

Overall Score:

59 - Very Weak

Legal Framework Score:

63 - Weak

Actual Implementation Score:

52 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁶¹Civil Society Organizations

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

67

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

YES | NO

Comments:

Some restriction is indicated – ‘except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society’ (Constitution of Solomon Islands, 1978, Chapter II, S. 13, (1) (c) http://www.paclii.org/sb/legis/consol_act/c1978167/)

References:

The Constitution of Solomon Islands, 1978, Chapter II, S. 13
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

No restriction on sources of funding is indicated in the constitution.

References:

The Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

There are no legal requirements for the public disclosure of sources of funds for organizations registered under the provisions of the Charitable Trusts Act.

References:

Charitable Trusts Act, Cap 55, Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/cta201/

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?

75

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

100 | 75 | 50 | 25 | 0

Comments:

There is a new partnership framework between the government and civil society, encouraged by AusAID (the Australian aid agency) concerned with 'the demand side of governance'. The National Council of Women, for example, is not hampered in making criticisms of Parliament's usage of the rural constituency development funds (money given to MPs for distribution in their constituencies).

New civil society organizations are required to register with the Development Services Exchange and to satisfy certain criteria regarding membership, constitution etc, but these are not onerous in practice.

References:

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Solomon Islands NISPAC Report, Roughan, P. (2004), Solomon Islands National Integrity Systems study – Solomon Islands National Integrity Systems study”
http://www.transparency.org.au/documents/solomon_islands.pdf

Emele Duituturaga, Gender Adviser to the RAMSI Machinery of Government Program & member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

CSOs lack ability to effectively engage in the public policy process, and need to build capacity in policy advocacy.

References:

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Solomon Islands NISPAC Report, Roughan, P. (2004), Solomon Islands National Integrity Systems study – Solomon Islands National Integrity Systems study”
http://www.transparency.org.au/documents/solomon_islands.pdf

Emele Duituturaga, Gender Adviser to the RAMSI Machinery of Government Program & member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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:

Emele Duituturaga, Gender Adviser to the RAMSI Machinery of Government Program & member of the RAMSI Independent Assessment & Performance Advisory Team, [currently working with the National Council of Women on special measures aimed at promoting women’s representation in Parliament], Interview, May 8, 2009

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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?

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

YES | NO

References:

Emele Duituturaga, Gender Adviser to the RAMSI Machinery of Government Program & member of the RAMSI Independent Assessment & Performance Advisory Team, [currently working with the National Council of Women on special measures aimed at promoting women's representation in Parliament], Interview, May 8, 2009

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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:

Emele Duituturaga, Gender Adviser to the RAMSI Machinery of Government Program & member of the RAMSI Independent Assessment & Performance Advisory Team, [currently working with the National Council of Women on special measures aimed at promoting women's representation in Parliament], Interview, May 8, 2009

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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:

Emele Duituturaga, Gender Adviser to the RAMSI Machinery of Government Program & member of the RAMSI Independent Assessment & Performance Advisory Team, [currently working with the National Council of Women on special measures aimed at promoting women's representation in Parliament], Interview, May 8, 2009

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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?

88

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

YES | NO

References:

The Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/, 13.-(1)

Trades Unions Act, Cap 76, Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/tua150/.

YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to

banned groups must be allowed if they have no history of violence.

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

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

100 | 75 | 50 | 25 | 0

Comments:

In practice, there is a risk of employer retaliation and intimidation in cases of politically charged disputes. There is little official governmental involvement in such actions.

The 2001 International Confederation of Free Trades Unions report cites Manasseh Sogavare, the then prime minister, as threatening to 'eliminate and prohibit all trade union activities, stating that there is no room for trade unionism in such a small economy as that of the Solomon Islands. It is a foreign concept that needs to be revised' (Solomon Islands: Annual Survey of Violations of Trade Union Rights (2001) <http://www.icftu.org/displaydocument.asp?Index=991213898&Language=EN>). Manasseh Sogavare is currently Leader of the opposition in Solomon Islands.

The ITUC 2009 report notes that government has not yet ratified seven out of eight ILO core labor standards Conventions. Workers' rights to organize and to bargain collectively are allowed in law, but they are not always protected in practice. Women workers face particular discrimination. Many are unemployed or in low paid and low-skilled jobs. (Internationally Recognized Core Labor Standards in the Solomon Islands; Report for the WTO General Council Review of the Trade Policies of the Solomon Islands, http://www.ituc-csi.org/IMG/pdf/WTO_report_Solomon_final0509.pdf).

References:

Internationally Recognized Core Labor Standards in the Solomon Islands; Report for the WTO General Council Review of the Trade Policies of the Solomon Islands, http://www.ituc-csi.org/IMG/pdf/WTO_report_Solomon_final0509.pdf

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Solomon Islands: Annual Survey of Violations of Trade Union Rights (2001) <http://www.icftu.org/displaydocument.asp?Index=991213898&Language=EN>.

Mary Louise O'Callaghan, Public Affairs Manager, RAMSI, Interview, May 11, 2009, Honiara

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

Comments:

The constitution also includes the qualification 'except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.' [Constitution of Solomon Islands, 1978, S. 12 (2)]

References:

Constitution of Solomon Islands, 1978, S. 12, (1)

http://www.paclii.org/sb/legis/consol_act/c1978167/

'Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purposes of this section the said freedom includes the freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence'.

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:

Constitution of Solomon Islands, 1978, S. 11 & S.12,

http://www.paclii.org/sb/legis/consol_act/c1978167/

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?

100

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

100 | 75 | 50 | 25 | 0

Comments:

All that is needed is an application through the Companies Registrar's Office. For foreign-owned entities, an application is needed to the Foreign Investment Board. The process of application has been considerably eased by recent reforms.

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Alfred Sasako, Journalist, Interview, May 12, 2009, Honiara

Transparency International, National Integrity Systems: Solomon Islands 2004, http://www.transparency.org.au/documents/solomon_islands.pdf, p26-27.

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:

Licenses are not required.

References:

Transparency International, National Integrity Systems: Solomon Islands 2004, p26,
http://www.transparency.org.au/documents/solomon_islands.pdf.

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

Licenses are not required.

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Alfred Sasako, Journalist, Interview, May 12, 2009, Honiara

Transparency International, National Integrity Systems: Solomon Islands 2004,
http://www.transparency.org.au/documents/solomon_islands.pdf, p26-27.

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:

Licenses are not required.

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Alfred Sasako, Journalist, Interview, May 12, 2009, Honiara

Transparency International, National Integrity Systems: Solomon Islands 2004, http://www.transparency.org.au/documents/solomon_islands.pdf, p26-27.

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?

100

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

100 | 75 | 50 | 25 | 0

Comments:

Licenses are not required.

References:

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Alfred Sasako, Journalist, Interview, May 12, 2009, Honiara

Transparency International, National Integrity Systems: Solomon Islands 2004, http://www.transparency.org.au/documents/solomon_islands.pdf, p26-27.

100: Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

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

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

YES | NO

Comments:

No broadcasting license is necessary.

References:

Transparency International, 'National Integrity Systems: Solomon Islands 2004', p26, http://www.transparency.org.au/documents/solomon_islands.pdf.

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

Licenses are not required in practice. However there is legal provision for the granting of television licenses. Section 3 of Television Act (Cap 116) provides that

Government shall have the exclusive privilege of- (a) broadcasting any broadcast matter by television in Solomon Islands; (b) broadcasting any broadcast matter by television to any place, ship or aircraft outside Solomon Islands; and (c) receiving in Solomon Islands any broadcast matter transmitted from any place, ship or aircraft outside Solomon Islands>.

Section 6 empowers a television board to grant licenses which may include the following conditions: "a condition requiring the licensee to broadcast such programmes, announcements and other material as the Board may require at such time or times, or within such period or periods and on such programme service or programme services as the Board shall specify when making the requirements; and (b) a condition prohibiting or restricting in a manner specified in the license, the broadcasting by the licensee of advertising material which is of a class or description so specified."

References:

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Alfred Sasako, Journalist, Interview, May 12, 2009, Honiara

Transparency International, National Integrity Systems: Solomon Islands 2004, http://www.transparency.org.au/documents/solomon_islands.pdf, p26-27.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Licenses are not required in practice. However there is legal provision for the granting of television licenses. Section 3 of Television Act (Cap 116) provides that Government shall have the exclusive privilege of- (a) broadcasting any broadcast matter by television in Solomon Islands; (b) broadcasting any broadcast matter by television to any place, ship or aircraft outside Solomon Islands; and (c) receiving in Solomon Islands any broadcast matter transmitted from any place, ship or aircraft outside Solomon Islands>. Section 6 empowers a television board to grant licenses which may include the following conditions: "a condition requiring the licensee to broadcast such programmes, announcements and other material as the Board may require at such time or times, or within such period or periods and on such programme service or programme services as the Board shall specify when making the requirements; and (b) a condition prohibiting or restricting in a manner specified in the license, the broadcasting by the licensee of advertising material which is of a class or description so specified."

References:

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Alfred Sasako, Journalist, Interview, May 12, 2009, Honiara

Transparency International, National Integrity Systems: Solomon Islands 2004, http://www.transparency.org.au/documents/solomon_islands.pdf, p26-27.

Television Act, Cap 116, Laws of Solomon islands, http://www.paclii.org/sb/legis/consol_act/ta141/

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?

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

100 | 75 | 50 | 25 | 0

Comments:

There are no restrictions.

References:

See the People's First Network discussion board with contributions from many Solomon Islanders
http://www.peoplefirst.net.sb/message_board/outline_forum.asp

See the Tutuvatu web site discussion board, with contributions mainly from those from the island of Guadalcanal
<http://www.tutuvatu.com/>

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

Comments:

There is no censorship of online content.

References:

People First Network: The Solomon Islands Rural Email Network for Peace and Development, Government of Solomon Islands, Rural Development Region, Ministry of Provincial & Rural Government, 2003, available <http://www.nsrc.org/OCEANIA/SB/PFnet-WSIS-Paper-5-Jan-03.pdf>

See the People's First Network discussion board with contributions from many Solomon Islanders
http://www.peoplefirst.net.sb/message_board/outline_forum.asp

See the Tutuvatu web site discussion board, with contributions mainly from those from the island of Guadalcanal <http://www.tutuvatu.com/>.

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?

100

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

YES | NO

Comments:

There are no prohibitions on reporting. However, normal defamation rules apply.

References:

See protections listed in Chapter II of Constitution of Solomon Islands, 1978, http://www.paclii.org/sb/legis/consol_act/c1978167/

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.

Comments:

The environment for journalists has considerably improved over recent years, and it improved over 2008 as compared to 2007.

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Alfred Sasako, Journalist, Interview, May 12, 2009, Honiara

See World Press Freedom Review, report on the Solomon Islands, 2006 (the latest year available),

http://www.freemedia.at/cms/ipi/freedom_detail.html?country=/KW0001/KW0007/KW0193/.

The same organization produced a regional overview covering Australasia and Oceania and found nothing untoward to mention about the situation in Solomon Islands.

http://www.freemedia.at/cms/ipi/freedom_detail.html?ctxid=CH0056&docid=CMS1233677186542

For an indication of the extent of press censorship and harassment of journalists back in 2001-2, see Duran Angiki, cited in Pacific media 'gatekeepers' condemned at conference, Pacific Media Watch, 2002,

<http://www.asiapac.org.fj/cafepacific/resources/aspac/reg3766.html>.

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.

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Alfred Sasako, Journalist, Interview, May 12, 2009, Honiara

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?

80

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

YES | NO

References:

Registrar of Companies holds a public register of all corporate entities and their owners.

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:

Broadcast media companies, like all others, have their owners listed on the publicly accessible Registrar of Companies.

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

Comments:

Journalists are often poorly paid and poorly trained, and unaware of professional practices.

References:

Ashley Wickham, Political Advisor, Prime Minister's Office, May 9, 2009, Honiara

Alfred Sasako, Journalist, Interview, May 12, 2009, Honiara

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

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

References:

Ashley Wickham, Political Advisor, Prime Minister's Office, May 9, 2009, Honiara

Alfred Sasako, Journalist, Interview, May 12, 2009, Honiara

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

Solomon Islands General Election 5th April 2006, Report of the Commonwealth Observer Group,
http://www.thecommonwealth.org/document/34293/35144/152078/149074/150780/solomon_islands_report.htm.

Solomon Islands National Election, April 5, 2006, Report of the Pacific Islands Forum Observer Team. [unavailable online]

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

References:

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

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:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 09, Honiara

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

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:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 09, Honiara

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

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

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 09, Honiara

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

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.

97
I-3. Public Access to Information

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**

References:

There is no official information act or other obligation to produce government documents. By convention, and in practice, this has been taken to mean confidentiality by default.

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:

There is no avenue for official information requests, so any rejection of a request is also not formally processed.

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:

There are no formal mechanisms to access government records.

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?

10

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

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

Comments:

Citizens may be able to use personal connections, e.g. coming from the same area or island, common religious background or other personal networks in order to obtain information. Efforts to sustain government secrecy are notoriously ineffective.

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 09, Honiara

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:

General Orders (GO) of the public service make disclosure of official information an offense. In practice, citizens may obtain considerable official information through informal connections, and little is done to penalize the origin of such leaks.

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 09, Honiara

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:

General Orders (GO) of the public service make disclosure of official information an offense.

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:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 09, Honiara

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Civil servants' reactions to requests for information are likely to be highly personal, rather than reflecting established procedures of any type.

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 09, Honiara

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. ⁵⁷Voting & 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:

All citizens aged 18 and above have the right to vote. Exceptions are made for those imprisoned for more than six months, those 'adjudged to be of unsound mind' and those 'disqualified from registration as an elector or from voting at elections under any law for the time being in force in Solomon Islands relating to offenses connected with elections.' (Constitution of Solomon Islands, Chapter VI, S 55, 1978, http://www.paclii.org/sb/legis/consol_act/c1978167/)

References:

Constitution of Solomon Islands, Chapter VI, S 55, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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. Parliament is dissolved four years after the first sitting, and elections need to be held no more than four months later.

References:

Constitution of Solomon Islands, 1978, S. 73, (3), & 74,
http://www.paclii.org/sb/legis/consol_act/c1978167/.

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?

83

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

100 | 75 | 50 | 25 | 0

Comments:

1. The impact of one constitutional provision is to disenfranchise electoral officials working outside their constituencies of registration: 'Any person who is registered as an elector in any constituency shall be entitled to vote in such manner as may be prescribed at any election for that constituency unless ... he is for any other reason unable to attend in person at the place and time appointed for polling.' (Constitution of Solomon Islands, 1978, Chapter VI, S. 56.(1)
http://www.paclii.org/sb/legis/consol_act/c1978167/).

2. Citizens overseas are unable to vote – there is no system of postal voting.

3. Exceptions are made for those imprisoned for more than six months, those 'adjudged to be of unsound mind' and those 'disqualified from registration as an elector or from voting at elections under any law for the time being in force in Solomon Islands relating to offenses connected with elections.' (Constitution of Solomon Islands, Chapter VI, S 55, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/)

References:

Solomon Islands General Election, April 5, 2006, Report of the Commonwealth Observer Group,
http://www.thecommonwealth.org/document/34293/35144/152078/149074/150780/solomon_islands_report.htm, p16.

Solomon Islands National Election, April 5, 2006, Report of the Pacific Islands Forum Observer Team. [unavailable online]

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

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

100 | 75 | 50 | 25 | 0

Comments:

The secrecy of the ballots has been improved by the introduction of the single ballot box system at the 2006 polls. However, some provincial governments have been reluctant to adopt the system. Provincial elections on Malaita reverted to the multiple ballot box system, which is open to abuse. Under the multiple ballot box system, voters enter a polling room and lodge a ballot in one of several boxes, one for each candidate. Where it is possible to observe through windows etc, it is easy to establish which candidate was selected. The marking of a ballot in a voting cubicle and the lodging of this in a single ballot box makes ballot secrecy more likely.

References:

Solomon Islands General Election, April 5, 2006, Report of the Commonwealth Observer Group, p27-29, http://www.thecommonwealth.org/document/34293/35144/152078/149074/150780/solomon_islands_report.htm.

Solomon Islands National Election, April 5, 2006, Report of the Pacific Islands Forum Observer Team. [unavailable online]

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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:

Elections have been held regularly: in 1980, 1984, 1989, 1993, 1997, 2001, and 2006. The only major disruption was the June 5, 2000 coup, which overthrew the government of Bartholomew Ulufa'alu.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Solomon Islands General Election, April 5, 2006, Report of the Commonwealth Observer Group, http://www.thecommonwealth.org/document/34293/35144/152078/149074/150780/solomon_islands_report.htm.

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?

90

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

YES | NO

References:

Constitution of Solomon Islands, 1978, 13, (1),
http://www.paclii.org/sb/legis/consol_act/c1978167/

Listing of political parties in Solomon Islands Parliament

<http://www.parliament.gov.sb/index.php?q=node/137>.

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:

Restrictions on standing for Parliament are detailed in Constitution of Solomon Islands, 1978, 49, (1),
http://www.paclii.org/sb/legis/consol_act/c1978167/

References:

Constitution of Solomon Islands, 1978, S. 48,

http://www.paclii.org/sb/legis/consol_act/c1978167/

'A person shall be qualified for election as a member of Parliament if, and shall not be so qualified unless – (a) he is a citizen of Solomon Islands; and (b) he has attained the age of twenty-one years.

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 is no financial cost associated with forming a political party (although a formal registration process is currently under consideration by the government as part of a Political Parties Integrity Bill modeled on that in neighboring Papua New Guinea). However, if a prospective party wanted to raise funds it would have to register under the Charitable Trusts Act.

References:

Transparency International, National Integrity Systems: Solomon Islands 2004, p17-18, http://www.transparency.org.au/documents/solomon_islands.pdf.

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Warren Cahill, Parliamentary Strengthening Project, Telephone Interview, May 19, 2009

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 costs of running a campaign can be high, although candidates are reluctant to acknowledge actual levels of expenditure if

they bust the (unenforced) SI\$50,000 (US\$6,310) limit. Candidates regularly pay agents with influence in specific communities to solicit support or, in some cases, pay rivals not to contest. Candidates regularly give cash handouts on the night before an election (the so-called 'devil's night'). Logging operators and would-be casino operators have also been known to seek to influence election outcomes, in the process contributing to the amount of money involved in running a campaign. Candidates from outer islands often need to raise finance in order to transport voters back to their home constituencies to vote on election day. There is no system of postal voting in Solomon islands.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Ashley Wickham, Political Advisor, Prime Minister's Office, Interview, May 9, 2009

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

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:

This question is misleading in the Solomon Islands context. Although some parliamentarians claim to be members of political parties, particularly in the run up to elections these organizations exert little influence over political loyalties and MPs move reasonably freely between government and opposition regardless of nominal party allegiances. The largest faction in Parliament after the 2006 election was the Association of Independent Members of Parliament — not a party. The leader of the opposition, at present, is Manasseh Sogavare, who at the 2006 election described himself as a member of the Social Credit Party. At least one other member of that party is currently in the government.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

National parliament of the Solomon islands, data on political parties,
<http://www.parliament.gov.sb/index.php?q=node/137>

Jon Fraenkel, 'The Impact of RAMSI on the 2006 Elections in the Solomon Islands' in Political Science, 58, (2), (2006). [not available online]

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?

45

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

YES | **NO**

Comments:

The independence of the Electoral Commission depends greatly on the choice of speaker. The speaker is selected by Parliament at its first sitting after a general election, from 'among the persons qualified to be a member of Parliament' (i.e. in practice outside Parliament).

See Constitution of Solomon Islands, 1978, S. 64. (1)
http://www.paclii.org/sb/legis/consol_act/c1978167/.

References:

The Constitution makes no explicit reference to the protection of the Electoral Commission from political interference. It provides that 'there shall be an Electoral Commission consisting of – (a) the Speaker, who shall be Chairman of the Commission; and (b) two other members (in this section referred to as the appointed members') appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission. Constitution of Solomon Islands, 1978, S. 57. (1)
http://www.paclii.org/sb/legis/consol_act/c1978167/

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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:

National level appointments are generally free of political influence, although the Regional Assistance Mission to the Solomon Islands exerts influence over appointments. At the local level, however, problems have arisen when the constituency returning officer has political links with one of the candidates. This can mean the selective registration of voters aimed at listing on the electoral rolls only those likely to vote for the desired candidate. Perhaps returning officers should be required to declare that they have no connection with any of the candidates running in the constituency.

References:

Terry Brown, retired Bishop of Malaita, Interview, May 7, 2009

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

References:

Terry Brown, retired Bishop of Malaita, Interview, May 7, 2009

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

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

100 | 75 | 50 | 25 | 0

Comments:

They only make the results available. There is no requirement to complete electoral reports.

References:

Terry Brown, retired Bishop of Malaita, Interview, May 7, 2009

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:

Disputed returns or other electoral irregularities are not handled by the Electoral Commission but through the courts. In theory, the Electoral Commission is supposed to regulate campaign finances, but in practice this is not done. See Solomon Islands General Election, April 5, 2006, Report of the Commonwealth Observer Group, p17.

References:

Terry Brown, retired Bishop of Malaita, Interview, May 7, 2009

Solomon Islands General Election 5th April 2006, Report of the Commonwealth Observer Group, http://www.thecommonwealth.org/document/34293/35144/152078/149074/150780/solomon_islands_report.htm.

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?

83

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

100 | 75 | 50 | 25 | 0

Comments:

There is much double-recording of registered voters both on their home islands and in Honiara. Deceased names are frequently not deleted from the rolls, and errors in recording names are frequent. At the local level, the voter registration system is also open to abuse. Provincial-level officers are frequently susceptible to appeals to influence the registration process on grounds of kinship or other links with candidates or their campaign managers.

References:

Solomon Islands National Election, April 5, 2006, Report of the Pacific Islands Forum Observer Team.[unavailable online] S. 40-44.

Terry Brown, retired Bishop of Malaita, Interview, May 7, 2009

Solomon Islands General Election 5th April 2006, Report of the Commonwealth Observer Group,
http://www.thecommonwealth.org/document/34293/35144/152078/149074/150780/solomon_islands_report.htm.

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 ghostⁿ voting by non-existent voters is common.

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

YES | NO

Comments:

Petitions to the courts need to be lodged within a month of the announcement of the result by either a voter or candidate in the relevant constituency.

References:

National Parliament Electoral Provisions Act, Laws of the Solomon Islands, 1996 Consolidation, CAP 87,

http://www.paclii.org/sb/legis/consol_act/npepa426/.

Part IV deals with electoral offenses.

Part IV S. 82 specifies that 'All questions which may arise from any election as to the right of any person to be or remain an elected member of the National Parliament shall be referred to and determined by the Court on a petition presented by the Attorney-General or by an elector.'

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 *Gigini v Notere* [2002], the election of Eric Notere was over-turned for corruption.

References:

Terry Brown, retired Bishop of Malaita, Interview, May 7, 2009

Gigini v Notere [2002], High Court of the Solomon Islands,

<http://www.paclii.org/sb/cases/SBHC/2002/36.html>

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.

References:

Solomon Islands General Election, April 5, 2006, Report of the Commonwealth Observer Group, p32,
http://www.thecommonwealth.org/document/34293/35144/152078/149074/150780/solomon_islands_report.htm.

Terry Brown, retired Bishop of Malaita, Interview, May 7, 2009

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

75:

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

25:

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

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

YES | NO

Comments:

There is no formal provision in either the constitution or the Electoral Act regarding election observers. Nothing prevents these in law.

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

National Parliament Electoral Provisions Act, Laws of the Solomon Islands, 1996 Consolidation, CAP 87,
http://www.paclii.org/sb/legis/consol_act/npepa426/.

Solomon Islands General Election, April 5, 2006, Report of the Commonwealth Observer Group,
http://www.thecommonwealth.org/document/34293/35144/152078/149074/150780/solomon_islands_report.htm.

Solomon Islands National Election, April 5, 2006, Report of the Pacific Islands Forum Observer Team. [unavailable online]

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

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

100 | 75 | 50 | 25 | 0

Comments:

The government welcomed international observers in 2001 and 2006, and domestic observers in 2006.

References:

Solomon Islands General Election, April 5, 2006, Report of the Commonwealth Observer Group, http://www.thecommonwealth.org/document/34293/35144/152078/149074/150780/solomon_islands_report.htm.

Solomon Islands National Election, April 5, 2006, Report of the Pacific Islands Forum Observer Team. [unavailable online]

Terry Brown, retired Bishop of Malaita, Interview, May 7, 2009

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

References:

The Electoral Commission is established under the Constitution, See Constitution of Solomon Islands, 1978, S. 57, http://www.paclii.org/sb/legis/consol_act/c1978167/

A Constituency Boundaries Commission is established under Constitution of Solomon Islands, 1978, S. 53, http://www.paclii.org/sb/legis/consol_act/c1978167/

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.

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II-3. Political Financing

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

0

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

YES | **NO**

Comments:

Political parties are loose and fluid associations in the Solomon Islands. There are many independent members of Parliament, and those who are nominally members of parties switch sides regularly. Efforts to regulate in law political financing are on the individual candidate campaign expenditure side. There are no restrictions on private contributions to individuals.

See National Parliament Electoral Provisions Act, Part III, S. 45

(1) Each candidate shall submit to the Returning Officer within one month of the declaration of the result of the election a statement of account, specifying all expenses incurred by him in his election campaign.

(2) If any expenses referred to in subsection (1) amount, in the case of any individual candidate to more than seven thousand dollars, that candidate shall be guilty of an offense and liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

The limit to campaign spending was lifted in 1997 to SI\$50,000 (US\$6,350) by National Parliament Electoral Provisions (Amendment) Act 1997, http://www.paclii.org/sb/legis/num_act/npepa1997506/.

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

National Parliament Electoral Provisions Act, Laws of the Solomon Islands, 1996 Consolidation, CAP 87,
http://www.paclii.org/sb/legis/consol_act/npepa426/

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:

Political parties are loose and fluid associations in the Solomon Islands. Efforts to regulate in law political financing are directed at individual candidate campaign expenditures, not those of parties. There are no restrictions on individual donations to candidates.

See National Parliament Electoral Provisions Act, Part III, S. 45

(1) Each candidate shall submit to the Returning Officer within one month of the declaration of the result of the election a statement of account, specifying all expenses incurred by him in his election campaign.

(2) If any expenses referred to in subsection (1) amount, in the case of any individual candidate to more than seven thousand dollars, that candidate shall be guilty of an offence and liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

The limit to campaign spending was lifted in 1997 to SI\$50,000 (US\$6,350) by National Parliament Electoral Provisions (Amendment) Act 1997,
http://www.paclii.org/sb/legis/num_act/npepa1997506/.

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

National Parliament Electoral Provisions Act, Laws of the Solomon Islands, 1996 Consolidation, CAP 87,
http://www.paclii.org/sb/legis/consol_act/npepa426/.

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:

Political parties are loose and fluid associations in the Solomon Islands. Efforts to regulate in law political financing are through restrictions on individual candidate campaign expenditure, not the spending of parties. There are no restrictions on corporate donations to individual candidates.

Claims of corporate financing of politicians and particularly factions aligning themselves behind a favored candidate for the prime ministerial post after general elections are commonly heard.
See Fraenkel, Jon The Manipulation of Custom, Victoria University Press, 2004, Chapter 11, p136-138 [not available online].

For laws detailing the treatment of campaign expenditures, see
see National Parliament Electoral Provisions Act, Part III, S. 45

(1) Each candidate shall submit to the Returning Officer within one month of the declaration of the result of the election a statement of account, specifying all expenses incurred by him in his election campaign.

(2) If any expenses referred to in subsection (1) amount, in the case of any individual candidate to more than seven thousand

dollars, that candidate shall be guilty of an offense and liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

The limit to campaign spending was lifted in 1997 to SI\$50,000 (US\$6,350) by National Parliament Electoral Provisions (Amendment) Act 1997, http://www.paclii.org/sb/legis/num_act/npepa1997506/.

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

National Parliament Electoral Provisions Act, Laws of the Solomon Islands, 1996 Consolidation, CAP 87,
http://www.paclii.org/sb/legis/consol_act/npepa426/.

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

Comments:

Political parties are loose and fluid associations in the Solomon Islands. Efforts to regulate in law political financing are directed at individual candidate campaign expenditures, not those of parties. There are no restrictions on individual donations to candidates.

See National Parliament Electoral Provisions Act, Part III, S. 45

(1) Each candidate shall submit to the Returning Officer within one month of the declaration of the result of the election a statement of account, specifying all expenses incurred by him in his election campaign.

(2) If any expenses referred to in subsection (1) amount, in the case of any individual candidate to more than seven thousand dollars, that candidate shall be guilty of an offence and liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

The limit to campaign spending was lifted in 1997 to SI\$50,000 (US\$6,350) by National Parliament Electoral Provisions (Amendment) Act 1997,
http://www.paclii.org/sb/legis/num_act/npepa1997506/.

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

National Parliament Electoral Provisions Act, Laws of the Solomon Islands, 1996 Consolidation, CAP 87,
http://www.paclii.org/sb/legis/consol_act/npepa426/.

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:

Political parties are loose and fluid associations in the Solomon Islands. Efforts to regulate in law political financing are directed at individual candidate campaign expenditures, not those of parties. There are no restrictions on individual donations to candidates.

See National Parliament Electoral Provisions Act, Part III, S. 45

(1) Each candidate shall submit to the Returning Officer within one month of the declaration of the result of the election a statement of account, specifying all expenses incurred by him in his election campaign.

(2) If any expenses referred to in subsection (1) amount, in the case of any individual candidate to more than seven thousand dollars, that candidate shall be guilty of an offense and liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

The limit to campaign spending was lifted in 1997 to SI\$50,000 (US\$6,350) by National Parliament Electoral Provisions (Amendment) Act 1997,

http://www.paclii.org/sb/legis/num_act/npepa1997506/.

References:

Leadership Code (Further Provisions) Act 1999,

http://www.paclii.org/sb/legis/num_act/lcpa1999358/.

Constitution of Solomon Islands, 1978,

http://www.paclii.org/sb/legis/consol_act/c1978167/

National Parliament Electoral Provisions Act, Laws of the Solomon Islands, 1996 Consolidation, CAP 87,

http://www.paclii.org/sb/legis/consol_act/npepa426/.

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

Comments:

Political parties are loose and fluid associations in the Solomon Islands. There are no rules of disclosure for political parties. The only rules are for disclosure by elected politicians and ministers under the Leadership Code Commission Act. There is no auditing of such disclosures.

References:

Leadership Code (Further Provisions) Act 1999,

http://www.paclii.org/sb/legis/num_act/lcpa1999358/.

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

National Parliament Electoral Provisions Act, Laws of the Solomon Islands, 1996 Consolidation, CAP 87,
http://www.paclii.org/sb/legis/consol_act/npepa426/

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:

Political parties are loose and fluid associations in the Solomon Islands. The law does not regulate the financing of political parties.

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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?

17

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

YES | **NO**

Comments:

There are no regulations governing private contributions to individual political candidates. The law attempts to regulate election campaign spending by nominally restricting what candidates can spend on the campaign trail, not by putting a cap on donations. Elected politicians, however, need to disclose their assets to the Leadership Code Commission.

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

There are no regulations governing individual contributions to political candidates. The law attempts to regulate election campaign spending by nominally restricting what candidates can spend on the campaign trail, not by putting a cap on donations. Elected politicians, however, need to disclose their assets to the Leadership Code Commission.

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

There are no regulations governing corporate contributions to individual political candidates. The law attempts to regulate election campaign spending by nominally restricting what candidates can spend on the campaign trail, not by putting a cap on donations. Elected politicians, however, need to disclose their assets to the Leadership Code Commission.

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

There are no regulations for disclosure of donations to individual political candidates. Elected politicians, however, need to disclose their assets to the Leadership Code Commission.

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

There are legal requirements for the lodging with the Electoral Commission of reports detailing the campaign expenditures of individual candidates. However, these are not audited.

See National Parliament Electoral Provisions Act, Part III, S. 45

(1) Each candidate shall submit to the Returning Officer within one month of the declaration of the result of the election a statement of account, specifying all expenses incurred by him in his election campaign.

(2) If any expenses referred to in subsection (1) amount, in the case of any individual candidate to more than seven thousand dollars, that candidate shall be guilty of an offense and liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

The limit to campaign spending was lifted in 1997 to SI\$50,000 (US\$6,350) by National Parliament Electoral Provisions (Amendment) Act 1997, http://www.paclii.org/sb/legis/num_act/npepa1997506/.

References:

National Parliament Electoral Provisions Act, Laws of the Solomon Islands, 1996 Consolidation, CAP 87, http://www.paclii.org/sb/legis/consol_act/npepa426/

Eric Muir, Acting Auditor-General, Office of the Auditor-General, Interview, May 6, 2009

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:

The Electoral Commission is entrusted to monitor the level of campaign spending, and to ensure that this does not exceed SI\$50,000 (US\$6,350), but it is not entrusted to monitor the 'financing' of campaigns.

See National Parliament Electoral Provisions Act, Part III, S. 45

(1) Each candidate shall submit to the Returning Officer within one month of the declaration of the result of the election a statement of account, specifying all expenses incurred by him in his election campaign.

(2) If any expenses referred to in subsection (1) amount, in the case of any individual candidate to more than seven thousand dollars, that candidate shall be guilty of an offense and liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

The limit to campaign spending was lifted in 1997 to SI\$50,000 by National Parliament Electoral Provisions (Amendment) Act 1997, http://www.paclii.org/sb/legis/num_act/npepa1997506/.

References:

National Parliament Electoral Provisions Act, Laws of the Solomon Islands, 1996 Consolidation, CAP 87, http://www.paclii.org/sb/legis/consol_act/npepa426/

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?

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

Comments:

There are no limits on donations to political parties or individual candidates.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

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:

There are no limits on corporate donations to political parties.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

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:

There are no limits on total party expenditures.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

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:

There is no agency monitoring the financing of political parties.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

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:

There is no agency monitoring the financing of political parties.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

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

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

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:

There are no limits on donations to individual candidates.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

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:

There are no limits on corporate donations to individual candidates.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

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:

There is no checking of candidates' campaign expenditure returns.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

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:

There is no effective checking of candidates' campaign expenditures.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

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

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

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?

0

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

100 | 75 | 50 | 25 | 0

Comments:

There is no disclosure of financial support by political parties. According to law, details of campaign expenditures are supposed to be lodged with the Elections Office. The law is rarely complied with in this respect.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Hickson George, AusAID, Interview, May 8, 2009

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

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:

Political parties are unlikely to keep financial records. Even if they do so, these would generally not be disclosed to citizens.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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.

100 | 75 | 50 | 25 | 0

Comments:

Political parties would be unlikely to keep financial records, and even less likely (were such records to be kept) to make these available to citizens.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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.

100 | 75 | 50 | 25 | 0

Comments:

Individual candidates rarely or never disclose sources of funding. They are required to disclose expenditures to the Electoral Commission but the law is rarely complied with.

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

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

References:

Terry Brown, retired Anglican Bishop of Malaita, Interview, May 7, 2009

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

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. ⁵³ Executive Accountability

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

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

100 | 75 | 50 | 25 | 0

Comments:

The prime minister defends his government's policies in Parliament, particularly under questioning from the opposition.

References:

Taeasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

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:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

In the past there used to be no efforts to prevent judicial review of executive actions, but not in 2008.

In 2001, the Sogavare Government sought to extend the life of parliament through a constitutional amendment designed to add one year onto the four-year parliamentary term. Resisting this effort, the general population and international aid donors voiced their opposition, while the Electoral Commission continued with election preparations. The Sogavare Government regrouped and again attempted to push through a constitutional amendment to extend Parliament's life. A public outcry culminated in the threat of the Solomon Island National Union of Workers to call a general strike. In response, Mr. Sogavare's Government withdrew the proposed amendment and a general election was scheduled to proceed on Dec. 5, 2001.

References:

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

Ulufa'alu v Attorney General, 2001, High Court of the Solomon Islands,
<http://www.paclii.org/sb/cases/SBHC/2001/178.html>

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

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:

In practice, most new regulations and policies are tabled in Parliament. Things like the Financial Regulations and the General Orders for the Civil Service, however, are not tabled in Parliament.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

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?

100

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

YES

NO

Comments:

2002-6 Prime Minister Sir Allen Kemakeza served a three month prison sentence in 2008 (Solomon islands Broadcasting Corporation, Jan 3, 2009, <http://www.sibconline.com.sb/story.asp?IDThread=175&IDNews=24370>).

References:

Penal Code, Chapter 26, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/.

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:

Former minister for Police, Charles Dausabea, is currently serving a prison term.

2002-6 Prime Minister Sir Allen Kemakeza served a three month prison sentence in 2008 (Solomon islands Broadcasting Corporation, Jan. 3, 2009, <http://www.sibconline.com.sb/story.asp?IDThread=175&IDNews=24370>).

Several other ministers have lost their cabinet portfolios as a result of being sent to prison over the last five years.

However, in Zama V Regina, a minister successfully appealed a lower court conviction for corruption on the grounds that, as a minister, he was not subject to the Penal Code and should instead have been dealt with by the Leadership Code Commission. See Zama Vs Regina, High Court of Solomon islands, 2007, <http://www.paclii.org/sb/cases/SBHC/2007/113.html>

References:

Penal Code, Chapter 26, Laws of the Solomon Islands, http://www.paclii.org/sb/legis/consol_act/pc66/

Zama Vs Regina, High Court of Solomon islands, 2007, <http://www.paclii.org/sb/cases/SBHC/2007/113.html>

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?

41

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

YES | NO

Comments:

An asset disclosure form needs to be completed by heads of state and government every two years.

References:

Leadership Code (Further Provisions) Act 1999, http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

An asset disclosure form needs to be completed by cabinet ministers every two years.

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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

Comments:

The statement of assets lodged under the Leadership Code Act requires inclusion of 'all gifts received by each of them during the period to which the statement relates, and the value of each of such gifts' unless these were received from his/her spouse or children, were offered at or in connection with a custom ceremony; or were of a total value of one hundred dollars or less.' [Leadership Code (Further Provisions) Act 1999, Part II, S. 8, (1), f, & (4)].

References:

Leadership Code (Further Provisions) Act 1999, Part II, S. 8, (1)
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

There are formal rules subsidiary to the 1999 Leadership Code Act. They relate to gifts of greater value than SI\$500 (US\$64).

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:

Eric Muir, acting auditor-general, explains that the Auditor-General's Office has asked for access to these disclosures under the Leadership Code Commission. This may be a matter of deliberation for the government task force on corruption.

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Eric Muir, Acting Auditor-General, Office of the Auditor-General, Interview, May 6, 2a09

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:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Penal Code, Chapter 26, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

There are no restrictions on post-government private sector employment for heads of state, government or ministers. There is no major problem of a 'revolving door' in Solomon Islands. There is one example of a former governor general, Sir George Lepping, who returned to employment in the civil service after the end of his tenure as head of state, but this was widely perceived as reasonable given his much-needed skills as an agriculturalist.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

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

Comments:

Leaders are required under the Leadership Code Act to declare such gifts, but the Leadership Code Commission has no way of knowing whether they do so. The system relies on honesty. There is no enforcement mechanism.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

These asset disclosures just come to the Leadership Code Commission. They are not audited.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

Asset disclosure forms are not on the public record.

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

Asset disclosures to the Leadership Code Commission are not placed on the public record.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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.

Comments:

Asset disclosures to the Leadership Code Commission are not placed on the public record.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

Constitution of Solomon Islands, 1978, Chapter II,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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.

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:

If a political party is defined as registered political party”, the answer here is “not applicable”. However, the question has been answered on the assumption that the word “ruling group” could be substituted for “ruling political party”. Political parties in Solomon Islands are loose and fluid groupings, and there is regular side switching. There are many independent members. The governing faction usually comprises a mixture of politicians nominally attached to “parties” and independent members.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Sarah Dyer, National Council of Women, Interview, May 11, 2009, Honiara

Josephine Taekeni, Vois Blong Mere, Interview, May 11, 2009, Honiara

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?

83

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

YES | NO

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

Guadalcanal Provincial Assembly v Minister of Provincial Government and Rural Development [1996], High Court of Solomon islands, <http://www.paclii.org/sb/cases/SBHC/1996/94.html>.

Kenneth Brown & Jennifer Corrin Care, More on Democratic Fundamentals in Solomon islands: Minister for Provincial Government V Guadalcanal Provincial Assembly,
<http://www.upf.pf/IMG/doc/05Corrincare.doc>

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.

100 | 75 | 50 | 25 | 0

Comments:

According to Teasi Sanga, clerk to Parliament, this never arises.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Penal Code, Chapter 26, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

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?

29

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

YES | NO

Comments:

Leaders' are defined in the Leadership Code Act 1999 to be the same as those specified as such in the constitution, S. 93 & S. 127, which explicitly includes all members of Parliament.

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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 are no such provisions limiting private sector involvement following holding legislative office.

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

Comments:

Every Leader shall, within three months of his becoming a Leader, and thereafter at intervals not exceeding two years, give a separate statement in respect of himself, his spouse and each of his children setting out to the best of his knowledge all gifts received by each of them during the period to which the statement relates, and the value of each of such gifts.' [Leadership Code (Further Provisions) Act 1999, Part II, S. 8, (1f)]

References:

Leadership Code (Further Provisions) Act 1999, Part II, S. 8, (1f),
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

There are no provisions restricting private sector employment for former parliamentarians. There is no major problem of a 'revolving door' in Solomon Islands.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

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:

The Leadership Code Commission relies on MPs' honesty in disclosures. Although it is able to initiate investigations, there are far too many breaches of the regulations for the Commission, as currently empowered, to act upon. There are efforts currently to strengthen anti-corruption legislation and strengthen institutions.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

Leadership Code to Investigate Loans by Parliamentarians, Solomon Times, Oct. 10 2008,
<http://www.solomontimes.com/news.aspx?nwID=27>

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:

According to the acting auditor general, there is a proposal under discussion to allow the Auditor General's Office access to the legislative branch asset disclosure records.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Eric Muir, Acting Auditor-General, Office of the Auditor-General, Interview, May 6, 2009

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**

Comments:

Asset disclosures by members of Parliament are not placed on the public record.

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

Asset disclosures by members of Parliament are not placed on the public record.

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

Eric Muir, Acting Auditor-General, Office of the Auditor-General, Interview, May 6, 2009

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:

Asset disclosure records under the Leadership Code are not placed on the public record.

References:

Eric Muir, Acting Auditor-General, Office of the Auditor-General, Interview, May 6, 2009

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

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?

67

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

YES | **NO**

Comments:

There is nothing in law which requires this, although since 2004 the availability is excellent in practice.

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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

Comments:

Access to Hansard, as well as bills before Parliament, white papers and deliberations of select and standing committees is exceptionally good.

See <http://www.parliament.gov.sb/>

References:

<http://www.parliament.gov.sb/>

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

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

Comments:

Access to Hansard, as well as bills before Parliament, white papers and deliberations of select and standing committees is exceptionally good. The cost involved is that of downloading documents.

See <http://www.parliament.gov.sb/>

References:

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

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.

45 III-3. Judicial Accountability

36. Are judges appointed fairly?

67

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

YES | NO

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

S. 78. (1) provides that 'the Chief Justice shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission. (2) The puisne judges shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial and Legal Service Commission.

The Judicial and Legal Service Commission is constituted under S. 117 of the Constitution and comprises the Chief Justice (Chairman), the Attorney-General; the Chairman of the Public Service Commission; the President of the Bar Association; and two other members.

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.

100 | 75 | 50 | 25 | 0

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

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?

50

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

YES | NO

Comments:

There is nothing in formal law that requires members of the judiciary to give reasons for decisions, but it is the practice under British common law (which applies in Solomon Islands).

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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:

This is the standard practice. Judges follow the practice in the higher courts also because of the possibility of appeals, and the necessity that appeals court judges make reference to reasons for judgments from the High Court.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

Extensive records of Solomon Islands written High Court and Court of Appeal judgments dating back to independence are available online <http://www.paclii.org/sb/cases/SBHC/> and <http://www.paclii.org/sb/cases/SBCA/>.

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:

Yes – although there is no standing organization, only a specifically convened Special Tribunal to deal with particular complaints serves this purpose for the High Court.

Disciplinary procedures are conducted through a Special Tribunal appointed by the Governor General comprising ‘a chairman and not less than two other members, selected by the Governor-General from among persons who hold or have held high judicial office in some part of the Commonwealth.’ [Constitution of Solomon Islands, 1978, S. 80 (6a)]

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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

Comments:

There are no explicit protections, although appointment by the Governor General helps to keep the tribunal distant from potential political interference.

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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

Comments:

No – the tribunal is convened for a specific purpose. A complaint needs to be made first, and only then is a tribunal appointed by the Governor General. Where the tribunal meets, if necessary it is able to impose the penalty of removal. It does not initiate investigations. It is only convened specifically for the purpose.

The chief justice explains that he is able to personally initiate proceedings, before making recommendations, but usually the result is simply to talk to the judge concerned. He has the option of going to the Justice and Legal Services Commission or, in very serious cases, going to the Governor General and requesting that a tribunal be established.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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

Comments:

Yes – in the sense that the penalty is removal. No other penalties can be imposed. Where the tribunal meets, if necessary it is able to impose the penalty of removal. It does not initiate investigations. It is only convened specifically for the purpose.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

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?

36

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

YES | **NO**

Comments:

Leadership Code (Further Provisions) Act 1999, Part II, S. 8. (1)

Every Leader shall, within three months of his becoming a Leader, and thereafter at intervals not exceeding two years, give a separate statement in respect of himself, his spouse and each of his children setting out to the best of his knowledge –

- (a) all directorships in any company or corporation held by each of them;
- (b) the business occupations 4 each of them;
- (c) the holdings of each of them of any shares of, or debentures or other securities charged upon, any company or corporation;
- (d) the total income received by each of them during the period to which the statement relates and the sources of each of those incomes;
- (e) all business transactions involving a sum of one thousand dollars or more entered into by each of them during the period to which the statement relates;
- (f) subject to subsection (4), all gifts received by each of them during the period to which the statement relates, and the value of each of such gifts; and
- (g) the assets acquired by each of them during the period to which the statement relates.”

See http://www.paclii.org/sb/legis/num_act/lcpa1999358/

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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

Comments:

Leadership Code (Further Provisions) Act 1999, Part II, S. 8. (1) Every Leader shall, within three months of his becoming a Leader, and thereafter at intervals not exceeding two years, give a separate statement in respect of himself, his spouse and each of his children setting out to the best of his knowledge all gifts received by each of them during the period to which the statement relates, and the value of each of such gifts.”

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Leadership Code (Further Provisions) Act 1999, Part II, S. 8. (1)

http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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

Comments:

There are no legal requirements for asset disclosures to be audited.

References:

Leadership Code (Further Provisions) Act 1999,

http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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**

Comments:

There are no such restrictions. Judges nowadays retire at 70, and do not move back into private legal practice.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

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:

There are no regulations prohibiting private sector employment for ex-judges.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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

Comments:

The chief justice declines to comment on the efficacy of these regulations as regards other judges. Reporting is at the discretion of each judge.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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

Comments:

The Leadership Code Commission sends out the forms to be completed. People do fill these in. For many, it is simply the same information being included, again and again. The completion of the Leadership Code asset disclosures recommenced after the arrival of the Regional Assistance Mission to the Solomon Islands. It was also the practice before the 1998-2003 crisis, but there was a lapse during those events.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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:

Asset disclosures by members of the judiciary are not on the public record.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

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:

Asset disclosures are not on the public record.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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:

Asset disclosures are not on the public record.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Hon. Albert Palmer, Chief Justice, Interview, May 11, 2009, Honiara

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?

92

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

YES | NO

Comments:

There are constitutional restrictions. Parliament is not entitled to 'proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the Consolidated Fund or other funds of Solomon Islands, or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Solomon Islands.' (Constitution of Solomon Islands, 1978, S. 60a).

References:

Constitution of Solomon Islands, 1978, S. 60, S100,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Public Finance and Audit Act, Cap 120 Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/pfaaa189/, S. 6. (1)

'The Minister shall so supervise the finances of the Government as to ensure that a full account is made to Parliament and for such purpose shall, subject to the provisions of this Act, have the management of the Consolidated Fund and the supervision, control and direction of all matters relating to the financial affairs of the Government'.

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:

The budget of the Regional Assistance Mission to the Solomon Islands does not go before the Solomon Islands Parliament.

References:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Hansard reports of debates on Appropriation bills and supplementary appropriation bills,
<http://www.parliament.gov.sb/index.php?q=node/289>

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:

Most of the discussion about the budgetary process occurs at the executive level, not in the legislature. However, budget monitoring capacity has improved in recent years.

References:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Warren Cahill, Parliamentary Strengthening Project, Telephone Interview, May 19, 2009

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?

67

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 budget process is highly transparent in Solomon Islands because, unusually, the budget comes to the Public Accounts Committee prior to the second reading in Parliament. The budget is then reviewed by Parliament before being released officially by government. During the hearings, permanent secretaries come along. Hearings are nowadays televised.

References:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Warren Cahill, Parliamentary Strengthening Project, Telephone Interview, May 19, 2009

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:

Public Accounts Committee hearings are open to the public, and nowadays televised. Time constraints mean that those most frequently interviewed are senior civil servants.

References:

Emele Duituturaga, Gender Adviser to the RAMSI Machinery of Government Program & member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Warren Cahill, Parliamentary Strengthening Project, Telephone Interview, May 19, 2009

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 media are given access to the full budget paper and run stories on this. The Parliament puts some detail on itemized budget allocations on its web site.

See <http://www.parliament.gov.sb/index.php?q=node/86>

References:

Emele Duituturaga, Gender Adviser to the RAMSI Machinery of Government Program & member of the RAMSI Independent Assessment & Performance Advisory Team, [currently working with the National Council of Women on special measures aimed at promoting women's representation in parliament], Interview, May 8, 2009

Warren Cahill, Parliamentary Strengthening Project, Telephone Interview, May 19, 2009

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?

42

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

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

Comments:

Department heads submit reports to the Public Accounts committee when responding to issues raised in the Auditor-General's report. Permanent secretaries are also required to answer to the Public Accounts Committee during budget and supplementary budget hearings.

References:

Emele Duituturaga, Gender Adviser to the RAMSI Machinery of Government Program & member of the RAMSI Independent Assessment & Performance Advisory Team, [currently working with the National Council of Women on special measures aimed at promoting women's representation in parliament], Interview, May 8, 2009

Warren Cahill, Parliamentary Strengthening Project, Telephone Interview, May 19, 2009

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:

Current membership is two opposition members, including the leader of the opposition. The other opposition member serves as chair. There are four members who are identified with government. However, government members are as likely to raise criticisms of government budgetary practices as opposition members.

References:

Warren Cahill, Parliamentary Strengthening Project, Telephone Interview, May 19, 2009

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

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.

100 | 75 | 50 | 25 | 0

Comments:

It does not do so at present, but it is able to do so and it has considered doing so.

The Public Accounts Committee is, at present, responsible not only for scrutinizing reports from the Office of the Auditor General, but unusually it also examines the budget and any supplementary appropriation bills, with permanent secretaries in the ministries appearing before the committee and giving a line by line justification. This internationally unusual practice serves to enhance the authority of the Public Accounts Committee.

References:

Warren Cahill, Parliamentary Strengthening Project, Telephone Interview, May 19, 2009

Teasi Sanga, Clerk to Parliament, (together with parliamentary support team), Interview, May 8, 2009

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:

Constitution of Solomon Islands, 1978, 69a (3) makes reference to the establishment of the Public Accounts Committee but this is done under the Standing Orders of Parliament (i.e. via the internal self-regulation of Parliament).

The Standing Orders of the National Parliament of Solomon Islands, S. 69: (1) There shall be a Standing Select Committee designated the Public Accounts Committee whose functions shall be -(a) to examine the accounts prescribed by section 38 of the Public Finance and Audit Act, together with the report of the Auditor-General thereon, and to report the results of such examination to Parliament; (b) to establish the causes of any excesses over authorized expenditure and to make recommendations to Parliament on any appropriate measures to cater for such excesses of expenditure; (c) to examine such other accounts laid before Parliament as the Committee may think fit, together with any auditor's report thereon and to report the results of such examination to Parliament; (d) to summon any public officer to give information on any explanation, or to produce any records or documents which the Committee may require in the performance of its duties; (e) to consider in detail the Draft Estimates prepared by the Government in support of the Annual Appropriation Bill; (f) to summon and examine the Accounting Officers and Technical staff of Ministries and Departments and require the production of background information and explanation in relation to draft estimates; (g) to report to Parliament in such a way that the report may inform Members prior to the Parliamentary debate thereon of the background to the Draft Estimates and draw attention to those matters which the Committee feels should be the subject for such Parliamentary debate; and (h) to make such recommendations as the Committee sees fit and subsequently receive comments and reports on such recommendations from the Government. (2) The Auditor-General or his nominee shall be the Secretary to the Committee and shall make available to the Committee the services of his staff and other facilities of his office."

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

The Standing Orders of the National Parliament of Solomon Islands, Paper No 41 of 1981, Supplement to the Solomon Islands Gazette, Oct. 22, 1982,
<http://www.parliament.gov.sb/files/business&procedure/StandingOrders.htm>

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).

IV-1. Civil Service Regulations

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

75

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

YES | NO

References:

Constitution of Solomon Islands, 1978, Chapter XIII,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

Prevention of nepotism, cronyism and patronage is not detailed in law. The matter is left in the hands of the Public Service Commission: There shall be a Public Service Commission for Solomon Islands which shall consist of a Chairman and not less than two nor more than four other members appointed by the Governor-General for such period, being not less than three nor more than six years, as may be specified in their respective instruments of appointment. (2) A person shall be disqualified for appointment as a member of the Public Service Commission if he is a member of Parliament or a public officer or an officer of any society or association which the Governor-General, in his own deliberate judgment, is satisfied is of a political nature." [Constitution of Solomon Islands, 1978, Chapter XIII, 115.-(1)].

The executive director of Transparency International Solomon Islands says that the Leadership Code Commission is not an effective anti-corruption agency, and does not provide a strong mechanism for tackling corruption.

References:

Constitution of Solomon Islands, 1978, Chapter XIII,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

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:

Redress mechanisms include the Ombudsman, the courts or appeals to the Public Service Commission.

References:

Constitution of Solomon Islands, 1978, S. 96-99,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Public Service Act, Cap 92, Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/psa152/

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:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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?

61

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

100 | 75 | 50 | 25 | 0

Comments:

Civil servants at the top level are often too close to their ministers, and the Public Service Commission is weak. There are particularly marked problems in the Ministry of Finance.

References:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

The system is not transparent. There is no mechanism for evaluating merit. Evaluation tends to improve at the more senior levels.

References:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

The General orders for the civil service gives clear guidelines for avoiding nepotism, cronyism or patronage, although these are not often followed in practice. Some parts of the government work by the book. In others there are rampant abuses, particularly as regards the non-established staff.

References:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Solomon Islands, General orders, no Date, unavailable online.

Warren Cahill, Parliamentary Strengthening Project, Telephone Interview, May 19, 2009

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:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

This information is available to government internally, but there is no publication of a civil list.

References:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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

Comments:

The Solomon Islands General orders outlines the following grievance procedure:

The following procedure will be followed whenever a worker wishes to present a grievance of a personal nature:

First Step: The worker will discuss the grievance with his immediate supervisor who will arrange for the discussion to be held within 24 hours, excluding weekends and public holidays.

Second Step: If the grievance is not satisfactorily resolved at the first step and the worker so requests the supervisor will refer the grievance to the Head of the Division who will arrange to discuss it with the worker within 24 hours, excluding weekends and public holidays.

Third Step: If the grievance is not satisfactory resolved at the second step and if the worker so requests it will be referred by the Divisional Head to the Responsible Officer/Head of Office who will discuss it with the worker within 48 hours, excluding weekends and public holidays. The Responsible Officer/Head of Office may, at his discretion, delegate this function to the officer within the Division of Ministry charged with the responsibility for the personnel function.

Fourth Step: If the grievance is still not satisfactory resolved and if the worker so requests it will be referred to the Permanent Secretary for the Public Service who will consider it within 48 hours, excluding weekends and public holidays, and who will decide what further steps should be taken to settle it.

NOTES: (i) At any stage of procedure the worker may be accompanied by a colleague of his choosing or, if he is a member of a Trade Union, by a representative of the Trade Union concerned. If the grievance involves several workers those concerned may nominate not more than three colleagues or Trade Union representatives, as appropriate, to represent them in the discussions. (ii) Details of grievances which reach the Second Step and beyond must be recorded in writing by the employer's representative."

(Solomon Islands General Orders, Chapter S, S. 20, No Date, copy not available on internet).

References:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Warren Cahill, Parliamentary Strengthening Project, Telephone Interview, May 19, 2009

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:

This was not the case during the 1998-2003 crisis years.

References:

Emele Duituturaga, member of the RAMSI Independent Assessment & Performance Advisory Team, Interview, May 8, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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

Comments:

Although there is no legal provision barring such civil servants, in practice they are unlikely to obtain future employment with the government.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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

Comments:

The Leadership Code Commission Act (when read together with the constitutional definition of 'leaders') designates all public servants as 'leaders'. In practice, however, the Leadership Code Commission decides only to investigate civil servants in senior positions.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

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

Comments:

Constitution of Solomon Islands, 1978, S. 94. (1): A person to whom this Chapter applies has a duty to conduct himself in such a way, both in his public or official life and his private life, and in his associations with other persons, as not – (a) to place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised; (b) to demean his office or position; (c) to allow his integrity to be called into question; or (d) to endanger or diminish respect for and confidence in the integrity of the government of Solomon Islands.”

The Leadership Code provides means for the Commission to judge whether there has been a conflict of interest: Leadership Code (Further Provisions) Act 1999, S. 16: “In considering whether the conduct of a Leader or his spouse or any of his children has given or may give rise to a conflict of interest, (that is to say a situation where the Leader has to make a choice between his personal interests and his obligations as a Leader) account shall be taken by the Commission of the following matters – (a) the amount of influence the Leader may have on the decision-making process of the Ministry, department, Government agency or authority in which he works or for which he is responsible; (b) the esteem in which the public hold the office to which the Leader has been appointed and the need to ensure that the good reputation of that office is upheld; (c) the possible financial gain or other benefit to the Leader; and (d) the value to the development of Solomon Islands as a whole of the investment the Leader has made or may make, or the position the Leader is holding or may hold or the services he has given or may give to the company, corporation or unincorporated association concerned.”

Leadership Code (Further Provisions) Act 1999, S. 14: “where any Leader or the spouse or child of such Leader has a controlling interest in any corporation or local company (such corporation or Local company being in this section referred to as the “relevant company”) and that relevant company seeks, accepts or holds a beneficial interest in any contract concluded with the Government of Solomon Islands (such contract in this section being referred to as a “Government contract”) such Leader is guilty of misconduct in office’. The Act then details several exceptions.”

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Leadership Code (Further Provisions) Act 1999, S. 14, S. 16,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Public Service Act, Cap 92, Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/psa152/

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:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Leadership Code (Further Provisions) Act 1999, S. 14, S. 16,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Public Service Act, Cap 92, Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/psa152/

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

Comments:

The regulations are in the 'General Orders' for the Public Service, and in the Public Service Commission regulations. In theory, the Leadership Code Commission covers all public servants, but in practice the Commission only seeks to regulate those in senior positions.

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Public Service Act, Cap 92, Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/psa152/

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:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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 are no such regulations.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

Regulations exist in the General orders, but they are not effective in practice.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

Most public servants do comply.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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

Comments:

There is no auditing of asset disclosures to the Leadership Code Commission.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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

Comments:

Asset disclosure records to the Leadership Code Commission are not on the public record.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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

Comments:

Asset disclosure records to the Leadership Code Commission are not on the public record.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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

Comments:

Asset disclosure records to the Leadership Code Commission are not on the public record.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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)?

6

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**

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Penal Code, Chapter 26, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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:

In cases of unfair dismissal, there is recourse to the courts. However, whistle blowers risk personal progress being impeded by networks of personal loyalties that permeate throughout the civil service.

The executive director of Transparency International reports that civil servants, under general orders, are not allowed to say anything about internal government business and that, if they do so, their careers may be adversely affected.

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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**

Comments:

There is nothing in law.

References:

Labor Act, Cap 73, Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/la84/

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:

This is not the case. There is, however, potential redress through the courts.

The executive director of Transparency Solomon Islands says that junior civil servants who report corruption cases will simply be fired.

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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?

0

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

100 | 75 | 50 | 25 | 0

Comments:

There is no such internal reporting mechanism.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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:

There is no such internal reporting mechanism.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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:

There is no such internal reporting mechanism.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

There is no such internal reporting mechanism.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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:

This is being considered as part of the proposal for an Independent Commission against Corruption.

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Penal Code, Chapter 26, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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.

2 IV-3. Procurement

51. Is the public procurement process effective?

33

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

YES | NO

Comments:

A person to whom this Chapter applies has a duty to conduct himself in such a way, both in his public or official life and his private life, and in his associations with other persons, as not – (a) to place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised; (b) to demean his office or position; (c) to allow his integrity to be called into question; or (d) to endanger or diminish respect for and confidence in the integrity of the government of Solomon Islands.” [Constitution of Solomon Islands, 1978, S. 94. (1)]

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

This provides a general rule for all public servants.

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:

Public Finance and Audit Act, Cap 120 Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/pfaaa189/

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

Comments:

The tender process is out of date. Efforts are sometimes made to get around the procedures detailed in the 'Financial Instructions' by breaking larger bids into multiple smaller bids sometimes to get the size of deals down to the point where verbal bids are acceptable. The process urgently needs to be improved.

References:

Mark Anders, Procurement & Payments Adviser, Ministry of Finance and Treasury, Interview, May 8, 2009, Honiara

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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**

References:

Public Finance and Audit Act, Cap 120 Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/pfaaa189/

Public Service Act, Cap 92, Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/psa152/

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:

Public Finance and Audit Act, Cap 120 Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/pfaaa189/

Mark Anders, Procurement & Payments Adviser, Ministry of Finance and Treasury, Interview, May 8, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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

Comments:

According to the Financial Instructions (internal government rules as regards financial procedures), it is only possible to give a waiver if a) there is only one supplier, or b) all suppliers have the same price (for example, as regards petrol where suppliers tend to sell at the same price).

References:

Public Finance and Audit Act, Cap 120 Laws of the Solomon Islands, 1996 Consolidation, http://www.paclii.org/sb/legis/consol_act/pfaaa189/, but also subsidiary regulations under the 'Financial Instructions'.

Mark Anders, Procurement & Payments Adviser, Ministry of Finance and Treasury, Interview, May 8, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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

References:

Public Finance and Audit Act, Cap 120 Laws of the Solomon Islands, 1996 Consolidation, http://www.paclii.org/sb/legis/consol_act/pfaaa189/

Mark Anders, Procurement & Payments Adviser, Ministry of Finance and Treasury, Interview, May 8, 2009, Honiara

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**

References:

Public Finance and Audit Act, Cap 120 Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/pfaaa189/

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**

References:

Public Finance and Audit Act, Cap 120 Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/pfaaa189/

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**

References:

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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?

8

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

YES | **NO**

Comments:

The 'Financial Instructions' (which contain the relevant regulations) are not publicly available. However, most suppliers are familiar with the instructions and try to circumvent them.

References:

Mark Anders, Procurement & Payments Adviser, Ministry of Finance and Treasury, Interview, May 8, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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**

References:

Public Finance and Audit Act, Cap 120 Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/pfaaa189/

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

Comments:

These are not on the public record.

References:

Mark Anders, Procurement & Payments Adviser, Ministry of Finance and Treasury, Interview, May 8, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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

Comments:

These are not on the public record.

References:

Mark Anders, Procurement & Payments Adviser, Ministry of Finance and Treasury, Interview, May 8, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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:

Procurements worth SI\$500,000 (US\$63,500) and above are effectively advertised. Some advertisements are done for the sake of illusory transparency, with deals already agreed, according to the chief executive of Transparency International.

References:

Mark Anders, Procurement & Payments Adviser, Ministry of Finance and Treasury, Interview, May 8, 2009, Honiara

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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:

Mark Anders, Procurement & Payments Adviser, Ministry of Finance and Treasury, Interview, May 8, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009

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?

50

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

YES | **NO**

References:

There is no specific legislation governing privatization.

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

Ashley Wickham, Political Adviser, Prime Minister's Office, Interview, May 9, 2009

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

Comments:

The Constitution of Solomon Islands and the Leadership Code Act 1999 both contain general provisions regarding conflicts of interest, nothing specific for those involved in privatization.

References:

Constitution of Solomon Islands, 1978, 94. (1),
http://www.paclii.org/sb/legis/consol_act/c1978167/

Leadership Code (Further Provisions) Act 1999, S. 16,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

Ashley Wickham pointed out that there were so few examples, mostly long ago, that this question is difficult to answer.

References:

Ashley Wickham, Political Adviser, Prime Minister's Office, Interview, May 9, 2009

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?

0

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

YES | **NO**

References:

There are no privatization regulations.

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**

References:

There have not been any privatizations over recent years.

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

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**

References:

There is no legislation governing privatization.

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:

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

There is no legislation governing privatization.

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

Comments:

There is no legislation governing privatization.

References:

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

100: Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

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

25:

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

Category V. Oversight and Regulation

V-1. ⁷⁹National Ombudsman

56. Is the national ombudsman effective?

75

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

YES | NO

Comments:

The conditions of appointment and removal afford some degree of protection from political interference:

'(1) There shall be an Ombudsman, whose office shall be a public office.

(2) The Ombudsman shall be appointed by the Governor-General, acting in accordance with the advice of a committee consisting of the Speaker, the Chairman of the Public Service Commission and the Chairman of the Judicial and Legal Service Commission....

... (6) The Ombudsman may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehavior and shall not be so removed except in accordance with the procedure for the removal of a judge of the High Court as set out in subsections (4) to (7) of section 80 of this Constitution.' [Constitution of Solomon Islands, 1978, Chapter IX, S. 96. (1) , (2) & (6)].

'In the discharge of his functions the Ombudsman shall not be subject to the direction or control of any other person or authority and no proceedings of the Ombudsman shall be called in question in any court of law'. [Constitution of Solomon Islands, 1978, Chapter IX, S. 98 (1)].

References:

Constitution of Solomon Islands, 1978, Chapter IX, S. 96. S. 98,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

Relations between the Ombudsman's Office and the government have improved markedly over 2008, after an earlier experience of political interference. However, there remains confusion about whether the Ombudsman's Office is answerable to Parliament or government, and there is sometimes poor responsiveness from within the executive to investigations.

References:

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

Acting Attorney General v Porowai, Court of Appeal, Solomon Islands, July 18, 2008,

An appeal on a case brought under the 2006-7 government of Manasseh Sogavare in relation to an effort by government to prevent Ombudsman Joe Porowai from taking up his position. Mr Porowai ultimately won and became Ombudsman.

<http://www.paclii.org/sb/cases/SBCA/2008/4.html>

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:

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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:

Radio Australia, Pacific Beat, 'Solomon Islands Ombudsman faces challenges', Feb. 4, 2009
Ombudsman Joe Porowai details limitations as regards staffing, and particularly investigative staff, and office space.
<http://www.radioaustralia.net.au/pacbeat/stories/200902/s2482455.htm>

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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:

There has been an improvement in 2008-9, but Public Service Commission consultation with the Ombudsman has often been limited both as regards terminations and appointments.

References:

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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:

Their budgetary allocation comes through the Prime Minister's Office, and is therefore vulnerable to shifting priorities. It is, however, debatable whether the office needs to be independently financed.

References:

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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

Comments:

Reports of investigations are not put on the public record, only copies of the reports to Parliament.

References:

Ombudsman, Special Report to Parliament, for the period Sept. 1, 2006 to July 31, 2008.

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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

References:

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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

Comments:

There are some coercive powers (e.g. fines) but in practice the Ombudsman's office usually simply asks for maladministration to be corrected and tries to rectify the situation. In practice, fines are not imposed.

References:

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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

Comments:

Sometimes there is a reluctance to cooperate with ongoing investigations; responsiveness to actual findings is less problematic.

References:

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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

References:

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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?

92

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

YES | NO

Comments:

Yes – in the indirect sense that the annual report is made available to Parliament and as such becomes available on the public record.

'The Ombudsman shall make an annual report and may make such additional reports to Parliament as he deems appropriate concerning the discharge of his functions, and may draw attention to any defects which appear to him to exist in the administration or any law.' [Constitution of Solomon Islands, 1978, S. 98, (3)]

References:

Constitution of Solomon Islands, 1978,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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

Comments:

The reports tabled in Parliament are accessible within a reasonable time period. Investigative reports are not. The latter are normally circulated to cabinet or to the agency concerned for action.

References:

Joe Porowai, Ombudsman, Interview, May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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

Comments:

Once on the public record (i.e. tabled in Parliament), reports are available for free.

References:

Joe Porowai, Ombudsman, Interview May 11, 2009, Honiara

Rohan Anderson, Adviser, Ombudsman's Office, Interview, May 11, 2009, Honiara

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

References:

Constitution of Solomon Islands, 1978, Chapter IX,
http://www.paclii.org/sb/legis/consol_act/c1978167/

Ombudsman (Further Provisions) Act, Cap 88, Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/opa349/.

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?

97

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

YES | NO

References:

1978 Constitution, Chapter X, S. 108, (5)

In the exercise of his functions under this section, the Auditor-General shall not be subject to the direction or control of any other person or authority.”

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

References:

Eric Muir, Acting Auditor General, Office of the Auditor General, Interview, May 5, 2009

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:

Office of the Auditor-General, Annual Reports, 2002-6 shows that actual staff have risen from three in 2004 to 26 in 2007. Office of the Auditor-General, Annual Report, 2008 – shows that this level of staffing has been retained.

References:

Eric Muir, Acting Auditor General, Office of the Auditor General, Interview, May 5, 2009

Office of the Auditor-General, Annual Reports, 2002-6

Office of the Auditor-General, Annual Report, 2008

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:

Eric Muir, Acting Auditor General, Office of the Auditor General, Interview, May 5, 2009

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:

Auditor-General, Annual Report 2008 Table 4.1 shows that funding has been reasonably high over recent years. Funding trebled in 2003 and then trebled again in 2005.

References:

Eric Muir, Acting Auditor General, Office of the Auditor General, Interview, May 5, 2009

Auditor-General, Annual Report 2008, Table 4.1

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

References:

Eric Muir, Acting Auditor General, Office of the Auditor General, Interview, May 5, 2009

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 Public Accounts Committee (PAC) reviews the Auditor-General's report; an action plan is produced, and this is given to the agency under investigation, which then provides the PAC with progress reports.

The situation as regards the Auditor General's reports has greatly improved over the last two years, says Ofani Eremae, Editor of the Solomon Star.

References:

Eric Muir, Acting Auditor General, Office of the Auditor General, Interview, May 5, 2009

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

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

Comments:

We produce an annual plan, which is put to the Public Accounts Committee for endorsement. The constraint is resources." Eric Muir

References:

Eric Muir, Acting Auditor General, Office of the Auditor General, Interview, May 5, 2009

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?

60a. In law, citizens can access reports of the audit agency.

YES | **NO**

Comments:

There is nothing in law that refers to public accessibility of Auditor-General's reports, although since these are laid before Parliament they may be placed on the public record. 1978 Constitution, Chapter X. S. 108 (4) specifies that the Auditor-General shall submit his reports to the Speaker who shall cause them to be laid before Parliament; and he shall also send a copy of each report to the Minister of Finance and the Minister concerned."

References:

1978 Constitution, Chapter X. S. 108
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

The current practice is to have Auditor-General's reports up on the web site within a day of their being tabled in Parliament. This is also regularly followed by a media release. In 2008, we were cited in the media 40 days in a row after the release of the Auditor-General's report." Eric Muir

References:

Eric Muir, Acting Auditor General, Office of the Auditor General, Interview, May 5, 2009

Auditor-General's Reports, various years,
<http://www.oag.gov.sb/reports.html>

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:

The only cost is the one for downloading the report.

References:

Eric Muir, Acting Auditor General, Office of the Auditor General, Interview, May 5, 2009

Auditor-General's Reports, various years,

<http://www.oag.gov.sb/reports.htm>

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 Office of the Auditor-General covers the entire public sector, but there is some dispute about the scope of Auditor-General's reports and there is some attempt to extend that scope. Some public sector entities are nervous about Auditor-General's reports, and there is some objection to efforts to audit the Rural Constituency Development Funds' [Money given to each of the 50 members of Parliament for distribution] on the grounds that these are 'discretionary funds'. The Auditor General's Office is trying to change this.

References:

Office of the Auditor-General

Constitution, Chapter X, S.108

http://www.paclii.org/sb/legis/consol_act/c1978167/

Eric Muir, Acting Auditor General, Office of the Auditor General, Interview, May 5, 2009

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.

88
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

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009

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

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009

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:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009

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.

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009

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:

Inland Revenue Department of Solomon Islands

For a review of Solomon Islands tax provisions, see

<http://www.commerce.gov.sb/Divisions/Investment/downloads/Overview%20of%20Solomon%20Island%20Taxes.pdf>

References:

Income Tax Act, Cap 123, Part XIV, S. 106. Laws of the Solomon Islands, 1996 Consolidation, http://www.paclii.org/sb/legis/consol_act/ita123133/.

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?

0

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

100 | 75 | 50 | 25 | 0

Comments:

Tax laws may be uniformly enforced (where they are enforced) but they are not universally enforced. Inland Revenue estimates that only 30 percent of businesses complete tax returns.

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009

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:

It is the Solomon Islands Customs & Excise Division.

References:

Customs and Excise Act, Cap 121, Laws of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/caea199/

<http://www.ocosec.org/who-are-we/solomon-islands.html>

PM Impressed With New Customs Computerized System, Solomon Times, March 4, 2009,
<http://www.solomontimes.com/topic.aspx?show=288>

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

Comments:

Things have tightened up over the past few years.

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009

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?

20

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

Comments:

Investment Corporation of Solomon Islands Act, Cap 143, S.8: The Minister may, after consultation with the Chairman, give to the Board such directions of a general character as to the policy to be followed by the Board in the performance of its functions as appear to the Minister to be necessary and the Board shall give effect thereto.”
The Auditor General’s office is protected from political interference.

References:

Investment Corporation of Solomon Islands Act, Cap 143, S.8. Laws of the Solomon Islands, 1996 Consolidation, http://www.paclii.org/sb/legis/consol_act/icosia471/.
The law explicitly subordinates the board to decisions of the minister.

In the case of state-owned enterprises, the relevant legislation is the State Owned Enterprises Act 2007, S.20, http://www.paclii.org/sb/legis/num_act/soea2007274/:

(1) Every State Owned Enterprise and every subsidiary of every State Owned Enterprise shall have as its auditor the Auditor-General. (2) Without limiting subsection (1), the board of a State Owned Enterprise may, after consultation with the Auditor-General and if its Responsible Minister so approves, appoint a person or firm that is qualified for appointment as an auditor of a company to be an additional auditor of the State Owned Enterprise or any subsidiary of a State Owned Enterprise. (3) For the avoidance of doubt, section 20(1) applies notwithstanding section 35(2) of the Public Finance and Audit Act.”

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

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara (answering with regard to companies” and therefore the Investment Corporation of the Solomon Islands.)

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009 (answering with regard also to state-owned enterprises says “no” since there is only one member of staff, but an intention to expand.)

The Auditor General’s Office has had difficulty obtaining staff able to audit the more complex accounts of state-owned enterprises.

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

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara (answering with regards to companies” and therefore the Investment Corporation of the Solomon Islands says “no” since funding is dependent on dividends and only one company, Solomon Telekom, pays dividends.)

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009 (answering with regard also to state-owned enterprises says “no” since there is only one member of staff, but an intention to expand.)

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

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

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

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

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?

80

69a. In law, citizens can access the financial records of state-owned companies.

YES | NO

Comments:

They can do so through the Companies Registry.

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

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:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

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

Comments:

For statutory corporations, the Auditor General's Office has responsibility, but needs to bring in outside support to deal with accounts that are typically more complex than those for other parts of the government. For state-owned companies, the entity concerned would normally appoint their own auditor, although possibly with some communication with the Investment Corporation of the Solomon islands. There are currently moves to enable the Auditor General to assume responsibility for state-owned companies, as well as statutory corporations. This will require some increasing of the capacity within the Auditor General's Office.

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

Eric Muir, Acting Auditor General, Interview by telephone, May 19, 2009

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:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

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

References:

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara

Robert Cohen, Group Audit Adviser, Office of the Auditor General, Interview, May 8, 2009

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

Comments:

The question mentions companies", but not state-owned corporations. The Investment Corporation of the Solomon Islands looks after state-owned companies, but not state-owned corporations.

The Economic Reform Unit at the Ministry of Finance is in the process of setting up a monitoring function for the state-owned corporations, but currently just an officer not an agency is responsible.

References:

Investment Corporation of Solomon Islands Act, Cap 143, of the Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/icosia471/

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.

70. Are business licenses available to all citizens?

100

70a. In law, anyone may apply for a business license.

YES | NO

References:

Legislation governing business licenses is handled in a decentralized fashion by the nine provincial councils and the Honiara Town Council.

Romaldo Albert, Deputy Director, Business Development Division, Ministry of Commerce, Industries, Employment & Immigration, Interview, May 12, 2009, Honiara

Only companies, not persons, can apply for a business license for banking under the Financial Institutions Act 1998
See http://www.paclii.org/sb/legis/num_act/fia1998258/.

See also the notes on banking licenses made available by the Central Bank of Solomon Islands,
<http://www.cbsi.com.sb/index.php?id=37>.

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:

Legislation governing business licenses is handled in a decentralized fashion by the nine provincial councils and the Honiara Town Council. It is usually possible to appeal if a license is denied.

Romaldo Albert, Deputy Director, Business Development Division, Ministry of Commerce, Industries, Employment & Immigration, Interview, May 12, 2009, Honiara

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

Comments:

The World Bank's Doing Business 2009 country profile for Solomon islands (<http://www.doingbusiness.org/Documents/CountryProfiles/SLB.pdf>) suggests that it requires seven procedures and 57 days to start a business. However, this includes the time required to 1. Obtain approval of the company name from the Ministry of Commerce, 2. Pay stamp duty at the Ministry of Finance, 3. Register the company with the Registrar of Companies, 4. Register for income tax, goods tax, and sales tax, 5. Register as an employer with the National Provident Fund, 6. Make a company seal, 7. Pay a business license fee at the Honiara Council. The latter, step 7, takes only a single day and costs SI\$1,000 (US\$126). See p53-54.

References:

Ronaldo Albert, Deputy Director, Business Development Division, Ministry of Commerce, Industries, Employment & Immigration, Interview, May 12, 2009, Honiara

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009, Honiara

The World Bank's Doing Business 2009 country profile for Solomon Islands, <http://www.doingbusiness.org/Documents/CountryProfiles/SLB.pdf>

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

Comments:

The World Bank's Doing Business 2009 country profile for Solomon Islands suggests that the cost of a business license fee at the Honiara Council is SI\$1,000 (US\$126). See p53-54.

References:

Romaldo Albert, Deputy Director, Business Development Division, Ministry of Commerce, Industries, Employment & Immigration, Interview, May 12, 2009, Honiara

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara

Ashley Wickham, Political Adviser, Prime Minister's Office, May 9, 2009, Honiara

The World Bank's Doing Business 2009 country profile for Solomon Islands,
<http://www.doingbusiness.org/Documents/CountryProfiles/SLB.pdf>

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:

Labor Act, Cap , Laws of Solomon Islands, 1996 Consolidation, Part IX, S.64-74,
http://www.paclii.org/sb/legis/consol_act/la84/

Labor (Housing Standards) rules, Subsidiary Legislation to the Labor Act, Laws of Solomon Islands, 1996 Consolidation,
http://www.paclii.org/sb/legis/consol_act/la84/

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:

Environment Act, 1998,

http://www.paclii.org/sb/legis/num_act/ea1998159/

Part IV deals with the control of pollution.

S. 17-18 sets out the application process to the Ministry of the Environment as regards prescribed developments.

The annexed second schedule outlines prescribed developments, which include most types of business activity.

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:

Labor (Notification of Ionising Radiations) Rules, Subsidiary legislation to the Labor Act, Laws of Solomon Islands, 1996 Consolidation,

http://www.paclii.org/sb/legis/consol_act/la84/

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?

17

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:

As regards SOLTAI (the government-owned fishing company), the European Union requirements for fisheries imports mean that inspections are being conducted in a highly rigorous and regular fashion.

References:

Romaldo Albert, Deputy Director, Business Development Division, Ministry of Commerce, Industries, Employment & Immigration, Interview, May 12, 2009, Honiara

Tony Hughes, Transparency International & Chairman of the Board of SOLTAI, Interview, May 10, 2009, Honiara

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:

Inspections and investigations are rarely carried out according to a fixed schedule, and where conducted this is done in a fairly arbitrary manner. In most cases, regulations are simply ignored.

References:

Romaldo Albert, Deputy Director, Business Development Division, Ministry of Commerce, Industries, Employment & Immigration, Interview, May 12, 2009, Honiara

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

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:

Inspections and investigations are rarely carried out according to a fixed schedule, and where conducted this is done in a fairly arbitrary manner. In most cases, regulations are simply ignored.

References:

Romaldo Albert, Deputy Director, Business Development Division, Ministry of Commerce, Industries, Employment & Immigration, Interview, May 12, 2009, Honiara

Ofani Eremae, Editor, Solomon Star, Interview by telephone, May 18, 2009

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. ⁷⁸Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

YES | NO

References:

Penal Code, Chapter 26, Part X, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

Leadership Code (Further Provisions) Act 1999, Part III,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

Penal Code, Chapter 26, Part X, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

Leadership Code (Further Provisions) Act 1999, Part III,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

Penal Code, Chapter 26, Part X, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

Leadership Code (Further Provisions) Act 1999, Part III,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

Penal Code, Chapter 26, Part X, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

Leadership Code (Further Provisions) Act 1999, Part III,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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

References:

Penal Code, Chapter 26, Part X, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

Leadership Code (Further Provisions) Act 1999, Part III,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

Penal Code, Chapter 26, Part X, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

Leadership Code (Further Provisions) Act 1999, Part III,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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:

Leadership Code (Further Provisions) Act 1999, Part III,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

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

References:

Financial Institutions Act 1998,
http://www.paclii.org/sb/legis/num_act/fia1998258/

Money Laundering and Proceeds of Crime Act 2002,
http://www.paclii.org/sb/legis/num_act/mlapoca2002338/

Money Laundering & Proceeds of Crime (Amendment) Act, 2004,
http://www.paclii.org/sb/legis/num_act/mlapoca2004418/

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

Comments:

Penal Code, Chapter 26, Part XL, S. 385 'Any person who conspires with another to effect any of the purposes following, that is to say- (a) to effect any unlawful purpose; or (b) to effect any lawful purpose by any unlawful means, is guilty of a misdemeanor.'

References:

Penal Code, Chapter 26, Part XL, S. 385, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/.

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?

61

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

Comments:

The Chairman of the Leadership Code Commission suggested that, although there is nothing in law protecting him from political interference, the conditions of his contract give him similar protections to a high court judge.

References:

1. Leadership Code Commission – There is nothing explicit in the Leadership Code Commission Act 1999 that protects the

commission from political interference.
(Leadership Code (Further Provisions) Act 1999, http://www.paclii.org/sb/legis/num_act/lcpa1999358/).

2. There is nothing explicit in the Police Act protecting the Solomon Islands Police Force from political interference. However, it is provided that no police officer shall take any active part in any political organization or electoral campaign or engage in any other activity which is likely to interfere with the impartial discharge of his duties under this Act.”
(Police Act, CAP 110, Laws of the Solomon Islands, Part II, S.5. Part III, 14b,
available http://www.paclii.org/sb/legis/consol_act/pa75/).

3. There is nothing explicit in the Constitution protecting the courts from political interference
(The Constitution of Solomon Islands, 1978, Chapter VII, http://www.paclii.org/sb/legis/consol_act/c1978167/).

4. The Constitution protects the Ombudsman from political interference: “In the discharge of his functions the Ombudsman shall not be subject to the direction or control of any other person or authority and no proceedings of the Ombudsman shall be called in question in any court of law.” Constitution, Chapter IX, 98, (1) http://www.paclii.org/sb/legis/consol_act/c1978167/

5. The Constitution protects the Director of Public Prosecutions from political interference – “In the exercise of the powers conferred on him by this section the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.”
(1978 Constitution Chapter VII, S. 91, 7, http://www.paclii.org/sb/legis/consol_act/c1978167/).

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:

During the course of investigations, politicians sometimes do not cooperate or they confront the investigators with strong words. However, there is a history of prosecution and imprisonment of politicians, including even a former prime minister. During 2008, there were no obvious or well-known cases of political interference in the work of anti-corruption agencies. On the other hand, as government employees, those working with the Leadership Code Commission may face political pressures.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

Although there is nothing explicit in the Leadership Code Act prohibiting removal without relevant justification, the chairman of the Leadership Code Commission explains that such protection has been inserted into his contract of employment. This states that the post-holder can only be removed following the same procedure required to remove a High Court judge, i.e., for things like incapacity, unsound mind etc. As for judges, it is necessary to set up a tribunal (for the procedures required to remove a High Court judge, see (Constitution of Solomon Islands, 1978, Chapter VII, 87, (1) http://www.paclii.org/sb/legis/consol_act/c1978167/).

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

Yes, although not all are professional lawyers.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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 12 full-time established positions. However, the Leadership Code Commission lacks trained investigators and the office requires capacity building.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

There is a lack of funds for education/outreach, per the Chairman of the Commission.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

This is not required under the law. The reports are made confidentially to the minister. This is an administrative requirement, not a legal one.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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.

Comments:

The Leadership Code Commission lacks sufficient powers. The financial penalties are too low (SI\$1,000= US\$127) although there is an option of imprisonment for a year in addition to the fine.

See Leadership Code (Further Provisions) Act 1999, http://www.paclii.org/sb/legis/num_act/lcpa1999358/.25

While there have been instances when miscreants have been dismissed from their positions, it is apparent that few have been prosecuted or referred to the Leadership Code Commission thus far"

An Auditor-General's Insights into Corruption in Solomon Islands Government, Office of the Auditor-General, Oct. 31, 2007 p18, <http://www.oag.gov.sb/2007%20PAC%20REPORTS>

An%20Auditor%20General's%20Insights%20into%20Corruption%20in%20SIG%20-%20October%202007.pdf)

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Solomon's government members investigated,

Radio Australia, Pacific Beat, Oct. 10, 2008

<http://www.abc.net.au/ra/programguide/stories/200810/s2387401.htm>

Fined Solomon politician to appeal decision,

Radio New Zealand International, March 22, 2006,

<http://www.rnzi.com/pages/news.php?op=read&id=22968>.

Solomon Islands commission says it has a right to summon journalists,

Radio New Zealand International, Feb. 12, 2009,

<http://www.rnzi.com/pages/news.php?op=read&id=44760>.

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?

50

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

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

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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

Comments:

The executive director of Transparency Solomon Islands says that 1. Many Solomon Islands citizens do not know what the Leadership Code Commission is, and do not report misdemeanors. 2. If they know of incidents of corruption, many are complacent. 3. If they want to report such incidents, there is a fear of the 'big man' [explanation- the term used to refer to political leaders in Solomon Islands].

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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

Comments:

The government established an Anti-Corruption Task Force in February 2009 consisting of the Special Secretary to the Prime Minister (chair), the Auditor General, Leadership Code Commission Chairman, Ombudsman, Attorney General, Public Service Commission chair, Director of Public Prosecutions, Accountant General, Transparency Solomon Islands, Solomon Islands Chamber of Commerce, and the Law Reform Commission. The intention is to establish an Independent Commission against Corruption (ICAC), and to strengthen anti-corruption legislation.

References:

1. Leadership Code (Further Provisions) Act 1999, Part 1, S. 4, 1-2,

http://www.paclii.org/sb/legis/num_act/lcpa1999358/

It establishes the Leadership Code Commission, and provides the necessary subsidiary legislation to enforce the Leadership Code set out in the Constitution (The Constitution of Solomon Islands, 1978, – chapter

VIII, http://www.paclii.org/sb/legis/consol_act/c1978167/).

2. The Solomon Islands Police Force is entrusted with the 'maintenance and enforcement of law and order' throughout the country.

(Police Act, CAP 110, Laws of the Solomon Islands, Part II, S.5, http://www.paclii.org/sb/legis/consol_act/pa75/).

3. The Constitution establishes the High Court and the Court of Appeal, (The Constitution of Solomon Islands, 1978, Chapter VII, http://www.paclii.org/sb/legis/consol_act/c1978167/).

4. An Ombudsman is established who, although not duplicating other public service functions, is entrusted to 'inquire into the conduct of any person to whom this section applies in the exercise of his office or authority, or abuse thereof' (Constitution, Chapter IX, 97, (1a) http://www.paclii.org/sb/legis/consol_act/c1978167/).

5. The Director of Public Prosecutions is entrusted to 'institute and undertake criminal proceedings against any person before any court (other than a court-martial) in respect of any offense alleged to have been committed by that person' (1978 Constitution Chapter VII, S. 91, 4a, http://www.paclii.org/sb/legis/consol_act/c1978167/).

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.

70 VI-3. Rule of Law

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

58

77a. In law, there is a general right of appeal.

YES | NO

References:

The Constitution of Solomon Islands, 1978, Chapter VII, 85.(1)
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

Former Judge Frank Kabui could not recollect any such appeals, but suggested that these should be able to be dealt with within three months.

The chairman of the Leadership Code Commission pointed out that there is currently one case under appeal, and that the relevant Leadership Code Commission decision occurred more than three years ago.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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

Comments:

Frank Kabui points out that this entails a subjective test. For less well off citizens, the costs associated with filing appeals may be prohibitive.

Emmanuel Kouhota points out that although the filing fees are reasonably low, the costs of taking on a lawyer are potentially much larger.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

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:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

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?

100

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

100 | 75 | 50 | 25 | 0

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

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?

50

80a. In law, the independence of the judiciary is guaranteed.

YES | **NO**

Comments:

There is nothing explicit in the Constitution that protects the judiciary from political interference. However, there are restrictions on the government's ability to arbitrarily dismiss judges.

References:

The Constitution of Solomon Islands, 1978, Chapter VII, S.80, 4-8,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

In recent times there have not been situations where there has been political interference, either during the trial or during the writing of judgments, even in cases where the result has been ministers being sent to prison.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

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:

The system of case assignment is entirely at the discretion of the chief justice. There is nothing in law indicating how this should be done.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

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 Constitution of Solomon Islands, 1978, Chapter VII, S.80, 4-8,
http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

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:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

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?

86

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

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.

100 | 75 | 50 | 25 | 0

Comments:

The judicial system is open to everyone, if necessary via the Public Solicitor's Office with costs met by the government. The Public Solicitor is provided for in the constitution.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

Constitution of Solomon Islands, 1978, http://www.paclii.org/sb/legis/consol_act/c1978167/, Chapter VII, S. 92

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

References:

SI Constitution Section 92.4:

The functions of the Public Solicitor are to provide legal aid, advice and assistance to persons in need in such circumstances and subject to such conditions as may be prescribed by Parliament, and in particular – (a) to provide legal aid, advice and assistance to any person in need who has been charged with a criminal offense; and (b) to provide legal aid, advice and assistance to any person when directed to do so by the High Court.”

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:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

The Constitution of Solomon Islands, 1978, Chapter VII, S.92,

http://www.paclii.org/sb/legis/consol_act/c1978167/

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:

The Public Solicitor's Office operates a means testing system whereby those earning under \$SI6,000 (US\$762) per annum are eligible for legal aid. Those earning over \$SI6,000 (US\$762) per annum may be granted legal aid at the discretion of the Public Solicitor's Office. If refused, they can go to the High Court and ask for an order.

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

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

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

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:

The Public Solicitor's Office has branches out in the provinces, even in some of the remoter parts (e.g. Temotu).

References:

Frank Kabui, Chairman, Solomon Islands, Law Reform Commission, Interview, May 7, 2009

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?

50

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

There has been a marked improvement over recent years, but there are still major issues as regards gender balance and balance as regards island groups. During the troubles of 1998-2003, preponderance of officers from the island of Malaita (particularly in the Police Field Force, the paramilitary group) proved a major difficulty.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Ashley Wickham, Political Adviser in the Prime Minister's Office, Interview, May 9, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Dr Phillip Tagini, Global Lawyers, Interview by telephone, May 19, 2009

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:

There are major budgetary constraints, and the police are under-resourced. Shortage of vehicles and fuel is a major problem. Complaints about the lack of police presence in the provincial capitals have been aired before the parliamentary Foreign Relations Committee's recent hearings reviewing the Regional Assistance Mission to the Solomon Islands around the country.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

Dr Phillip Tagini, Global Lawyers, Interview by telephone, May 19, 2009

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

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

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?

71

84a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

References:

The Police Act (Part V, S. 36-37, Cap 110, Laws of the Solomon Islands, 1996 Consolidation, provides for an internal disciplinary procedure, but it is not independent. There is a right of appeal to the Police and Prisons Service Commission. http://www.paclii.org/sb/legis/consol_act/pa75/

The Ombudsman is explicitly given powers to investigate complaints regarding the police force in the Constitution. (The Constitution of Solomon Islands, 1978, Chapter IX, S. 97. (3) http://www.paclii.org/sb/legis/consol_act/c1978167/).

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:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

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 Leadership Code Commission is, in law, able to investigate corruption among senior law officers. The courts can and have prosecuted senior police officers. The Ombudsman is also able to investigate police corruption. There exist provisions for the internal disciplining of police officers as well.

References:

Leadership Code (Further Provisions) Act 1999,
http://www.paclii.org/sb/legis/num_act/lcpa1999358/

Penal Code, Chapter 26, Laws of the Solomon Islands,
http://www.paclii.org/sb/legis/consol_act/pc66/

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:

There is an internal complaints procedure and, where necessary, the possibility of a reference to the Leadership Code Commission.

References:

Emmanuel Kouhota, Chairman Leadership Code Commission, Interview, May 6, 2009

Dr Phillip Tagini, Global Lawyers, Interview by telephone, May 19, 2009

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

Comments:

Facilitation of International Assistance Act, 2003, http://www.paclii.org/sb/legis/num_act/foiaa2003386/. 17.

(1) Members of the visiting contingent, the assisting country, and any other country whose personnel are members of the visiting contingent, shall have immunity from legal proceedings in Solomon Islands courts and tribunals in relation to actions of the visiting contingent or its members that are taken in the course of, or are incidental to, official duties.

(2) Criminal and disciplinary jurisdiction shall not be exercised over a member of the visiting contingent arising out of an action taking place in Solomon Islands if such jurisdiction is asserted over that member in respect of that action by a country referred to in section 3(l)(b).

(3) Where criminal and disciplinary jurisdiction has been exercised over a member of the visiting contingent arising out of an

action taking place in Solomon Islands, that jurisdiction will be relinquished to a country referred to in section 3(1)(b) if that country asserts jurisdiction over that member in respect of that action.

(4) In this section, legal proceedings" include criminal, civil, disciplinary and administrative proceedings, and proceedings seeking to enforce customary law.

(5) For this section, the Minister responsible for justice shall be deemed to have directed the Director for Public Prosecutions that he is to initiate no action with respect to members of the visiting contingent for actions referred to in subsections (1) and (2), unless the assisting country has expressly consented to the exercise of such jurisdiction.

(6) The assisting country may waive immunity granted by this section.

References:

Solomon Islander law enforcement officials are not immune from criminal proceedings.

See The Police Act, Cap 110, Laws of the Solomon Islands, 1996 Consolidation,

http://www.paclii.org/sb/legis/consol_act/pa75/.

Foreign police serving under the Regional Assistance Mission to the Solomon Islands are immune from criminal proceedings.

See Facilitation of International Assistance Act, 2003, S. 17, 1-6,

http://www.paclii.org/sb/legis/num_act/foiaa2003386/.

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:

In practice, RAMSI has chosen to waive immunities under the 2003 Facilitation of International Intervention Act in some cases.

References:

Frank Kabui, Chairman, Solomon Islands Law Reform Commission, Interview, May 7, 2009

Jean Tafoa, Executive Director, Transparency Solomon Islands, Interview, May 11, 2009, Honiara

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.

