

Overall Score:

50 - Very Weak

Legal Framework Score:

55 - Very Weak

Actual Implementation Score:

40 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁶⁵Civil 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:

Any group of persons can form association(s) for the purpose of pursuing a legal objective.

References:

<http://confinder.richmond.edu/admin/docs/liberia.pdf>

Liberian Constitution, article 17

Section 2.4 of the Association Law, Title 5 of the Liberian Code of Law; revised 1976

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:

There is no explicit comment on receiving foreign funding. Organizations are allowed to receive foreign funding, with the exception of political parties.

References:

Section 2.4 of the Association Law, Title 5 of the Liberian Code of Law; revised, 1976
Non-profit provision, Liberian Business Corporation Law, 1977

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:

These guidelines have been controversial. They came out of civil society's intentions for self-regulation. Initial meetings were held with the UNDP, and later the government got involved through the Ministry of Planning. All sides agreed to bring in a consultant to do an assessment of the sector. They jointly drafted a TOR for the consultant, and the UNDP provided funding to bring the consultant to Liberia. When the consultant concluded his work, he presented a NGO policy road map. The government received the document but later drafted a policy completely different from the consultant's recommendations. NGOs including CENTAL, NARDA, LDI, CEDE and FIND, acting under the banner of the CSO Advisory Committee, protested. Following weeks of negotiation, the NGO policy guidelines were drafted. They go into effect anytime soon in 2007.

The consultant's policy road map was different from the government on three levels:

1. The road map called for all sides to participate in the drafting of the guidelines, but the government sidelined civil society and went ahead on its own.
2. The government's draft asked CSOs and NGOs to seek approval from line ministries before even sending proposals to donors for funding.
3. The government's draft also requested CSOs and NGOs not to operate or seek funding unless they register with the Ministry of Planning. Under the laws of Liberia, citizens have the right to associate, so once they are recognized under the association laws of Liberia through an article of incorporation, they don't need to have Ministry of Planning approval to go about their business. The consultant's road map pointed out that the guidelines should respect existing laws and should be acceptable to all, not imposed. Basically, the road map drew on best practices. However, the assistant minister of planning who drew up the guidelines said he drew on international practices too — unfortunately he chose practices from those countries where civil society is struggling to have a voice, such as Venezuela and Sierra Leone, so that draft was vehemently rejected. In fact, the pressure was so high on the government that the minister of planning went on the radio to clarify that the guidelines would be drafted with CSO participation word for word, letter for letter." The group campaigning for participation recorded the minister's statement, transcribed it and then wrote him a letter in which his statement was quoted. Eventually, everyone was invited to participate in the drafting. The international NGOs, under the banner of MSG, were represented by the American Bar Association.

References:

Ministry of Planning & Economic Affairs NGO Guidelines; Annex 2, Page 18, Question 10 (on donor funding)

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

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

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

92

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

100 | 75 | 50 | 25 | 0

Comments:

Civil society organizations in formation or those already formed for fighting corruption or promoting good governance have never complained of government harassment or restrictions on their activities.

References:

Catherine Karmo is assistant program manager for performance monitoring at the Center for Transparency & Accountability in Liberia. Sept. 15, 2007, Monrovia, Liberia

Eunice Dahn is program associate at the New African Research Development Agency (NARDA). She works on civil society issues and is a member of the Civil Society Advisory Committee. Sept. 15, 2007, Monrovia, Liberia

Civil Society in Liberia: Towards a Strategic Framework for Support," Mary Mckeown & Edward Mulbah, 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:

Civil society actors, including CENTAL director and the vice president of the Liberia National Law Enforcement Association,

Francois Junious, told lawmakers that the draft national Anti-corruption Commission Bill needs to be robust, and as such work needed to be done to give the proposed commission independence, prosecutory powers, funding and security of tenure for its commissioners. This hearing was broadcast live on state radio. They were then invited to meet the committee to step-by-step consider changes prior to the bill's second reading at plenary.

The level of participation that civil society has in terms of shaping public policy is unprecedented and manifested in many different forms. CSOs including anti-corruption organizations may not always be listened to, but they do have influence in shaping policy. Because of this it has become a norm to include CSOs in most public documents and processes that require citizen participation. Being granted the chance and utilizing that chance fully are two different things, so CSOs do not have not 100 percent influence on public policy as they should.

References:

Anti-Corruption Bill Lacks Teeth," Campaigners Tell Lawmakers, by Bill Saygah, Daily Observer newspaper Vol. 11 NO. 307, Thursday, Sept. 13, 2007

Telephone interview with Rep. Dusty Wolokollie, District 4 Montserrado County, Sept. 14, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

YES | **NO**

Comments:

No civil society organization or NGO fighting corruption or working in any other sector has been shut down during the period of this study.

References:

Lawrence Randall, Liberian Media Center, Sept. 15, 2007, Monrovia, Liberia

Cecil B. Griffiths, Center for Law and Human Rights Education, Sept. 15, 2007, Monrovia, Liberia

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

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

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

100

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

YES | NO

Comments:

Civil society actors have not complained of any harassment or molestation from any source in the pursuit of their duties.

References:

Lawrence Randall, Liberian Media Center, Sept. 15, 2007

Cecil B. Griffiths, Center for Human Rights and Law Education, Sept. 15, 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:

There has been no report of any harm brought on any anti-corruption CSO activist(s).

References:

Lawrence Randall, Liberian Media Center, Sept. 15, 2007, Monrovia, Liberia

Cecil B. Griffiths, Center for Law and Human Rights Education, Sept. 15, 2007, Monrovia, Liberia

Interview conducted through e-mail to text messaging service.

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:

CSO activists fighting corruption are safe in the discharge of their duties because of the favorable democratic atmosphere in the country.

References:

Brezhnev Paasawe, intern research, Monitoring Department, CENTAL, Sept. 15, 2007, Monrovia, Liberia;

Macolm Joseph, director, Center for Media and Peace Studies, Sept. 15, 2007, Monrovia, Liberia

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?

100

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

YES | NO

Comments:

Trade unions are not allowed to participate in political activities and may not donate to political parties or candidates. See Article 82a of the Liberian constitution.

References:

Article 17, Liberian Constitution
Association Law of 1977

ILO Convention 87 & 89 (Liberia is a signatory and has ratified)
Labor Law Section 4600

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:

Trade unions cannot contribute to political parties but can raise issues concerning members' social welfare as well as speak on national issues. Sen. Joyce Musu Freeman Sumo previously was president of the Dock Workers prior to her ascendancy as senator for Montserrado County.

References:

Alfred Summerville, General Agriculture and Allied Workers Union of Liberia, Sept. 15, 2007, Monrovia, Liberia
Macolm Joseph, Center for Media and Peace Studies, Sept. 15, 2007, Monrovia, Liberia

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:

Freedom of the media has been recognized as an important ingredient for the establishment of democracy in Liberia

References:

Article 15(a&b) of the Liberian constitution

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:

Although the constitution guarantees freedom of information, no statute defines how this right can be exercised and what constitutes violation thereof.

References:

Article 15(c) of the Liberian constitution

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?

50

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

100 | 75 | 50 | 25 | 0

Comments:

There is a leeway of discretion available to the agency granting license, such that a radical opposition may not have it easy in open say for an example a radio station. Presently, the Media Reform Committee is proposing a number of acts, including the

formation of a Media Commission that would be responsible to issue licenses. On that commission would be a representative of the media

References:

Macolm Joseph, Director, Center for Media and Peace Studies, September 15, 2007, Monrovia, Liberia
Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

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:

There is no appeal mechanism other than the court (especially for the period under review) which in the true understanding of appeals mechanism in such circumstances falls short, as under such circumstances, appeal mechanism refers to administrative procedures other than judicial remedy

References:

Article 26, Liberian constitution

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:

Due to the lack of appeal mechanism and the fact that issuance of media licenses is subject to discretion that cannot be

questioned easily, it is safe to say that license may not be gotten in reasonable time.

References:

Macolm Joseph, Director, Center for Media and Peace Studies, September 15, 2007, Monrovia, Liberia
Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

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

Comments:

Media license requires weeks of running up and down. The applicant has to visit the Ministry of Information where the application is filed. Considering the difficulty and narrow financial space which media operate in, media license should be largely free or cheap to acquire.

References:

Norris Lester Tweah, Special Assistant, Minister of Information, September 16, 2007, Paynesville, Liberia
Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia

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

75:

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

25:

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

7. Are 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:

There is no official policy banning or stopping the opening of radio or television stations, however, media practitioners prefer having a specialized commission handle issues of registration, as same will provide protection against arbitrary denial of license.

There are efforts to introduce an act for an Independent Public Broadcasting Regulator. Media Development Civil Society and other CSO's under the banner of Liberia Media Law Reform Working Group are now sponsoring the bill. There is also another bill to make the Liberian Broadcasting System, the government's radio, a public broadcaster. This is because the station is considered to be a propagandist for the government, instead of an information discriminator, and employees working there are always threatened to see things the way the government wants them. As for the Media licensing, especially for radio, journalist think that mechanisms to seek redress when arbitrarily denied are not in place, therefore its important to have an independent regulator. Its yet to be seen whether the government would consent to this.

References:

Norris Lester Tweah, Special Assistant, Minster of Information, September 16, 2007, Monrovia, Liberia
Macolm Joseph, Director, Center for Media and Peace Studies, September 16, 2007, Monrovia, Liberia

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:

There are no formal processes of appeal. There reference in law is judicial, under the circumstances, a much robust administrative mechanism would have been acceptable.

References:

Article 26, Liberian constitution
Press Union of Liberia

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:

Delay in getting license may be associated with the nature of the station, purely religious radio and television may face less problems in obtaining licenses than those that are commercial and would be engaged in giving news.

References:

Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia
Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

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

75:

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

25:

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

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:

Considering the difficulty in finding resources to open or run a broadcast station couple with the huge demand for information, registering media outlets like TV and radio should be virtually free. The cost is highly reasonable, and the time taken for registration is short. I went through the process with the Ministry of Post and Telecommunications it was easy, but now with the newly organized Liberia Telecommunication Authority its a waste of time”

References:

Macolm Joseph, Director, Center for Media and Peace Studies, September 15, 2007, Monrovia, Liberia
Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia
Kamara A. Kamara, Programs Coordinator, Center for Media and Peace Studies, March 30, 2008, Monrovia, Liberia

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

75:

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

25:

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

8. Can citizens freely use the Internet?

100

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

100 | 75 | 50 | 25 | 0

Comments:

The government of Liberia has not attempted to block citizens from accessing internet contents, neither does it has the technology to do so.

References:

Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia
Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

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:

There are many critical Liberian sites like perspective, Front page Africa, Analyst, etc. They are not censored.

References:

George Ebba, Assistant Program Manager/Media Relations, CENTAL; Sept. 15, 2007, Monrovia, Lib.
Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia

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?

75

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

YES | NO

Comments:

The media has exposed many corrupt public officials, even those who are considered 'powerful' have been criticized, including the president.

References:

Article 15 (a&b) Liberian constitution

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:

During the reporting period, journalist have been flogged, camera seized or damaged by overzealous security officers assigned with the president, however, an overall campaign to hunt or punish media that cover corruption has not been seen.

References:

George Ebba, Assistant Program Manager/Media Relations, CENTAL; September 15, 2007, Mon. Lib.
Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia
The Perennial Tragedy of Democracy: Attacks on Freedom of Expression in Liberia 2006-2007, published by the Center for Media Studies and Peace Building (CEMESP), December 2007

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:

There has been no indication or rumor of the government clamping down or preventing the report of a corruption related story, instead the President has asked the media to assist in exposing these stories.

References:

Phillip Wesseh, Publisher, Inquirer Newspaper, September 16, 2007, Monrovia, Liberia
Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

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

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. 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?

90

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

YES | NO

Comments:

Media organizations are required to disclose ownership during registration of articles of incorporation

References:

Association Law of Liberia of 1977

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:

During registration, media institutions are required to disclose who their owners are.

References:

Association Law of 1977

Ministry of Information Registration Guidelines

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:

The Press Union had to punish some of its members for breaching professional code of ethics. Sometime, they use their scoops and evidence to blackmail public officials for bribes to kill the stories, or sometime they do so in retaliation for political Godfathers who are owners of the papers they run. The war of words between two media institutions: Public Agenda and Truth FM is a classice example ending into a court case for slander.

References:

Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia

Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

The Perennial Tragedy of Democracy: Attacks on Freedom of Expression in Liberia 2006-2007, CEMESP, December 2007

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:

During the Bassa By-Elections all candidates had access to the media. There was no claim(s) of unfair reportage.

References:

Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia

Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

All candidates have access to state owned media. No candidate has been bar or prevented from using state media, neither has there been complaint of such discrimination

References:

Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia
Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

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

100

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

YES | NO

Comments:

No journalist have been reported imprisoned for investigating corruption

References:

Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia
Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

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:

No journalist reporting corruption have been harmed but journalist covering programs have been harassed by over zealous security officers.

References:

Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia
Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

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

No journalist has been killed in the performance of duty.

References:

Macolm Joseph, Director, Center for Media & Peace Studies, September 15, 2007, Monrovia, Liberia
Lawrence Randall, Liberia Media Center, September 15, 2007, Monrovia, Liberia

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

80
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:

Although citizens have this right, there is no statute that spells out how it can be exercised

References:

Article 15(c) of Liberian constitution

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:

This report was launched on June 8, 2007 by the Information Minister of Liberia, Dr. Lawrence Bropleh. This report is a six month research about the lack of information from public institution.

References:

Piercing the Veil of Secrecy” Access to Information Monitoring Report, published by CENTAL/OSIWA, June 2007

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:

This report was a six month study of lack of access to information from public institutions

References:

Piercing the Veil of Secrecy” Access to Information Monitoring Report, published by CENTAL/OSIWA, June 2007

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?

0

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

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

Comments:

During the survey almost all institutions said to be written for information through stage managed citizens did not respond

References:

Piercing the Veil of Secrecy” Access to Information Monitoring Report, published by CENTAL/OSIWA, June 2007

Peaches Suah, Project Manager, Access to Information Monitoring Project, CENTAL, September 15, 2007

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:

Unofficial costs associated with getting information from public institution can be very high, research fee and photo copy fee

References:

Piercing the Veil of Secrecy" Access to Information Monitoring Report, published by CENTAL/OSIWA, June 2007

Macolm Joseph, Consultant, Access to Information Monitoring Project, CEMEPS, September 15, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

No mechanism is in place for such.

References:

Piercing the Veil of Secrecy” Access to Information Monitoring Report, published by CENTAL/OSIWA, June 2007

Brezhnev Paasawe, Researcher, Access to Information Monitoring Project, CENTAL; September 15, 2007, Monrovia, Liberia

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

References:

Piercing the Veil of Secrecy” Access to Information Monitoring Report, published by CENTAL/OSIWA, June 2007

Brezhnev Paasawe, Research, Access to Information Monitoring Project, CENTAL, September 15, 2007, Monrovia, Liberia

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:

Requests for information are most often ignored

References:

Piercing the Veil of Secrecy” Access to Information Monitoring Report, published by CENTAL/OSIWA, June 2007

Brezhnev Paasawe, Researcher, Access to Information Monitoring Project, CENTAL, September 15, 2007, Monrovia, Liberia

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

59
II-1. Voting & 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:

Because vital statistics are scanty, there are numerous means such as recognizance and vouchsafe to confirm age for a citizen registration in an election, in addition to the provision of a birth certificate. Any of the name methods are acceptable.

References:

Article 77(b) of Liberian Constitution

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:

There are different intervals for election for different offices, all guaranteed by universal suffrage participation.

References:

Article 48
Article 45
Article 50
Article 56(b)

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:

Voting is open to all, irrespective of political affiliation or tribe. Once a would-be voter can prove citizenship, he/she is entitled to registration for the vote.

References:

Eddie Jarwolo, director, National Youth Movement for Transparent Elections, Sept. 17, 2007, Monrovia, Liberia
Macolm Joseph, director, Center for Media & Peace Studies, Sept. 17, 2007

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:

The secrecy of the ballot is tampered where, due to mass illiteracy, presiding officers or poll workers are allowed to assist voters in identifying candidates of their choice. There have been accusations that candidates chosen under such circumstances were not those that the illiterate voter intended to choose. This practice was widely recorded in the 2005 elections and in subsequent bye elections to fill vacant seats in the legislature.

References:

Saryyenneh M. Dickson, election monitor, Campaign Monitoring Coalition (CMC), Sept. 17, 2007, Monrovia, Liberia
Macolm Joseph, Center for Media & Peace Studies, Sept. 17, 2007, Monrovia, Liberia

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:

During the period under review, all bye elections were held on schedule according to the Constitution, as scheduled by the National Elections Commission. However, mounting calls have been made for the holding of chieftancy and mayoral elections as required by the Constitution.

References:

Saryyenneh M. Dickson, monitor, Campaign Monitoring Coalition(CMC), Sept. 17, 2007, Monrovia, Liberia
Peaches Suah, media relations, Campaign Monitoring Coalition(CMC), Sept. 17, 2007, Monrovia, Liberia

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?

100

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

YES | NO

References:

Article 77(a) of the Liberian Constitution

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

References:

Article 30 (a&b)

Article 52 (a,b,c)

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:

There are more than 20 political parties in Liberia; 22 participated in the last general elections.

References:

Political Parties in Africa: Challenges for Sustained Multiparty Democracy,” Per Nordlund and M. A. Mohamed Salih, International Institute for Democracy and Electoral Assistance (IDEA)

Eddie Jarwolo, director, NAYMOTE, Sept. 17, 2006, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Although costs of running elections are increasing around the world and in Liberia, the cost of running elections is not a deterrent to anyone who is opting to run for office. There are no barriers to anyone who intends to run for office, except legally justified ones put in to maintain standards.

References:

Eddie Jarwolo, NAYMOTE, Sept. 17, 2007, Monrovia, Liberia

Macolm Joseph, Center for Media and Peace Studies, Sept. 17, 2007, Monrovia, Liberia

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:

Opposition parties are represented significantly in both houses.

References:

Shine G. Williams, Focal Point on Legislature, CENTAL, Sept. 17, 2007, Monrovia, Liberia

Macolm Joseph, Center for Media & Peace Studies, Sept. 17, 2007, Monrovia, Liberia

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

75:

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

25:

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

II-2. Election Integrity

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 National Elections Commission (NEC) is the sole government agency responsible for conducting elections. There is no elections monitoring agency.

The NEC only administers elections, which is quite different from the business of monitoring elections. The commission relies on the reports of citizens, NGOs and international observers. During the conduct of the elections, monitoring of the commission's administrative work is carried out by supervisors and magistrates, but it is focused on whether employees are performing assigned functions, not to judge the overall conduct of the process.

References:

National Elections Commission (NEC)
New Elections Law of 1986 Section 2.9

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?

0

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

YES | **NO**

Comments:

There is no election monitoring agency, rather civic groups Coalition for Democratic Elections in Liberia (CODEL) and Campaign Monitoring Coalition (CMC) take up this responsibility as part of their civic functions.

References:

New Electoral Law of 1986, Section 2.9 (p.14)

<http://www.necliberia.org/content/legaldocs/laws/1986electionlaws.pdf>

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:

There is no monitoring agency.

References:

Brezhnev Paasawe, monitor, Campaign Monitoring Coalition, Sept. 18, 2007, Monrovia, Liberia

Dan Sayeh, coordinator, Coalition for Democracy and Elections in Liberia, Sept. 18, 2007, Monrovia, Liberia

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:

There is no election monitoring agency set by law, rather CSO groups are certified by the commission to do so.

References:

Brezhnev Paasawe, monitor, CMC; Sept. 18, 2007, Monrovia, Liberia

Macolm Joseph, Center for Media and Peace Studies, Sept. 18, 2007, Monrovia, Liberia

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.

100 | 75 | 50 | 25 | 0

Comments:

There is no election monitoring agency. CSOs, the media and international groups monitor the conduct of elections.

References:

Brezhnev Paasawe, monitor, CMC, Sept. 18, 2007, Monrovia, Liberia

Macolm Joseph, Center for Media and Peace Studies, Sept. 18, 2007, Monrovia, Liberia

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.

100 | 75 | 50 | 25 | 0

Comments:

The National Elections Commission does not have the capacity to both conduct and monitor elections. Candidates and parties found in violation are fined, but parties and candidates suspected of committing criminal offenses have to be punished through the Ministry of Justice. Coordination of enforcement is very weak.

References:

Brezhnev Paasawe, monitor, CMC, Sept. 18, 2007; Monrovia, Liberia

Macolm Joseph, director, Center for Media and Peace Studies, Sept. 18, 2007, Monrovia, Liberia

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?

96

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

100 | 75 | 50 | 25 | 0

Comments:

The voter registration process has been hailed to be credible and transparent, including photo I.D., bio data and a process of verification. Anyone can contest the registration of any electorate on just grounds.

References:

Brezhnev Paasawe, monitor, CMC, Sept. 18, 2007, Monrovia, Liberia
Alphanso Zeon, former secretary, Press Union of Liberia, Sept. 18, 2007, Monrovia, Liberia

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

References:

Article 83(c) of the Liberian Constitution

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

References:

Macolm Joseph, director, Center for Media and Peace Studies, Sept. 18, 2007, Monrovia, Liberia
Brezhnev Paasawe, CMC, Sept. 18, 2007, Monrovia, Liberia

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:

There have been three bye elections held, and the government has lost two of them. Opinion and observation suggests that the government security forces — and police in particular — exercised no bias in the pursuit of their duties or in favor of any candidate. This may be either because the government has no firm control over the situation or that the process was so arranged that they could not have exercised any influence.

References:

Norris Lester Tweah, apcial assistant to the minister, Ministry of Information, Sept. 18, 2007, Monrovia, Liberia
Brezhnev Paasawe, Monitor, CMC, Sept. 18, 2007, Monrovia, Liberia

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

75:

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

25:

0: The military or other security forces are an active and explicit player in politics and 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:

During the elections of 1985, no observers were allowed in polling places, and the New Election Law of 1986 built on this bad precedent.

References:

Section 13. Observers of Electoral Reform Law of 2004 deleting Section 4.10 of New Election Law of 1986

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:

Many domestic and international observers monitored the polling of 2005 and have continued to monitor bye elections effectively and without molestation.

References:

Dan Sayeh, Coalition for Democracy and Elections in Liberia, Sept. 18, 2007, Monrovia, Liberia
Macolm Joseph, director, Center for Media & Peace Studies, Sept. 18, 2007, Monrovia, Liberia

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.

32 II-3. Political Financing

20. Are there regulations governing political financing?

71

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

YES | NO

References:

Article 82(a & b) of the Liberian Constitution

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:

There is no limit on donation. Rather, there is a cap on expenditures. See "Is the vote for sale?", a political finance monitoring report by Campaign Monitoring Coalition (CMC). Authors: G. Jasper Cumme, Christian Peah, J. Siaquiyah Davis et al.

References:

Campaign Finance Regulations Section 2.2 (Contributions)

Article 82(a)

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 are banned to political parties or candidates.

References:

Article 82(a) Liberian Constitution

Campaign Finance Regulations Section 6.1

<http://www.necliberia.org/content/legaldocs/guidelinesandreg/campaignfinanreg.pdf>

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:

The law limits expenses by a party or candidate for several elective offices.

References:

Campaign Finance Regulations Section (7)

<http://www.necliberia.org/content/legaldocs/guidelinesandreg/campaignfinanreg.pdf>

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:

Parties and candidates are required to give sources of funding and list assets acquired every year.

References:

Article 82(b) of Liberian Constitution
Article 83(d) of Liberian Constitution
www.richmond.edu

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

References:

Article 82(c) of Liberian Constitution
Campaign Finance Regulations Section 17
www.richmond.edu
<http://www.neciliberia.org/content/legaldocs/guidelinesandreg/campaignfinanreg.pdf>

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:

Civil society has taken on the responsibility of monitoring political finance. Political finance of the 2005 election was monitored by

the Campaign Monitoring Coalition (CMC).

References:

There is no such agency.

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?

25

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:

There are no limits, and even if there were, enforcement would be difficult due to lack of capacity and the current manner in which business is conducted. There are several potential loopholes associated with such limits.

References:

Breznev Paasawe, monitor, CMC, Sept. 19, 2007, Monrovia, Liberia
George Ebba, CMC media relations, Sept. 19, 2007, Monrovia, Liberia

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:

Limits on corporate donations are ineffective due to lack of enforcement capacity.

References:

Brezhnev Paasawe, monitor, CMC, Sept. 19, 2007, Monrovia, Liberia

John Fello, Public Relations Officer, CMC media relations

Liberia Political Finance Report, A level playing field for all,” Election 2005, published by CMC, Herald Printing Press, 2006

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

75:

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

25:

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

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:

There are several loopholes. In fact, incumbents raise money from misuse of state and administrative resources.

References:

Brezhnev Paasawe, monitor, CMC, Sept. 19, 2007, Monrovia, Liberia

John Fello, public relations officer, CMC media relations

Liberia Political Finance Report, A level playing field for all,” Election 2005, published by CMC, Herald Printing Press, 2006

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

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing

regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party

25:

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

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

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

Comments:

There is no agency set up by law, but in practice the NEC assumes the responsibility to enforce the regulations it has issued. The case brought against several political parties and candidates by CMC was given only one hearing. CMC documented detailed accounts of violations by various candidates.

References:

Brezhnev Paasawe, monitor, CMC, Sept. 19, 2007, Monrovia, Liberia

John Fello, public relations officer, CMC media relations

Liberia Political Finance Report, A level playing field for all," Election 2005, published by CMC, Herald Printing Press, 2006

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

75:

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

25:

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

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

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

Comments:

CMC wrote the National Elections Commission reminding it that it needed to do something about parties that failed to submit reports.

References:

Brezhnev Paasawe, monitor, CMC, Sept. 19, 2007, Monrovia, Liberia

John Fello, public relations officer, CMC media relations

Liberia Political Finance Report, A level playing field for all,” Election 2005, published by CMC, Herald Printing Press, 2006

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

CMC has written the Elections Commission reminding it about the need to audit political finance records, but there seem to be insufficient capacity or will to do this.

References:

Brezhnev Paasawe, monitor, CMC, Sept. 19, 2007, Monrovia, Liberia

John Fello, public relations officer, CMC media relations

Liberia Political Finance Report, A level playing field for all,” Election 2005, published by CMC, Herald Printing Press, 2006

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

75:

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

25:

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

22. Can citizens access records related to political financing?

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:

Parties and candidates are required to make disclosures once a year; many don't do this. However during the recent bye elections in Margibi, Nimba and Bassa, candidates disclosed but did not publish those disclosures. Some parties were fined earlier in 2007 for failure to submit reports.

References:

Brezhnev Paasawe, monitor, CMC, Sept. 19, 2007, Monrovia, Liberia

John Fello, public relations officer, CMC media relations

Liberia Political Finance Report, A level playing field for all," Election 2005, published by CMC, Herald Printing Press, 2006

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.

100 | 75 | 50 | 25 | 0

Comments:

Citizens can access the records for free at the National Elections Commission in the Internal Audit Section. For an example, see http://www.necliberia.org/content/campaingfinancereport_20051215.pdf

References:

Brezhnev Paasawe, monitor, CMC, Sept. 19, 2007, Monrovia, Liberia

John Fello, public relations officer, CMC media relations

Liberia Political Finance Report, A level playing field for all," Election 2005, published by CMC, Herald Printing Press, 2006

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

75:

50: Records take 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.

100 | 75 | 50 | 25 | 0

Comments:

While this is the case, a study showed that only CENTAL, a local anti-corruption group, and IFES, an international group, had requested this data and gotten it for free. While there are no barriers blocking citizens from getting such data, people have not made an attempt to do so.

These records can be accessed for free or a minimal photocopying cost to the extent of the record the person needs. See CENTAL's Piercing the Veil of Secrecy: Access to Information Report 2006" by Jasper Cummeah, Peaches Suah, Malcom Joseph, Eunice Dahn.

References:

Brezhnev Paasawe, monitor, CMC, Sept. 19, 2007, Monrovia, Liberia

John Fello, public relations officer, CMC media relations

Liberia Political Finance Report, A level playing field for all," Election 2005, published by CMC, Herald Printing Press, 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.

III-1. ~~47~~ 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

References:

Article 26 of Liberian Constitution

<http://confinder.richmond.edu/admin/docs/liberia.pdf>

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?

88

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

100 | 75 | 50 | 25 | 0

Comments:

The president regularly appears on radio on a program conversation with the president, and takes calls from the public.

References:

President Sirleaf Meets with Protesting UL Students; Monday, June 4, 2007; http://www.emansion.gov.lr/press.php?news_id=245

Eunice Dahn, Civil Society Advisory Committee, Sept. 20, 2007, Monrovia, Liberia

Macolm Joseph, director, Center for Media & Peace Studies, Monrovia, Liberia

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

References:

Article 65 & 66 of the Liberian Constitution

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:

The case *Snowe vs. National Legislature* is an example of a Supreme Court ruling being ignored. The president went ahead and delivered her speech at the Unity Conference Center contrary to the Supreme Court's ruling.

The following report is culled from the Analyst Newspaper, Jan. 30, 2007: *Supreme Court Rules Against Majority Bloc*, by George J. Borteh: The Supreme Court of Liberia, sitting in a special session concerning a writ of prohibition filed by embattled Speaker Edwin Snowe against his removal by the majority bloc of the Lower House, says all actions taken by the majority representatives in Virginia outside Monrovia are illegal. In its ruling handed down yesterday at the Temple of Justice in Monrovia, the Supreme Court placed a writ of prohibition on proceedings by the Virginia lawmakers who recently passed a vote of no confidence against Mr. Snowe. Arguing recently, lawyers representing the majority bloc claimed that resolution adopted to remove the speaker was in line with rules of the House of Representatives. The lawyers, led by Cllr. Francis Galawolo, argued that there was no bridge of the Liberian Constitution. Article (66) of the Constitution of Liberia provides that the Supreme Court has the power to rule on all constitutional matters. The Constitution further states that the national legislature shall not make any law or create exception as it will deprive the Supreme Court of any of the power granted under the law. Commenting on the question of the venue, the Chief Justice of the Supreme Court, Cllr. Johnnie Lewis, referred both parties to Article (40) of the Liberian Constitution. Accordingly, Article (40) outlines that either House shall adjourn for more than five days without the concern of the other. It also said both houses shall sit in the same city but the Supreme Court did not clarify whether the sitting of the majority bloc in Virginia violated the Constitution. However, the Supreme Court maintained that members of the majority bloc violated Articles 28 and 49 of the Constitution. The highest court also noted that the majority bloc violated Rule 42 of the House of Representatives. Some

Liberians, who spoke to this paper after the ruling, said the decision by the Court has demonstrated that Liberia is on the right path to respecting the rule of law following nearly 15 years of civil conflict. They described the ruling as a victory for justice. The head of the legal team for the embattled Speaker, Cllr. Varney Sherman, said the victory for Mr. Snowe was also a victory for the Liberian Constitution.”

References:

Macolm Joseph, director, Center for Media & Peace Studies, Sept. 20, 2007, Monrovia, Liberia

Eddie Jarwolo, director, NAYMOTE-PADD, Sept. 20, 2007, Monrovia, Liberia

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 relay 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:

Executive orders are relatively rare and specific, not broad. In fact, for the last three years or so there have been fewer than five.

References:

Norris Lester Tweah, special assistant to the minister of information, Sept. 20, 2007, Monrovia, Liberia

Eddie Jarwolo, director, NAYMOTE-PADD, Sept. 20, 2007, Monrovia, Liberia

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

75:

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

25:

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

25. Is the executive leadership subject to criminal proceedings?

50

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

YES | NO

Comments:

The president can be prosecuted for criminal acts committed while president, after completion of his or her term or upon impeachment from office.

References:

Article 61 of the Liberian Constitution
<http://confinder.richmond.edu/admin/docs/liberia.pdf>

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:

Officials of government can be prosecuted for criminal offenses, as in the case of the former controller of public works.

References:

Article 26 of the Liberian Constitution

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?

0

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

YES | **NO**

Comments:

Only campaign finance law requires the disclosure of assets. The Governance Reform Commission drafted a code of conduct, but the executive has yet to submit it to the national legislature.

References:

Does not exist in law.

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:

A draft code of conduct was developed by the governance commission, but it has not passed into law.

References:

Does not exist in law.

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:

The Governance Commission drafted a code of conduct that contains provisions on gifts and hospitality, but this has yet to be passed into law.

References:

Does not exist in law.

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:

The Governance Commission (formerly the Governance Reform Commission) drafted a code of conduct which has provisions on asset disclosure, but this has yet to come into force of law.

References:

Does not exist in law.

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:

The Governance Commission drafted a code of conduct that includes this provision, but it has yet to come into force of law.

References:

Does not exist in law.

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:

Former heads of state take jobs in the private sector. Ex-government ministers play active roles in private sector.

References:

Macolm Joseph, director, Center for Media & Peace Studies, Sept. 20, 2007, Monrovia, Liberia

Catherine Karmo, monitoring officer, Center for Transparency & Accountability in Liberia, Sept. 20, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no law covering gifts and hospitality, and so merchants (particularly Lebanese) give government officials valuable gifts, including generators, DVDs and cars.

References:

Emmanuel Munyenneh, technical resource assistant, Governance Reform Commission, Sept. 20, 2007, via Internet chat

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.

100 | 75 | 50 | 25 | 0

Comments:

There is no monitoring or filing agency for asset disclosure. Assets disclosed recently are on the basis of goodwill. They were disclosed to the public, not to any particular agency.

References:

Sarynne M. Dickson, project manager, Assets Disclosure Campaign, CENTAL, Sept. 20, 2007, Monrovia, Liberia

George Ebba, public relations officer, Assets Disclosure Campaign

Topical Issues" talk show, Jan. 26, 2007, Radio Veritas

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?

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

YES | **NO**

Comments:

Citizens can access records of candidates in an election, but not after the person becomes elected as president. No law supports this.

References:

Does not exist in law.

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:

Citizens may access only candidates' asset declarations.

References:

Access to Information Monitoring Report, CENTAL, June 2007, Sabannah Printing Press

Shine G. Williams, researcher, Access to Information Project, CENTAL, Sept. 20, 2007, Monrovia, Liberia

Macolm Joseph, director, Center for Media & Peace Studies, Sept. 20, 2007, Monrovia, Liberia

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

75:

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

These records are not accessible. It must be noted that the president, on account of goodwill, asked officials of her administration to declare, and those records were made public in the newspaper.

References:

Access to Information Monitoring Report, CENTAL, June 2007, Sabannah Printing Press

Shine G. Williams, researcher, Access to Information Project, CENTAL, Sept. 20, 2007, Monrovia, Liberia

Macolm Joseph, director, Center for Media & Peace Studies, Sept. 20, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

50

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:

During the by-election of Rivercess, Rivercess Senator Barney was reported using his vehicle to help his partisan campaign. News reported criticism of the recruitment of party loyalists into the SSS. There is a distinction between party and government. Party officials do not make policy statements on behalf of the government.

References:

CMC By-Election Monitoring Report for Rivercess County (not published)

Christian T.L. Peah, coordinator, Region III, CMC, Sept. 20, 2007, Monrovia, Liberia

Macolm Joseph, director, Center for Media & Peace Studies, Sept. 20, 2007, Monrovia, Liberia

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

75:

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

92

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

YES | NO

References:

Article 66 of the Liberian Constitution

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

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

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

Comments:

The judiciary can review actions of the legislature, for example, the recent Morlu's writ of injunction against the actions of the Liberian Senate.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

Interview with Dan Sayee, executive director, Liberia Democratic Institute; Sept. 26, 2007, Monrovia, Liberia

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:

Hon. Edwin Melvin Snow, former Speaker of the House of Representatives, currently faces criminal proceedings for acts of corruption allegedly committed while he was not a member of the Legislature.

References:

Article 42 of the Liberian 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?

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

YES | **NO**

Comments:

On the basis of goodwill, the president asked members of her government to file asset disclosures; some filed but others did not. The Governance Reform Commission drafted a code of conduct for public officials, but this has yet to come into effect.

References:

Campaign Finance Regulations requires them to file only while contesting.

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:

Legislators can go into private practice after office. There are many examples, among them, Edington Varmah, Taple Doe, Francis Garlawolo.

References:

Not verbatim in law

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:

The Constitution provides in Article 90(c) that the legislature shall proscribe a code of conduct, but that has not been enacted yet.

References:

Not verbatim in law.

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:

The assets declared while contesting are subject to audits under the auspices of the election commission.

References:

Not verbatim in law.

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:

This does not exist in law, and so is not enforced in practice.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no such practice.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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:

No such practice exists.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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:

Article 15 of the Liberian Constitution guarantees access to information, but this has not been enshrined in legislation.

References:

Not verbatim in law.

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:

No assets disclosure records are filed while in office.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

No disclosure records are filed in the first place.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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

75:

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

25:

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

32. Can citizens access legislative processes and documents?

33

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

YES | NO

Comments:

In law, citizens can access government information and proceedings, including the legislature. However, there is no specific law on the legislature itself.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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:

There are no mechanisms for accessing or providing records to the public.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Costs associated with retrieving records are unofficial.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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

75:

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

25:

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

31
III-3. Judicial Accountability

33. Are judges appointed fairly?

92

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

YES | NO

Comments:

The Bar Association may submit a shortlist to the president on a goodwill basis.

References:

Article 54(c) of the Liberian Constitution

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:

Only members of the Supreme Court Bar may be appointed to serve on the bench.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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:

The Senate confirms nominated judges.

References:

Article 54 of the Liberian Constitution

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?

42

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

YES | NO

Comments:

The Liberian Law Reports catalogues opinions and rulings of the courts, and the judges give reasons behind their rulings.

References:

Civil Procedure Law, enacted 1973

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:

Rulings of the courts are catalogued in the Liberian Law Reports.

References:

Liberian Law Reports

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 judiciary regulates itself. A study by the GRC recommended setting up a judicial commission.

References:

Does not exist in law.

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:

No such agency exists.

References:

Does not exist in law.

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:

Judges are investigated within the bureaucracy of the judiciary. The court administrator or a designee of the chief justice does this.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission, December 2006

Cecil B. Griffiths, president, Liberia National Law Enforcement Association, Sept. 30, 2007, Monrovia, Liberia

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:

Judges are investigated within the bureaucracy of the judiciary. The court administrator or a designee of the chief justice does this.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law, Governance Reform Commission, December 2006 (2.2.3)

Cecil B. Griffiths, president, Liberia National Law Enforcement Association, Sept. 30, 2007, Monrovia, Liberia

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?

14

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

YES | **NO**

Comments:

Asset disclosures were made on voluntary basis after pronouncements by the president.

References:

Does not exist in law.

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:

The Constitution provides the platform and forbids taking anything in return for service, however the draft guidelines or code of conduct for public officials drafted by the Governance Reform Commission is more detailed. It has been bogged down in the legislature and is yet to be passed into law.

References:

Article 90 of the Liberian Constitution applies to all office holders. The draft code of conduct presently before the House of Representatives includes this provision.

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:

Members of the Supreme Court are not subject to any mandatory asset-declaration requirements.

References:

Does not exist in law.

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:

Judges are require to step down at age 70, there is no law barring them from entering private sector.

References:

Does not exist in law.

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:

Does not exist in law, so former judges could be doing it.

References:

Reforming the Liberia Legal System; a GRC study, December 2006

James Kumeh, traffic court judge, Montserrado County, Oct. 1, 2007, Monrovia, Liberia

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:

Does not exist in law, so members of Supreme Court have no restrictions on receiving gifts and hospitality.

References:

Reforming the Liberia Legal System; a GRC study, December 2006

James Kumeh, traffic court judge, Montserrado County, Oct. 1, 2007, Monrovia, Liberia

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.

100 | 75 | 50 | 25 | 0

Comments:

Does not exist in law, and is not in practice.

References:

Brezhnev Pasawe, monitor, Campaign Monitoring Coalition, Oct. 1, 2007, Monrovia, Liberia

Peaches Suah, CMC media relations, Oct. 1, 2007, Monrovia, Liberia

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:

Generally, citizens by virtue of the Constitution should be able to access any government information, but in practice, this is far from the truth.

References:

Does not exist in law.

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:

This is not in law and so has not been honored in practice.

References:

Brezhnev Paasawe, monitor, CMC, Oct. 1, 2007, Monrovia, Liberia

Peaches Suah, CMC media relations and project manager, Access to Information Monitoring, Oct. 1, 2007

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 some instances, the costs of acquiring government documents are unofficial and prohibitively high. People are charged notorious unofficial research" fees, something many cannot afford.

References:

Liberia Access to Information Monitoring Report, CENTAL, June 2007

Brezhnev Paasawe, research assistant, Access to information Monitoring Project, Oct. 1, 2007, Monrovia, Liberia

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

75:

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

25:

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

III-4. Budget Processes

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

75

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

YES | NO

Comments:

The executive prepares and submits the budget to the House of Representatives.

References:

Article 34(d) of the Liberian Constitution

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.

Comments:

During the last fiscal year, before the passage of the budget, when there was no approved budget, the government continued to operate. The Legislature raised the issue but the Ministry of Finance said no major obligations were being incurred, except that supplies were being used from old stocks.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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.

Comments:

The legislature lacks adequate staffing and knowledge of budgetary oversight.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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

75:

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

25:

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

38. Can citizens access the national budgetary process?

58

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:

Usually issues of benefits and legislators' allowances are discussed behind closed doors in executive sessions.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

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

Comments:

CSOs may be invited to make comments on the executive budget proposal, but the input may not have any strong impact.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Citizens can obtain copies of the budget on request.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 26, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 26, 2007, Monrovia, Liberia

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

75:

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

25:

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

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:

This committee oversees and reviews the budget before presenting findings to plenary. There one in both Senate and House of Representatives.

References:

Public Accounts Committee

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

NO: A NO score is earned if no such body exists 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?

38

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

100 | 75 | 50 | 25 | 0

Comments:

Plenary of the Legislature constantly cries for reports from the Ministry of Finance. Such reports are either late or do not come at all.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 27, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 27, 2007, Monrovia, Liberia

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:

The committee responsible for budget oversight is comprised of both opposition and ruling party members, and opposition members play a pivotal role in the legislature.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 27, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 27, 2007, Monrovia, Liberia

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:

The committees of the legislature often come under strong public criticism, because in many instances they behave in a manner considered contrary to the public interest.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 27, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 27, 2007, Monrovia, Liberia

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:

The oversight role is nominal. They have not conducted any meaningful investigations into the accounts of public institutions, nor have they spoken of any major irregularities in any public institution's accounts.

References:

Interview with Rep. Dusty Wolokolie, District 4, Montserrado County, Sept. 27, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 27, 2007, Monrovia, Liberia

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

75:

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

25:

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

Category IV. Administration and Civil Service

IV-1. ²⁶Civil Service Regulations

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

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

YES | NO

References:

Standing Orders for the Civil Service, 1983, Civil Service Agency, Republic of Liberia, 44 p.

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

References:

Standing Orders for the Civil Service, 1983, Civil Service Agency, Republic of Liberia, 44 p.

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

References:

Chapter 6, Standing Orders for Civil Service, 1983

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

References:

Chapter 4, Standing Orders for Civil Service, 1983

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?

47

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

100 | 75 | 50 | 25 | 0

Comments:

Civil servants are more often driven by negative influences, ranging from personal to political. Case in point is the recent mass dismissal of civil servants at the GAC in the wake of their inability to pass aptitude tests. The case is currently before the Supreme Court, as the GAC has refused to reinstate these people on grounds of incompetence.

References:

Norris Lester Tweah, special assistant to the minister of information, Sept. 28, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 28, 2007, Monrovia, Liberia

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:

This phenomenon is particularly true for key civil service positions in key agencies. A general test to fill vacancies may not be given. However, tremendous improvements have been made through the civil service reform process.

References:

Norris Lester Tweah, special assistant to the minister of information, Sept. 28, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 28, 2007, Monrovia, Liberia

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:

Some of those in key positions are being politically patronized because of support in canvassing for office.

References:

Norris Lester Tweah, special assistant to the minister of information, Sept. 28, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 28, 2007, Monrovia, Liberia

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:

There has been marked change since the Governance Reform Commission began civil service reform.

References:

Norris Lester Tweah, special assistant to the minister of information, Sept. 28, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 28, 2007, Monrovia, Liberia

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.

Comments:

Some civil servants don't receive bonuses.

References:

Norris Lester Tweah, special assistant to the minister of information, Sept. 28, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 28, 2007, Monrovia, Liberia

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.

Comments:

The government has never published the list of civil service positions.

References:

Norris Lester Tweah, special assistant to the minister of information, Sept. 28, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 28, 2007, Monrovia, Liberia

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:

There is no independent redress mechanism. Cases are managed by civil service managers, and the executive has enormous influence over outcomes, especially where many persons are concerned.

References:

Norris Lester Tweah, special assistant to the minister of information, Sept. 28, 2007, Monrovia, Liberia

John Fello, executive director, Civic Education for Good Citizenship Movement, Sept. 28, 2007, Monrovia, Liberia

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:

Since the inauguration of President Ellen Johnson Sirleaf, the government has endeavored to pay civil servants on time.

References:

Norris Tweah, special assistant to the minister of information, Sept. 30, 2007, Monrovia, Liberia

Catherine Karmo, assistant program manager for monitoring, CENTAL, Sept. 30, 2007, Monrovia, Liberia

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:

There have been employees who commit misconduct in one government agency and are moved to another. Civil servants have not been brought to court for corruption, rather they are dismissed when suspected or some level of proof is leveled against them, but eventually, they find employment elsewhere in government, sometimes outside of the capital in local government or with the security, i.e. police, or immigration. For high-profile positions, however, it has been difficult for bad actors to find employment elsewhere.

References:

Emmanuel Roberts, program assistant; CENTAL, Sept. 30, 2007, Monrovia, Liberia

Norris Tweah, special assistant to the minister of information, telephone interview, Monrovia, Liberia

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:

The GRC code of conduct for public officials has yet to be approved.

References:

Public Procurement Act of 2005
Civil Service Revised Regulations

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:

Some civil servants have been actively working in both sectors, as government employees were noted for coming to work, signing in and then moving off elsewhere.

References:

Does not exist in law.

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:

Civil servants may receive unlimited gifts from anyone, and the line between gifts, bribes and patronage is very blurry. But with the enactment of the new code and further passage, this might change.

References:

Public Officers Code of Conduct
Article 90 of Constitution

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:

Does not exist in law, and in practice not enforced.

References:

George Miller, professor, AME Zion University, Sept. 30, 2007, Monrovia, Liberia

Brezhnev Paasawe, researcher, CENTAL, Sept. 30, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

This is not the case in law or in practice.

References:

George Miller, professor, AME Zion University, Sept. 30, 2007, Monrovia, Liberia

Eddie Jarwolo, executive director, NAYMOTE, Sept. 30, 2007, Monrovia, Liberia

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:

This has not been seen in practice.

References:

George Miller, professor, AME Zion University, Sept. 30, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Sept. 30, 2007, Monrovia, Liberia

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

75:

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

25:

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

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:

Civil servants don't declare assets, even those in fiduciary positions.

References:

Does not exist in law.

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:

Civil servants don't declare assets, even those in fiduciary positions.

References:

George Miller, professor, AME Zion University, Sept. 30, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Sept. 30, 2007, Monrovia, Liberia

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Costs associated with retrieving information from the government bureaucracy are prohibitive, more so they are unofficial costs. There is no official system where people can get information from government bureaucracy by paying some minimal fees, except the Budget Bureau's recent attempt to make copies of the budget available by selling each for US\$10.

References:

Access to Information Monitoring Report: Piercing the Veil of Secrecy, CENTAL, 2006

Peaches Suah, project manager ATI, CENTAL, Sept. 30, 2007, Monrovia, Liberia

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

75:

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

25:

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

IV-2. Whistle-blowing Measures

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:

There is no whistle-blowing protection law. Organizations like CENTAL and CEMESP have continuously commented on this issue as part to their access to information campaign.

References:

Does not exist in law.

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

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

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:

Civil servants who report acts of corruption face the prospects of a witch-hunt.

References:

George Miller, professor, AME Zion University, Oct. 2, 2007, Monrovia, Liberia

Access to Information Monitoring Report, CENTAL, June 2007

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:

There is no whistle-blowing protection law. Civic groups like CENTAL and CEMESP have been campaigning for this law. The president commented recently on the need for citizens to come out to speak about acts of corruption.

References:

Does not exist in law.

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

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

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:

As there is no law guaranteeing whistle-blowing protection, reporting an employer could be a dangerous thing to do.

References:

Professor George Miller, AME Zion University, Oct. 2, 2007, Monrovia, Liberia

Brezhnev Paasawe, researcher, CENTAL, Oct. 2, 2007, Monrovia, Liberia

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?

0

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:

There is no whistle-blowing protection law.

References:

Does not exist in law.

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?

0

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

100 | 75 | 50 | 25 | 0

Comments:

Whistle-blowing is protected by law, and agencies have not hired professional staff to promote ethics as relevant.

References:

Norris L. Tweah, special assistant to the minister of information, Oct. 2, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 18, 2007, Monrovia, Liberia

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:

The system does not exist and so does not receive funding.

References:

Norris L. Tweah, special assistant to the minister of information, Oct. 2, 2007, Monrovia, Liberia

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:

This mechanism does not exist in public institutions.

References:

Norris L. Tweah, special assistant to the minister of information, Oct. 2, 2007, Monrovia, Liberia

Shine G. Williams, researcher, CENTAL, Access to Information Monitoring Project, Oct. 2, 2007

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:

This mechanism does not exist in law or in practice.

References:

Norris L. Tweah, special assistant to the minister of information, Oct. 2, 2007, Monrovia, Liberia

Shine G. Williams, researcher, CENTAL, Access to Information Monitoring Project, Oct. 2, 2007

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.

0
IV-3. Procurement

48. Is the public procurement process effective?

68

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

YES | NO

Comments:

This applies to the Inter-Ministerial Committee and to the commissioners of the PPCC.

References:

Procurement Act, Part II, no. 13, 84

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:

There is no professional requirement in law as to who becomes a procurement officer.

References:

Does not exist in law.

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, enforcement of conflict-of-interest for public officials is not noticed or has not been reported.

References:

Brezhnev Paasawe, researcher, CENTAL, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

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

YES | NO

Comments:

There is no mechanism that monitors the integrity of procurement officers.

References:

Does not exist in law.

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

References:

Part I Objective of the Law; Scope of Application; Procurement Act of September 2005

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

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

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

YES | NO

References:

Procurement Act, #55 (Sole Source); 56

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

NO: A NO score is earned if there are no provisions on sole sourcing. A NO score is earned if the provisions on sole sourcing are general and unspecified.

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

YES | NO

Comments:

Anyone, including a bidder with a grievance, can file a complaint.

References:

Procurement Law, Part VIII-Complaints and Review Process

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:

Any dissatisfied party may take an appeal to a court of competent jurisdiction

References:

Procurement Act, Part VIII 128(3)

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:

Bidders may be blacklisted, following investigation.

References:

Public Procurement Act, Part V, #44

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:

The system is still new, needs to be tried and tested.

References:

Eve Gongloe, technical staff, PPCC, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 22, 2007, Monrovia, Liberia

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?

54

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

YES | NO

Comments:

The regulations are available online and with the agencies.

References:

<http://www.mofliberia.org>

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:

Not mentioned in law.

References:

Procurement Act, Part III, Sub-part 1 (22)

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

References:

Rep. Dusty Wolokolie, chair, National Legislature Governance Committee, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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

The LPRC contract case shows that obtaining records on procurement is difficult, if not impossible, especially for journalists and civil society.

References:

Rep. Dusty Wolokolie, chair, National Legislature Governance Committee, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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

Procurement contracts are published, especially those above \$10,000.

References:

Rep. Dusty Wolokolie, chair, National Legislature Governance Committee, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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

References:

Rep. Dusty Wolokolie, chair, National Legislature Governance Committee, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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?

0

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

YES | **NO**

Comments:

Though this is not in law, any business can compete in a privatization process.

References:

Does not exist in law.

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:

There is no privatization law yet.

References:

Does not exist in law.

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:

There are no privatization schemes, and the issue does not exist in law.

References:

Rep. Dusty Wolokolie, chair, National Legislature Governance Committee, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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?

0

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

YES | **NO**

References:

Does not exist in law.

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:

There is no formal process.

References:

Rep. Dusty Wolokolie, chair, National Legislature Governance Committee, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Though not spelled out in law, the latest attempt to privatize telecom was published in the paper.

References:

Does not exist in law.

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**

References:

Not in law nor in practice.

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:

Not in practice.

References:

Not in practice or law.

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.

Category V. Oversight and Regulation

V-1. ⁵⁰National Ombudsman

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

0

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:

The draft constitution from the Sawyer Committee had provision for an Ombudsman Office, but the Kisselly Review Committee removed it

References:

Does not exist in law.

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?

0

53a. In law, the ombudsman is protected from political interference.

YES | **NO**

Comments:

Ombudsman is not covered under the Liberian law, and there is no equivalent of this office.

References:

Does not exist in law.

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:

There is no ombudsman office, and so this is not applicable.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Does not exist in law of practice.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Not in law or practice.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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).

100 | 75 | 50 | 25 | 0

Comments:

Not in law or practice.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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.

100 | 75 | 50 | 25 | 0

Comments:

Not in law or practice.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Does not exist in law or in practice.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Does not exist in law or in practice.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Does not exist in law or practice.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Does not exist in law or practice.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Does not exist in law or practice.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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?

0

54a. In law, citizens can access reports of the ombudsman(s).

YES | **NO**

References:

Does not exist in law.

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:

There is no mechanism in law or in practice for this. Citizens can hardly acquire information about the operations of existing agencies, let alone a one that does not exist.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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.

100 | 75 | 50 | 25 | 0

Comments:

This is not in law or in practice. Acquiring information or records from any government institution has unofficial costs attached to it.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

The General Auditing Commission (GAC)

References:

General Auditing Commission Act of 2005

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?

81

56a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:

The agency is detached from the executive, the AG has security of tenure, designs its own work plan, makes its own budget, and recruits its own staff.

References:

GAC Act of 2005

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:

The AG has security of tenure, and cannot be removed unless for cause

References:

Anthony Myers, Budget Analyst, Bureau of the Budget, October 2, 2007, Monrovia, Liberia

Dan Sayeh, Executive Director, LDI, October 2, 2007, Monrovia, Liberia

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

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

The appointment of the AG is made from a vetting process.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

The agency is funded from the budget, and its request for funds was cut due to overall budget cuts.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

The agency has not conducted an audit yet, as it has been newly constituted.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

It is safe to say that since the government is acting on the ECOWAS team of investigators report, it will act on the report of the GAC.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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 of now, the GAC has the independence to conduct its own investigations.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

The GAC submits its reports to the legislature, and it may publish these reports thereafter.

References:

Does not exist in law.

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**

References:

Does not exist in practice or in law.

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:

Neither in law nor in practice.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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.

60
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:

Interestingly, nobody seem to have an idea when this Act was passed, even the Ministry of Finance website does not carry the date.

References:

Ministry of Finance Act; <http://www.mofliberia.org>

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?

100

59a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Ministry of Finance has full-time professional staff.

References:

Joseph Ballah, analyst, General Accounting Bureau, Ministry of Finance, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

The Ministry of Finance has a budgetary allocation of US\$5,929,972 for its programs.

References:

Repositioning for National Renewal, Poverty Reduction and Sustainable Development (National Budget 2007-08), May 15, 2007, Published by the Budget Bureau

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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?

50

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

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

Comments:

Some people, specifically Lebanese merchants and some senior-level officials, are in the habit of evading taxes.

References:

Joseph Ballah, analyst, General Accounting Bureau, Ministry of Finance, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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 Bureau of Customs and Excise is an auxiliary of the Ministry of Finance.

References:
Ministry of Finance Act

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:

The bureau has full-time staff and an international expert assigned to it by the GEMAP.

References:

Joseph Ballah, analyst, General Accounting Bureau, Ministry of Finance, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Given the level of funding available to the umbrella body of the Ministry of Finance, it is safe to say that the bureau receives regular funding, considering the Liberian economy.

References:

Joseph Ballah, analyst, General Accounting Bureau, Ministry of Finance, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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?

50

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

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

Comments:

Groups like members of the legislature and other government officials import items under the guise of personal effects. One such case ended up in the court with a Montserrado County representative accused.

References:

Joseph Ballah, analyst, General Accounting Bureau, Ministry of Finance, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

The Bureau of State Enterprises oversees all state enterprises.

References:

Bureau of State Enterprises Act

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?

25

65a. In law, the agency or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

Comments:

The BSE is not free from political interference.

References:

Does not exist in law.

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

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Agency funding is constrained by huge demands on budget.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

The BSE does not have investigative powers. Rather, it monitors the performance of state-owned enterprises and trains their staff.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

This body does not have investigative powers; in the last year there was no known investigation.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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?

20

66a. In law, citizens can access the financial records of state-owned companies.

YES | **NO**

Comments:

Citizens may find it difficult to access financial records about state companies. These records are available only to government officials or auditors.

References:

Does not exist in law.

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:

Since the inception of the GEMAP, financial records of state-owned companies are being brought up-to-date. However, they may not be 100 percent accurate.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Audits of state-owned enterprises are yet to be done, but the General Auditing Commission plans to carry them out.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Obtaining financial records could be impossible. The case of LPRC Oil deal speaks to the unwillingness of some state companies to release information about their operations.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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

75:

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

25:

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

66e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Obtaining any records come with unofficial costs, but in this case there is no mechanism through which citizens can access records.

References:

Anthony Myers, budget analyst, Budget Bureau, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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

75:

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

25:

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

V-5. ⁴⁸Business Licensing and Regulation

67. Are business licenses available to all citizens?

56

67a. In law, anyone may apply for a business license.

YES | NO

Comments:

Article 11 guarantees property rights and is the closest and approximate to owning a business. This law could be invoked in application for a business license.

References:

Article 11 of Liberia Constitution

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:

A business has to use the administrative channels within the granting agency if it is refused a license, or it must go to court if it has sufficient reasons to believe that it had been denied unnecessarily.

References:

Does not exist in law.

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:

Citizens can obtain a business license in a short period of time.

References:

G. Jasper Kumeh II, price and marketing analyst, Ministry of Commerce, Oct. 2, 2007, Monrovia, Liberia

Dan Sayeh, Liberia Democracy Institute, Monrovia, Oct. 2, 2007

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:

Because business licenses have official and unofficial costs attached to obtaining them, most people are in the informal sector.

References:

Geroge Miller, professor, AME Zion University, Oct. 2, 2007, Monrovia, Liberia

Shine G. Williams, researcher, CENTAL, Oct. 2, 2007, Monrovia, Liberia

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:

Businesses must deal with the Ministries of Health and the Environmental Protection Agency on matters related to health and public safety standards, and the requirements are available with these agencies.

References:

Public Health Law of 1976
Environmental Protection Agency Act

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:

The requirements are available with the Ministry of Health and the Environmental Protection Agency. They are usually shared with businesses on request.

References:

Public Health Law of 1976
Environmental Protection Agency Act

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:

The requirements are available with the EPA and the Ministry of Health, and they are made available to businesses on request.

References:

Public Health Law of 1976
Environmental Protection Agency Act

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?

25

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:

Public health inspectors often request bribes from businesses, some in exchange for protection.

References:

Moses Dowee, civil servant, Ministry of Health & Social Welfare, Oct. 2, 2007. Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Public health inspectors often request bribes for speedy service and for protection provided to businesses.

References:

Moses Dowee, civil servant, Ministry of Health & Social Welfare, Oct. 2, 2007. Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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:

Public health inspectors often request bribes for speedy service and for protection provided to businesses.

References:

Moses Dowee, civil servant, Ministry of Health & Social Welfare, Oct. 2, 2007. Monrovia, Liberia

Dan Sayeh, executive director, LDI, Oct. 2, 2007, Monrovia, Liberia

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. ⁵¹Anti-Corruption Law

70. Is there legislation criminalizing corruption?

100

70a. In law, attempted corruption is illegal.

YES | NO

Comments:

The general principle in law criminalizes any attempt to commit a crime, and there are substantial elements that constitute such attempts.

References:

Chapter 12, Penal Code of Liberia

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:

Taking money from offenders to commit a crime is considered extortion, and Liberian law provides against such behavior.

References:

Chapter 12, Penal Code of Liberia
Article 91 of the Liberian constitution

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:

Offering or receiving a bribe is illegal.

References:

Chapter 12 of the penal code
Article 90 of the Liberian Constitution

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:

Offering or receiving bribe is a crime.

References:

Chapter 12 of the Penal Code
Article 90 of the Liberian Constitution

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:

Offering or receiving bribe from anyone is a crime.

References:

Chapter 12 of the Penal Code

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:

Using public resources for private gains could be punished as embezzlement, misapplication of entrusted property or other violations.

References:

Chapter 15, Sub-chapter F Economic Sabotage

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:

This could form part of a code of conduct or part of access-to-information legislation, however as yet is not in law.

References:

Article 73 of Liberian Constitution, and draft access-to-information law; as well as the draft code of conduct for public officials being debated in the legislature.

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:

Comments on facilitation, laundering of proceeds, recovery, etc.

References:

Amendment to Chapter 15 of Penal Code

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:

Conspiracy to commit a crime is criminal.

References:

Penal Code, general principles

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?

0

71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | **NO**

Comments:

The government through the GRC drafted an anti-corruption agency bill that is yet to be passed by the legislature. This bill was recently opened for the second public hearing. Opposition to the government feels the bill is a witch-hunt aimed at them, and it cannot be passed without their acquiescence. So they have launched an effort to water down the powers of the commission, something opposed by civil society. During the last sitting of the legislature prior to its 2007 break, the ruling party members walked out of session. The remaining opposition members watered down the bill and hurriedly sought to pass it. The ruling party members walked out to reduce the quorum for a vote in the House of Representatives.

References:

Does not exist in law.

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?

0

72a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | **NO**

Comments:

The agency is yet to be established. The Liberty Party is highly opposed to the bill because it believes the proposed agency will not be free from political interference.

References:

Does not exist in law.

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:

The anti-corruption commission needs to exist, but has not been passed into law.

References:

Reforming the Liberian Legal System, Governance Reform Commission, December 2006

Francois Junius, vice president, LINLEA, Sept. 11, 2007

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 proposed bill seeks security of tenure and ensures a process for removal from office, subverting the power of the appointing authority.

References:

Rep. Dusty Wolokolie, chairman, House Standing Committee on Governance, Sept. 11, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

This is not in practice yet because the commission does not exist in law.

References:

Rep. Dusty Wolokolie, chairman, House Standing Committee on Governance, Sept. 11, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

Does not exist in law yet, but the proposed bill spells out a full-time staff for the commission.

References:

Rep. Dusty Wolokolie, chairman, House Standing Committee on Governance, Sept. 11, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

As proposed, the commission would receive regular funding.

References:

Rep. Dusty Wolokolie, chairman, House Standing Committee on Governance, Sept. 11, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

The proposed commission would make regular reports.

References:

Rep. Dusty Wolokolie, chairman, House Standing Committee on Governance, Sept. 11, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

The current debate is unclear about the specific powers the commission should have. Civil society and some officials are determined to see the commission retain sufficient powers, such as prosecutorial, power to arrest and detain, and power to freeze assets, but others in the legislature, including Edwin Snow and the Liberty Party representatives don't see it this way.

References:

Rep. Dusty Wolokolie, chairman, House Standing Committee on Governance, Sept. 11, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

The proposed commission would be able to launch investigations.

References:

Rep. Dusty Wolokolie, chairman, House Standing Committee on Governance, Sept. 11, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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?

0

73a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

That has been anticipated in the draft bill, but it is yet to become law.

References:

Rep. Dusty Wolokolie, chairman, House Standing Committee on Governance, Sept. 11, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

This is anticipated in the draft bill, but it is yet to be passed into law.

References:

Rep. Dusty Wolokolie, chairman, House Standing Committee on Governance, Sept. 11, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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.

74. Is there an appeals mechanism for challenging criminal judgments?

67

74a. In law, there is a general right of appeal.

YES | NO

Comments:

Every person has the right to an appeal.

References:

Article 20 (b) of the Liberian Constitution

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:

Appeals cases take a long time to be heard.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission

Cecil B. Griffiths, president, Liberia National Law Enforcement Association, Sept. 30, 2007, Monrovia, Liberia

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

74c. In practice, citizens can use the appeals mechanism at a reasonable cost.

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

Comments:

Appeals are expensive, usually only the rich and powerful can afford good lawyers.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission

Cecil B. Griffiths, president, Liberia National Law Enforcement Association, Sept. 30, 2007, Monrovia, Liberia

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?

100

75. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

Judgments, by precedent or by law, follow written laws.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission

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?

50

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

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

Comments:

Certain individuals and institutions have refused to abide by judicial decisions. The legislature usually claims that as the branches of government are separate and distinct, the judiciary should not attempt to counter decisions made by the legislature.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission

James Kumeh, traffic court judge, Montserrado County, Monrovia, Sept. 30, 2007

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?

63

77a. In law, the independence of the judiciary is guaranteed.

YES | NO

Comments:

This law guarantees the independence and autonomy of the judiciary.

References:

Financial Autonomy Act of the Judiciary 2006

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:

The president asked the chief justice to remove a magisterial judge from office, and the chief justice obliged. But when the chief justice wrote the judge, he refused to be removed from the bench on account of the president's instructions. The judge carried on in his office and demanded an apology from the chief justice.

The president recently removed a judge from office, although the Constitution says judges can be removed for cause through an impeachment process.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission, December 2006

James Kumeh, traffic court judge, Montserrado County, Monrovia, Sept. 30, 2007

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:

Judges are assigned, not cases. The judge in chambers would be the one responsible for a case.

References:

Does not exist in law.

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:

The chief justice and other judges of courts of records are removed through impeachment.

References:

Article 71 of the Liberian Constitution

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:

No judge has been harmed because of handling corruption cases.

References:

Cecil B. Griffiths, president, Liberia National Law Enforcement Association, Sept. 30, 2007, Monrovia, Liberia

James Kumeh, traffic court judge, Montserrado County, Oct. 1, 2007, Monrovia, Liberia

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:

No judge has been killed because of handling corruption cases.

References:

Cecil B. Griffiths, president, Liberia National Law Enforcement Association, Sept. 30, 2007, Monrovia, Liberia

James Kumeh, traffic court judge, Montserrado County, Oct. 1, 2007, Monrovia, Liberia

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?

54

79a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

Courts sometimes render decisions based on economic disparities of the litigants, for example, a case may be badly judged because of bribery but not racial or ethnic considerations.

References:

James Kumeh, traffic court judge, Montserrado County, Oct. 1, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

Women have equal access to justice in the judicial system.

References:

James Kumeh, traffic court judge, Montserrado County, Sept. 30, 2007, Monrovia, Liberia

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

The state provides defense for those who cannot afford it.

References:

Article 21(l) of the Liberian Constitution

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:

The state itself does not have enough competent lawyers to represent it in its own cases, so one can deduce the level of representation available for private persons who are indigent. However, the state does make the effort to provide representation when available.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission, December 2006

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

The unofficial costs are prohibitive, and every step along the way in the judicial system is a hassle.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission, December 2006

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

The unofficial costs of engaging the legal system constrains businesses to find out-of-court settlement for civil disputes.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission, December 2006

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

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:

There are many areas where the formal judicial system or courts are not available.

References:

Reforming Liberia's Legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission, December 2006

Francois Junius, vice president, LINLEA, Sept. 11, 2007, Monrovia, Liberia

Legal and Judicial System Support Division, <http://unmil.org/content.asp?ccat=judicial>

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?

33

80a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

The deputy director for administration is a staunch partisan, and the president appointed her senior aide as assistant police director for operations, even though he has no known police background. However, attempts are being made by the government to professionalize the police — one or two appointments may be partisan, but not all.

References:

Cecil B. Griffiths, president, Liberia National Law Enforcement Association, Sept. 20, 2007, Monrovia, Liberia, by telephone from Buchanan

Macolm Joseph, director, Center for Media & Peace Studies, Sept. 20, 2007, Monrovia, Liberia

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 current budget is inadequate. Presently they are depending on bilateral assistance from the United States and and Nigeria.

References:

Cecil B. Griffiths, president, Liberia National Law Enforcement Association, Sept. 20, 2007, Monrovia, Liberia, by telephone from Buchanan

Macolm Joseph, director, Center for Media & Peace Studies, Sept. 20, 2007, Monrovia, Liberia

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

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

80c. In practice, the law enforcement agency is protected from political interference.

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

Comments:

They are not protected from political influence, and some cases may be dropped because of political interference.

References:

Cecil B. Griffiths, president, Liberia National Law Enforcement Association, Sept. 20, 2007, Monrovia, Liberia

George Miller, professor, A.M.E Zion University, Sept. 30, 2007, Monrovia, Liberia

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?

29

81a. In law, there is an independent mechanism for citizens to complain about police action.

YES | **NO**

Comments:

There is no independent mechanism for citizens to complain about police actions.

References:

Does not exist in 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:

There is no independent mechanism for seeking redress.

References:

Reforming Liberia's legal and Judicial System: Towards Enhancing the Rule of Law," Governance Reform Commission, December 2006, Section 2.2.19.2

Cecil B. Griffiths, president, Liberia National Law Enforcement Association, Monrovia, Liberia

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:

There is no such agency. The government is in the process of establishing an anti-corruption commission, but the national legislature has tabled the draft bill pending its return from its agriculture break.

References:

Does not exist in law.

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:

The agency is in formation.

References:

Legal and Practical Challenges in Liberia to the Domestication of International Anti-Corruption Convention," Transparency International, June 2006 (Liberia Country Review)

Emmanuel Roberts, Anti-corruption Working Group (AWG), Center for Transparency & Accountability in Liberia, Sept. 30, 2007, Monrovia, Liberia

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:

No official is immune from prosecution, unless the president.

References:

Article 26 of the Liberian Constitution

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:

Law enforcement officials are not immune from prosecution, but it is quite difficult to get them to that point. The case of Ashford Peal is classic. He was alleged to have shot a fellow officer who was the bodyguard of his superior, but the case never reached the court. He was only suspended from his position.

References:

George Miller, sociology professor, A.M.E Zion University, Oct. 2, 2007, Monrovia, Liberia

Brezhnev Paasawe, researcher, Monitoring Department, CENTAL, Oct. 2, 2007, Monrovia, Liberia

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.