian Constitution

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

75:

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

25:

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

30f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

In practice, there are no regulations governing gifts and hospitality offered to national legislators.

References:

The bylaw of the People's Assembly

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.

30g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

In practice, national legislative branch asset disclosures are not audited at all. The Central Accounting Apparatus is authorized to

audit the asset disclosures of the legislators every five years, that is after leaving the legislature. But these checks are no longer taken seriously and legislators are used to manipulate these forms, as mentioned elsewhere in the survey. The Illegal Profiting Apparatus can check the wealth of legislators only when informed by citizens . But is the investigations do not confirm the allegations, informers are sentenced to be imprisoned for two years, which, in turn, prevents citizens from making such allegations.

References:

Sber Nail
Corruption- Marriage of Authority and Wealth,
Khamaseen publishing house, Cairo, P. 120.

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. Audits may be performed by entities known to be partisan or biased in their practices.

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

0

31a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | **NO**

Comments:

In law, citizens cannot access the asset disclosure records of members of the National Legislature. Law no. 121/1975, amended by law no. 472/1989 for preserving official documents of the state, punishment law no. 58 and its amendments, law no. 29/1982, law no. 199/1983, law no. 93/1995 all restrict the freedom of information.

References:

Law no. 121/1975, amended by law no. 472/1989 for preserving official documents of the state

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.

31b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot access legislative asset disclosure records within reasonable or unreasonable time period. All governmental agencies are committed not to give citizens access to official documents. Law no. 121/1975, amended by law no. 472/1989 and law of the central apparatus for general mobilization and statistics (article 10) consider asset disclosure records official documents that must be kept from citizens.

References:

Law no. 121/1975

Law of the central apparatus for general mobilization and statistics, article 10

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.

31c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In practice, as stressed in the previous answer, citizens cannot access legislative asset disclosure records at reasonable or unreasonable cost.

References:

Law no. 121/1975, amended by law 472/1979

Law no. 35/1960 organizing the central apparatus for general mobilization and statistics (article 10)

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.

32. Can citizens access legislative processes and documents?

17

32a. In law, citizens can access records of legislative processes and documents.

YES | **NO**

Comments:

In law, citizens cannot access records of legislative processes and documents because of the laws that limit the access to official documents. Law no. 121/1975, amended by law no. 472/1989 and law of the central apparatus for general mobilization and statistics (article 10) consider asset disclosure records official documents that must be kept from citizens.

References:

Law no. 121/1975, amended by law 472/1979

Law no. 35/1960 organizing the central apparatus for general mobilization and statistics (article 10)

Law no. 93/1995

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.

32b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

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

Comments:

In practice, citizens cannot access records of legislative processes and documents within a reasonable or unreasonable time period.

References:

Law no. 121/1975, amended by law 472/1979

Law no. 35/1960 organizing the central apparatus for general mobilization and statistics (article 10)

Law no. 93/1995

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

75:

50: Records take around two weeks to obtain. Some 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.

32c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

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

Comments:

In practice, citizens cannot access records of legislative processes and documents at all because of the laws that limit the freedom and access to information and documents, especially the official documents.

References:

Law no. 121/1975, amended by law 472/1979

Law no. 35/1960 organizing the central apparatus for general mobilization and statistics (article 10)

Law no. 93/1995

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.

32
III-3. Judicial Accountability

33. Are judges appointed fairly?

8

33a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

Comments:

Law no. 46/1972 organizing the judiciary power states that there is no transparent procedure for selecting national-level judges. This law gives the minister of Justice the power to select several national-level judges. The general prosecution is also subordinated to the minister of Justice. Taking in consideration that the minister of Justice is part of the executive branch that is subordinated to the president of the republic, then all these nominations are subordinated to the executive branch, namely the president of the republic. The Supreme Judiciary Council has the power to appoint the head of the Court of Cassation, the general attorney and all judges and prosecutors, as well as to move, delegate and transfer them in accordance to general and abstract regulations developed by the council itself.

References:

Naser Amin,
Towards a Judicial Reform in Egypt,
The Arab Center for the Independence of Judiciary and Defense, P. 5.

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. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

33b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | 50 | 25 | 0

Comments:

There are no certain professional criteria required for the selection of national-level judges. This motivated the Egyptian judges movement from 2005 until now to work for changing the judiciary power law no. 46/1972 for obtaining the rights and freedoms guaranteed to the judges by the constitution. The gap between law texts and reality is so wide, to the extent that it eliminates the independence of the judiciary. Therefore, on April 15, 2005, the general assembly of judges of Alexandria emphasized the need for a new law for the judicial branch that frees judges from the hegemony of the executive branch. Among the most important changes needed in law are extending the jurisdiction of the Supreme Judiciary Council, abolishing the Supreme Council for judicial agencies, restricting the role of the minister of Justice to administrative matters and not selecting court heads, appropriating a separate budget for judges, moving judicial inspection from the Ministry of Justice to the Supreme Judiciary Council, and the approval of the Supreme Judiciary Council of the nomination by the president of the republic of the general attorney, the general lawyer and all members of the general prosecution. The General Assembly of Judges' Club a syndicate organization for the judges – supported all these demands.

References:

The Report of the National Campaign for Monitoring the Parliamentary Elections 2005,
edited by Waheed Abd-Al-Majeed,
The Human Rights Center for Helping Prisoners, 2006, P. 75.

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

75:

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

25:

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

33c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | **NO**

Comments:

In accordance with law no. 46/1972 organizing the judicial power, only the Supreme Council for judicial agencies, presided by the president of the republic, has the power to confirm national-level judges. Then it is the president of the republic, represented in his minister of Justice, who nominates and confirms the process of appointing judges.

References:

Law no. 46/1972 organizing the judicial power

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).

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

71

34a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

Comments:

According to law no. 46/1972 organizing the judicial power, members of the national-level judiciary are obliged to give reasons for their decisions. No court decision is issued without an appeal paper that contains the reasons and justifications of the decision.

References:

Law no. 46/1972 organizing the judicial power

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).

34b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

Comments:

In practice, members of the national-level judiciary give reasons for their decisions. No court decision is issued without an appeal paper that contains the reasons and justifications of the decision. Citizens can access the reasons and justifications of the decision within a month after paying reasonable fees. Citizens can obtain a copy of the decision with its reasons and justifications for implementing the decision. Citizens can also take their appeal to a court of higher degree to get better decisions in a certain time period.

References:

Law no. 46/1972 organizing the judicial power

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.

34c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

Comments:

The Judicial Inspection Committee appointed by the minister of the Justice, himself part of the executive branch, is the agency entrusted with making inquiries and investigations in case there are complaints against judges.

References:

Law no. 46/1972 organizing the judicial power

YES: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency 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 disciplinary mechanism for the national-level judiciary.

34d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | **NO**

Comments:

The Judicial Inspection Committee is not protected from political interference. According to law no. 46/1972, that committee is formed by the minister of Justice, who is at the same time part of the executive branch, and often a member of the ruling NDP party. The committee is also a judicial agency that follows the Supreme Council for judicial agencies presided by the president of the republic, who is at the same time the head of the executive branch.

References:

Law no. 46/1972 organizing the judicial power

YES: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is operationally independent from political interference by the executive, legislative and judicial branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an inherently subordinate organization, such as an executive ministry, legislative committee, or by an internal judiciary committee or council that can only act with the approval of judges themselves.

34e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

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

Comments:

In practice, when necessary, the Judicial Disciplinary Agency or its equivalent mechanism initiate investigations. The most famous example is that of judges Mahmoud Miki and Hesham Bastawisy. The Judicial Inspection Committee referred those two judges to the discipline committee in preparation for dismissing them because of their leading role in the judge's movement calling for true independence of the judiciary. Those two judges were part of a larger movement by the Judges' Club that held several conferences calling for a new law for the judiciary, with an emphasis on its independence from the executive power. The executive branch, represented by the minister of Justice, pushed the Judicial Inspection Committee to deliver their issue to the discipline committee in preparation for dismissing them. But the judges' solidarity with those two judges protected them. The committee freed Mahmoud Miki of charge and reproved Hesham Bastawisy.

References:

The Report of the National Campaign for Monitoring the Parliamentary Elections 2005, edited by Waheed Abd-Al-Majeed,
The Human Rights Center for Helping Prisoners, 2006, P. 75-85

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

75:

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

25:

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

34f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

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

Comments:

When necessary, the Judicial Inspection Committee imposes penalties on offenders such as the reprove penalty imposed on the judge Hesham Bastawisy mentioned in the answer to the previous question. It can also impose administrative penalties. When the offence necessitates dismissing the judge, the committee hands the issue to the Supreme Council of Judicial Agencies for a decision.

References:

Law no. 46/1972 organizing the judicial power

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) 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 judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) 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 judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

35. Are there regulations governing conflicts of interest for the national-level judiciary?

36

35a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | NO

Comments:

Like the public servants, members of the national-level judiciary are required to file asset disclosure forms. All public servants and state employees in Egypt, including the president of the republic, head of the Ministers' Council, ministers, governorates, legislators are required to file asset disclosure forms in the beginning of their mandate in public service and review them every five years, so as change in one's wealth can be detected. Law no. 11/1968 for illegal profiting, amended by law no. 2/ 1977 (article 5) states that all employees and public servants, with no exception, are required to file asset disclosure forms showing their own properties, and the properties owned by their spouses and children.

References:

Law no. 11/1968 for illegal profiting
Law no. 2/1977 for illegal profiting, article 5.

YES: A YES score is earned if all members of the national-level judiciary 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 national-level judiciary is not required to publicly disclose assets.

35b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

Comments:

Item 14 of article 77 of law no. 47/1978 for state employees prohibits members of the national-level judiciary from taking gifts, hospitality, commissions or advances from people to whom they deliver state services.

References:

Law no. 47/1978 for state employees (article 77, item 14)

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

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

35c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | NO

Comments:

In law, there are no requirements for independent auditing of the asset disclosure forms of members of the national-level judiciary. The only the asset disclosure form required of all state employees is the one according to law no. 11/1968 for illegal profiting. Regular auditing is made by the Illegal Profiting Apparatus that is subordinated to the president of the republic. This apparatus is required to investigate the complaints raised by citizens pertaining to unreasonable and unjustifiable increase in one's wealth, including members of the national-level judiciary. If the investigations do not confirm the allegations, the citizen who made them is sentenced to two years in prison.

References:

Law no. 11/1968 for illegal profiting

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary 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 national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

35d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | **NO**

Comments:

In law, there are no restrictions for national-level judges to enter the private sector after leaving the government. But item 8 of article 77 of law no. 47/1978 for state employees prohibits ex-state employees from disclosing information that is considered secret in their former state jobs.

References:

Law no. 47/1978 for state employees (article 77, item 14)

YES: A YES score is earned if there are regulations restricting national-level judges 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.

35e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

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

Comments:

In practice, there are no regulations restricting post-government private sector employment for national-level judges. State employees in Egypt often retire early, before the assigned age (60), to work in the private sector or have their own businesses, benefiting from the networks they built while working in the government.

References:

Law no. 47/ 1978 for state employees (article 77, item 14)

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no or few cases of judges 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 cases, judges 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. Judges 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.

35f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

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

Comments:

In practice, there are no regulations governing gifts and hospitality offered to members of the national-level judiciary. Item 14 of article 77 of law no. 47/1978 for state employees prohibits members of the national-level judiciary from taking gifts, hospitality, commissions or advances from people to whom they deliver state services. But this rule is not always applicable in practice.

References:

Law no. 47/1978 for state employees (article 77, item 14)

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to judges. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges 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 national-level judiciary are routinely ignored and unenforced. Judges routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

35g. In practice, national-level judiciary asset disclosures are audited.

Comments:

In practice, national-level judiciary asset disclosures are not audited. Only the asset disclosure forms required of all state employees according to law no. 11/1968 for illegal profiting is also required of judges. However, even the regular auditing of the illegal profiting apparatus is no longer serious. This apparatus is required to investigate the complaints raised by citizens pertaining to unreasonable and unjustifiable increase in one's wealth, including members of the national-level judiciary. If the allegations are not confirmed, the citizen who made them is sentenced to two years in prison.

References:

Law no. 11/ 1968 for illegal profiting

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: National-level judiciary 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: National-level judiciary asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

36. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

36a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | **NO**

Comments:

In law, citizens cannot access the asset disclosure records of members of the national-level judiciary. Law no. 121/1975, amended by law no. 472/1989 for preserving official documents of the state, punishment law no. 58 and its amendments, law no. 29/1982, law no. 199/1983, law no. 93/1995 all restrict the freedom of information. The asset disclosure records of all state employees are considered official documents that can not be disclosed to citizens.

References:

Presidential decree no. 472/1979 for preserving state official documents and organizing their publication and use;
Law no. 121/1975, amended by law no. 472/1989 for preserving official documents of the state

YES: A YES score is earned if members of the national-level judiciary 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-level judiciary. A NO score is earned if the form is filed, but not available to the public.

36b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot access judicial asset disclosure records within a reasonable or unreasonable time period. All governmental agencies are committed not to give citizens access to official documents. Law no. 121/ 1975, amended by law no. 472/1989 and law of the central apparatus for general mobilization and statistics (article 10) consider asset disclosure records official documents that must be kept from citizens.

References:

Law of the central apparatus for general mobilization and statistics, article 10;
Presidential decree no. 472/1979 for preserving state official documents and organizing their publication and use;
Law no. 121/1975, amended by law no. 472/1989 for preserving official documents of the state

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.

36c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot access judicial asset disclosure records at a reasonable or unreasonable cost.

References:

Presidential decree no. 472/1979 for preserving state official documents and organizing their publication and use;
Law no. 121/1975, amended by law 472/ 1979;
Law no. 35/1960 organizing the central apparatus for general mobilization and statistics (article 10 on preventing publication)

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.

III-4. Budget Processes

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

17

37a. In law, the legislature can amend the budget.

YES | **NO**

Comments:

Article 86 of the Egyptian Constitution requires that the legislature approve the general plan for economic and social development in the general budget of the state. But according to article 118 of the Egyptian Constitution, the legislature is not permitted to amend the general budget proposal unless it has the consent of the government. Thus, if the legislature wants to amend general budget proposal, these amendments must be approved by the government – that is, the legislature has to approve the general budget proposal as presented by the government. The bylaw of the legislature defines the procedure for discussing the general budget proposal. In all cases, amendments made by the legislature must be approved by the government.

References:

The Egyptian Constitution, articles 86-118;
The bylaw of the People's Assembly (legislature), articles 133-136

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

37b. In practice, significant public expenditures require legislative approval.

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

Comments:

Significant public expenditures require governmental, not legislative, approval. All amendments or suggestions by the legislature must be approved by the government, otherwise the budget proposal is returned to the legislature for further discussions.

References:

Democracy Promotion Group,
Mechanisms and Obstacles of Parliamentary Performance, 1998, P. 86.

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.

37c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

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

Comments:

In practice, the legislature does not have sufficient capacity to monitor the budget process and provide input or changes. If the legislature has no capacity to amend the budget proposal when it is first presented for approval, then it would be impossible for the legislature to monitor the budget process and provide input or changes. Member attendance in the sessions dedicated to discussing the budget proposal is very weak (one fifth of the total number of members, according to some estimates). Most legislators' demands relate to the services that will be provided to their local directorates.

References:

Democracy Promotion Group,
Mechanisms and Obstacles of Parliamentary Performance, 1998, P. 77

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.

38a. 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:

In practice, citizens cannot access the national budgetary process in the debating stage. The national budgetary process is completely performed by government agencies (the Central Accounting Apparatus) and presented to the legislature for approval. Article 86 of the constitution requires that the next general budget of the state be presented to the legislature two months before the beginning of the new fiscal year and discussed chapter by chapter. The same article also states that the legislature is not permitted to amend the general budget unless its amendments are approved by the government. If the new budget is not approved before the beginning of the new fiscal year, the general budget of the last year comes into effect until the new one is approved.

The national budgetary process passes through five stages with different agencies. The most effective of these are the Finance Ministry, which prepares the general budget proposal, the Plan and Budget Committee in the legislature, which discusses the budget before presenting it to all the members, and the Central Accounting Apparatus, which monitors implementing the budget by different ministries and state agencies and presents a report to the legislature.

References:

Sherif Ahmed Sherif,
The General Budget of the State,
Administration Studies and Consultations Center, The Faculty of Economics and Political Sciences, Cairo University, P. 17.

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.

38b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot provide input at budget hearings. Only legislators can provide that input.

References:

Article 118 of the Egyptian Constitution

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

75:

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

25:

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

38c. In practice, citizens can access itemized budget allocations.

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

Comments:

In practice, citizens cannot access itemized budget allocations. Only media news relating to the discussions of general budget can give citizens limited information on the itemized budget allocations.

References:

Sherif Ahmed Sherif,
The General Budget of the State,
Administration Studies and Consultations Center, The Faculty of Economics and Political Sciences, Cairo University, P. 14

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.

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

100

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

YES | NO

Comments:

The Plan and Budget Committee in the legislature is a separate legislative committee that provides oversight of public funds via the Central Accounting Apparatus. That apparatus assists the plan and the budget committee in monitoring the implementation of the approved budget.

References:

Ahmed Isam-Idean Omar,
The General Budget of The State,
Administration Studies and Consultations Center, The Faculty of Economics and Political Sciences, Cairo University, P. 19.

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

NO: A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

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

0

40a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

Comments:

In practice, department heads (ministers) regularly do not submit reports to the Plan and Budget Committee. Only the Central Accounting Apparatus makes a report on budget implementation and hands it to the Plan and Budget Committee. The requirements of ministries and independent institutions in the next general budget are directed to the Central Accounting Apparatus to take them into consideration.

References:

Ali Al-Sawi,
Developing The Parliamentary Performance,
Democracy Promotion Group, PP. 56-57.

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.

40b. 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:

In practice, the Plan and Budget Committee in the legislature acts in a partisan manner with members of opposition parties serving on the committee. Most of the members of this committee are often from the ruling NDP party and acts in a purely partisan manner. It consists of the 20 members, who are the heads of other legislature committees, including the newly established Human Rights Committee. The Plan and Budget Committee is perhaps the only committee in the legislature that does not include independent members or members from opposition parties. After discussing the general budget, other legislature committees send reports to the Plan and Budget Committee to take into consideration. In all committees and the legislature as a whole, independent and opposition members do not act in a non-partisan manner. They are often more active and persistent than NDP members, but their views and opinions are often overlooked, not because they are independent or belong to the opposition, but because laws need to be approved just as presented by the government, without any modification.

References:

Ali Al-Sawi,
Developing The Parliamentary Performance,
Democracy Promotion Group, PP. 56-57.

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.

40c. In practice, this committee is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the Plan and Budget Committee is not protected from political interference. Because it has members from the ruling NDP party, it is purely a partisan and governmental committee. Even the Central Accounting Apparatus that assists it is not protected from political interference, as it is subordinated to the president of the republic, who is, at the same time, the head of the executive branch.

References:

Ali Al-Sawi,

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.

40d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

Comments:

It is the Central Accounting Apparatus, not the Plan and Budget Committee in the legislature, that initiates independent investigations into financial irregularities. Central Accounting Apparatus must first obtain the consent of the president of the republic before initiating independent investigations into financial irregularities or taking any legal action. It prepares annual reports on the implementation of the budget and it delivers one to the legislature.

References:

Democracy Promotion Group,
Mechanisms and Obstacles of Parliamentary Performance, 1998, P. 20.

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.

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

100

41a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

Comments:

There are rules and regulations requiring an impartial, independent and fairly managed civil service. Law no. 47/1978 (articles 15-27) organizes civil service and aligns it with the public interest.

References:

Law no. 47/ 1978 organizing civil servants, published in the official newspaper on July 20, 1978, issue no. 29.

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.

41b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

Comments:

Articles 28-75 of civil servants' law no. 47/1978 prevent nepotism, cronyism, and patronage within civil service and impose impartial and objectives rules for holding civil service jobs.

References:

Law no. 47/ 1978 organizing civil servants, published in the official newspaper on July 20, 1978, issue no. 29.

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.

41c. In law, there is an independent redress mechanism for the civil service.

YES | NO

Comments:

Civil servants' law no. 47/1978 established the Labor Force Committee, a redress mechanism for the civil service, which is part of the Labor Force Ministry. That committee has been responsible for appointing civil servants from school and university graduates and allocating them to civil service in all sectors. But upon abandoning socialism and state capitalism, the state withdrew from appointing school and university graduates, and now it is up to the private sector to compensate for the previous role of the state. The state servants' law and other laws provide mechanisms through which civil servants and applicants for the civil service can take grievances regarding civil service management actions. In addition, civil servants are able to appeal the decisions to the judiciary, particularly the Administrative Prosecution and courts.

References:

Law no. 47/ 1978 organizing civil servants, published in the official newspaper on July 20, 1978, issue no. 29;

The election program of the presidency candidate Mohamed Housni Mubarak, September 2005.

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.

41d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

Comments:

Article no. 100 of civil servants' law no. 47/1978 stipulates the dismissing of civil servants convicted of corruption and preventing them from future government employment. They can restore their government employment by the power of law only if they appeal to court against the first judicial judgment and are proved to be innocent of corruption in the second judgment.

References:

Article 100 of law no. 47/1978 organizing civil servants, published in the official newspaper on June 20, 1978, issue no. 29.

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.

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

42a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

In practice, civil servants are not protected from political interference. Most corruption issues that have arisen lately demonstrate that civil servants are not protected from political interference and political and economic centers of power.

References:

Mostafa Kamel El-Sayid,
Corruption and Development,
Center for Studies of the Developing Countries, Faculty of Economics and Political Sciences,
Cairo University, 52.

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.

42b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

In practice, civil servants are not appointed or evaluated according to professional criteria. Professional criteria are the last ones to be considered. Although there are organizational procedures for taking government employment, such as announcing vacant jobs in public information media, making interviews for selecting the best persons, taking educational certificates as the first determinant, etc., in most cases it is evident that these jobs are allocated beforehand for relatives of high-level government officials. In practice all impartial and objective rules stated in laws are set aside in favor of nepotism, cronyism, and patronage. Unequal opportunities, favoritism and nepotism are the dominant rules in occupying government employment. This resulted in a phenomenon known as the inheritance of government employment” in universities, military, police and even ministries. In Egypt there are certain families (ex-feudal ones) that have had one minister at least in subsequent governments since monarchy in the pre-revolution era. This phenomenon destroys the principle of equal opportunity and deprives the majority of citizens of their equal access to civil service jobs.

References:

Al-Wafd newspaper,
Files of Favoritism,
April 8, 2004.

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.

42c. 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:

In practice, civil service management actions such as hiring, firing or promotions are based on nepotism, cronyism, or patronage. These corrupt mechanisms came to be the dominant conventional¹⁷ law governing civil service and government employment. For example, in the last legislative elections, the candidates – the ministers of petroleum, irrigation and water resources and all other ministers and high-level government officials – offered wide promises to voters in their electorates. These promises were mainly concerning government employment in their respective ministry or department. Whether these promises were accomplished or not, this behavior by ministers and high-level government officials is fatal to good governance and civil service. If those officials appointed their voters in their ministries, this act destroys the principles of equal opportunity and appointment of the best people for the jobs. It also discloses that ministers and high-level government officials including the leaders of the ruling party make use of state employment for their own interest and the interest of the ruling party. Nepotism, cronyism, or patronage in occupying government jobs also result in forming interest groups and centers of power in state agencies. This corruption, in turn, breeds corruption, and relevant laws are set aside. Here corruption becomes an institutional method, not merely individual violations, as claimed by the government. Examples of corruption issues by high-level government officials are those of Mohamed Al-Wakeel, undersecretary of the Ministry of Information, and Yousof Abd-Al-Rahman, undersecretary of the Ministry of Agriculture.

References:

Al-Wafd newspaper,
Files of Favoritism,
April 8, 2004.

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

75:

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

25:

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

42d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

Comments:

In practice, civil servants have clear job descriptions according to civil servants' law no. 47/1978 and the bylaws and regulations of every government agency, department and institution. Agencies can impose job descriptions on their employees. Violations of laws, regulations and job descriptions are converted to the prosecution and courts. However, with the previously stressed widespread corruption in government agencies and departments, breaking relevant laws, regulations and job descriptions turn to be the rule, not the exception.

References:

The web-sites of the Egyptian government, the Ministry of Administrative Development www.egypt.gov.eg
www.ad.gov.eg

Akram Al-Kasas,
What Is Left in Egypt to the Egyptians,
Al-Arai newspaper,
Feb. 19, 2007

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.

42e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

Comments:

Determining the minimum and maximum limit of salaries, bonuses, total pay and regular subsidies of all civil servants are organized in accordance with the civil service law no. 47/1978. However, there are other forms of payment that exceed the whole salary of thousands of government employees. Salaries of undersecretaries, employees in certain ministries, such as the Interior and Justice Ministries, are much higher than those of the employees in other ministries. While the newly appointed teacher takes no more than 300 pounds (US\$54.5), the newly appointed prosecutor takes about 2,000 pounds (US\$364), and they are both university graduates. For some state jobs, such as chief editors of state-owned (national) newspapers, there are unreasonable and unbelievable bonuses. For some of them, the total monthly pay exceeds 1 million Egyptian pounds (US\$182,000).

References:

The bylaw of law no. 47/1978

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

75:

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

25:

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

42f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

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

Comments:

In practice, the government publishes the number of available civil service positions from 2005 to 2011, in accordance with the election program of the presidency candidate Mohamed Housni Mubarak, in which he promised to make available 6 million job opportunities. In Egypt, 982,000 jobs are needed every year to accommodate new graduates. Nothing of the program election of president Mubarak came true. Unemployment rate according to government documents is 9 percent (2.3 million jobless persons), while in independent estimates this rate rises to 27 percent (6.1 million jobless persons). The number of civil positions actually filled is 6 million, of which 5.5 millions are permanent and 0.5 million are temporary. The total number of labor force in Egypt is 21.1 million workers. Workers covered with insurance in the private sector in 2003-2004 were 5.2 million, in addition to workers in investment companies and agriculture.

References:

The election program of the presidency candidate Mohamed Housni Mubarak, September 2005;

Ilhami Al-Merghany,
Transformations of The Egyptian Working Class,
Hesham Mubarak Law Center, PP. 67-91.

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.

42g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

Comments:

Although the government always announces and emphasizes complementarity with the private sector in providing jobs, millions of youth are still jobless. Every day, a number of false available jobs opportunities are disclosed to ordinary people. Due to the government withdrawal from offering jobs, the private sector became the target of job seekers. While the government claims that the unemployment rate is 3.7 percent (2 million people), other independent estimates found this rate to be 25 percent (7 million people). The lack of the redress mechanism pushed hundreds of thousands of young people to legitimate and illegitimate emigration.

References:

Abo-Baker Al-Gendy, head of the Central Apparatus for General Mobilization and Statistics, a press release, April 3, 2007, cited on the web-site of Al-Wafd newspaper.

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.

42h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the government has paid civil servants on time during 2007. Salaries and wages allocations in 2006-2007 rose to 51.4 billion pounds (US\$9.3 billion) from 30.5 billion (US\$5.5 billion) in 2001-2002.

References:

The National Planning Institute, the annual report "The Egyptian Economy between Development Opportunities And Reality Challenges"

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.

42i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

Comments:

In practice, civil servants convicted of corruption are either left in government employment or dismissed from it. Those fired from government employment turn to be businesspersons in the private sector making use of the illegal relationship networks they formed while being in the civil service. Civil servants convicted of corruption and dismissed from government employment are prohibited from government employment in the future. In fact those persons are often in no need of government employment any longer. But if those persons appeal against the conviction and the court accepts their appeal, they can restore their positions by the power of law and judiciary.

References:

Ahmed Al-Sayid Al-Najar,
Corruption And Its Confronting in Arab Countries,
The Report of the Strategic Economic Directions,
Cairo, 2001, PP. 165-196.

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.

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

33

43a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

Comments:

Article 77 (clauses 11 and 12) of law no. 47/1978 organizing civil servants confirms the principle of interest conflict as a legal base that must be applied to different government jobs. This same principle is established in the laws of the judiciary authority, lawyers, banks, companies and the bylaw of the People's Assembly (legislature).

References:

Article 77 (clauses 11 and 12) of law no. 47/1978 organizing civil servants, published in the official newspaper on July 20, 1978, issue no. 29.

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.

43b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | NO

Comments:

In law, there are no restrictions for civil servants to enter the private sector after leaving the government. Clause 8 of article 77 of the civil servants' law prevents ex-civil servants from disclosing any of the secrets of their past government jobs, especially those that are secret by nature. Clause 9 of the same article criminalizes keeping official documents for oneself.

References:

Article 77 (clauses 8 and 9) of law no. 47/ 1978 organizing civil servants, published in the official newspaper on July 20, 1978, issue no. 29.

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.

43c. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

Comments:

Article 77 (clause 14) of law no. 47/1978 organizing civil servants prevents civil servants from accepting gifts, hospitality, rewards, commissions, or loans in return for undertaking the duties and tasks of their jobs.

References:

Article 77 (clause 14) of law no. 47/ 1978 organizing civil servants, published in the official newspaper on July 20, 1978, issue no. 29.

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.

43d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

In practice, there are no regulations restricting post-government private sector employment for civil servants.

References:

Jihan Mawhoub,
Feudal Lords,
Al-Wafd newspaper,
April 8, 2004, P. 9.

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.

43e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

Although there are legal regulations governing gifts and hospitality offered to civil servants and penalties are imposed on persons breaching them, they are not effective in practice. Traditions and conventions developed over the past three decades established such illegal acts by civil servants as accepting gifts, hospitality and bribes in return for facilitating peoples' interests. These conventions became stronger than the laws criminalizing such corrupt acts, since they promote the interests of both the responsible civil servants and people willing to pay to get illegal benefits. The only loser is the national public integrity.

References:

Samir Abd-Al-Sameei Zaki,
Corruption And the Mechanisms for Confronting It in Egypt,
The Administrative Censorship Authority,
Cairo, P. 64.

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

75:

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

25:

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

43f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the requirements for civil service recusal from policy decisions affecting personal interests are not effective. Although laws of the judiciary authority, lawyers, banks, companies and the bylaw of the People's Assembly (legislature) and the interest conflict base in general remove any kind of pressure from civil servants and rescue them from political decisions that may affect their personal interests, these rules and regulations are ineffective in many cases because of lack of accountability. The present government, for example, is really a government of businessmen, as some of its ministers are businessmen (such as the ministers of Transportation, Tourism and Health), which brought out conflict of interests.

References:

Manal Lasheen,
The Curse of Interest Conflict Chases Nazeef Government,
Al-Fagr newspaper,
Jan. 22, 2006, issue 24, P. 6.

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.

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

0

44a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | **NO**

Comments:

In law, citizens cannot access the asset disclosure records of civil servants, whether senior or junior ones. Law no. 356/1954 concerning the regulations of government archives, law no. 35/1960 concerning statistics and consensus, law no. 47/1978 organizing civil servants, all ban making asset disclosure records of civil servants accessible to citizens.

References:

Law no. 356/ 1954 concerning the regulations of government archives;
Law no. 35/1960 concerning statistics and consensus;
Law no. 47/1978 organizing civil servants, published in the official newspaper on July 20, 1978, issue no. 29.

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.

44b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

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

Comments:

In practice, citizens cannot access the asset disclosure records of senior or junior civil servants in a reasonable or unreasonable time period. Government agencies responsible for collecting and monitoring such data apply the above laws that prohibit making asset disclosure records of civil servants available or accessible to citizens.

References:

Law no. 356/ 1954 concerning the regulations of government archives;
Law no. 35/1960 concerning statistics and consensus;
Law no. 47/1978 organizing civil servants, published in the official newspaper on July 20, 1978, issue no. 29.

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.

44c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot access the asset disclosure records of senior or junior civil servants at a reasonable or unreasonable cost. Government agencies responsible for collecting and monitoring such data apply the above laws that prohibit making asset disclosure records of civil servants available or accessible to citizens.

References:

Law no. 356/ 1954 concerning the regulations of government archives;

Law no. 35/1960 concerning statistics and consensus;

Law no. 47/1978 organizing civil servants, published in the official newspaper on July 20, 1978, issue no. 29.

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

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

0

45a. 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:

In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are not protected from

recrimination or other negative consequences. Law no. 2/1977 for establishing the Illegal Profiting Apparatus does not provide protection against recrimination or other negative consequences in case they inform responsible authorities of corruption crimes.

References:

Law no. 2/1977 for establishing the Illegal Profiting Apparatus.

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.

45b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:

Law no. 2/1977 for establishing the Illegal Profiting Apparatus imposes penalties on persons informing of corruption, whether they are civil servants or not, for telling lies lying corruption or what it calls bad intentions for illegal profiting, whether their informing resulted in legal proceedings or not. If their claims were not verified by investigation authorities, the penalty on people informing of corruption crimes, as stated in the above law, is no less than six month in prison and fines ranging from 100 to 500 pounds (US\$18-90). This prevents citizens from informing the Illegal Profiting Apparatus of corruption cases for fear of being imprisoned, especially with the manipulation of asset disclosure records of civil servants. As mentioned in other places in this survey, it is the civil servants who write their asset disclosure records, and they are used to selling their properties on paper to their relatives, as a means for escaping such investigations. In addition, ownership of real estates in Egypt is often not registered in the proclamation apparatus, which makes it easy for corrupt civil servants to escape interrogations.

References:

Law no. 2/1977 for establishing the Illegal Profiting Apparatus.

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.

45c. 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:

In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are not protected from recrimination or other negative consequences. Law no. 2/1977 for establishing the illegal profiting apparatus imposes penalties on persons informing of corruption, whether they are civil servants or not, for telling of lies lying corruption or what it calls bad intentions for illegal profiting, whether their informing results in legal proceedings or not. If their claims were not verified by investigation authorities, the penalty on people informing of corruption crimes, as stated in the above law, is no less than six month in prison and fines ranging from 100 to 500 pounds (US\$18-90). This prevents citizens from informing the Illegal Profiting Apparatus of corruption cases for fear of being imprisoned, especially with the manipulation of asset disclosure records of civil servants.

References:

Law no. 2/1977 for establishing the Illegal Profiting Apparatus.

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.

45d. 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:

Law no. 2/1977 for establishing the Illegal Profiting Apparatus imposes penalties on persons informing of corruption, whether they are private sector employees or not, for telling lies lying corruption or what it calls bad intentions for illegal profiting, whether their informing resulted in legal proceedings or not. If their claims were not verified by investigation authorities, the penalty on people informing of corruption crimes, as stated in the above law, is no less than six month in prison and fines ranging from 100 to 500 pounds (US\$18-90). This prevents citizens from informing the Illegal Profiting Apparatus of corruption cases for fear of being imprisoned, especially with the manipulation of asset disclosure records of civil servants.

References:

Law no. 2/1977 for establishing the Illegal Profiting Apparatus.

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.

46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

Comments:

In law, there is an internal mechanism through which civil servants can report corruption. Law no. 117/1958 establishes the Administrative Prosecution as a monitoring and investigating authority that is responsible for investigating administrative and financial crimes and authorized to send suspected civil servants to the Criminal Court. In addition this Administrative Prosecution has a professional, full time staff.

References:

Law no. 117/1958 concerning establishing the administrative prosecution.

YES: A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

NO: A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

47. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

81

47a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff. The 2002 annual report on administrative and financial corruption presented to the president of the Administrative Prosecution authority included about 73,000 cases, of which 43,000 were financial breach cases. These last breaches included violations in bids, auctions, storehouses and purchases, wasting public money, and taking state money illegally. Administrative violations constituted about 23,000 cases, ranging from ceasing work, faulty behavior, involving other paid employment without getting the permission of the specialized authority. Most important are the 10,000+ criminal cases: embezzling public money, facilitating the stealing of public money, bribes, forgery or using forged documents. The importance of the Administrative Prosecution is attested by the fact that the law gives it the authority to monitor and investigate all civil servants in all ministries and agencies and at all levels. It, therefore, has a massive professional, full-time staff.

References:

Saber Nail,
Corruption And Marriage between Politics and Wealth,
Al-Khamaseen publishing house, Cairo, PP. 37-38.

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.

47b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the internal reporting mechanism for public sector corruption – the Administrative Prosecution authority – receives regular funding like all other government agencies.

References:

Saber Nail,
Corruption And Marriage between Politics and Wealth,
Al-Khamaseen publishing house, Cairo, PP. 37-38.

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.

47c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Due to the very big number of investigated cases – about 75,000 cases every year in the 2002-2007 period – the internal

reporting mechanism for public sector corruption acts on complaints in a relatively long time period. The number of cases exceeds the ability of the Administrative Prosecution authority.

References:

The report of the president of the Administrative Prosecution authority, 2002.

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.

47d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

In practice, when necessary, the Administrative Prosecution authority (the internal reporting mechanism for public sector corruption) initiates investigations in administrative and financial crimes and converts the accused persons to the Criminal Court. In cases that do not deserve converting convicted civil servants to the court, the Administrative Prosecution authority gives authorized agencies in the department in which the civil servants work the authority to impose disciplinary penalties. Some governmental agencies developed a special disciplinary system under the pretext that this removes fear and reinforces performance. But this, in fact, overthrows the wardship of the Administrative Prosecution authority and provides space to corruption and misuse of civil service positions.

References:

Saber Nail,
Corruption And Marriage between Politics and Wealth,
Al-Khamaseen publishing house, Cairo, PP. 37-38.

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.

60
IV-3. Procurement

48. Is the public procurement process effective?

88

48a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

Comments:

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

References:

Article 39 of law no. 89/1998 for organizing bids and auctions.

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

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

48b. In law, there is mandatory professional training for public procurement officials.

YES | NO

Comments:

In law, there is no mandatory professional training for public procurement officials.

References:

Law no. 89/1998 for organizing bids and auctions.

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

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

48c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

Comments:

In practice, and in accordance with the law, the conflicts of interest regulations for public procurement officials are always enforced. But these regulations are suspended for several exceptions. Among these exceptions are: limited bids in which certain or nominated suppliers are imposed; local bids to which local suppliers only are eligible (articles 3-5 of law no. 89/1998). Article 7 of this same law permits direct contract by permission from the head of the agency, the governor or the minister. Article 7 also allows the head of the Council of Ministers, if necessary, to develop rules and conditions for all kinds of contracts.

References:

Articles 3, 4, 5, 7 of law no. 89 / 1998 for organizing bids and auctions.

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.

48d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

Comments:

In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

References:

Article 28 of law no. 89/1998 for organizing bids and auctions.

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.

48e. In law, major procurements require competitive bidding.

YES | NO

Comments:

In law, major procurements require competitive bidding.

References:

Article 28 (clause a) of law no. 89/1998 for organizing bids and auctions.

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).

48f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:

In law, strict formal requirements limit the extent of sole sourcing with the exceptions cited in the answer to question 48c.

References:

Articles 9, 10, 11, 12, 13 and 15 of law no. 89/1998 for organizing bids and auctions.

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.

48g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

Comments:

According to article 40 of law no. 89/1998 for organizing bids and auctions, unsuccessful bidders can require an official review of procurement decisions.

References:

Article 40 of law no. 89/1998 for organizing bids and auctions.

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.

48h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

According to article 40 of law no. 89/1998 for organizing bids and auctions, unsuccessful bidders can challenge procurement decisions in a court of law. There is also an office in the Ministry of Finance dedicated to investigating challenges raised by unsuccessful bidders against procurement decisions.

References:

Article 41 of law no. 89/1998 for organizing bids and auctions.

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.

48i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

Comments:

According to article 40 of law no. 89/1998 for organizing bids and auctions, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

References:

Article 40 of law no. 89/1998 for organizing bids and auctions.

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.

48j. 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:

In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids. After proven to be guilty, the company is crossed out of register of suppliers and contractors, and the general authority of governmental services is notified to release the crossing out of this company through its writings. In case the company appeals to court and it is found not guilty, the company can ask for participating in governmental bids in the future.

References:

Law no. 89/1998 for organizing bids and auctions.

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.

49. Can citizens access the public procurement process?

100

49a. In law, citizens can access public procurement regulations.

YES | NO

Comments:

In law, citizens can access public procurement regulations. Article 2 of law no. 89/1998 for organizing bids and auctions states that since all public bids and auctions follow the principles of rationality, equal opportunity and free competition, they must be declared in daily papers and other widespread information media”.

References:

Article 2 of law no. 89/1998 for organizing bids and auctions.

YES: A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

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

49b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

In accordance with article 40 of law no. 89/1998 for organizing bids and auctions, the government is required to publicly announce the results of procurement decisions for general or limited bids, auctions, or the canceling of the tender as a whole. As stated in the above article, announcement is made on a specified information board within a week. Registered letters are also sent to the bidders to the addresses mentioned in the bids.

References:

Article 40 of law no. 89/1998 for organizing bids and auctions.

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.

49c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens can access public procurement regulations within a reasonable time period- a week as stated in article 40 of law no. 89/1998.

References:

Article 40 of law no. 89/1998 for organizing bids and auctions.

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. These records are defined here as the rules governing the competitive procurement process.

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.

49d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens can access public procurement regulations at a reasonable cost. According to article 17 of law no. 89/1998 for organizing bids and auctions, this cost is determined by the administrative agency, but cannot exceed 2 percent of the estimated amount of the bid, and only as temporary insurance.

References:

Article 17 of law no. 89/1998 for organizing bids and auctions.

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. These records are defined here as the rules governing the competitive procurement process.

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.

49e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

In accordance with article 2 of law no. 89/1998 for organizing bids and auctions, major public procurements are effectively advertised in daily papers and other widespread information media.

References:

Article 2 of law no. 89/1998 for organizing bids and auctions.

100: There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

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. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

49f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens can access the results of major public procurement bids on the web-sites of the procurement bidders themselves or the companies taking part in them. The agency which has authority is required to announce the reasons for bids procurement, omitting certain bids or canceling the bid as a whole in a specified information board within a week. Registered letters are also sent to the bidders to the addresses mentioned in the bids.

References:

Article 40 of law no. 89/1998 for organizing bids and auctions.

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

50. Is the privatization process effective?

83

50a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

Comments:

In accordance with law no. 43/1974 for organizing investments, all businesses are eligible to compete for privatized state assets.

References:

Law no. 43/1974 for organizing investments

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

50b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

Comments:

Article 81 of the Egyptian Constitution states that the president of the republic is prevented from doing any form of business or contracting with the state as supplier or contractor. Article 158 also bans these activities for ministers and deputies. Legislators are also prohibited from doing these activities by virtue of article 95 of the Egyptian Constitution. The companies law no. 203/1991 forbids members of the governing board of any company from selling or buying anything from the same company unless they obtain the consent of the general assembly of the company.

References:

The Egyptian Constitution, articles 81, 95 and 158.
Companies law no. 203/1991.

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

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

50c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

Comments:

Conflicts of interest regulations for government officials involved in privatization are enforced. By virtue of law no. 2 concerning illegal profiting, all civil servants at all levels are required to present asset disclosure records showing their own properties and the properties of their spouses and children. Legislators, all leaders in general companies in which public money has a share, heads of professional syndicates and labor unions, members of the governmental bureaucratic apparatus including village mayors, chiefs and neighborhood chiefs are particularly required by law to give asset disclosure records that are monitored and checked by the Illegal Profiting Apparatus. This same apparatus is authorized to investigate complaints and reporting presented to it and is also permitted to convert cases to the administrative monitoring authority. In times of transition to privatization, the possibilities of buying government officials are intensified as a means for buying state-owned companies. It is here that lies the utmost importance of the above financial and administrative monitoring apparatuses.

References:

Law no. 2 concerning illegal profiting

Law no. 89/1998 for organizing bids and auctions.

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.

51. Can citizens access the terms and conditions of privatization bids?

75

51a. In law, citizens can access privatization regulations.

YES | NO

Comments:

In accordance with article 40 of law no. 89/1998 for organizing bids and auctions, citizens can access the terms and conditions of privatization bids.

References:

Article 40 of law no. 89/1998 for organizing bids and auctions.

YES: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

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

51b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

According to article 2 of law no. 89/1998 for announcing bids and auctions, privatizations are effectively advertised, but the statements of the senior officials after privatizations always raise many problems.

References:

Law no. 89/1998 for organizing bids and auctions.

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

51c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

Comments:

The government is required to publicly announce the results of privatization decisions. According to article 40 of law no. 89/1998 for organizing bids and auctions, the agency in authority is required to announce the reasons for all decisions pertaining to bids and auctions.

References:

Article 40 of law no. 89/1998 for organizing bids and auctions.

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.

51d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to law no. 89/1998 for organizing bids and auctions, citizens can access privatization regulations within 60 days. Announcements are made on the web-site of the company and in three widespread papers. 60 days is a reasonable time period.

References:

Law no. 89/1998 for organizing bids and auctions.

100: Records (defined here as the rules governing the competitive privatization process) 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.

51e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens can access privatization regulations at a reasonable cost. Citizens participating in bidding are required to pay 5 percent of the estimated value of the enterprise as a temporary regained insurance for entering the bid. This is of course a high cost for most citizens.

References:

Law no. 89/1998 for organizing bids and auctions.

100: Records (defined here as the rules governing the competitive privatization process) 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.

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

100

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

YES | NO

Comments:

According to article 119 of law 46/1972 for organizing the judiciary authority, there is a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector that is called the general attorney presiding the general prosecution. Members of the general prosecution are civil servants subordinated to the executive branch (the Ministry of Justice who has the authority to monitor and supervise the general prosecution according to article 125 of the above law) and are entrusted with defending the general interest and general system. The general prosecution is the link between the judiciary and executive branches. Members of the general prosecution, therefore, have a special legal status. They are members of the judiciary, but they are not judges. Although they are part of the executive, they are not administrative employees. By virtue of article 67 of the judiciary authority as amended in law no 35/1984, members of the general prosecution cannot be dismissed.

References:

Articles 119 and 125 of law 46/1972 for organizing the judiciary authority.

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.

53. Is the national ombudsman effective?

48

53a. In law, the ombudsman is protected from political interference.

YES | NO

Comments:

In spite of his/her judiciary status, the general attorney (ombudsman) is not protected from political interference. As stated in article 119 of law of the judiciary authority no. 46/1972, s/he is appointed by the president of the republic with no participation of the judiciary authority. All members of the general prosecution are also submitted to the minister of Justice (a part of the executive branch), who has the authority to monitor and supervise them.

References:

Article 119 of law no. 46/1972 and article 125 of the amended law of the judiciary authority no. 35/ 1984.

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.

53b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Violating the principle of the independence of the judiciary in both law and practice is dominant in Egypt. The minister of Justice, who is part of the executive branch, is authorized to monitor and supervise the general prosecution apparatus, including the general attorney and his/her assistant, the general lawyer and all members of general prosecution (article 125 of law of the judiciary authority no. 35/1984). The minister also regulates the prosecution offices' inspection. Although article 67 of law 35/1984 gives members of the general prosecution the judiciary immunity, they still follow the minister of Justice.

References:

Law no. 46/ 1972 of the judiciary authority.

Law of the judiciary authority no. 35/1984 amending law no. 46/1972.

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.

53c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the general attorney presiding the general prosecution – head of the ombudsman agency/entity like judges, is protected from removal without relevant justification. He is also appointed with a warrant of not being removed (article 67 of law 35/1984 amending law no. 46/1972). However, the general attorney is appointed by the president of the republic, and should

therefore be one of the councilors who are known for being loyal to the government, especially the minister of Justice. For decades, there have never been general attorneys who were independent of the presidency or the government.

References:

Naser Amin,
The Egyptian Judiciary System,
Amin publishing co., Cairo, P. 18.

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.

53d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the general prosecution (ombudsman agency) has a professional, full-time staff. Members of the general prosecution are entrusted with defending the general welfare and the public system. They have a special legal status. They are part of the judiciary, but they are not judges. They are part of the executive branch, but they are not administrative employees.

References:

Naser Amin,
The Egyptian Judiciary System,
Amin publishing co., Cairo, P. 18.

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

75:

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

25:

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

53e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

Comments:

In practice, appointments of the general prosecution do not support the independence of the agency. The general attorney and the general lawyer are appointed by the president of the republic, and members of the general prosecution are appointed by the minister of Justice. The general prosecution with all its members follow the minister of Justice, who has the authority to monitor and supervise the general prosecution according to article 125 of law no. 46/ 1972. This means that the appointments of the general prosecution do not support its independence.

References:

Naser Amin,
The Egyptian Judiciary System,
Amin publishing co., Cairo, P. 18.

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.

53f. In practice, the ombudsman agency (or agencies) receives regular funding.

Comments:

In practice, like all civil servants and state employees, the general prosecution (the ombudsman agency) receives regular funding from the state.

References:

The general budget of the state 2006-2007, the official newspaper.

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.

53g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the general prosecution (the ombudsman agency) does not make publicly available reports.

References:

The Egyptian law of the criminal proceedings, articles 61 and 52.

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.

53h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

In practice, when necessary, the general prosecution (the ombudsman agency) initiates investigations. Lawmakers bestowed several and varied competences to the general prosecution. It is authorized to take legal proceedings very much like the courts (article 21 of law no. 35/1984 of the judiciary authority). It can also demand a judge to take legal proceedings and issue decisions. It has the authority to ask for protectively putting the accused person in prison.

References:

Law no. 35/ 1984 of the judiciary authority

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.

53i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

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

Comments:

The general prosecution is authorized to take legal action in crimes and offenses according to the rules governing the inquiry judge, except what is specified to the inquiry judge by article 64 of the Criminal Procedure Law. In case of intervening in the proceedings, whether necessarily or possibly, the role of the general prosecution is limited to expressing opinions regarding the demands and defense of the litigants for the purpose of helping the judge better implement the law. According to Protective Imprisonment Law, the inquiry judge (member of the prosecution) is authorized to put people in prison protectively for longer periods (six months), which can be considered an exceptional penalty.

References:

Naser Amin,
The Egyptian Judiciary System,
Amin publishing co., Cairo, P. 18.

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.

53j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

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

Comments:

In practice, the government in so many cases acts on the findings of the general prosecution, especially in administrative matters. The general prosecution is authorized to inspect prisons and make reports on the conditions of the prisons, and the ministry of Interior is required to implement all observations and demands of the inspecting members of the general prosecution. It has also the right to inspect officials of the judiciary.

References:

Naser Amin,
The Egyptian Judiciary System,
Amin publishing co., Cairo, P. 18.

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.

53k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the general prosecution acts on citizens' complaints within a reasonable time period. It is the agency authorized to issue arrest, inspection and investigation orders within 24 hours, allowing the lawyers to examine the accusation papers a day before interrogation, and deliver the accusation to the court.

References:

Naser Amin,
The Egyptian Judiciary System,
Amin publishing co., Cairo, P. 18.

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.

54. Can citizens access the reports of the ombudsman?

50

54a. In law, citizens can access reports of the ombudsman(s).

YES | **NO**

Comments:

According to articles 61 and 62 of the criminal procedures law, citizens cannot access reports of the general prosecution. Only in cases in which the accusation is made invalid, reports of the general prosecution can be accessed.

References:

The criminal procedure law, articles 61 and 62.

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.

54b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

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

Comments:

In practice, when the general prosecution makes the decision to convey the accusation to the partial court, it sends all accusation papers to the specified office in the court within two days and notifies litigants to attend in the court in the nearest session in the schedule.

References:

The criminal procedure law, article 157.

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.

54c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

Comments:

The general prosecution is required to allow the defense lawyers to see the investigations papers and decisions of the prosecution.

References:

The criminal procedure law, article 125.

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

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

100

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

YES | NO

Comments:

In law, there is a national general auditing agency covering the entire public sector, known as the Central Auditing Apparatus. By virtue of law no. 129/1960, Central Auditing Apparatus was established with the general aim of financially and administratively monitoring civil service agencies, companies and banks in which there is public money. In the amending law no. 144/1988, the aim of the apparatus was to monitor the money of the state and civil servants and to help the legislature in practicing its monitoring role. After it had been subordinated to the legislature in the 1960 law, it came to be submitted to the president of the republic in the 1988 law.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov.9, 1988.

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

56. Is the supreme audit institution effective?

34

56a. In law, the supreme audit institution is protected from political interference.

YES | **NO**

Comments:

In law, the Central Auditing Apparatus, the supreme audit institution, is not protected from political interference. Law no. 144/1988 amending the previous law conveys the leadership of the Central Auditing Apparatus from the legislature to the president of the republic, who is the head of the executive branch. With law no. 129/1964 being amended by law no. 144/1988, the independence of the Central Auditing Apparatus and the protection of its chief against political interference have completely been damaged. In the old law, the chief of the apparatus could not be removed and his mandate could not be extended, but the amending law gave the president of the republic and his assistants of course – the authority to remove heads of the apparatus or extend their periods in office.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov.9, 1988.

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

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

56b. In practice, the head of the audit agency is protected from removal without relevant justification.

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

Comments:

In practice, the head of the Central Auditing Apparatus is not protected from removal without relevant justification. The Central Auditing Apparatus became absolutely under the dominance and control of the president of the republic and his assistants with the issuing of law no. 144/1988. Article 20 of the new law made it possible for the president of the republic to remove heads of the apparatus or extend their periods in office.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov.9, 1988.

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

75:

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

25:

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

56c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the Central Auditing Apparatus has a professional, full-time staff. After 44 years since its establishment, the Central Auditing Apparatus has now very experienced staff.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, article 7 the official newspaper, issue 23, Nov.9, 1988.

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

75:

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

25:

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

56d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

In practice, appointments to the Central Auditing Apparatus does not support the independence of the agency. Administratively,

the agency follows the minister of Administrative Development, who has the authority to decide the internal regulations of the apparatus. Since this minister is part of the executive branch, the independence of the apparatus is damaged. Most important is the modification that gave the president of the republic the authority to remove heads of the apparatus or extend their periods in office.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, articles 27, 28
the official newspaper, issue 23, Nov.9, 1988.

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

75:

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

25:

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

56e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

In practice, like all other civil service agencies, the Central Auditing Apparatus receives regular funding from the state.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus,
the official newspaper, issue 23, Nov.9, 1988.

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.

56f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

Reports of the Central Auditing Apparatus are not made available to citizens. Only two institutions receive these reports: the president of the republic, as the apparatus follows him, and the legislature, when it demands reports on specific agencies. In all cases, the president of the republic is the only destination of the reports of the agency.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov.9, 1988.

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

75:

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

25:

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

56g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

Comments:

As stated in law no. 144/1988 the Central Auditing Apparatus is authorized to monitor, check and discover financial violations and to bring the accused civil servant to the Disciplinary Court, an administrative court whose decisions are only administrative. One proof that the government does not take the reports of the Central Auditing Apparatus seriously is what was cited in the apparatus' 2002 report. The report said that the government spent 35 billions pounds (US\$6.3 billion) from loans of 600 agreements with other countries without registering these amounts. The apparatus sent 15 letters to the Economic Committee of the legislature demanding clarifications and documents, but neither the government nor the Economic Committee of the legislature replied until now.

References:

Saber Nail,
Corruption and Marriage between Politics and Wealth,
Al-Khamaseen publishing house, Cairo, PP. 37-38.

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.

56h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

As stated in article 5 (clause 3) of law 144, the Central Auditing Apparatus is authorized to monitor and check the decisions made by civil service agencies, especially financial and administrative decisions, to ascertain that the appropriate procedures have been taken. It can also require the agency making the decision to rethink its decision within 30 days of receiving its documents. If the agency does not apply the demand of the apparatus, it requires presenting the civil servant to the Disciplinary Court.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov.9, 1988.

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

57. Can citizens access reports of the supreme audit institution?

0

57a. In law, citizens can access reports of the audit agency.

YES | NO

Comments:

In law, citizens cannot access the reports of the Central Auditing Apparatus. Only two institutions receive these reports: the president of the republic, because the apparatus follows him, and the legislature, because the apparatus is established to assist in financial and administrative monitoring.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov.9, 1988.

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

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

57b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot access audit reports of the Central Auditing Apparatus within a reasonable or unreasonable time period. Only the presidency and the legislature can receive its reports.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov.9, 1988.

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

75:

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

25:

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

57c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot access the audit reports of the Central Auditing Apparatus at a reasonable or unreasonable cost. Only the presidency and the legislature can receive its reports.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov.9, 1988.

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

75:

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

25:

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

45
V-3. Taxes and Customs

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

100

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

YES | NO

Comments:

There is a unified national tax collection that was established by law no. 14/1939 after abolishing foreign privileges. That law was amended by law no. 157/1981 that included two taxes: one imposed on persons and the other imposed on companies. The modification of this law in law no. 187/1993 changed the tax imposed on persons. Law no. 91/2005 came to establish a higher council for taxes (articles 136-140) that follows the chief of the Council of Ministers.

References:

Law no. 91/2005 for organizing taxes and customs, the official newspaper, issue 23, June 9, 2005.

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

59. Is the tax collection agency effective?

88

59a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the tax collection agency has a professional, full-time staff that works to secure the rights of both tax payers and the state. The tax collection agency abides by relevant laws and regulations and by determining and collecting taxes with the due cooperation and good intention. They are also required to advise tax payers to the legal procedures that guarantee their rights. The agency is keen to provide continuous professional development and training. It has a training institute for new recruits and for training its staff on new forms of tax.

References:

Law no. 91/2005 for organizing taxes and customs, the official newspaper, issue 23, June 9, 2005.

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

75:

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

25:

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

59b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

In practice, like all other civil service agencies, the tax collection agency receives regular funding from the state.

References:

The general budget of the state, 2007-2008.

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.

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

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

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

Comments:

In its report on April 18, 2004, in the conclusion of the fourth five-year plan 1998-2002, the Central Auditing Apparatus reported a considerable decrease in tax revenues (about 6 billion pounds – US\$1.1 billion). It also reported that tax delays that had to be paid to the government by June 30, 2002, amounted to 44.6 billion pounds (US\$8.1 billion). This decrease in tax revenues and these delays are due to the corruption prevailing tax compromises between companies and the tax agency staff. As for civil servants, taxes are deducted before they get their salaries and wages. With their low salaries and high prices, taxes on civil servants are proportionately high. Since they are unable to offer bribes to the tax agency staff, craftsmen are the most oppressed in tax collection processes. They have to pay the arbitrary amounts determined by the tax agency staff or be exposed to legal troubles with the tax agency. In many cases small commercial projects are closed after the first contact with the tax collection agency. There is a widespread discontent with the way the agency deals with its clients. While owners of big businesses make massive profits from escaping taxes, poor people are the main source of tax revenues. Within this same politics, the government offers tax and custom breaks to big businesses, including tax and custom exemptions. At the time poor people close small groceries to avoid arbitrary tax determination processes, the government exempts big companies working in the field building hotels and tourist villages from taxes. This unjust treatment is supported by the law of finance.

References:

Saber Nail,
Corruption and Marriage between Politics and Wealth,
Al-Khamaseen publishing house, Cairo, PP. 37-38.

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.

61. In law, is there a national customs and excise agency?

100

61. In law, is there a national customs and excise agency?

YES | NO

Comments:

The first custom agency was established by a decree by Khedive Ismail in 1864. The National Custom Department was amended

by the customs law issued in 1930. The law regulating customs was issued in 1963, with no. 66.

References:

The web-site of the Egyptian government:
www.eg.gov.org

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.

62. Is the customs and excise agency effective?

88

62a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the Customs and Excise Agency has a professional, full-time staff. It has electronic programmers and analysts for managing the computer administration in all customhouses. The main category of employees in customs offices is that of the staff working in customhouses using customs applications. Article 25 of law no. 66/1963 for organizing customs, stipulates that civil servants in customs appointed by decisions of the minister of Treasury (Finance) have the authority of judicial arrest.

References:

The web-site of the Egyptian government:
www.eg.gov.org;

Article 25 of law no. 66/1963 for organizing customs.

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.

62b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

In practice, like all other civil service agencies, the Customs and Excise Agency receives regular funding from the state.

References:

The general budget of the state, 2007-2008.

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.

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

25

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

100 | 75 | 50 | 25 | 0

Comments:

As in tax collection practices, the government tends to support big businesses and gross production, not small ones. This support is exemplified in exempting these big businesses from taxes and customs. At the time small enterprises and individuals are required to pay their customs in full, the government exempts from customs the big companies that build hotels and tourist villages.

References:

Saber Nail,
Corruption And Marriage between Politics and Wealth,
Al-Khamaseen publishing house,
Cairo, PP. 37-38.

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. State-Owned Enterprises

64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

100

64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

YES | NO

Comments:

In law, the Central Auditing Apparatus is the agency overseeing state-owned companies. By virtue of law no. 129/1960, the Central Auditing Apparatus was established with the general aim of financially and administratively monitoring civil service agencies, companies and banks in which the public money portion has a share. In the amending law no. 144/1988, the aim of the apparatus was to monitor the money of the state and civil servants and to help the legislature in practicing its monitoring role.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov. 9, 1988.

YES: A YES score is earned if there is an agency or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if this function does not exist.

65. Is the agency or equivalent mechanism overseeing state-owned companies effective?

45

65a. In law, the agency or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

Comments:

In law, the Central Auditing Apparatus, the supreme audit institution, is not protected from political interference. Law no. 144/1988 amending the previous law organizing the agency made the Central Auditing Apparatus subordinated to the president of the republic, head of the executive branch, after it had been subordinated to the legislature, the branch monitoring the executive branch. With law no. 129/1964 being amended by law no. 144/1988, the independence of the Central Auditing Apparatus and the protection of its chief against political interference have completely been damaged. In the old law, chief of the apparatus could not be removed or his mandate could not be extended in office, but the amending law gave the president of the republic and his assistants of course – the authority to remove heads of the apparatus or extend their periods in office.

References:

Law no. 144/1958 and amended by law no. 157/1995, the official newspaper, issues 23, June 9, 1988.

YES: A YES score is earned only if the agency or equivalent mechanism has some formal operational 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 or equivalent mechanism is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

65b. In practice, the agency or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the Central Auditing Apparatus has a professional, full-time staff. After 44 years since its establishment, the agency has now very experienced staff.

References:

Article 7 of law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov. 9, 1988.

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

75:

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

25:

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

65c. In practice, the agency or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

In practice, like all other civil service agencies, the Central Auditing Apparatus receives regular funding from the state.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov. 9, 1988.

100: The the agency or equivalent mechanism 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 the agency or equivalent mechanism 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.

65d. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies independently initiates investigations.

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

Comments:

As stated in article 5 (clause 3) of the law organizing the Central Auditing Apparatus, it is authorized to monitor and check the decisions made by civil service agencies, especially financial and administrative decisions, to ascertain that the appropriate procedure has been taken. It can also require the agency making the decision to rethink its decision within 30 days of receiving documents. If the agency does not apply the demand of the apparatus, it demands presenting the civil servant to the Disciplinary Court.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov. 9, 1988.

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

75:

50: The agency or equivalent mechanism 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 or equivalent mechanism 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.

65e. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The law organizing the Central Auditing Apparatus does not authorize it to impose penalties on offenders. It does not even give it the authority to present the offenders to the general or the administrative prosecution. Its reports only notify offending state-owned companies to stand before the Disciplinary Court within 60 days. This deprives the agency of any effectiveness as a monitoring agency.

References:

Law no. 144/1988 establishing the Central Auditing Apparatus, the official newspaper, issue 23, Nov. 9, 1988.

100: When rules violations are discovered, the agency or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency or equivalent mechanism 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 or equivalent mechanism 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 partisan in its application of power.

66. Can citizens access the financial records of state-owned companies?

65

66a. In law, citizens can access the financial records of state-owned companies.

YES | NO

Comments:

In law, state-owned companies, especially those registered according to law no. 159/1981, are required to announce their budgets in national, state-owned newspapers.

References:

Law no. 159/1981 organizing public access to the budgets of the joint-stock companies

YES: A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

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

66b. In practice, the financial records of state-owned companies are regularly updated.

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

Comments:

Egypt has been coordinating with the World Bank to develop a model for running companies. Thus, the government is keen to obtain accountable and transparent financial reports so that local accountability standards can be compared to the international accountability standards.

References:

Dr. Ola Al-Khawagah,
The Concept of Governing Companies,
a paper delivered at the conference on Good Governance And Development,
Center for Developing Country Studies and Research, 2003, P. 11.

100: State-owned companies always disclose financial data, which is generally accurate and up to date.

75:

50: State-owned 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.

66c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

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

Comments:

In practice, the financial records of state-owned companies are audited according to the administrative rules of each company. These rules align with international accounting standards in 39 standards out of 48 ones since the laws governing companies and stock market include the same standards. Among the steps taken to reinforce this approach was the enactment of the central commitment and registry law and its executive regulations. The new rules aim at establishing an advanced circulation mechanism for establishing transparency and limiting the use of information that is not available for the rest of the market as a means for protecting the rights of the investors. These rules are also enforced by imposing penalties on the companies that do not stick to them. Several laws have been revised or added for this purpose.

References:

Dr. Ola Al-Khawagah,
The Concept of Governing Companies,

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

75:

50: Financial records of state-owned 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: State-owned 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.

66d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

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

Comments:

In law, state-owned companies, especially those registered according to law no. 159/1981, are required to announce their budgets in national, state-owned newspapers.

References:

Law no. 159/1981 organizing public access to the budgets of the joint-stock companies

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.

66e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

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

Comments:

In practice, citizens can access the annual budgets of state-owned companies via newspapers without any cost. The cannot access the financial records of these companies.

References:

Law no. 159/1981 organizing public access to the budgets of the joint-stock companies

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.

70 V-5. Business Licensing and Regulation

67. Are business licenses available to all citizens?

69

67a. In law, anyone may apply for a business license.

YES | NO

Comments:

In law, all people can apply for a business license. Law no. 8/1997 offers exemptions, guarantees and advantages to all individuals and companies registered in the companies' department according to law no. 159/1981 organizing joint-stock companies. This last law was one of the most important laws that encouraged Egyptian Arab and foreign businessmen to make investments in the fields specified by law no. 43/1974.

References:

Law no. 8/1997 concerning investment guarantees and incentives.

Law no. 159/1981 organizing public access to the budgets of the joint-stock companies

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

67b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

Comments:

In law, there is a complaint mechanism if a business license request is denied. The government intends to establish economic courts to settle disputes in short time periods. The companies' unified law, which is under development, will entail establishing specialized economic courts instead of the ordinary judiciary.

References:

The investment gate, the Egyptian government:
www.investment.gov.org

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.

67c. 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:

In practice, there are obstacles that may hinder citizens in obtaining necessary business licenses and make this procedure take a longer time period. There still exists some interference between centralization and the general authority for stock market and investment. The authority is planning to apply the one-window system that is going to simplify the procedures necessary for obtaining necessary business licenses to just one office and at a short time period. At present, the general authority for investment is committed to issue a business license within 60 days.

References:

Article 56 of law no. 8/1997 organizing investment guarantees and incentives.

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.

67d. 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:

In practice and according to the regulations of law no. 8/1997, a company that wants to obtain a license must present a document certifying that it has deposited a quarter of the company's monetary capital in one of the banks registered with the Central Bank of Egypt.

References:

Law no. 8/1997 organizing investment guarantees and incentives.
Article 8 of the internal bylaw no. 2108/1997.

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.

68. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

68a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

Comments:

Law no. 8/1997 organizing investment guarantees and incentives in all its 46 articles defines the basic business regulatory requirements for meeting public health standards. These requirements are transparent and publicly available, especially in the internal regulations of this same law.

References:

Law no. 8/1997 organizing investment guarantees and incentives the internal bylaw no. 2108/1997.

YES: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

68b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

Comments:

Law no. 8/1997 organizing investment guarantees and incentives in all its 46 articles defines the basic business regulatory requirements for meeting public health standards. These requirements are transparent and publicly available, especially in the internal regulations of this same law.

References:

Law no. 8/1997 organizing investment guarantees and incentives the internal bylaw no. 2108/1997.

YES: A YES score is earned if basic regulatory requirements for meeting public 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.

68c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

Comments:

Law no. 8/1997 organizing investment guarantees and incentives in all its 46 articles defines the basic business regulatory requirements for meeting public health standards. These requirements are transparent and publicly available, especially in the internal regulations of this same law.

References:

Law no. 8/1997 organizing investment guarantees and incentives the internal bylaw no. 2108/1997.

YES: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

69. Does government effectively enforce basic health, environmental, and safety standards on businesses?

69a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

Although labor law in articles 208-216 stresses public health standards, in practice these standards are non-existent. Business inspections by government reveal severe insufficiency in basic health standards. In 2007 there have been a number of events that showed the extent to which these standards are not met:

58 the minister of Health was accused of causing damage to general money and public health through contracting with Hadlina medical requirement company to supply the Ministry of Health with 250,000 empty blood purses. After using 40,000 purses it was discovered these purses do not meet basic health standards. (Al-Masry Al-Youm newspaper, March 9, 2007)

59 the minister of Health announced that there are 180 regions infected with bird flu. (Al-wadif newspaper, Jan. 6, 2007)

60 stealing human body organs and the testimonies from physicians in the lawsuit of Al-Nozha international hospital (Al-wadf newspaper, March 14, 2007)

61 Land Center for Human Rights calls for stopping the building of mobile phones intensifying stations inside populated areas in contradiction with relevant law for the health dangers they impose on people. (Nahdit Masr newspaper, April 14, 2007)

62 The Egyptian center for housing rights uncovered that drinking water available in houses does not meet basic standards and that the Housing and Construction Committee in the legislature confessed that citizens in 11 governorates drink water that do not meet basic standards. (Al-Ahaly newspaper, March 7, 2007)

63 The Health Committee in the legislature accuses the government of neglect in banning from markets bad milk causing cancer diseases. (Al-Dostour newspaper, April 3, 2007)

References:

Al-Masry Al-Youm newspaper, March 3, 2007;

Al-wadf newspaper, Jan. 6, 2007;

Al-wadf newspaper, March 14, 2007;

Nahdit Masr newspaper, April 14, 2007;

Al-Ahaly newspaper, March 7, 2007;

Al-Dostour newspaper, March 4, 2007

100: Business inspections by the government to ensure that public health standards are being met 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 to ensure public health standards are met 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 to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

Although labor law in articles 208-220 stresses public environmental standards, in practice these standards are non-existent. Business inspections by government reveal severe insufficiency in basic environmental standards. In 2007 there have been a

number of events that showed the extent to which these standards are not met:

64 factories of gas cylinders are real bombs that will explode soon. (Al-Dostour newspaper, April 3, 2007)

65 recurrent train accidents that caused many deaths. (Al-Masry Al-Youm newspaper, April 12, 2007; Al-wadif newspaper, Feb 12, 2007)

66 exploded drainage pipelines destroy many houses in Alexandria and unplanned suburban areas. (Al-wadif newspaper, Feb. 12, 2007)

67 deaths caused by traffic accidents in Egypt are really more than deaths in wars because of the bad roads and cars. (Nahdit Masr newspaper, Dec 7-8, 2006)

68 fires in unplanned housing suburban areas deprived of all services are real bombs that kill many people everyday. 60 percent of the towns in Egypt are unplanned in addition to 1,105 unplanned suburban areas. (Al-Ahaly newspaper, Feb 8, 2007)

References:

Al-Masry Al-Youm newspaper, April 12, 2007;

Al-wadif newspaper, Feb 12, 2007;

Al-wadif newspaper, March 13, 2007;

Nahdit Masr newspaper, April 14, 2007;

Al-Ahaly newspaper, Feb 8, 2007;

Al-Dostour newspaper, April 3, 2007

100: Business inspections by the government to ensure that public environmental standards are being met 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 to ensure public environmental standards are met 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 to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

Although labor law in articles 208-220 stresses public safety standards, in practice these standards are non-existent. Business inspections by the government reveal severe insufficiency in basic safety standards. In 2007 there have been a number of events that showed the extent to which these standards are not met:

69 factories of gas cylinders are real bombs that will explode soon. (Al-Dostour newspaper, April 3, 2007)

70 the general prosecution is investigating a businessman for importing 14,900 gas organizers that do not meet standards and can cause explosions. (Al-wadif newspaper, March 13, 2007)

71 the Egyptian legislature discusses gas cylinders that do not meet standards and can cause explosions. (Al-wadif newspaper, Feb 12, 2007)

72 recurrent train accidents that caused many deaths. (Al-Masry Al-Youm newspaper, April 12, 2007; Al-wadif newspaper, Feb. 12, 2007)

73 exploded drainage pipelines destroy many houses in Alexandria and unplanned suburban areas. (Al-wadif newspaper, Feb. 12, 2007)

74 deaths caused by traffic accidents in Egypt are really more than deaths in wars because of the bad roads and cars. (Nahdit Masr newspaper, Dec 7-8, 2006)

75 fires in unplanned housing suburban areas deprived of all services are real bombs that kill many people everyday. 60 percent of the towns in Egypt are unplanned in addition to 1,105 unplanned suburban areas. (Al-Ahaly newspaper, Feb 8, 2007)

References:

Al-Masry Al-Youm newspaper, April 12, 2007;
Al-wadfi newspaper, Feb 12, 2007;
Al-wadfi newspaper, March 13, 2007;
Nahdit Masr newspaper, April 14, 2007;
Al-Ahaly newspaper, Feb 8, 2007;
Al-Dostour newspaper, April 3, 2007

100: Business inspections by the government to ensure that public safety standards are being met 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 to ensure public safety standards are met 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 to ensure that public safety standards are met are routinely carried out by government officials 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. ⁶⁹Anti-Corruption Law

70. Is there legislation criminalizing corruption?

78

70a. In law, attempted corruption is illegal.

YES | NO

Comments:

In law attempted corruption is illegal, very much like bribery, blackmailing, money laundering and favoritism. These are all violations of relevant laws. Law criminalizes all these acts and defines a specific penalty for each of them. Although there is no specific law in the Egyptian legislation for corruption by name, there are tens of other laws that criminalize and fight corruption.

References:

Nahdit Masr newspaper
Corruption Is The Real Cause of Deterioration
the weekly issue, Jan. 26-27, 2006

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

70b. In law, extortion is illegal.

YES | **NO**

Comments:

Penalty or criminal law does not consider extortion a crime or offense that entails penalty.

References:

Penalty law no. 58/1937, second book on the crimes and offenses damaging general welfare.

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.

70c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

Comments:

In law, offering a bribe (i.e. active corruption) is illegal. Knowing the dangers of this crime, the Egyptian lawmakers devoted the third chapter of the second book of the penalty law for this crime (article 103-111). Article 107 defines penalties for bribes givers, takers (civil servants) and mediators, when all sides of the crime are complete. But this same article does not impose penalties on the giver and the mediator if they confess, in order to encourage them uncover the crime.

References:

Penalty law no. 58/1937, second book on the crimes and offenses damaging general welfare (articles 103-111).

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

70d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

Comments:

In law, offering a bribe (i.e. active corruption) is illegal. Knowing the dangers of this crime, the Egyptian lawmaker devoted the third chapter of the second book of the penalty law for this crime (article 103-111). Article 107 defines penalties for bribes givers, takers (civil servants) and mediators, when all sides of the crime are complete. But while the same article states that the giver and the mediator may be exempted if they confess the crime and help uncover the crime, it insists on imposing a penalty on the individuals receiving bribes.

References:

Penalty law no. 58/1937, second book on the crimes and offenses damaging general welfare (articles 103-111).

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

70e. In law, bribing a foreign official is illegal.

YES | **NO**

Comments:

Article 111 defines the individuals for whom bribery crimes apply as (1) civil servants in government agencies or agencies under supervision, (2) local and national legislators, (3) arbiters, experts, members of prosecution, judges, judicial dissolvers, (4) members of boards of directors of public agencies, etc. Foreign officials are not included.

References:

Penalty law no. 58/1937, article 111 of the third chapter on bribery

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

70f. In law, using public resources for private gain is illegal.

YES | NO

Comments:

Egyptian law extends public resources beyond state-owned resources to all resources cited in article 110 of the penalties law, such as syndicates, unions and economic companies, associations and units. Using all these resources in addition to the public resources for private gain is illegal, according to article 112 of the penalty law.

References:

Penalty law no. 58/1937, article 112 of the third chapter on bribery

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.

70g. In law, using confidential state information for private gain is illegal.

YES | NO

Comments:

Article 77 (clause 7) of the civil servants' law prevents employees from giving confidential information about their jobs to anyone or through any media. Clause 8 of the same article prohibits disclosing confidential information even after leaving employment. Clause 9 also prevents civil servants from keeping any official papers for themselves.

References:

Magdy Al-Gallad, a paper delivered to the liberal forum in Cairo, Sept. 18, 2006.

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.

70h. In law, money laundering is illegal.

YES | NO

Comments:

Law no. 80/ 2002 prohibits money laundering. Article 20 of this law defines the different aspects of money laundering crimes. Article 5 gives the employees of the money laundering fighting unit in the Central Bank of Egypt the status of judiciary arrest officers. Articles 14 and 15 impose penalties on those who committed or just began committing money laundering crimes: seven years in prison and a fine that equals the arrested money, as well as seizing the arrested money.

References:

Law no. 80/2002 concerning money laundering, the official newspaper, issue, 20, May 22, 2002.

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

70i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

Comments:

In law, conspiracy to commit a crime (i.e. organized crime) is illegal. Article 48 of the penalty law punishes all parties of a criminal agreement with prison.

References:

Ihab Salam,
The Unconstitutionality of The Criminal Law,
The Human Rights Association for Assisting Prisoners
Cairo, 2001.

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

71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

Comments:

There is group of agencies with a legal mandate to address corruption:

76 The Administrative Monitoring Authority: it is a government authority that follows the president of the republic and is entrusted with fighting corruption in government agencies. The members of this authority have the status of judiciary arrest officers. The basic weakness of this authority is the lack of the political will. For example, the approval of the president of the republic is a condition for this authority to arrest a civil servant during work time.

77 The Central Auditing Apparatus. By virtue of law no. 129 /1960, the Central Auditing Apparatus was established with the general aim of financially and administratively monitoring civil service agencies, companies and banks in which there is a public money portion. In the amending law no. 144/1988, the aim of the apparatus was to monitor the money of the state and civil servants and helping the legislature in practicing its monitoring role. After it had been subordinated to the legislature in the 1960 law, it came to be subordinated to the president of the republic in 1988 law.

78 The Illegal Profiting Apparatus: law no. 2/1977 for organizing the Illegal Profiting Apparatus, on which the law called where did you get that money from" or the illegal profiting law is based, gives this apparatus the authority to regularly demand, monitor and check asset disclosure records of civil servants. These records can include the properties of one's spouse and children.

79 The Administrative Prosecution: an internal mechanism through which civil servants can report corruption. Law no. 117/1958 establishes the Administrative Prosecution as a monitoring and investigating authority that is responsible for investigating administrative and financial crimes and is authorized to send suspected civil servants to the Criminal Court. It has a professional, full time staff.

80 There are other agencies with a legal mandate to address corruption, such as the public money investigations which follows the Ministry of Internal Affairs, and the Public Money Prosecution which follows the Attorney General.

References:

Saber Nail,
Corruption And Marriage between Politics And Wealth,
Al-Khamaseen publishing house, Cairo, PP. 37-38;

Law no. 144/ 1988 establishing the Central Auditing Apparatus,
the official newspaper, issue 23, Nov. 9, 1988;

Law no. 2/1977 for establishing the Illegal Profiting Apparatus;

Law no. 117/1958 on establishing the Administrative Prosecution;

Article 208 of the criminal procedures law concerning the Public Money Prosecution.

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.

72. Is the anti-corruption agency effective?

42

72a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | **NO**

Comments:

81 The Central Auditing Apparatus follows the president of the republic and this in itself is a very strong form of political interference.

82 The Administrative Monitoring Authority follows the president of the republic and this in itself is a very strong form of political interference.

83 The Administrative Prosecution Apparatus follows the minister of Justice, part of the executive branch, and this in itself is a very strong form of political interference.

84 The Illegal Profiting Apparatus, due to the legal defects in its law on imposing penalties on informers who cannot prove their accusations of civil servants, is ineffective in combating corruption.

References:

Saber Nail,
Corruption And Marriage between Politics And Wealth,
Al-Khamaseen publishing house, Cairo, PP. 37-38;

Law no. 144/ 1988 establishing the Central Auditing Apparatus,
the official newspaper, issue 23, Nov. 9, 1988;

Law no. 2/1977 for establishing the Illegal Profiting Apparatus;

Law no. 117/1958 on establishing the Administrative Prosecution;

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.

72b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

All anti-corruption agencies are administratively subordinate either to the president of the republic, the minister of Justice or the minister of the Interior. Appointments of these agencies are also made by the executive branch. This ultimate subordination to the executive branch makes the heads and members of these agencies only seek to satisfy executive officials. In many cases these agencies cannot take acts or initiate investigations, unless they obtain a prior consent of the president of the republic. Activating these agencies from time to time in covering some corruption issues is intentionally manipulated in the framework of conflicts of interests, as to be an indication of the role of the government in fighting corruption. Although legal proceedings are taken in some corruption cases there is a widespread popular realization that fat cats” or big heads in making corruption are still immune from accountability.

References:

Dr. Ahmed Al-Sawy,
Fighting Corruption: The First Step for Reform
a paper delivered to the Horizons of Political Reform” symposium
Ibn-Roshd center, Cairo, Nov. 29-30, 2005

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.

72c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

The president of the republic is the one who appoints, removes or extends the service of the head of the Central Auditing

Apparatus and the Administrative Monitoring Authority. For example, when Hitler Tantawy (an ex-military general) was appointed as head of the Central Accounting Apparatus, several corruption cases have been uncovered, the most important of which was that of the undersecretary of the (strong) minister of Agriculture (Youssef Waly). Soon afterward, Tantawy was dismissed.

References:

Saber Nail,
Corruption And Marriage between Politics And Wealth,
Al-Khamaseen publishing house, Cairo, PP. 23-25;

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.

72d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

In all anti-corruption agencies appointments are based on professional criteria. These agencies carefully select members and provide them with continuous training and preparation programs to raise their abilities and better performance. These agencies have strict regulations and moral codes that should be followed by all members. They also have internal monitoring and disciplinary codes for their members. New recruits are subjected to attentive monitoring for a full year before being fixed in their jobs. They also have transparent accountability rules for their members. However, the heads of these agencies are politically appointed. This last defect is strong enough to waste the potentialities of anti-corruption agencies.

References:

Saber Nail,
Corruption And Marriage between Politics And Wealth,
Al-Khamaseen publishing house, Cairo, PP. 23-25;

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.

72e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the anti-corruption agencies have a professional, full-time staff. They are selected according to specific professional standards. Good reputation, honesty, impartiality and competence are all prerequisites in new members. Members, new and old, are subjected to continuous training programs aiming at improving their performance in fighting corruption.

References:

Saber Nail,
Corruption And Marriage between Politics And Wealth,
Al-Khamaseen publishing house, Cairo, PP. 23-25;

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.

72f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Like all civil service agencies, the anti-corruption agencies receives regular funding from the government.

References:

Law no. 1444/1988 organizing the Central Auditing Apparatus;
Law no. 2/1977 organizing the Illegal Profiting Apparatus;
Law no. 117/1958 organizing the Administrative Prosecution Authority;
Article 208 of the criminal procedures law concerning the Public Money Prosecution.

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.

72g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

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

Comments:

In practice, the anti-corruption agencies make regular public reports, but these reports are not available to citizens. For example, reports of the Central Auditing Apparatus are only delivered to the president of the republic and the legislature.

References:

Negad Al-Borai,
Egyptian Visions on Corruption
The Center for Political Research, Cairo University, 2002.

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.

72h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

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

Comments:

In practice, the anti-corruption agencies have sufficient powers to carry out their mandate. All these agencies have the judicial arrest status, which means that they are authorized to issue arrest orders without returning to the general prosecution. They are also authorized to initiate investigations. But their subordination to the executive branch restricts their effectiveness in combating corruption.

References:

Law no. 144/1988;
Law no. 2/1977;
Law no. 117/1958
Article 208 of the criminal procedures law

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.

72i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Although most anti-corruption agencies can initiate investigations, they must first obtain the consent of the president of the republic or of the executive agencies to which they are subordinated. For example, the Central Auditing Apparatus has to get the approval of the president of the republic before initiating investigations, the Public Money Prosecution has to get the approval of the Attorney General or the minister of Justice, and the Public Money Investigations Authority has to get the approval of the minister of the Interior.

References:

Law no. 144/1988;

Law no. 2/1977;

Law no. 117/1958

Article 208 of the criminal procedures law

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.

73. Can citizens access the anti-corruption agency?

13

73a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the only anti-corruption agency that is authorized to receive and act on complaints is the Illegal Profiting Apparatus as it has a separate office for examining complaints. It can also require the assistance of the Administrative Monitoring Authority to examine complaints by citizens. If the investigations prove that there is certainly illegal profiting crime, the apparatus converts the case to the specialized Criminal Court. If the violation is no more than an administrative one, the apparatus returns the case to the agency in which the civil servant works to impose an administrative penalty upon him/her.

References:

Law no. 2/1977 for establishing the Illegal Profiting Apparatus.

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.

73b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens cannot complain to the anti-corruption agency (the Illegal Profiting Apparatus) without fear of recrimination. Law no. 2/ 1977 for establishing the apparatus imposes penalties on claimants – no less than six month in prison and fines from 100 to 500 pounds (US\$18-90) if their claims are not proven to be true. Due to the manipulation of the asset disclosure records of civil servants, the persons accused can often prove their innocence. This prevents citizens from informing the apparatus of corruption cases, for fear of being imprisoned.

References:

Law no. 2/1977 for establishing the Illegal Profiting Apparatus

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.

51 VI-3. Rule of Law

74. Is there an appeals mechanism for challenging criminal judgments?

83

74a. In law, there is a general right of appeal.

YES | NO

Comments:

Appeal is returning the legal dispute to a court of higher level than the one that previously made a decision in the same dispute. Egyptian law makers adopted this principle realizing that this two-phase prosecution is a guarantee for the correctness of the court decisions. So, in Egypt, there is a general right of appeal.

References:

Mohamed Anwar Shehata
Legal Proceedings and Appeal Methods,
University of Cairo, P. 269.

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

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

74b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice, ordinary appeals to courts are resolved within 40 days, urgent appeals within 15 days, and appeals to the attorney general in 60 days. These are relatively reasonable time periods.

References:

Article 227 of the Egyptian pleading law.

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.

74c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In practice, citizens can use the appeals mechanism for only 50 pounds (US\$9). This is a reasonable cost.

References:

Mohamed Anwar Shehata
Legal Proceedings and Appeal Methods,
University of Cairo, P. 71

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.

75. In practice, do judgments in the criminal system follow written law?

75

75. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

References:

Mohamed Anwar Shehata
Legal Proceedings and Appeal Methods,
University of Cairo, P. 271

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.

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

75

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

100 | 75 | 50 | 25 | 0

Comments:

In practice, judicial decisions are enforced by the state represented in the judicial decisions by the implementing police, a part of the ministry of the Interior. This authority faces many difficulties in implementing judicial decisions as so many convicted persons are used to escape in the desert and unplanned housing areas. Therefore, thousands of judicial decisions are not applied. Bribery, favoritism and networks of relationship affect the implementation of judicial decisions by this authority. Thus, if a guilty litigant is wealthy enough and of high social rank, he/she is arrested and the judicial decision is applied at once. However, if the guilty is that wealthy person and his/her opponent is a poor man, the judicial decision may wait long times to be implemented, if implemented at all. The judicial decisions implementing police is used to take bribes and work partially in many cases.

References:

The Egyptian Constitution, articles 71 and 72.

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.

77. Is the judiciary able to act independently?

88

77a. In law, the independence of the judiciary is guaranteed.

YES | NO

Comments:

In law, the independence of the judiciary is guaranteed. The judiciary is represented by different kinds and levels of courts that are required to make their decisions in accordance with written laws. Judges are independent and are not subordinated to anything but the law in their decisions. No other authority is allowed to interfere in lawsuits or the matters of justice.

References:

The Egyptian Constitution, articles 165 and 166.
Article 107 of law no. 46/1972 organizing judicial authority

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.

77b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

In practice, national-level judges are not adequately protected from political interference. The project submitted by the judges of Egypt to amend law no. 46/1972 for organizing the judicial authority reports several aspects of political and governmental interference in the work of judges. In the project, the judges ask to restrict the role of the minister of Justice to administrative supervision only, from controlling over all courts, judges and the general prosecution, as the case is in the present. They also called for taking the right to moving judges from their courts from the minister of Justice. The subordination of the judicial inspection authority, the general prosecution and the general attorney to the minister of Justice is also rejected in the proposed law by the Judges' Club. The proposed law also emphasized the need for a bylaw of the judicial inspection and the general prosecution. Judges of Egypt also stressed the need for transparent regulations for removing, retiring or moving judges from their courts. They base all these demands on the premise that the minister of Justice is part of the executive branch, and therefore should not have control or authority over judges, who must be independent by law.

References:

The project submitted by the judges of Egypt to amend law no. 46/1972 for organizing the judicial authority, and its clarification memorandum,
The Judges' Club, Cairo.

100: National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

77c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

Comments:

In law, there is a transparent and objective system for distributing cases to national-level judges as defined in law no. 46/1972. But article 62 of this law gives the minister of Justice the authority to move judges from their courts to do different or additional judicial and legal work. This gives space to the minister of Justice to put the judges he wants in the courts where specific lawsuit will be examined. This authority given to the minister of Justice can be a means for punishing judges of removing them from the judiciary because of their judicial decisions or political positions.

References:

Article 62 of law no. 46/1972 for organizing judicial authority.

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.

77d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

Comments:

In law, national-level judges are protected from removal without relevant justification. The judiciary is represented by different kinds and levels of courts that are required to make their decisions in accordance with written laws. Judges are independent and are not subordinated to anything but the law in their decisions. No other authority is allowed to interfere in lawsuits or matters of justice.

References:

The Egyptian Constitution, articles 165 and 166.

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.

78. Are judges safe when adjudicating corruption cases?

100

78a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

Comments:

In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

References:

The archive of the Egyptian state-owned, party and independent newspapers, 2007

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. YES is a positive score.

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.

78b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

Comments:

In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

References:

The archive of the Egyptian state-owned, party and independent newspapers, 2007.

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. YES is a positive score.

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.

79. Do citizens have equal access to the justice system?

79

79a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

In practice, judicial decisions are not affected by racial or ethnic bias. In rare cases judicial decisions may be affected by the religious beliefs of the judges, especially those belonging to the Muslim Brothers Group wanting to apply Islamic law. Example of these rare cases is the one against the intellectual Nasr Hamed Abo-Zeid, whom the court divorced from his wife because of being convicted of defection. The Egyptian Constitution and all judiciary laws do not take racial or ethnic differences in consideration. The Egyptian Constitution (article 40) states that all citizens are equal irrespective of race, origin, language, religion or ideology.

References:

The Egyptian Constitution, article 40

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.

79b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

In practice, women have full access to the judicial system. But there is little discrimination according to sex in criminal and inheritance. Despite the fact that women are equal to men in the constitution and most laws, they do not benefit from this equality in the public arena for two reasons. First there is still much discrimination against women. Second, women themselves do not exert to benefit from this equality in fields such as political participation, education and illiteracy eradication.

References:

Dr. Nadia Ramsees Farag,
The Egyptian Woman: The Legal And Social Status
The Arab Institute for Human Rights, P. 254.

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

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. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

79c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

Comments:

In law, according to article 69 of the Egyptian Constitution, defense is guaranteed to all defendants. In criminal cases, the state provides legal counselling for defendants who cannot afford it.

References:

The Egyptian Constitution, article 69.

YES: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

NO: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

79d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

In practice, according to article 69 of the Egyptian Constitution, defense is guaranteed to all defendants. In criminal cases, the state provides legal counselling for defendants who cannot afford it. But the low level of the appointed lawyers turns this into a routine practice, not an application of a basic human right.

References:

The Egyptian Constitution, article 69

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished 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 impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

79e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

In modern legal and judicial systems free of charge, the judiciary is guaranteed, as it is dealt with as a public service. This means that salaries of judges are paid from the state treasury and not collected from litigants. However, this principle does not mean that litigants must not pay any fees or dues when they want to bring a legal suit. The state takes fees from litigants from which it pays the salaries of judges and regulates the judiciary system. Law no. 90/1944 and its amendments organize the fees and dues in the civil cases, law no. 91/1944 and its amendments organize the fees and dues in the personal cases, and law no. 1/1948 organizes the fees and dues in the money guardianship cases. Egyptian laws take the free of charge principle of judiciary in consideration. Judiciary fees are also affected by the level of the court.

References:

Naser Amin,
The Egyptian Judicial System,
Amin publishing co., Cairo, P. 14.

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.

79f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

In practice, a typical small retail business can afford to bring a legal suit, as fees are less than 100 pounds (US\$18). However, the problem may be the costly fees of lawyers.

References:

Law no. 90/1944 concerning the fees of the civil companies.

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.

79g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

Comments:

In practice, all citizens have access to a court of law, regardless of geographic location, at least in the first two levels: elementary and appeals courts. Those two courts are often existent in local district or cities and towns. As for the higher-level courts, namely the Court of Cassation, the Supreme Constitutional Court and the Supreme Administrative Court, citizens may face difficulty in accessing them because there is only one court of each of these types in the capital, Cairo.

References:

Naser Amin,
The Egyptian Judicial System,
Amin publishing co., Cairo, PP. 65, 111, 135.

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

80. Is the law enforcement agency (i.e. the police) effective?

50

80a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

In practice, appointments to the law enforcement agency (police) are made according to professional criteria. Police officers are prepared in a faculty that follows the ministry of the Interior not the ministry of Education or high education in which they study law and all police sciences. There are also specialized tracks for police officers, such as social police officers and physicians. Post graduate studies are available to officers in the Mubarak Police Academy. The medium-level police men are prepared in a six-month institute and are required to have an educational certificate (until grade 12 in secondary schools). Soldiers, the lowest rank, are appointed without any educational requirements.

References:

Law no. 109/1971 organizing the police authority

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.

80b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The allocations of the police and security forces constitute 12.4 percent of the general budget of the state. This percent is big enough in comparison to the number of employees in the ministry of the Interior. In fact, the general budget of the state satisfies all the needs of the ministry of Interior as one of the sovereign ministries.

References:

Abd-Al-Khaliq Farouq
The General Budget of The State And Human Rights,
The Human Rights Association for Assisting Prisoners, P. 64.

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.

80c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

According to article 184 of the Egyptian Constitution, the police is a regular civil authority. Its higher head is the president of the republic that is entrusted with serving people, securing peace and tranquility, preserving the system and the general security and applying all relevant laws and regulations. But in practice, the police is no more than a political tool in the hands of those in power. As exemplified in its treatment of ordinary citizens, as well as in peaceful demonstrations calling for political reform, the police authority is just the repression and suppression tool of the political regime, which damages all those who call for reform and which terrifies ordinary citizens.

References:

Law no. 109/1971 organizing the police authority
Article 184 of the Egyptian Constitution.

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.

81. Can law enforcement officials be held accountable for their actions?

81a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

Comments:

Articles 162 and 210 of the criminal procedures law gives all individuals the right to bring a legal suit and to complain against any individuals.

References:

Articles 162, 210 and 232 of the criminal procedures law.

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

NO: A NO score is earned if there is no such mechanism

81b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the Attorney General responds to citizens' complaints within a time period that is determined by political circumstances. For example violations and rape attempts by policemen against female journalists in the demonstration calling for political reform on May 25, 2005 is delayed and takes long time periods. Lawsuits against low-rank officers for torturing people in police stations may be settled in a relatively reasonable time period.

References:

Several media reports

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.

81c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:

By virtue of law no. 109/1971 organizing the police authority, there is a Military Judicial Council inside the Ministry of Interior that serves as an internal disciplinary tool. This council consists of high-rank officers. The penalty decisions of this council are often administrative ones: deduction from the salary, or halting work for limited time periods. But this council does not convert these violations and crimes to courts. This is the main reason for the widespread phenomenon of torture in police stations in Egypt, not only in prisons or the places where people are detained without court decisions (according to the law of the emergency state).

References:

Law no. 109/1971 organizing the police authority.

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 may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

NO: A NO score is earned if no such agency/entity exists.

81d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

Comments:

In practice, the Military Judicial Council of the Ministry of Interior sometimes initiates investigations into allegations of corruption by law enforcement officials. The penalty decisions of this council are often administrative ones: deduction from the salary or halting work for limited time periods. In case of legal suits against enforcement officials (namely officers) in front of courts or the natural judge, the police authority represented in the council makes haste to issue a decision (usually a weak administrative decision) before the ordinary court makes its own decision, so that the convicted officers benefit from the legal rule that prohibits issuing two judgment decisions for one crime, and that if two decisions are given, the first one (that of the council) is the one that must be implemented.

References:

Article 109 of law no. 109/1971 organizing the police authority.

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.

81e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

Comments:

According to articles 162, 210 and 232 of the criminal procedures law, initiating investigations against law enforcement officials must be done through the office of the Attorney General only. This is a kind of immunity from criminal proceedings.

References:

Articles 162, 210 and 232 of the criminal procedures law.
Article 109 of law no. 109/1971 organizing the police authority.

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.

81f. In practice, law enforcement officials are not immune from criminal proceedings.

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

Comments:

Although law enforcement officials are not immune from criminal proceedings, Egyptian legislation puts obstacles that handicap claimers or offended people from bringing lawsuits against them. Articles 162, 210 and 232 of the criminal procedures law exclude civil servants or judiciary arrest officials from being prosecuted for the crime they commit while doing their jobs. Although immunity from criminal proceedings are not clearly stated for law enforcement officials, there are exceptions and forms of protection which provide these officials with factual immunity.

References:

Abd-Allah Khaleel
The Laws Restricting Civil And Political Rights in Egyptian legislation, PP. 75-76.

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.
