

Overall Score:

67 - Weak

Legal Framework Score:

77 - Moderate

Actual Implementation Score:

55 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁶⁰Civil Society Organizations

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

100

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

YES | NO

Comments:

The organizations must only register with the Registrar-General's Department and the Department of Social Welfare. The NGO Bill is in the offering but has still not been passed.

References:

Chapter 5 Article 21(e) of the Constitution of Ghana

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:

General laws on setting up organizations and business entities do not restrict funding sources. There is no specific statute on setting up organizations.

References:

The Constitution of the Republic of Ghana. From personal knowledge and experience. My own organization is an anti-corruption organization that receives funding from both external and domestic sources. There is no specific statute that bars good governance and anti-corruption organizations from accepting funding from any domestic or foreign sources.

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:

All registered organizations are required to file returns with the Registrar-General. This includes their source of funding and their expenditures.

References:

Section 123 of the Companies Code, 1963, (Act 179) requires that nongovernmental organizations file returns, including their income and expenditures to the Registrar-General.

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?

83

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

100 | 75 | 50 | 25 | 0

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

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

75:

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

25:

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

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

YES | NO

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

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. YES is a positive score.

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

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

100

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

YES | NO

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

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?

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

YES | NO

Comments:

The procedures involved in forming a new union can be frustrating, especially if the union will be added into a sector where there already are unions.

References:

Section 10(d) or Section 79(1) of the Labour Act, 2003 (Act 651)

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

There are sometimes a few obstructions, especially when there are attempts to split from one union and when the split is not likely to favor government. For example, NAGRAT from GNAT.

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

100: Trade unions are common and are an important part of 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

References:

Articles 162, Section 1 of the 1992 Constitution of Ghana. Section 2 (setting up of National Media Commission to promote and ensure freedom and independence of the media, and Section 4 (independence of journalists) of the National Media Commission Act, 1993 (Act 449).

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

References:

Section 1 (a) of Article 21 of the 1992 Constitution of Ghana.

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?

81

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

100 | 75 | 50 | 25 | 0

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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:

The Media Commission is required to make regulations for the registration of newspapers and other publications. One can appeal to the minister and proceed to the courts if not satisfied.

References:

Section 12 of the National Media Commission Act, 1993 (Act 449). Section 22 of the National Communications Authority, 1996 (Act 524).

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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:

The National Media Commission provided by Article 166 of the Constitution and the National Media Commission Act, 1993 (Act 449) as amended in 1998, provides that, among other items, NMC makes regulations by constitutional instrument for the registration of newspapers and other publications, except the regulations shall not provide for the exercise of any direction or control over the professional functions of a person engaged in the production of newspapers or other means of mass communication. It does not provide for any fees for registration. However, the National Communication Authority registers radio, television and Internet institutions.

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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?

81

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

100 | 75 | 50 | 25 | 0

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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

References:

Section 12 of the National Media Commission Act, 1993 (Act 449).
The Courts system is the final arbiter in any legal dispute.

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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 on-line.

100 | 75 | 50 | 25 | 0

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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 on-line.

100 | 75 | 50 | 25 | 0

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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?

83

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

YES

NO

Comments:

The Criminal Libel Law was repealed in 2002, making it legal for this, although people now sue for civil libel and can claim huge damages.

References:

Articles 18 and 162 of the 1992 Constitution of Ghana. Section 4 of the National Media Commission Act, 1993 (Act 449).

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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?

70

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

YES | NO

References:

C.I. 39. National Media Commission (Newspaper Publication Registration Instrument 2003, LI 1719), 2003

YES: A YES score is earned if print media companies are required by law to publicly 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 publicly disclosed.

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

YES | NO

References:

Section 38 of National Communications Authority Act, 1996 (Act 524) requires the National Communications Authority to keep a register which is open for public scrutiny and one can get an extract of the register.

YES: A YES score is earned if broadcast media companies are required by law to publicly 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 publicly disclosed.

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

100 | 75 | 50 | 25 | 0

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

In general, all political parties receive media coverage, although the extent of coverage varies. There have been newspaper reports and complaints by some parties about not being given equal coverage, especially by the state-owned media. The National Democratic Congress complained in September that they were not receiving equal coverage as the ruling party. The media have denied this.

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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:

There have been newspaper reports and complaints by some parties about not being given equal coverage, especially by the state-owned media. The media have denied this.

In general all political parties receive media coverage, although the extent of the coverage varies. Coverage of individual candidate's activities, especially among parliamentary candidates, differs. Geographic location also creates inequities in the media coverage.

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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:

A journalist was killed last year, but it has not been determined for what reason.

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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.

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

0

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

YES | **NO**

Comments:

In fact, some of the respondents answered in the negative because a Freedom of Information bill has been pending for a very long time. In spite of civil society efforts to get it passed, it has not yet been brought before parliament.

References:

Article 21 of the Constitution provides, in general, for freedom of information but this has not been operationalized by the passage of an act of parliament.

Interviews with civil society representatives – Nana Oye Lithur of the Commonwealth Human Rights Initiative (CHRI) and Mrs. Florence Dennis of the Ghana Anti-Corruption Coalition (GACC). Also, Amos Safo of the Public Agenda newspaper.

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**

References:

Article 21 of the Constitution provides for freedom of information in general, but this has not been operationalized by an act of parliament.

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**

References:

Article 21 of the Constitution calls for freedom of information, but this has not been operationalized by the passage of an act of parliament.

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:

Citizens can obtain information through goodwill and personal relations, depending on the source of the information. There is no requirement to provide the information or an explanation as to why the request is refused.

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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:

Although there is no access to information legislation, citizens can obtain information from government agencies depending on the approach and the agency's goodwill.

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

Florence Dennis of Ghana Anti-Corruption Coalition (GACC)

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:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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

References:

Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in

Nairobi, Kenya at 7 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Mr. Amos Safo, Editor of the Public Agenda Newspaper, Questionnaire completed on Sept. 12, 2008, and submitted via e-mail.

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

75:

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

25:

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

Category II. Elections

II-1. ⁶³Voting & 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:

You must be at least 18 years old and of sound mind

References:

Article 42 of the 1992 Constitution of Ghana. <<http://www.ghanareview.com/parlia/Gconst7.html>>.

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:

Elections are held every four years for both parliamentary and presidential elections as well as local authority elections. In fact, there is a specific date for general elections which is Dec. 7, every four years.

References:

Article 66 of the 1992 Constitution of Ghana. The Representation of the People Law, 1992 (PNDCL 284)

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?

92

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

100 | 75 | 50 | 25 | 0

Comments:

However, prisoners are not allowed to vote and some NGOs have been fighting to get them to vote. Some blind persons also have problems with the ballot papers, but efforts are being made to address these problems.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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:

Votes are cast in a closed booth where the voter is alone.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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:

parliamentary and presidential elections are held every four years and on a specific date (Dec. 7). Elections were held in 1992, 1996, 2000, 2004, and the country is preparing to hold the next elections on Dec. 7, 2008.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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?

80

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

YES | NO

Comments:

However, financial constraints abound.

References:

The Constitution of Ghana. Section 1(2) of the Political Parties Act, 2000 (Act 574).

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

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

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

YES | NO

Comments:

However, finances and illiteracy can be a very serious obstacle. There are also general requirements such as persons of sound mind, etc.

References:

The 1992 Constitution and Section 2(1) of the Political Parties Act, 2000 (Act 574).

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 general qualifications, but generally the main obstacle is financial.

For example, there are official financial requirements and other requirements that have financial implications. These include having offices across the country, staff at party offices, etc. Paying filing fees by candidates and even the cost of electioneering campaigns serve as major constraints.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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:

The recent filing for both presidential and parliamentary elections (October 2008) attracted a high fee that drew complaints from the political parties. Presidential candidates were required to pay 5,000 Ghana cedis (about US\$5,000) while parliamentary candidates had to pay 500 Ghana cedis (about US\$500).

Furthermore, money plays such a crucial role in politics in Ghana that it is a restraining factor. Social factors also restrain some women from running for political office. There are also qualifications for people who wish to contest for the various positions although these are general and apply in many other countries.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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. A system of party lists may discourage or prevent independent 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:

The National Democratic Party, the People's National Convention, and the Convention People's Party are all opposition parties currently represented in parliament. However, the People's National Convention and the Convention People's Party sit and vote with the ruling New Patriotic Party.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

Reports of parliamentary sittings over the years. Knowledge of the actual situation and newspaper reports, etc.

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

18. Is the election monitoring agency effective?

70

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

YES | NO

Comments:

The chairman and commissioners cannot be removed without specific justification.

References:

Article 46 of the 1992 Constitution provides for an independent Electoral Commission. Section 3 of the law setting up the Electoral Commission, the Electoral Commission Act, 1993 (Act 451) reaffirms this.

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:

The top hierarchy of the Electoral Commission are protected from removal once appointed.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

Newspaper reports, etc.

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:

Ghana's Electoral Commission has established a reputation and has taken part in conducting and monitoring elections in other African countries.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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 Electoral Commission can only refer cases to the police and the judicial system for resolution and/or prosecution. However, the civil society representative thinks that the Electoral Commission has some amount of power to sanction offenders.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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?

75

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

100 | 75 | 50 | 25 | 0

Comments:

Registration is done every 10 years and revised before every election. However, there are allegations of double registration and registration by minors allegedly perpetrated by some political parties and candidates.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

Media reports

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^o voting by non-existent voters is common.

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

YES | NO

References:

The 1992 Constitution of Ghana.
Section 16 of the Political Parties Act, 2000 (Act 574).
The Representation of the People Law, 1992 (PNDCL 284)

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

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

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

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

Comments:

In 2004, the courts ordered recounting of votes in some constituencies, and the results were overturned. However, there are also instances where election cases have been delayed in the courts.

References:

Interviews with deputy chairman of the Electoral Commission and a representative of the Centre for Democratic Development (CDD-Ghana), an organization that leads CSO election monitoring in Ghana.

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:

While as institutions the security services are neutral, some members of the security services are alleged to be partisan in their pronouncements and actions during registration and elections.

During a recent voter registration exercise, there was violence in the Gushiegu/Karaga District in the northern region where some people lost their lives, and property was destroyed. However, it is alleged that the suspected perpetrators were initially arrested

but released not long after without any serious action taken against them.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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

75:

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

25:

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

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

YES | **NO**

Comments:

Both domestic and external observers have observed elections in Ghana since the return to civilian rule in 1992.

References:

The Representation of the People Law, 1992 (PNDCL 284)

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.

Comments:

Both domestic and external observers monitor elections, but they only report their observations after the elections and do not have powers to sanction any offenders. They must also be accredited by the Electoral Commission.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

Media reports

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.

17. Is there an election monitoring agency or set of election monitoring agencies/entities?

100

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

YES | NO

Comments:

This was confirmed by the interview with the deputy chairman of the Electoral Commission. The Electoral Commission conducts elections but also has a supervisory role. Election observation is also done by private citizens' groups and external monitors.

References:

Article 45 of the 1992 Constitution of Ghana spells out the functions of the Electoral Commission to include supervision of elections. The Electoral Commission Act, 1993 (Act 451).

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 exists 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.

82 II-3. Political Financing

20. Are there regulations governing the financing of political parties?

43

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

YES | NO

Comments:

Only Ghanaian citizens and/or corporate bodies with 75 percent ownership can donate to political parties

References:

Article 55(15) of the 1992 Constitution and Section 23 of the Political Parties Act, 2000 (Act 574). Section 24 bars non-citizens from contributing to political parties. The People Representation Law, 1992 (P.N.D.C.L 284)

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

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 political parties.

YES | NO

Comments:

There are no limits on the amount to contribute provided one is a citizen.

References:

Article 55 of the Constitution and Section 24 of the Political Parties Act, 2000 (At 574) bar contributions from non-citizens but there is no law setting limits for individual donations.

YES: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also 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 in a discriminatory manner.

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

YES | **NO**

Comments:

Once the company is Ghanaian owned there are no limits.

References:

Section 23 of the Political Parties Act, 2000 (Act 574), provided they are from Ghana or 75 percent owned by Ghanaians.

YES: A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

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

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

YES | **NO**

References:

There are no limits on total political party expenditures although Section Article 55 of the 1992 Constitution and Section 13 of the Political Parties Act, 2000 (Act 574) require declaration of revenues and expenditures which should be published.

YES: A YES score is earned if there are any limits in 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 the disclosure of donations to political parties.

YES | NO

Comments:

Article 55 of the 1992 Constitution and Section 21 of the Political Parties Act 2000 (Act 574) require the filing of returns and provide for public access, but not donations, after the party is registered. Political parties are required by law to file annual returns to the Electoral Commission. These filings includes income and expenditures. The Electoral Commission is required to publish these reports and can order the audit of a party's accounts.

References:

Section 13 of the Political Parties Act, 2000 (act 574) requires parties to declare assets and expenditures before the issue of a final certificate of registration. This should include details of all its assets and expenditures as well as contributions and donations by the founding members.

Article 55 of the Constitution requires declaration of revenues and expenditures by parties and a publication of the party's audited accounts.

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

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, 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 and expenditures of political parties.

YES | NO

References:

Section 55 of the Constitution also makes it mandatory for parties to publish their accounts. Section 21 of the Political Parties Act, 2000 (Act 574) requires that parties file annual returns of audited accounts but the Electoral Commission can also order the audit of a party's accounts.

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures. 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' finances and expenditures or if such requirements exist but allow for parties to self-audit.

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

YES | NO

Comments:

The parties file annual accounts with the Electoral Commission.

References:

The Constitution and the Political Parties Act, 2000 (574) are silent on this.

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 the financing of political parties. 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 there regulations governing the financing of individual political candidates?

0

21a. In law, there are regulations governing private contributions to individual political candidates.

YES | **NO**

Comments:

Interviews with Deputy Chairman of the Electoral Commission and a representative of the Centre for Democratic Development (CDD-Ghana), an organization that leads CSO election monitoring in Ghana.

References:

The 1992 Constitution and the Political Parties Act, 2000 (Act 574) are silent about this.

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to individual political candidates, including prohibitions against foreign donations.

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

21b. In law, there are limits on individual donations to political candidates.

YES | **NO**

Comments:

Interviews with deputy chairman of the Electoral Commission and a representative of the Centre for Democratic Development (CDD-Ghana), an organization that leads CSO election monitoring in Ghana.

References:

The 1992 Constitution and the Political Parties Act, 2000 (Act 574) are silent about this.

YES: A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also 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 candidates in a discriminatory manner.

21c. In law, there are limits on corporate donations to individual political candidates.

YES | **NO**

Comments:

Interviews with deputy chairman of the Electoral Commission and a representative of the Centre for Democratic Development (CDD-Ghana), an organization that leads CSO election monitoring in Ghana.

References:

The 1992 Constitution and the Political Parties Act, 2000 (Act 574) do not provide for this.

YES: A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

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

21d. In law, there are requirements for the disclosure of donations to individual political candidates.

YES | **NO**

Comments:

The laws only apply to political parties. Interviews with deputy chairman of the Electoral Commission and a representative of the Centre for Democratic Development (CDD-Ghana), an organization that leads CSO election monitoring in Ghana.

References:

The 1992 Constitution and the Political Parties Act, 2000 (Act 574) are both silent on limits to contributions to individual candidates.

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

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

21e. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates.

YES | **NO**

Comments:

Interviews with deputy chairman of the Electoral Commission and a representative of the Centre for Democratic Development (CDD-Ghana), an organization that leads CSO election monitoring in Ghana.

References:

The 1992 Constitution and the Political Parties Act, 2000 (Act 574) are silent on this.

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures. 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 an individual candidate's campaign finances and expenditures or if such requirements exist but allow for candidates to self-audit.

21f. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

YES | **NO**

Comments:

Interviews with deputy chairman of the Electoral Commission and a representative of the Centre for Democratic Development (CDD-Ghana), an organization that leads CSO election monitoring in Ghana.

References:

Both the 1992 Constitution and Political Parties Act, 2000 (Act 574) do not have any such provision.

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 the financing of individual political candidates' campaigns. 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.

22. Are the regulations governing the political financing of parties effective?

4

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a 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 political party. However, exceptions and loopholes exist through which individuals can indirectly support 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 party; unregulated loans to 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 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.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a 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 political party. However, exceptions and loopholes exist through which companies can indirectly support 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 party; unregulated loans to 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 political parties 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.

22c. 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:

Parties are only expected to disclose expenditures after elections, render annual accounts and specific elections accounts.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Any Ghanaian can go to court if he or she finds something wrong with the financing of a political party.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties. 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.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

It is only the courts that can take any such action if found necessary.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

Comments:

Only as part of the general audit of the political party.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

100: Political party 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 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 may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party 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.

23. Are the regulations governing the political financing of individual candidates effective?

0

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

Comments:

This is not applicable in Ghana.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. 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 particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates 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; unregulated loans to candidates (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 particular political candidate 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.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

Comments:

This is not applicable. Only external donations are not allowed.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

100: Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. 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 an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates 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; unregulated loans to candidates (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 individual candidates 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.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns. 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.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

100: The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices.

75:

50: The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

25:

0: The finances of individual candidates' campaigns 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.

24. Can citizens access records related to the financing of political parties?

58

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Only a few parties meet the requirement to submit accounts to the Electoral Commission but even then they are often late.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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

75:

50: Political parties 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 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.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

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

Comments:

The reports often come late to the Electoral Commission, but once they are received by the Electoral Commission they become public documents.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

Comments:

Once they are received by the Electoral Commission, they become public documents and one needs only to apply for them and will receive them. There might be a charge to meet the cost of production, especially in the case of large documents.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

25. Can citizens access records related to the financing of individual candidates' campaigns?

0

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

Comments:

This is not a requirement. They do not even report.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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

75:

50: Individual 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: Individual 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.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable in Ghana.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

This is not a requirement.

References:

Mr. David Adenzie-Kanga, Deputy Chairman of the Electoral Commission of Ghana. Interview held on Tuesday, July 29, 2008, in

Nairobi, Kenya at 6:30 p.m.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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

75:

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

25:

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

Category III. Government Accountability

III-1. ⁴⁸Executive Accountability

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

38

27a. In practice, the chief executive gives reasons for his/her policy decisions.

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

Comments:

The president's spokesperson has often been broadcasted defending the president's decisions, although not in all cases. Also, ministers and their spokespersons have often been contacted by radio stations to comment on their actions or inactions, and they have obliged in several cases although their responses may have not been satisfactory in all cases.

References:

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Media reports and press releases from the executive and other spokespersons.

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.

27b. In law, the judiciary can review the actions of the executive.

YES | NO

References:

Article 33 of the 1992 Constitution of Ghana.
Article 125 (Chapter 11) of the 1992 Constitution of Ghana.

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).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:

A review of the actions of the executive has not taken place in the recent past. There are a few cases where issues have been brought before the courts on executive action, but even in such cases the judgements have been in the favour of the executive.

References:

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Media reports have not brought up any such action in the public domain.

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

75:

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

25:

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

27d. 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:

Appointment of additional Supreme Court judges during the trial of a particular case.

References:

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

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.

28. Is the executive leadership subject to criminal proceedings?

50

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

References:

Article 57(4) of the 1992 Constitution bars the prosecution of the president for both civil and criminal proceedings. However, Article 57(6) provides for a president's prosecution for personal liability only three years after leaving power.

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.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

Comments:

The Constitution is silent on this, which means they can be prosecuted. In the past some ministers have been prosecuted.

References:

The Criminal Code 1963 (Act 29)

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.

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

56

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

Comments:

There are doubts as to if they actually do, since there are no provisions for verification of this or public disclosure.

References:

Article 286 of the 1992 Constitution

The Public Office Holders (Asset Declaration and Disqualification) Act, 1998 (Act 550)

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.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

Comments:

It is not clear how many of them comply, as there is no public disclosure.

References:

Article 286 of the 1992 Constitution

The Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550

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.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

References:

Chapter 24 of the 1992 Constitution of Ghana on Code of Conduct.

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.

29d. 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:

This is a weakness of the current legal framework for assets disclosure as an anti-corruption tool.

References:

Article 286 of the 1992 Constitution

The Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550

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.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

References:

Article 68(1) of the Constitution bars the president from holding any private office after leaving office. However, ministers are not barred.

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.

29f. 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:

Only the prohibition of former presidents is effective, but there is no law forbidding post-government ministers from private sector employment. The state takes care of former heads of state, but not ministers.

References:

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Media reports

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases 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.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

References:

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. 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.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

Comments:

The Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550 and Article 286 of the 1992 Constitution do not provide for public disclosure of assets declaration.

References:

Media reports. Interview with representatives of CSO. Unpublished report of baseline study of Ghana Integrity Initiative on Assets Declaration Regime in Ghana. .

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.

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

0

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | NO

Comments:

The current legislation does not specifically provide for public disclosure of assets declaration or even verification by the custodian, the auditor-general. However, the law does not bar him or her from doing so.

References:

The Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550 and Article 286 of the 1992 Constitution.

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.

30b. 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:

The Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550 and Article 286 of the 1992 Constitution do not provide for public disclosure of assets declaration.

References:

Media reports, academic and policy studies, interviews with government officials and civil society. Baseline survey by Ghana Integrity Initiative in 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 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.

30c. 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:

Article 286 of the 1992 Constitution and the Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550, do not provide for public disclosure of assets declaration. The media and civil society organizations have complained about this.

References:

Interviews with CSO representatives.

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

75:

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

25:

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

26. Can citizens sue the government for infringement of their civil rights?

100

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

YES | NO

References:

Section 33(1) of the 1992 Constitution provides that a person whose human rights have been infringed upon can apply to the courts for redress.

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.

31. Official government functions are kept separate and distinct from the functions of the ruling political party.

0

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

100 | 75 | 50 | 25 | 0

Comments:

Recently, a senior civil servant was spotted in party regalia at a party rally. Claims have been made that he has since resigned following a strong condemnation by the head of Civil Service. There are media complaints about the abuse of incumbency in the current campaigns leading up to the December elections.

References:

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Media reports

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

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

75

32a. In law, the judiciary can review laws passed by the legislature.

YES | NO

Comments:

The judiciary can write commentaries on laws passed by parliament, but they cannot force parliament to change them. However, the commentary may encourage parliament to review the laws if there were problems with them.

References:

Judiciary procedures and practices.

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

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).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

References:

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

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.

32c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

References:

Members of the legislature are not immune from criminal prosecution. However, Article 116 and 117 of the 1992 Constitution provide exceptions where members of the legislature cannot be prosecuted. They cannot be prosecuted on issues brought before parliament, and they cannot be served summons while they are in parliament or on their way to parliament.

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. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

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

21

33a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

References:

Article 286 of the 1992 Constitution of Ghana and the Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550

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.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | NO

References:

There is no law restricting parliamentarians from entering private business after leaving office. Even during their tenure, they can do private business although this requires the permission of the Speaker of Parliament (see Article 98 (2) of the Constitution).

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

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

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | NO

References:

Chapter 24 of the 1992 Constitution provides a general code of conduct for public officials.

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.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | **NO**

References:

Article 286 of the Constitution and the Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550, do not provide for independent auditing of the asset disclosure.

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.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

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

Comments:

This does not apply.

References:

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases 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.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

There is a code of conduct for public officials as provided for in Chapter 24 of the Constitution, but there are no specific regulations on gifts and hospitality given to members of parliament. There have not been any instances where a member of parliament has been held for receiving gifts or hospitality.

References:

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

100: The regulations governing gifts and hospitality to national legislators are regularly enforced. 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.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:

Article 286 of the Constitution and the Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550, do not provide for independent auditing of the asset disclosure.

References:

Interviews

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.

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

0

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | **NO**

References:

Article 286 of the Constitution and the Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550, do not provide for independent auditing of the asset disclosure.

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.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

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

Comments:

Article 286 of the Constitution and the Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550, do not provide for public disclosure.

References:

Interviews

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.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Article 286 of the Constitution and the Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550, do not provide for public disclosure of assets declaration.

References:

Interviews

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.

35. Can citizens access legislative processes and documents?

100

35a. In law, citizens can access records of legislative processes and documents.

YES | NO

References:

The Constitution and the standing orders of parliament.

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.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

I have personally purchased reports of parliamentary sittings and, recently, the standing orders of parliament from parliament. The media even cover their proceedings.

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.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

Personal experience and encounters.

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.

49
III-3. Judicial Accountability

36. Are judges appointed fairly?

83

36a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

Comments:

The president appoints the Chief Justice, acting in consultation with the council of state, with approval of parliament. Other senior judges (supreme court, appeals court and high court) are also appointed by the president in consultation with the judicial council with approval by parliament. Approval by parliament has never been a problem as the ruling party, the president's party, has always had majority in parliament.

References:

Article 144 of the 1992 Constitution of Ghana.

Sections 1 (4), 10 (3) and 14(4) of the Courts Act, 1993 (Act 459) define the qualification of a justice of the supreme court, appeals court and high court, while Section 27 defines the qualification for appointment to a regional tribunal.

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.

36b. In practice, professional criteria are followed in selecting national-level judges.

Comments:

The president is the most important actor in the appointment of judges in the country because the president nominates judges of the superior courts for parliament's approval. Due to the composition of parliament — where the president's party has the majority — nominations are rarely rejected. Progression in the judiciary also follows the same procedure, since judges are appointed to the superior courts by the president and approved by parliament.

References:

Feature article, The Chronicle, July 31, 2008.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

References:

Article 144 of the Constitution provides that parliament approves the appointment of superior court judges. Standing Orders of Parliament.

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).

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

38

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

Comments:

However, it depends on the issues involved.

References:

The Courts Act, 1993 (Act 459). Criminal Procedure Act. This is also a requirement of the rules and regulations made by the Rules of Courts Committee set up under Article 157 of the 1992 Constitution.

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).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

Comments:

Take the case of Dan Abodakpi (NDC MP for Keta). Abodakpi, together with the late Victor Serlomey, allegedly transferred \$400,000 dollars to one of their friends in Texas named Dr. Fred Owusu-Boadu. Apparently, they had signed a contract with Boadu on behalf of Ghana without any permission and without going through the necessary procedures for seeking approval from cabinet. As a result, Abodakpi was prosecuted for causing financial loss to the state, but his party supporters felt this was politically motivated. Abodakpi has since been pardoned by the president.

In the above quoted case, the judges said that the trial judge was not obliged to give reasons for concluding that he did not believe Abodakpi's story. So it depends on the issue involved.

References:

Mabel Aku Baneseh: Courts Dismisses Dan Abodakpi's case: Graphic Online: Sept. 6, 2008.

Feature article by Kwabena Ato on Ghana website on Saturday, Feb. 24, 2007.

(<http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=119745>).

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.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | **NO**

Comments:

However, there are internal mechanism for dealing with judicial system disciplinary issue, that is, the judicial council.

References:

The Courts Act, 1993 (Act 459) does not set up such a disciplinary body.

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.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | **NO**

References:

This is not applicable as there is no law setting up the disciplinary body, although Article 127 of the 1992 Constitution provides for the independence of the judiciary.

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

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

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

References:

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

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

18

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | NO

References:

Article 286 of the Constitution and the Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550.

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.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

References:

Chapter 24 of the Constitution provides a code of conduct for public officials. However, a code of conduct is being worked on specifically for the judiciary.

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.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | NO

References:

Article 286 of the Constitution and the Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550, do not provide for independent auditing of the asset disclosure.

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.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | **NO**

References:

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

Judicial Service Act.

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.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

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

Comments:

Not applicable.

References:

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. 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.

38g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

I am practitioner, and I am aware that the assets disclosures are not audited.

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.

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

0

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | **NO**

Comments:

Not applicable.

References:

Article 286 of the Constitution and the Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550, do not provide for public disclosure of assets declared.

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.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

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

Comments:

Not applicable.

References:

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Not applicable.

References:

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9, 2008, in the CDD-Ghana offices at 5:30 p.m.

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

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

67

40a. In law, the legislature can amend the budget.

YES | NO

Comments:

Parliament approves the annual budget but it can not review upwards the estimates presented by the executive.

References:

Article 174 to 178 of Ghana's 1992 Constitution provides for the powers of Parliament to levy taxes and approve all expenditures through the budget process

For example, Section (1) of Article 178 states that no monies shall be withdrawn from the consolidated fund except to meet expenditure that is charged on that fund by this Constitution or by an act of parliament; or where the issue of those monies has been authorized (i) by an Appropriation Act; or (ii) by a supplementary estimate approved by resolution of parliament passed for the purpose; or (iii) by an act of parliament enacted under article 179 of this Constitution..." among others.

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.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

Due to the fact that the ruling party has majority in parliament, the exercise of this power by parliament has become more like a formality.

References:

Questionnaire completed by Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC) on Sept. 11, 2008, and submitted via e-mail.

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

Media reports and interviews of government officials and journalists.

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.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:

Although parliament has oversight over the budget process, the actual exercise of this oversight boils down to approval of the budget (often more or less a formality) and deliberation of the auditor general's reports laid before it after the year has ended. There are often delays or a backlog of these audit reports.

References:

Questionnaire completed by Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC) on Sept. 11, 2008, and submitted via e-mail.

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

Media reports.

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.

41. Can citizens access the national budgetary process?

75

41a. 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:

The media and the general public are allowed to attend sittings of parliament. Therefore the deliberations are transparent, although the sittings of some of the committees are not open to the public.

References:

Questionnaire completed Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC) on Sept. 11, 2008, and submitted via e-mail.

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

Media reports.

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.

41b. In practice, citizens provide input at budget hearings.

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

Comments:

At committee meetings, stakeholders may be invited to attend. During the hearings the public is not invited to provide input.

References:

Questionnaire completed by Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC) on Sept. 11, 2008, and submitted via e-mail.

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

Media reports.

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.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

Comments:

The budget statement and appropriations act can be purchased from the assembly press, the government printers. The annual estimates can also be obtained from ministries, although due to their large nature and cost involved, it is not easy for ordinary citizens to obtain them.

References:

Questionnaire completed Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC) on Sept. 11, 2008, and submitted via e-mail.

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

Media reports. .

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.

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

33

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

Comments:

Compliance is generally very low.

References:

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

Media reports.

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.

43b. 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 public accounts committee of parliament is chaired by a member of the main opposition party in parliament. The deliberations appear to be non-partisan with a member of the ruling party once in a while criticizing government action. However, when it comes to voting, partisan considerations often come into play.

References:

Questionnaire completed Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC) on Sept. 11, 2008, and submitted via e-mail.

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

Media reports.

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.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

Comments:

The main problem with Ghana's public accounts committee and parliament is that they can not enforce their recommendations.

References:

Questionnaire completed Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC) on Sept. 11, 2008, and submitted via e-mail.

Interview with Mr. Mohammed Hardi Nyogsi, Research Officer in Budgets and Finance, Parliament House. Interview held on Monday, Sept. 15, 2008, at 10:30 a.m.

Media reports.

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.

42. Is there a separate legislative committee which provides oversight of public funds?

100

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

YES | NO

Comments:

The public accounts committee of parliament examines the audited accounts of government showing sums granted by parliament to meet public expenditure of government as presented to the house by the auditor general.

The public accounts committee of parliament is responsible for oversight of public funds, a function it performs on behalf of the entire house.

References:

The 1992 Constitution of Ghana and the Standing Orders of Parliament (151 and 165).

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).

Category IV. Administration and Civil Service

IV-1. ⁶²Civil Service Regulations

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

100

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

References:

Section 76 and 88 of Civil Service Law, 1993 (P.N.D.C.L. 327)

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.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

Comments:

Although this is specifically stated in the law, the provision for an impartial and fairly managed civil service implies that there is no nepotism, cronyism and patronage.

References:

Section 76 and 88 of Civil Service Law, 1993 (P.N.D.C.L. 327)

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.

44c. In law, there is an independent redress mechanism for the civil service.

YES | NO

Comments:

There are procedures for handling discipline, which includes explanation and punishment. The civil service council has to endorse serious disciplinary actions, such as firing. However, the affected persons can take up the matter with the commission on human rights and administrative justice if they are not satisfied.

References:

Section 87 of Civil Service Law, 1993 (P.N.D.C.L. 327).

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. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

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

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

References:

Section 58 of Civil Service Law, 1993 (P.N.D.C.L. 327). The national law also prohibits convicted persons from doing certain things, including taking up public office.

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 or if the ban is not a lifetime ban.

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

45a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The civil service serves the government of the day. It advises the government. Advice remains only that. When it comes to appointments and transfers, a minister or even a district chief executive can say that he/she cannot work with a civil servant and the civil service official will be transferred although he/she cannot be removed completely.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports.

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.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants are assessed and promoted based on performance. Targets are usually set, and promotions are based on the achievement of these targets.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports.

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.

45c. 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:

There are certain requirements for recruitment, promotions, and additional courses (training) as a civil servant progresses along.

For example, for senior officers, one must have a degree, take an aptitude test, and go through an interview. If there are negative things (such as nepotism, cronyism), then it is at the interview level that these things can appear. It is difficult to know this.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports.

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.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports.

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility 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.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports.

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.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

Comments:

Every Ministry, Regional Coordinating Council, Metropolitan/Municipal/District Assembly has what is termed "The Establishment" depending on their size and requirements. When a vacancy occurs they apply for permission to fill. However, this appears to be limited to those in the civil service, as it is not published in newspapers, which a majority of people can access.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports.

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.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption at the Commission for Human Rights and Administrative Justice (CHRAJ) on Saturday, 16

Media reports.

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.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

Comments:

In the past year, there have not been any public complaints about delays in payments.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports.

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.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports.

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. Some bans are only temporary.

25:

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

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

42

46a. In law, senior members of the civil service are required to file an asset disclosure form.

YES | NO

References:

Article 286 of the 1992 Constitution and the Public Office Holders (Assets Declaration and Disqualification Act, 1998 (Act 550), Section 90 of Civil Service Law, 1993 (P.N.D.C.L. 327)

YES: A YES score is earned if senior members of the civil service 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 senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

References:

Sections 88 and 92 of Civil Service Law, 1993 (P.N.D.C.L. 327)

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.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | **NO**

References:

Civil Service Law, 1993 (P.N.D.C.L. 327) does not prohibit civil servants from entering private sector after leaving office.

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports.

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.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

References:

Section 77 of Civil Service Law, 1993 (P.N.D.C.L. 327) does not specifically mention gifts, but forbids civil servants from doing anything that will lead to taking improper advantage of his or her position. A

Chapter 24 of the Constitution provides a code of conduct for public officers.

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

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.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

YES | **NO**

References:

Article 286 of the 1992 Constitution and the Public Office Holders (Assets Declaration and Disqualification) Act, 1998 (Act 550) does not provide for this.

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

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

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

Comments:

There is no prohibition of civil servants entering private employment after leaving office.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases 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.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

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

Comments:

At Christmas, government vehicles crowd the ministries carrying goats, sheep, fowl and guinea fowl. Some social commentators have made comments about this on air.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports and general observation.

100: The regulations governing gifts and hospitality to civil servants are regularly enforced. 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.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

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

Comments:

Even though the respondents scored 75 percent , I am convinced that it is much lower than that, hence, my score of 50 percent.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Media reports and personal evaluation.

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.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | 50 | 25 | 0

References:

This is not applicable in Ghana.

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Civil service 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: Civil service 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.

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

0

47a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | NO

References:

Article 286 of the 1992 Constitution and the Public Office Holders (Assets Declaration and Disqualification) Act, 1998 (Act 550) does not provide for this.

Similarly, Section 90 of Civil Service Law, 1993 (P.N.D.C.L. 327), which provides for the disclosure of assets does not provide for citizens' access to the asset disclosures.

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.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:
Not applicable.

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.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:
Not applicable

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

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

75

48a. 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:

A national law was enacted in 2006 to protect all whistleblowers no matter where they find themselves.

References:

Section 12 of the Whistleblower Act, 2006 Act 720.

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.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

Comments:

The police have given the assurance that they will not disclose persons who report cases of corruption to them. However, people still fear reporting such cases, because they cannot be sure that police will keep to their word. Another factor is the general lack of confidence in government's declaration of zero tolerance for corruption and the feeling that action will not be taken on any cases of alleged corruption.

Besides, the official position may not be pursued by individual officers. This probably accounts for the fact that not many citizens have taken advantage of the new Whistleblower Act, 2006 (Act 720).

References:

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008 at 10 a.m. in his office.

Media reports.

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.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

References:

Section 12 of the Whistleblower Act, 2006 (Act 720) does not distinguish between public or private employees.

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.

48d. 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:

It is more difficult to track these and due to the high level of unemployment, private sector employees are not likely to report their employers.

References:

Media reports.

Interview with Mr. Ahmed Bin Salih, Cheif Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Interview with Mr. Charles Ayamdoo, Director of Anti-Corruption of the Commission for Human Rights and Administrative Justice in his office on Saturday, Aug. 16, 2008, at 2 p.m.

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.

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

25

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Public sector is broader than civil service so a "No" answer for question 49 does not necessarily mean "No" answers for question 50.

The office of accountability is seen as an internal mechanism for the presidency. It investigates complaints of corruption by appointees of the president. This does not seem to cover civil servants.

There is also an internal audit agency that monitors budget implementation and how public institutions use public resources.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Interview with Mr. Charles Ayamdoo, Director of Anti-Corruption of the Commission for Human Rights and Administrative Justice in his office on Saturday, Aug. 16, 2008, at 2 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

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.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

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

Comments:

Public sector is broader than civil service so a “No” answer for question 49 does not necessarily mean “No” answers for question 50. The CHRAJ and serious fraud office investigate public sector corruption and they receive regular funding.

The office of accountability is seen as an internal mechanism for the presidency. It investigates complaints of corruption by appointees of the president. This does not seem to cover civil servants. The office of accountability also receives regular funding.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Interview with Mr. Charles Ayamdoo, Director of Anti-Corruption of the Commission for Human Rights and Administrative Justice in his office on Saturday, Aug. 16, 2008, at 2 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

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.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

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

Comments:

Public sector is broader than civil service. So SFO, CHRAJ and the office of accountability can be considered internal mechanisms for checking public sector corruption.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10

a.m. in his office.

Interview with Mr. Charles Ayamdoo, Director of Anti-Corruption of the Commission for Human Rights and Administrative Justice in his office on Saturday, Aug. 16, 2008, at 2 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

Media reports.

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.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The CHRAJ, a serious fraud office and the office of accountability investigate public sector corruption and they can initiate investigations on their own.

References:

Interview with Mr. Ahmed Bin Salih, Chief Director, Ministry of Lands, Forestry and Mines on Wednesday, Sept. 17, 2008, at 10 a.m. in his office.

Interview with Mr. Charles Ayamdoo, Director of Anti-Corruption of the Commission for Human Rights and Administrative Justice in his office on Saturday, Aug. 16, 2008, at 2 p.m.

Mrs. Nana Oye Lithur, Regional Coordinator, Commonwealth Human Rights Initiative (CHRI). Interview conducted on Wednesday, Sept. 10, 2008, in the CHRI offices at 5:15 p.m.

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.

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

0

49. 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:

However, there is an internal audit in each ministry that vets the financial transactions of these ministries.

References:

The Civil Service Law, 1993 (PNDCL 327) does not provide for any such mechanism. The Whistleblower Act, 2006 (Act 720) is a general law, but it also does not provide for the use of an internal mechanism such as a hotline. Certain institutions are assigned the task of receiving reports and complaints and investigating them such as the Attorney General's Department and the CHRAJ.

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.

33
IV-3. Procurement

51. Is the public procurement process effective?

78

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

References:

Section 86 of Public Procurement Act, 2003 (Act 663); Also Section 92 of the same act.

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.

51b. In law, there is mandatory professional training for public procurement officials.

YES | NO

References:

Section 8 (3) of the Public Procurement Act, 2003 (Act 663).

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

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.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

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

References:

Interview with Mr. Nana Asiedu, Senior Operations Officer, Public Procurement Authority. Interview on Wednesday, Sept. 17, 2008, in his office.

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.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

Comments:

However, the public procurement act is silent on this and does not specifically provide for such monitoring.

References:

The Public Office Holders (Asset Declaration and Disqualification) Act 1998, Act 550 provides for the declaration of assets by certain categories of public officials.

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.

51e. In law, major procurements require competitive bidding.

YES | NO

References:

The Public Procurement Act, 2003 (Act 663).

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).

51f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

References:

The Public Procurement Act, 2003 (Act 663).

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

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

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

Comments:

However, under certain provisions, there are exceptions as spelled out in Section 78 (2). The selection of the method of procurement, the choice of a selection procedure, the limitation of procurement proceedings, and a decision by the procurement entity to reject tenders, proposals, and offers or quotations.

References:

Section 78 of the Public Procurement Act, 2003 (Act 663);
Appeals and Complaints Process under Public Procurement Act, 2003 (Act 663) issued by the Public Procurement Authority.
www.ppaghana.org.

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.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

When an interested party is not satisfied with the review of a complaint, he or she can seek judicial review of appropriate legal action.

References:

The judiciary is the final arbiter in any dispute in the country so any dissatisfied bidders can seek redress in the courts.

This is confirmed by a document entitled the Appeals and Complaints Process under Public Procurement Act, 2003 (Act 663)" issued by the Public Procurement Authority: Improving Efficiency and Transparency in Public Procurement in 2003.

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.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

Comments:

The act does not prohibit the person from participating in the procurement process in future.

References:

Section 92 and 93 of the Public Procurement Act, 2003 (Act 663) prescribes sanctions for people who contravene the provisions of the act.

YES: A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

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

51j. 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:

There has never been a case where a company that is guilty of bribery has been blacklisted. It is criminal to give and receive bribes, so both the company and the public official involved have an interest in not disclosing a bribery case. In fact, they will both work to shield the company.

References:

Interview with Mr. Nana Asiedu, Senior Operations Officer of the Public Procurement Authority on Wednesday, Sept. 17, 2008, in his office at 12.30 p.m.

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.

52. Can citizens access the public procurement process?

52a. In law, citizens can access public procurement regulations.

YES | NO

Comments:

The public procurement board has published an Appeals and Complaints Process under Public Procurement Act, 2003 (Act 663)" that is distributed free. It also publishes a newsletter although this is sold.

References:

Section 95 of the Public Procurement Act, 2003 (Act 663)

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.

52b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

Section 97 of the Public Procurement Act, 2003 (Act 663) empowers the minister of finance and economic planning to make regulations by legislative instrument to give effect to the purposes of the act. This includes providing for the manner of publication of the notice of procurement contract awards.

References:

Section 56(1) of the Public Procurement Act, 2003 (Act 663) provides for the opening of tenders in the presence of the suppliers or contractors or their representatives.

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.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Nana Asiedu, Senior Operations Officer of the Public Procurement Authority on Wednesday, Sept. 17, 2008, at 12:30 p.m.

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.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Newspaper cuttings. Media reports

Interview with Mr. Nana Asiedu, Senior Operations Officer of the Public Procurement Authority on Wednesday, Sept. 17, 2008, at 12:30 p.m.

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.

52e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

The Procurement process is a source of income to many newspapers as they carry advertisements in their publications. However, it does not appear that all major procurements are advertised.

References:

Media reports.

Interview with Mr. Nana Asiedu, Senior Operations Officer of the Public Procurement Authority on Wednesday, Sept. 17, 2008, at 12:30 p.m.

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.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

References:

Media reports

Interview with Mr. Nana Asiedu, Senior Operations Officer of the Public Procurement Authority on Wednesday, Sept. 17, 2008, at 12:30 p.m.

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

53. Is the privatization process effective?

75

53a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

References:

Divestiture of State Interest (Implementation) Law, 1993 (P.N.D.C.L. 326).
The 1992 Constitution also provides for equal treatment in public affairs.

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.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

References:

The Divestiture of State Interests (Implementation) Law, 1993 (P.N.D.C.L. 326).

Chapter 24, Article 284 of the 1992 Constitution provides that A public officer shall not put himself in a position where his personal interest conflicts, or is likely to conflict, with the performance of the functions of his office.”

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.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

Comments:

The recent sale of the Ghana telecommunications company to Vodafone in which the government sold its 70 percent shares in the state-owned company to Vodafone. It has been alleged that the agreement, which was approved by parliament, had a clause shielding any public official who received money as part of the transaction, provided it was less than \$10,000.

References:

Media reports and comments from the public indicate that conflict of interests regulations by public officials are not enforced.

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.

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

90

54a. In law, citizens can access privatization regulations.

YES | NO

Comments:

The DIC has a website that one can access information on its operations.

References:

Divestiture of State Interests (Implementation) Law, 1993 (PNDCL 326) makes provision for this.

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.

54b. In practice, privatizations are effectively advertised.

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

Comments:

The Divestiture Implementation Committee has a website where sale of state-owned enterprises are advertised. However, there is a general feeling that this is often done even when the decision has been taken and that it does not change anything.

The recent case in which the government sold its 70 percent of its shares in Ghana telecommunications company to Vodafone raised a lot of concerns about the fairness of privatization. There were even protests by some citizens against not just the sale but also the way it was sold. It was also alleged that it was not the highest bidder. Also, parliament had to delay debate on the agreement a number of times because it was not given enough time to study it. There were questions about the price and the fairness of the entire transaction.

References:

Media reports and interviews

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.

54c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

Comments:

Parliament is required to approve the sale of state assets. The recent sale of Ghana Telecom was debated in parliament and drew a lot of comments from the Ghanaian public.

References:

Divestiture of State Interests (Implementation) Law, 1993 (PNDCCL 326)

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.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interviews and observations.

Ghana Publishing Co. Ltd. is the state publisher and most public documents can be obtained from this source.

The Divestiture Implementation Committee also has a website (www.dic.com.gh).

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.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Media reports. The website of the Divestiture Implementation Committee.

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.

V-1. ⁸⁵National Ombudsman

56. Is the national ombudsman effective?

73

56a. In law, the ombudsman is protected from political interference.

YES | NO

Comments:

The commissioner and the deputies, once nominated by the president, and endorsed by parliament, can not be removed without any justification.

References:

Article 225 of the Constitution protects the CHRAJ from political interference. This is also provided for in the CHRAJ Act, 1993 (Act 456).

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.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

There is no direct political interference but there are times the public may perceive their decisions as being influenced by political considerations.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice.

Interview held on Saturday, Aug. 16, 2008, in the CHRJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Charles Ayamdo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Charles Ayamdo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:

The nomination of the commissioner and two deputies are done by the president and confirmed by parliament, so political considerations can not be ruled out completely.

References:

Interview with Mr. Charles Ayamdo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Although the funding is regular, the complaint has been that it is not adequate.

References:

Interviews with CHRAJ official and CDD-Ghana representative.

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.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Only when a complaint is brought before it.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Charles Ayamdo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In general, the Commission on Human Rights and Administrative Justice (CHRAJ) tries to act promptly on complaints by citizens. However, the commission also faces human resource constraints that sometimes delay investigations, especially when the workload is high at a time a complaint is received. Complainants' expectations may, therefore, not be met promptly.

References:

Interview with Mr. Charles Ayamdo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

57. Can citizens access the reports of the ombudsman?

83

57a. In law, citizens can access reports of the ombudsman(s).

YES | NO

Comments:

The CHRAJ reports annually to parliament but also releases reports on its investigations.

References:

Article 225 of the Constitution and the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456).

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.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

55. Is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55. 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 Commission on Human Rights and Administrative Justice (CHRAJ) plays the role of ombudsman in addition to its human rights and anti-corruption mandates.

References:

Article 225 of the 1992 Constitution of Ghana and the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456) set up the Commission on Human Rights and Administrative Justice (CHRAJ) with a three-fold mandate: human rights, ombudsman and anti-corruption.

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.

V-2. Supreme Audit Institution

59. Is the supreme audit institution effective?

84

59a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:

The head of the Audit Service is the auditor general and once appointed he or she cannot be removed without justification. The Audit Service Act refers to Article 146 of the Constitution which states that, A justice of the superior court or a chairman of the regional tribunal shall not be removed from office except for stated misbehaviour or incompetence or on ground of inability to perform the functions of his office arising from infirmity of body or mind."

References:

Section 7(a) of Article 187 of the 1992 Constitution of Ghana
Section 18(1)(a) of the Audit Service Act, 2000 (Act 584)
Section 10(8) of the Audit Service Act, 2000 (Act 584) addresses removal but refers to Article 146 of the Constitution.

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.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

Although the auditor general cannot be removed without justification, he or she is appointed by the president and endorsed by parliament. The current occupant has been objected to by the opposition in parliament, and efforts, even through the courts, to get him removed because he is past retirement age, are pending.

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Mr. E.B Lamptey, Deputy Auditor General, on retirement but asked to stay on to assist on critical issues. Interviewed in his office on Wednesday, Sept. 17, 2008 at 10:30 a.m.

Media reports. Interviews of civil society representatives and journalists

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.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

There have been problems meeting staff needs and staff strength. The workload supersedes the staff strengthen and so there is always delays in conducting and submitting audit reports. Some donors have tried to help, and the Ghana Audit Service has been able to reduce the backlog of audit reports in the last few years but there is still a lot to be done.

The respondent here is supposed to be on retirement but has been asked to stay on to work on some tasks.

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social

Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Mr. E.B Lamptey, Deputy Auditor General, on retirement but asked to stay on to assist on critical issues. Interviewed in his office on Wednesday, Sept. 17, 2008 at 10:30 a.m.

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.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Mr. E.B Lamptey, Deputy Auditor General, on retirement but asked to stay on to assist on critical issues. Interviewed in his office on Wednesday, Sept. 17, 2008 at 10:30 a.m.

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.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Although the Audit Service receives regular funding there are often complaints about it not being adequate.

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Mr. E.B Lamptey, Deputy Auditor General, on retirement but asked to stay on to assist on critical issues. Interviewed in his office on Wednesday, Sept. 17, 2008 at 10:30 a.m.

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.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

Once the reports are submitted to parliament, they become public documents although, due to logistics constraints, they may not be easily accessible. However there have been delays and arrears. Ghana received assistance from the World Bank to bring its audits up to date. Website and public libraries.

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Mr. E.B Lamptey, Deputy Auditor General, on retirement but asked to stay on to assist on critical issues. Interviewed in his office on Wednesday, Sept. 17, 2008 at 10:30 a.m.

Media reports.

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.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

Comments:

The pace of implementation of audit findings is unsatisfactory although there are supposed to be established Audit Implementation Committees in ministries, departments and agencies.

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Mr. E.B Lamptey, Deputy Auditor General, on retirement but asked to stay on to assist on critical issues. Interviewed in his office on Wednesday, Sept. 17, 2008 at 10:30 a.m.

Media reports.

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.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Mr. E.B Lamptey, Deputy Auditor General, on retirement but asked to stay on to assist on critical issues. Interviewed in his office on Wednesday, Sept. 17, 2008 at 10:30 a.m.

Media reports.

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.

60. Can citizens access reports of the supreme audit institution?

92

60a. In law, citizens can access reports of the audit agency.

YES | NO

Comments:

Once they are presented to parliament, they become public documents and can be accessed by the public. However, due to logistics problems they are not readily made available.

References:

The Audit Service Act, 2000 (Act 574).

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.

60b. In practice, citizens can access audit reports within a reasonable time period.

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

Comments:

In the latter part of 2007, the Public Accounts Committee (PAC) of parliament sat in public to deliberate the auditor general's reports on the ministries, departments and agencies (MDAs)

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Mr. E.B Lamptey, Deputy Auditor General, on retirement but asked to stay on to assist on critical issues. Interviewed in his office on Wednesday, Sept. 17, 2008 at 10:30 a.m.

Media reports.

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.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There are some newspapers which sometimes gain access to audit reports and also publish them.

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Mr. E.B Lamptey, Deputy Auditor General, on retirement but asked to stay on to assist on critical issues. Interviewed in his office on Wednesday, Sept. 17, 2008 at 10:30 a.m.

Media reports.

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.

58. Is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

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

YES | NO

Comments:

The Ghana Audit Service (GAS) is the national supreme audit institution in Ghana. It is headed by the auditor general and is sometimes referred to as the auditor general's department.

References:

Articles 187 and 188 of the 1992 Constitution of Ghana provide for the appointment of an auditor general, who is responsible for auditing the public accounts of Ghana. Furthermore, parliament enacted the Audit Service Act, 2000 (Act 584), which established the Ghana Audit Service headed by the auditor general.

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.

92
V-3. Taxes and Customs

62. Is the tax collection agency effective?

100

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Internal Revenue Service (IRS) Law, 1986 (PNDCL 143)

The Customs, Excise and Preventive Service (Management) Law, 1993 (PNDCL 330)

The Value-Added Tax Act, 1998 (Act 546)

Officers recruited into these agencies are trained before assuming work. Except support staff, they also have at least a first degree.

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Newspaper reports and commentaries.

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 tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Each of the revenue collecting agencies receives an amount not exceeding 3 percent of its total collections for the carrying out of its functions and for the payment of salaries, allowances, operational and administrative expenses and other expenditures.

References:

The Annual Budget for 2002.

The Revenue Agencies (Retention of Part of Revenue) Act, 2002 (Act 628).

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Media reports and debates of budgets in parliament.

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.

65. Is the customs and excise agency effective?

100

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Annual Budget for 2002

The Revenue Agencies (Retention of Part of Revenue) Act, 2002 (Act 628)

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.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

The Annual Budget for 2002

The Revenue Agencies (Retention of Part of Revenue) Act, 2002 (Act 628).

Debates on annual budgets.

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Media reports.

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.

61. Is there a national tax collection agency?

100

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

YES | NO

Comments:

There are three main revenue collecting agencies in Ghana, each responsible for a particular tax type as spelled out in the relevant laws listed above. They are the Internal Revenue Service (IRS), the Customs, Excise and Preventive Service (CEPS) and the Value-Added Tax Service (VAT Service).

References:

The Internal Revenue Act (2000), Act 592
The Customs and Excise (Duties and Other Taxes) Act, 1996 (Act 512)
Value-Added Tax Act, 1998 (Act 546)

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.

63. Are tax laws enforced uniformly and without discrimination?

75

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

100 | 75 | 50 | 25 | 0

Comments:

In general, tax laws are administered without discrimination, but complaints of corruption and harrassment of certain categories of taxpayers are rife.

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Media reports.

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.

64. Is there a national customs and excise agency?

100

64. In law, is there a national customs and excise agency?

YES | NO

Comments:

The CEPS is responsible for the collection of trade taxes, mainly export and import duties, and excise duties but also collects VAT on imported goods on behalf of the VAT Service.

References:

The Customs and Excise (Duties and Other Taxes) Act, 1996 (Act 512)
The Customs, Excise and Preventive Service (Management) Law, 1993 (P.N.D.C.L. 330).

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.

66. Are customs and excise laws enforced uniformly and without discrimination?

75

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

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

References:

Mr. Nicholas Adamtey, Acting Programme Coordinator of the Centre for Budget Advocacy (CBA) of the Integrated of Social Development Centre (ISODEC). Survey completed on Sept. 11, 2008, and submitted via e-mail.

Media reports.

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

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

40

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | **NO**

References:

State Enterprises Commission

YES: A YES score is earned only if the agency, series of agencies, 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, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The commission faces problems with staff attrition, so the staffing is often not adequate

References:

Interview with Mr. E. Yao Klinogo, Acting Executive Chairman of the State Enterprises Commission on Wednesday, Sept. 17, 2008, in his office at 9:15 a.m.

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

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

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The State Enterprises Commission has been set up by the government to advise both the government and the state-owned companies. It is, therefore, funded from the state. It receives regular funding for its operations, including the payment of staff salaries.

References:

Interview with Mr. E. Yao Klinogo, Acting Executive Chairman of the State Enterprises Commission on Wednesday, Sept. 17, 2008, in his office at 9:15 a.m.

100: The agency, series of agencies, 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 agency, series of agencies, 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.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

However, the findings are only advisory to both the president and the relevant minister and the enterprises involved.

References:

Interview with Mr. E. Yao Klinogo, Acting Executive Chairman of the State Enterprises Commission on Wednesday, Sept. 17, 2008, in his office at 9:15 a.m.

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

75:

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

25:

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

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The Commission's work is purely advisory, and it is only the president or the appropriate minister that can impose sanctions and penalties on offenders.

References:

Media reports

Interview with Mr. E. Yao Klinogo, Acting Executive Chairman of the State Enterprises Commission on Wednesday, Sept. 17, 2008, in his office at 9:15 a.m.

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

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

25:

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

69. Can citizens access the financial records of state-owned companies?

90

69a. In law, citizens can access the financial records of state-owned companies.

YES | NO

Comments:

According to Mr. E. Yao Klinogo, the State Enterprises Commission (SEC) also encourages the state-owned companies to hold annual general meetings. Some of the companies are already publishing their accounts in the newspapers.

References:

The state-owned companies are governed by the Companies Code, 1979 (Act. 79), which require the keeping of accounts, etc.

Interview with Mr. E. Yao Klinogo, Acting Executive Chairman of the State Enterprises Commission on Wednesday, Sept. 17, 2008, in his office at 9:15 a.m.

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.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. E. Yao Klinogo, Acting Executive Chairman of the State Enterprises Commission on Wednesday, Sept. 17, 2008, in his office at 9:15 a.m.

100: State-owned companies always publicly 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, file the information behind schedule, or not publicly disclose certain data.

25:

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

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. E. Yao Klinogo, Acting Executive Chairman of the State Enterprises Commission on Wednesday, Sept. 17, 2008, in his office at 9:15 a.m.

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.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. E. Yao Klinogo, Acting Executive Chairman of the State Enterprises Commission on Wednesday, Sept. 17, 2008, in his office at 9:15 a.m.

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.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Once they are submitted to the Commission or the auditor general, they can easily be accessed. It might just be an issue of photocopying costs.

References:

Interview with Mr. E. Yao Klinogo, Acting Executive Chairman of the State Enterprises Commission on Wednesday, Sept. 17, 2008, in his office at 9:15 a.m.

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

75:

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

25:

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

67. Is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

YES | NO

References:

The State Enterprises Commission Law, 1987, (P.N.D.C. L 170).

YES: A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. 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, or if some state-owned companies are free from government oversight.

77 V-5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

88

70a. In law, anyone may apply for a business license.

YES | NO

References:

Companies Code, 1963 (Act 79)

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

70b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

References:

The Companies Code, 1963 (Act 79) as well as the Law Courts

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.

70c. 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

References:

Interview with Mr. Harold Bannerman, Senior Inspector of Companies, Registrar General's Department on Monday, Sept. 15, 2008, at 10 a.m.

Personal encounter with registration of GII at the Registrar General's Department

Interview with Mrs. Florence Dennis, Executive Director of Ghana Anti-corruption Coalition (GACC) in Nairobi, Kenya at 7 p.m.

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.

70d. 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

References:

Interview with Mr. Harold Bannerman, Senior Inspector of Companies, Registrar General's Department on Monday, Sept. 15, 2008, at 10 a.m.

Personal encounter with registration of GII at the Registrar General's Department

Interview with Mrs. Florence Dennis, Executive Director of Ghana Anti-corruption Coalition (GACC) in Nairobi, Kenya at 7 p.m.

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.

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

References:

Section 10(a) of the Labour Act, 2003 (Act 651).

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.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

References:

Section 10(a) of the Labour Act, 2003 (Act 651).

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.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

References:

Section 10(a) of the Labour Act, 2003 (Act 651).

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.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

50

72a. 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:

The company inspectors at the registrar general's department do not get the necessary cooperation from companies. They actually examine the book and records of the companies. It is the labor inspectors that examine the health and safety standards.

References:

Interview with Mr. Harold Bannerman, Senior Inspector of Companies, Registrar General's Department on Monday, Sept. 15, 2008, at 10 a.m.

Personal encounter with registration of GII at the Registrar General's Department

Interview with Mrs. Florence Dennis, Executive Director of Ghana Anti-corruption Coalition (GACC) in Nairobi, Kenya at 7 p.m.

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.

72b. 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:

There are a number of institutions that conduct inspections of companies and businesses. However, the labour department inspects companies in regards to compliance with safety standards, while the environmental protection agency is responsible for environmental standards. There are often complaints about the way these inspections are conducted. These may require further investigations before one can make a conclusive judgment.

References:

Interview with Mr. Harold Bannerman, Senior Inspector of Companies, Registrar General's Department on Monday, Sept. 15, 2008, at 10 a.m.

Interview with Mrs. Florence Dennis, Executive Director of Ghana Anti-corruption Coalition (GACC) in Nairobi, Kenya at 7 p.m.

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.

72c. 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:

There are a number of institutions that conduct inspections of companies and businesses. However, the labor department inspects companies in regards to compliance with safety and environmental standards. There are often complaints about the way these inspections are conducted which require further investigation.

References:

Interview with Mr. Harold Bannerman, Senior Inspector of Companies, Registrar General's Department on Monday, Sept. 15,

2008, at 10 a.m.

Personal encounter with registration of GII at the Registrar General's Department

Interview with Mrs. Florence Dennis, Executive Director of Ghana Anti-corruption Coalition (GACC) in Nairobi, Kenya at 7 p.m.

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. ⁸²Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

YES

NO

References:

Constitution and Section 18 of Criminal Code (Act 29).

Section 239 of Criminal Code, 1960 (Act 29) provides that any person that engages in a corrupt act or is corrupted is guilty of misdemeanor.

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

YES | NO

References:

Section 151 of the Criminal Code, 1960 (Act 29)

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.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

References:

Section 245 & 252 (2) of Criminal Code (Act 29)

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

References:

Section 244 & 252 (1) of Criminal Code (Act 29)

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

YES | NO

Comments:

The law does not distinguish between local or foreign officials. Bribery is illegal.

References:

Section 252 of Criminal Code (Act 29).

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

YES | NO

References:

Section 260 of the Criminal Code (Act 29). Section 62 of the Financial Administration Act, 2003 (Act 654).

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.

73g. In law, using confidential state information for private gain is illegal.

YES | NO

References:

Section 179C of the Criminal Code (Act 29), Oath of Secrecy Act, the 1992 Constitution of Ghana.

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.

73h. In law, money laundering is illegal.

YES | NO

Comments:

This law was passed early 2008 specifically to deal with money laundering.

References:

Anti-money Laundering Act, 2008 (Act 749).

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.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

References:

Section 23 of the Criminal Code (Act 29)

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

75. Is the anti-corruption agency effective?

75

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

Comments:

This can not be said of the other anti-corruption agencies. For example, Section 4 of the Serious Fraud Office Act, 1993 (Act 466) makes the SFO responsible to the attorney general and minister of justice.

References:

Article 225 of the Constitution protects the CHRAJ from political interference. This is also provided for in the CHRAJ Act, 1993 (Act 456).

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.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

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

Comments:

While CHRAJ is provided for by the Constitution and is not answerable to the executive. However, the commissioner and his or her deputies are appointed by the president and approved by parliament. This is a potential danger of interference. Moreover, the Serious Fraud Office and other anti-corruption agencies owe their allegiance to the executive.

References:

Interview with Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

75c. 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 commissioner and deputies of CHRAJ, once appointed, cannot be removed without any justification. In fact, removal goes through the same process as a justice of the superior courts.

References:

Interview with Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Largely, but head and deputies are normally nominated by executive and approved by parliament. This has the potential of political interference.

References:

Interview with Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

There are complaints of inadequate staffing and high attrition of professional staff, who move on to better paying jobs.

References:

Interview with Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

As a state institution provided for by the Constitution, the CHRAJ is provided with regular funding for their recurrent expenditures. This is the same with the other agencies. However, most of these anti-corruption agencies complain of the inadequacy of the funds, especially for their programs. In some cases, such as CHRAJ and the judiciary, some donors provide direct support to them to make up for the shortfall in government funding.

References:

Interview with Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

CHRAJ reports to parliament annually but publishes reports of its investigations. This is not the same as other anti-corruption agencies. The SFO reports to the minister of justice and the president, but also reports to parliament. The Office of Accountability reports solely to the president, and the public does not have access to its reports.

References:

Interview with Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

However, CHRAJ and the other anti-corruption agencies do not have power to prosecute, but must pass their reports to the attorney general, who is also the minister of justice, a political appointee, to decide whether to prosecute or not. This is a serious handicap for the fight against corruption.

References:

Interview with Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The Supreme Court ruling on the case between Richard Anane and the Commission on Human Rights and Administrative Justice (CHRAJ) said that the CHRAJ could not investigate allegations based on mere media reports without a formal complaint from identifiable persons, whether legal or natural. However, Section 3 of the Serious Fraud Act, 1993 (Act 466) gives the SFO the power to initiate its own investigations.

References:

Interview with Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Also media reports (<http://www.modernghana.com/news/151791/1/>).

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.

76. Can citizens access the anti-corruption agency?

88

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Interview with Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

References:

Interview with Mrs. Florence Dennis, Executive Secretary of Ghana Anti-corruption Coalition. Interview held on Wednesday, July 30, 2008, in Nairobi, Kenya at 7 p.m.

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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 agency (or group of agencies) with a legal mandate to address corruption?

100

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

YES | NO

References:

Article 216 and 218 of the 1992 Constitution. The Commission on Human Rights and Administrative Justice Act, 1993 (Act 456); Serious Fraud Office Act, 1993 (Act 466),

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.

88
VI-3. Rule of Law

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

67

77a. In law, there is a general right of appeal.

YES | NO

References:

The Constitution of Ghana.

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.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The setting up of the fast-track courts and the computerization of some of the courts are aimed at improving the pace of cases in the court system.

References:

Interview with Mr. Charles Ayamdo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

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

References:

Interview with Mr. Charles Ayamdo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Media reports.

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorneys fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorneys fees present somewhat of a barrier to pursuing appeal.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorneys fees greatly discourage the use of the appeals process.

78. Do judgments in the criminal system follow written law?

100

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

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

79. Are judicial decisions enforced by the state?

75

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

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Both are lawyers.

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.

80. Is the judiciary able to act independently?

69

80a. In law, the independence of the judiciary is guaranteed.

YES | NO

References:

The 1992 Constitution of Ghana.

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.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

There have some allegations of political interference in some cases.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Both are lawyers.

Media reports.

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.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | **NO**

Comments:

There is no law providing for a transparent system of distributing cases to judges.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Both are lawyers.

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.

80d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

References:

The 1992 Constitution of Ghana.

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.

81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice.

Interview held on Saturday, Aug. 16, 2008, in the CHRJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

82. Do citizens have equal access to the justice system?

71

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Both are lawyers.

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.

82b. In practice, women have full access to the judicial system.

Comments:

In principle, women have full access to the judicial system. However, there are cultural biases and financial constraints that limit the access of women to the judicial system. For example, a woman who takes her husband to court is not likely to remain in the marriage, and many cultures give custody of the children to the man when there is divorce.

However, in general, women have equal access to the legal system, and there is a legal aid system in place to assist citizens, including women, who cannot afford legal services. This is limited and many women may not even know of its existence.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Both are lawyers.

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.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

Comments:

However, there are complaints that a lot more needs to be done to enable more people access this facility.

References:

Section 2 of the Legal Aid Scheme Act, 1997 (Act 542)

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.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

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

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Both are lawyers.

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.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

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

Comments:

This is largely the case but sometimes ignorance of the availability of free legal aid or minimal charges for going through the processes could still be an obstacle.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Both are lawyers.

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorneys fees do not represent a major cost to citizens.

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. Attorneys fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits. Attorneys fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

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

Comments:

With the legal aid scheme, it is possible for a small retail business to bring a legal suit.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

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. Attorneys fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits. Attorneys fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

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

Comments:

There are several courts in the national capital, and more than one court each in the cities. Also, many district capitals have magistrate courts, although some districts do not have them. However, these are not adequate and contribute to the delays in determining cases and discourage some people from accessing the courts.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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

83. Is the law enforcement agency (i.e. the police) effective?

58

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

It is largely on a professional basis, but political considerations sometimes play a part, especially with regards to high level positions, while low level positions are influenced by personal and other considerations.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Both are lawyers.

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.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

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

Comments:

As an HIPC country, no public institution has sufficient funds to carry out their mandate. However, the police service is one of the public institutions with the lowest paid personnel. Complaints about insufficient equipment for police work are common. However, it must be admitted that police have the basic things necessary for their work, such as uniforms, when compared to other African countries.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

83c. In practice, the law enforcement agency is protected from political interference.

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

Comments:

The inspector general of police (IGP) is appointed by the president, like most other heads of public institutions. The IGP can be removed without any explanation by the president. Promotions and appointments to senior positions are handled the same way.

This makes the police service subservient to the executive. They also serve under the minister of interior, a political appointee answerable to the president.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

84. Can law enforcement officials be held accountable for their actions?

58

84a. In law, there is an independent mechanism for citizens to complain about police action.

YES | **NO**

Comments:

This is just a practice but it is not backed by law.

References:

There are administrative mechanisms. The PIPS has just been recently set up to address such conduct. However, there is no law backing this.

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

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

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

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Both are lawyers.

Media reports – CHRI advertises all the time on the PIP

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.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:

The attorney general has the responsibility to investigate these. The police also has its own internal mechanism.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Ghana Police Service and the Attorney General's Department

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.

84d. 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 police service can set a commission of inquiry to investigate cases of corruption or other misconduct or public complaints by the service. An example might be the loss of the cocaine in police custody seized as evidence in a drug case during the year.

In a recent case involving the police and drivers in Ashiama, where some people lost their lives, a committee was appointed to investigate the incident. Some sanctions have been imposed on the officers believed to have been responsible for what took place.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

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.

84e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

References:

The Criminal Code, 1963 (Act 29). The Service Act, 1970 (Act 350)

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.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

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

Comments:

Where there is ill motive in their actions, or where they act outside their normal duties, they can be prosecuted. However, like most other professionals in the country, the police often seem to be supporting each other.

The public relations officer is often on radio defending police action, especially when it implicates the top-most officers, sometimes even before an investigation is carried out.

References:

Interview with Mr. Charles Ayamdoo, Director of Anti-corruption, Commission of Human Rights and Administrative Justice. Interview held on Saturday, Aug. 16, 2008, in the CHRAJ office at 2 p.m.

Interview with Mr. Kojo Asante, Programmes Director, Centre for Democratic Development (CDD-Ghana). Interview held on Tuesday, Sept. 9 2008, in the CDD-Ghana offices at 5:30 p.m.

Both are lawyers.

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.