

Overall Score:

65 - Weak

Legal Framework Score:

78 - Moderate

Actual Implementation Score:

51 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. Civil Society Organizations

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

100

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

YES

NO

Comments:

Like any other groups, including businesses, citizens are free to form civil society organizations focused on anti-corruption or good governance. However, such civil society organizations must register with the appropriate institutions, including the Registrar-General's Department, the Department of Social Welfare and the local authority within which it operates. There is still no NGO legislation in Ghana and NGOs are guided by the general laws on registration of businesses.

References:

Chapter 5, Article 21 (1) (e) of Ghana's 1992 Constitution provides for the freedom to form or join trade unions or other associations for the protection of one's interests. This includes the formation of civil society organizations focused on anti-corruption and good governance.

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

Comments:

There is no regulatory legislation for civil society funding or operations in Ghana. However, anti-corruption CSOs are careful about their sources of funding, considering the nature of their work.

References:

The 1992 Constitution of Ghana does not restrict the funding sources of anti-corruption and good governance CSOs. There is also no other legislation that restricts anti-corruption civil society organizations or any other civil society organization from receiving funding from either domestic or foreign sources. As an officer of a civil society organization that works on anti-corruption, I have not come across any such law or any such restriction.

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

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

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

YES | NO

Comments:

All nongovernmental organizations are required to file returns with the Registrar General's office. However, this is merely a formality as they are not verified or made publicly accessible. Many CSOs also do not comply.

References:

Section 123 of the Companies Code, 1963 (Act 179) requires that nongovernmental organizations file annual returns with the Registrar General. These returns should include their incomes and expenditures.

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?

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:

Officially, the government does not create any barriers for anti-corruption CSOs. However, there are sometimes technical barriers to the work of CSO working on anti-corruption including government giving them recognition and accepting the findings from their work.

References:

Lawyer John Opoku of Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There are some barriers to the work of CSO working on anti-corruption including government giving them recognition and acceptance the findings from their work.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

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

75:

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

25:

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

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

YES

NO

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackumey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

Also, no newspaper reporting has shown any such cases

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

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

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

100

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

YES

NO

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.
Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009 at 11:30 a.m.
Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

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

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

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

YES | NO

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.
Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009 at 2:30 p.m.
Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.
Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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

YES | NO

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.
Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009 at 2:30 p.m.
Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.
Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

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

4. Can citizens organize into trade unions?

88

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

YES | NO

Comments:

There are procedures that citizens have to follow if they are organizing into trade unions and to qualify to negotiate with their employers.

References:

Article 21 (1) (e) of the 1992 Constitution of Ghana provides for freedom of association, including freedom to form or join trade unions. Also, Section 10(d) of the Labour Act, 2003 (Act 651) provides for the right of citizens to organize into trade unions.

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 general, citizens are able to organize into trade unions. However, some institutions make it difficult to form such unions, especially in cases where there is already an existing union and an attempt is made to split that union. Employers become comfortable with the leaders of such unions and try to frustrate new ones from coming up.

References:

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

100: Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

I-2. Media

5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

YES

| NO

References:

Article 21(1)(a) and Article 162, Section 1 of the 1992 Constitution of Ghana guarantee the freedom of the media. Article 166 of the Constitution provides for the setting up of an independent National Media Commission to promote and ensure the freedom and independence of the Media. Also, Section 4 of the National Media Commission Act, 1993 (Act 449) provides for the independence of journalists.

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

NO: A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

References:

Section 1(a) of Article 21 of the 1992 Constitution of Ghana guarantees freedom of speech and expression, including freedom of the press and other media.

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:

It appears that it is easier to register the print media than the broadcast or TV and radio media.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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 appeals mechanism if a license is denied or revoked.

YES

NO

Comments:

There is no law requiring the licensing of the print media. However, the media commission makes regulations for the registration of newspapers and other publications by the media but one can appeal to the appropriate minister or proceed to a court of competent jurisdiction if one is not satisfied with the decisions of the commission.

References:

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

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

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

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

100

75

50

25

0

Comments:

Chapter 12 of the Constitution stipulates that one does not need a license before forming a print media. However, the National Media Commission has its own registration database of all such print media houses. There are some regulations when it comes to obtaining radio and TV licenses, including operating within a specified frequency.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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:

Chapter 12 of the Constitution stipulates that one does not need a license before forming a print media. However the National Media Commission has its own registration database of all such print media houses.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.
Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.
Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.
Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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?

69

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

100 | 75 | 50 | 25 | 0

Comments:

There were some regulations when it comes to obtaining radio and TV licenses, including operating within a specified frequency. With regards to registration/obtaining a radio or TV license one is required to pay 100 Ghana cedis (US\$69)

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.
Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.
Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

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 appeals mechanism if a license is denied or revoked.

YES | NO

References:

Section 12 of the National Media Commission Act, 1993 (Act 449). The judiciary is the final arbiter in the case of any dispute or if a license is denied or revoked.

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:

There are some regulations when it comes to obtaining radio and TV licenses, including operating within a specified frequency. With regards to registration/obtaining a radio or TV license one is required to pay 100 Ghana cedis (US\$69)

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.
Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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:

With regards to registration obtaining a radio or TV license one is required to pay 100 Ghana cedis (US\$69)

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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

75:

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

25:

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

8. Can citizens freely use the Internet?

100

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

100 | 75 | 50 | 25 | 0

Comments:

A new ICT Bill is now being drafted to regulate the Internet. It is envisioned that the new regulations will be aimed at controlling the use of the Internet to defraud citizens, known in local parlance as sakawa” as well as pornography. For now, all respondents scored the same for this question.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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:

A new ICT Bill is being drafted to regulate the use of Internet. It is envisioned that the new regulations will be aimed at controlling the use of the Internet to defraud citizens, known in local parlance as sakawa” as well as pornography. Currently, there is no attempt to censor Internet publications at all.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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?

92

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

YES | NO

Comments:

Although it is legal to report accurate news even if it damages the reputation of a public official, the media sometimes cowers at the possibility of a civil case of libel. Past experience has shown high payment of damages that can render a media outlet bankrupt.

References:

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

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

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

100 | 75 | 50 | 25 | 0

Comments:

Except one respondent, the rest think that there are no attempts to encourage self-regulation of media practitioners. Freedom of information, including the freedom of the media, is a feature of Ghana's democracy, and there has been a rapid increase of media outlets in the last decade. Journalists are allowed and encouraged to publish and broadcast the truth without any restraint. However, editors decide what to publish and what not to publish, and one can not completely rule out political considerations.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.
Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.
Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.
Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Ghana, Mali, and Mauritius had the highest press freedom ranking in Africa in Freedom House's annual Freedom of the Press Report released in Washington, D.C.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.
Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.
Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.
Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.
http://en.wikipedia.org/wiki/Reporters_Without_Borders
Africa: Press Freedom Declines in Eight Countries.
http://www.portalangop.co.ao/motix/en_us/noticias/africa/Press-Freedom-Declines-Eight-Countries,0fb2dd85-7354-4279-b669-4c7f9c7a5016.html

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

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing

favorable coverage.

10. Are the media credible sources of information?

70

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

YES | NO

References:

Section 14 (e) of the National Media Commission Authority Act, 1996 (Act 524) requires operators of communications systems to provide to the authority such documents, accounts, estimates, returns or other information as the authority may require for the purpose of exercising the functions conferred on it. Section 15 also bars transferrability of the licence to operate the system. Thus, while not specifically requiring disclosure of ownership, the documents required could include ownership.

YES: A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

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

YES | NO

References:

Section 14 (e) of the National Media Commission Authority Act, 1996 (Act 524) requires operators of communications systems to provide to the authority such documents, accounts, estimates, returns or other information as the authority may require for the purpose of exercising the functions conferred on it. Section 15 also bars transferrability of the licence to operate the system. Thus, while not specifically requiring disclosure of ownership, the documents required could include ownership.

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 types of entities or agents from being publicly disclosed.

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

Comments:

In terms of credibility of media information, some print media outlets are believed to sometimes concoct some stories. There is also a politicization of media outlets with most media being sympathizers of a political party. Hence, they hardly carry out good analysis in their reporting.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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.

Comments:

There are some media outlets that are known and actually support particular political parties and candidates. So these media outlets provided biased coverage to the party and candidate of their choice. There were deliberate efforts by the government's media outlets to provide fair coverage to all parties and candidates. All the same, there were complaints by some parties about unfair coverage. Also, the bigger parties had more money and took out more advertisements than the smaller ones.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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

75:

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

25:

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

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

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

Comments:

There are a number of state-owned media outlets in Ghana, and there were deliberate efforts by these media outlets to provide fair coverage to all parties and candidates. All the same, there were complaints by some parties about unfair coverage. Also, the bigger parties had more money and took out more advertisements in the state media than the smaller ones. In fact, there were questions and concerns about the possible non-payments by the ruling party for such advertisements.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

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?

67

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

YES | NO

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

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

YES | NO

Comments:

There is a recent case of the bodyguard of the former president dragging a journalist on the floor when the reporter tried to interview the former president at a public function.

There were reports of an attack on the photojournalist on the former president's entourage to Kumasi. Babs Hammer was assaulted by the security detail and policemen accompanying the NPP presidential candidate and later dumped at the Buffalo Unit of the Kumasi Central Police station.

Similar cases had also been reported earlier. However, the state rarely physically harms a journalist. In most cases, it is orchestrated by supporters of political parties.

When corruption is defined to cover abuse of one's power or position and use of such power to censor reporting, then one can say that journalists were physically harmed, especially as nothing was done to the perpetrators. The journalists who were physically harmed in the last year were not investigating corruption but journalists' work covers virtually everything and they could ask questions on corruption when granted interviews.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

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Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

Dorcas Efe Mensah/myjoyonline.com/Ghana.

Bismark Bebli, The Ghanaian Chronicle, Dec. 16, 2008: Ghana: Fallout of Manhyia Episode"

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:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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.

85
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

Comments:

A Right to Information Bill has been pending since 2002, and in spite of promises by the then government and the current government, it has not been brought before Parliament for consideration.

References:

Article 21 of the 1992 Constitution of Ghana provides for the freedom of information. This needs to be reinforced by an Act of Parliament.

YES: A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

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

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

YES | **NO**

Comments:

A Right to Information Bill has been pending since 2002, and in spite of promises by the then government and the current government, it has not been brought before Parliament for consideration.

References:

Article 21 of the 1992 Constitution of Ghana provides for the freedom of information. This needs to be reinforced by an Act of Parliament.

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

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

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

YES | **NO**

Comments:

A Right to Information Bill has been pending since 2002, and in spite of promises by the then government and the current government, it has not been brought before Parliament for consideration.

References:

Article 21 of the 1992 Constitution of Ghana provides for the freedom of information. This needs to be reinforced by an Act of Parliament.

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

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

13. Is the right of access to information effective?

21

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

100 | 75 | 50 | 25 | 0

Comments:

It is possible for citizens to obtain information, but this is usually dependent on the mood, personal relationships and trust of the public official having custody of the information.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.
Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.
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Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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:

There is no access to information mechanism in place.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.
Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.
Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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

75:

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

25:

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

13c. In practice, responses to information requests are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

There is an improving response to requests for information from public institutions in spite of the lack of a right to information law.

Requests for information from government agencies are either refused or granted. However, where such requests are granted, they often meet the needs of those making the requests. One can, therefore, conclude that to some extent the responses to such requests are of high quality.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

100: Responses to information requests typically address the requestor's questions in full and are not redacted or edited to remove sensitive information.

75:

50: Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

25:

0: The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

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

100 | 75 | 50 | 25 | 0

Comments:

Since there is no right to information law, there are no appeals mechanisms. The timeliness of the information will depend on the goodwill and personal pre-disposition of the officer expected to provide the information.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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.

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

100 | 75 | 50 | 25 | 0

Comments:

Since there is no right to information law, there are no appeals mechanisms. The cost, if any, to obtain (not appeal) information will depend on the goodwill and personal pre-disposition of the officer expected to provide the information. There may not be any official charge but people tend to pay facilitation money or show appreciation afterwards.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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.

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

100 | 75 | 50 | 25 | 0

Comments:

It is often easy to cite national interest or national security as reasons for denying information request.

References:

Mr. George Sarpong, Executive Secretary of the National Media Commission, interviewed on Friday, Aug. 28, 2009, at 2:55 p.m. in his office.

Ms. Yaa Oforiwaa, Editor, Ghana News Agency (GNA), interviewed on Thursday, Aug. 27, 2009, at 2:30 p.m. at the GNA offices.

Mr. Fortune Alimi, Editor, Daily Guide Newspaper, interviewed at the Daily Guide offices on Friday, Sept. 4, 2009, at 4:15 p.m.

Mrs. Jeannette Quarcopome, Executive Secretary, Media Foundation for West Africa, interviewed on Sept. 7, 2009, in their offices at 11:15 a.m.

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. ⁶⁰Voting & Citizen Participation

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

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

YES | NO

Comments:

There are other conditions such as you must be of sound mind and not a convicted criminal, but these apply in several other jurisdictions globally.

References:

Article 42 of the 1992 Constitution of Ghana guarantees all citizens 18 years and above old the right to vote – universal and equal adult suffrage.

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:

Ghana has set the record of not only holding elections every four years, but has a specific day for national elections (Dec. 7). Local authority elections are also held every four years, although not in the same year as the national elections. However, this arrangement tends to influence the outcome of the local authority elections as ruling parties are in a better position to influence them and usually do, exploiting incumbency.

References:

Article 66 of the 1992 Constitution of Ghana and the Representation of the People Law, 1992 (PNDC L 284)

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

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

15. Can all citizens exercise their right to vote?

83

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

100 | 75 | 50 | 25 | 0

Comments:

All citizens, except prisoners and mentally deranged citizens, are allowed to vote. A civil society has started a campaign to get prisoners to vote but this has not been successful.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

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:

Generally, voting is done behind a polling booth but in some cases, the booth may not be fully covered or some electoral officials abuse their position and try to expose the voters. Some people who are illiterate or physically handicapped sometimes ask for assistance and polling staff may move with them to the booth.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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 are held every four years on a specific day, Dec. 7. Efforts to move the 2008 elections because they fell on a Sunday failed as the Electoral Commission would not budge.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

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

80

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

YES | NO

Comments:

Social and economic constraints make it impossible for the majority of citizens to form political parties or to run for public office. Political pressures are also often brought to on people who plan to form parties or to run for public office, asking them to withdraw.

References:

Article 55(1) of the 1992 Constitution of Ghana guarantees the right to form political parties. Article 55(2) guarantees the right of every citizen to join a political party.

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

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

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

YES | NO

Comments:

However, social and economic constraints make it impossible for the majority of citizens to form political parties or to run for public office. Political pressures are also often brought to bear on people who plan to form parties or to run for public office to withdraw.

References:

Article 55 (10) gives every citizen of voting age the right to participate in political activity intended to influence the composition and policies of the government. Section 2(1) of the Political Parties Act, 2000 (Act 574).

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

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

100 | 75 | 50 | 25 | 0

Comments:

Social and economic constraints make it impossible for the majority of citizens to form political parties or to run for public office. Political pressures are also often brought to bear on people who plan to form parties or to run for public office, forcing them to withdraw. Political parties are difficult to run and involve huge financial and social resources. Thus, it is not easy for any citizen to form a political party.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP

headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary. Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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:

There are so many obstacles faced by citizens wishing to run for political office. These include resource constraints, cultural beliefs and practices, limited number of political positions, frustrations by incumbents and influential party officials, etc.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary. Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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.

Comments:

There is more than one opposition party represented in Parliament, although the smaller parties usually sit and vote with the ruling party.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.
 Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.
 Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

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

75:

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

25:

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

II-2. Election Integrity

18. Is the election monitoring agency effective?

70

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

YES | NO

References:

Article 46 of the 1992 Constitution of Ghana clearly states that the Electoral Commission, in the performance of its duties, shall not be subject to the direction or control of any person or authority. Section 3 of the Electoral Commission Act, 1993 (Act 451) reinforces the independence of the Commission.

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:

It is believed that appointments to top positions, such as the Commissioners, are influenced by political leanings. However, once appointed they can not be removed and in the last one year, vacancies have not been available for such appointments to be made.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Election results are announced and published within one week following elections. However, formal written reports could take much longer and the public does not show interest in such a report once the election results are published.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary. Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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:

Electoral irregularities are left to the police and the judiciary to handle. Where the Electoral Commission has power to impose

penalties, it does not make use of such powers.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

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?

79

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

100 | 75 | 50 | 25 | 0

Comments:

During the last voters' registration exercise, there were accusations and counter-accusations by the various political parties of the "bussing" of voters to register at places other than their electoral areas. There were also media reports of such illegal acts.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

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

75:

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

25:

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

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

YES | **NO**

References:

The 1992 Constitution of Ghana, Section 16 of the Political Parties Act, 2000 (Act 574) and the Representation of the People Law, 1992 (PNDCL 284) all provide that election results can be contested through the judicial system.

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:

Following the 2008 general elections, a number of complaints were effectively appealed through the judicial system. There were recounting in some areas and re-runs in some areas decided by the courts.

Of course, the losers were dissatisfied but the decisions did not go in the favour of one political party. However, several allegations of attempted rigging were not successfully pursued for various reasons.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

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

100 | 75 | 50 | 25 | 0

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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:

Both internal and external monitors have always monitored Ghana's elections without any obstruction. However, these monitors do not have power to do anything about irregularities except to report on them at the end of the elections.

References:

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

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

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

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

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

Comments:

The Electoral Commission conducts and monitors elections but can only report irregularities to the police, which can effect arrests.

National and international observers, including NGOs, observe (but not monitor) the elections and cannot do anything about irregularities except to draw the attention of the law enforcement agencies to such irregularities.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

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

YES

NO

Comments:

The Electoral Commission has a dual mandate, that is, to conduct elections and to supervise elections. Both government and nongovernmental organizations, both inside and outside the country, monitor elections but they cannot do anything about irregularities except to report on it.

References:

Article 43 of the 1992 Constitution of Ghana provides for the establishment of the Electoral Commission. Article 45 (c) of the said Constitution states that the EC shall conduct and supervise all public elections and referenda.

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.

83 II-3. Political Financing

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

33

20a. In law, there are limits on individual donations to political parties.

YES

NO

Comments:

However, there are no limits on the private contributions to political parties once it is coming from Ghanaians or corporate bodies with 75 percent ownership by Ghanaians.

References:

Article 55 of the 1992 Constitution of Ghana and Section 24 of the Political Parties Act, 2000 (Act 574) make it illegal for non-citizens to contribute to political parties.

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.

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

YES | **NO**

Comments:

A citizen allegedly contributed/pledged one billion cedis (US 695,850,780) to the campaign of a presidential candidate during the primaries of the National Patriotic Party at a fundraising event.

References:

Section 23 of the Political Parties Act, 2000 (Act 574) states that only a citizen may contribute in cash or kind to a political party. A firm, partnership or enterprise that is registered under the laws of Ghana with at least 75 percent of its capital owned by a citizen, is a citizen. However, there are no ceilings on the amount that can be contributed once the corporate body qualifies.

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.

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

YES | **NO**

References:

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

YES: A YES score is earned if there are any limits in size on political party expenditures during the course of an election.

NO: A NO score is earned if there are no limits on political party expenditures during an election. 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 requirements for the disclosure of donations to political parties.

YES | NO

References:

Article 55 (17) of the 1992 Constitution mandates Parliament to enact laws to regulate the establishment and functioning of political parties. The Political Parties Act, 2000 (Act 574).

Section 13 of the Political Parties Act, 2000 (Act 574) requires that political parties submit a written declaration of all their assets and expenditures, including contributions or donations in cash and kind made to the initial assets of the party by the founding members, within 90 days of receipt of their final certificate of registration. The declarations should be made to the Electoral Commission. They must state the sources of funds and other assets of the political party.

Section 14 also makes similar requirements before and following a general election.

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.

20e. In law, there are requirements for the independent auditing of the finances and expenditures of political parties when financial irregularities are uncovered.

YES

NO

References:

Article 55 (14) of the 1992 Constitution requires that political parties declare to the public their revenues and assets and the sources of those revenues and assets. Similarly, political parties are required to publish to the public annually their audited accounts.

However, Section 13 of the Political Parties Act, 2000 (Act 574) requires that a political party submit a written declaration of all its assets and expenditures, including contributions or donations in cash and kind made to the initial assets of the party by the founding members, within 90 days of receipt of their final certificate of registration. The declarations must state the sources of funds and other assets of the political party. Rather than submitting the declaration to Ghanaians, the Act of Parliament puts it on the Electoral Commission and shifts the constitutional requirement of publication to the Electoral Commission and not the political party.

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. 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 when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.

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

YES

NO

References:

Both the Constitution and the Political Parties Act 2000 (Act 574) are silent on the monitoring of the financing of political parties. However, Section 13 (6) of the Act gives the Electoral Commission the power to cancel the registration of a political party if it refuses or neglects to comply with the requirement to declare its revenues and expenditures or makes false declarations.

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. A NO score is also earned if this monitoring is solely carried out by the media and civil society organizations.

21. Are there regulations governing the financing of individual political candidates?

0

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

YES | **NO**

References:

The current legal framework, that is, the 1992 Constitution and the Political Parties Act, 2000 (Act 574) do not limit individual donations to individual political candidates.

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.

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

YES | **NO**

References:

The current legal framework, that is the 1992 Constitution and the Political Parties Act, 2000 (Act 574) do not limit corporate donations to individual political candidates.

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.

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

YES | NO

References:

The current legal framework, that is the 1992 Constitution and the Political Parties Act, 2000 (Act 574) do not require the disclosure of donations to individual political candidates.

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

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

21d. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates when irregularities are uncovered.

YES | NO

References:

The current legal framework, that is the 1992 Constitution and the Political Parties Act, 2000 (Act 574) do not require the independent auditing of the campaign finances of individual political candidates.

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 when financial irregularities are uncovered. 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 when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

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

YES | NO

References:

The current legal framework, that is the 1992 Constitution and the Political Parties Act, 2000 (Act 574) do not provide for an agency to monitor the financing of individual political candidates' campaigns.

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. A NO score is also earned if this monitoring is solely carried out by the media and civil society organizations.

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

0

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:

In Ghana there are no limits on individual donations.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attah, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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:

In Ghana there are no limits on corporate donations as long as the donors are resident companies.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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 expenditure.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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 independent agency monitoring the financing of political parties.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Bernard Mornah, General Secretary. Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. 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, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. 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, is uncooperative with other agencies, 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

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

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, reluctant to cooperate with other agencies, 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 and may refuse cooperation with other agencies.

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

100 | 75 | 50 | 25 | 0

Comments:

The political parties are required to get their Financial Statements audited and submitted to the Electoral Commission, but even then only a few parties comply.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attah, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary. Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

100: Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing 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?

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

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns, or cooperates well with other agencies that do. 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. It may be reluctant to cooperate with other investigatory agencies.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

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

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

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, reluctant to cooperate with other agencies, 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 or may refuse to cooperate with other agencies.

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

100 | 75 | 50 | 25 | 0

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

100: The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities.

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?

25

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

100 | 75 | 50 | 25 | 0

Comments:

The Electoral Commission has had cause to complain about the failure or delays in the submission of political party financial records to it. There is also a general perception that it is a mere formality and the statements are generally broad and do not provide much insight into political party financials. This is partly due to the law that makes it illegal for external donations to parties. Many party leaders admit that they do not keep good records, partly because donors to parties do not want their names disclosed for various reasons.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.
Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.
Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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 regularly 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:

Some political parties submit financial reports to the Electoral Commission, although they are delayed. These reports are not published as required by law, but citizens can ask for them from the commission. However, citizens hardly ask for them.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.
Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.
Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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 submit financial reports to the Electoral Commission, although they are delayed. These reports are not published as required by law, but citizens can ask for them from the commission. However, citizens hardly ask for them.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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.

24d. In practice, the publicly available records of political parties' finances are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

Political parties submit financial reports to the Electoral Commission, although they are delayed. These reports are not published as required by law, but citizens can ask for them from the commission. However, citizens hardly ask for them.

The Electoral Commission has had cause to complain about the failure or delays in the submission of political party financial records to it. There is also a general perception that it is a mere formality and the statements are generally broad and do not provide much insight into political party financials. This is partly due to the law that makes it illegal for external donations to

parties. Many party leaders admit that they do not keep good records, partly because donors to parties do not want their names disclosed for various reasons.

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, 27th August, 2009 at the offices of the Electoral Commission in Accra at 10.00 am.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, 8th September, 2009 in the CPP headquarters in Accra at 3.15 pm.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on 14 September, 2009.

100: Publicly available records of political parties' finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political parties' finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political parties' finances, when available, are so incomplete or overly general as to render them useless in understanding a party's sources of income and its expenditures.

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

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 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.

25d. In practice, the publicly available records of political candidates' campaign finances are of high quality.

100 | 75 | 50 | 25 | 0

References:

Mr. Sulley, Director of Research and Monitoring, Electoral Commission (EC), interviewed on Thursday, Aug. 27, 2009, at the offices of the Electoral Commission in Accra at 10:00 a.m.

Mr. Jonathan Ayikwei Attoh, Administrator, Convention Peoples Party (CPP), interviewed on Tuesday, Sept. 8, 2009, in the CPP headquarters in Accra at 3:15 p.m.

Mr. Bernard Mornah, General Secretary, Peoples National Convention (PNC) (Party). Self-administered questionnaire on Sept. 14, 2009.

100: Publicly available records of political candidates' campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political candidates' campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political candidates' campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate's sources of income and expenditures.

Category III. Government Accountability

III-1. ⁵⁰Executive Accountability

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

69

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

100 | 75 | 50 | 25 | 0

Comments:

Ministers and various spokespersons usually come on air to explain the executive's actions to the Ghanaian public when issues arise and pronouncements are made that need further clarification.

References:

Honourable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.
Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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:

Articles 125 and 130 of the 1992 Constitution of Ghana

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

Recently, the court directed that a former minister of state's passport, which was confiscated, be returned to him. However, generally the judiciary reviews the actions of the executive only when they are brought before it in a court of law.

References:

Honourable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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 February, the president ordered his party to stop collecting illegal monies from potential appointees to the position of district chief executive. In March, the president ordered his ministers to declare their assets and liabilities within one week. However, these orders were not complied with by some of the persons involved in these two instances.

References:

Honourable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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

75:

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

requirements for legislative action or approval.

25:

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

28. Is the executive leadership subject to criminal proceedings?

50

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

YES | NO

References:

Under Article 57 (5) of the 1992 Constitution of Ghana, the president shall not be personally liable to any civil and criminal proceedings in court. However, Article 57 (6) provides for the prosecution of a president for personal liability only within three years of leaving power.

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

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

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

YES | NO

References:

The Criminal Code, 1960 (Act 29).

Article 2 of the 1992 Constitution subordinates every citizen to the Constitution. The Constitution is otherwise silent on ministers, but specifically exempts the president, which means that they can be prosecuted and ministers have been prosecuted in the past under the current Constitution.

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

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

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

50

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

YES | NO

Comments:

What is missing is the regulations that are needed to give further elaboration to the Act 550 and to facilitate the implementation of the law. Parliament is dragging its feet on this, indicating lack of commitment. In fact, Parliament recently failed to pass the proposed regulations and returned them to the auditor-general for no apparent reason.

The proposed regulations provided for verification of declarations, public disclosure and access to blank forms on the Internet, which unfortunately Parliament failed to approve.

References:

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

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

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

YES | NO

Comments:

What is missing is the regulations that are needed to give further elaboration to the Act 550 and to facilitate the implementation of the law. Parliament is dragging its feet on this, indicating lack of commitment. In fact, Parliament recently failed to pass the proposed regulations and returned them to the auditor-general for no apparent reason.

The proposed regulations provided for verification of declarations, public disclosure and access to blank forms on the Internet, which unfortunately Parliament failed to approve.

References:

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

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

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

YES | NO

Comments:

However, the Commission on Human Rights and Administrative Justice (CHRAJ) has developed guidelines on conflict interest to help public officers to avoid, manage and resolve such situations. There is also a draft bill, the Public Office Holders Liability Bill, pending that seeks to provide a code of conduct and address conflict of interest for public officers.

References:

Article 284 of the 1992 Constitution of Ghana says broadly that a public officer shall not put himself in a position where his personal interest conflicts with or is likely to conflict with his duties.

Article 285 of the 1992 Constitution of Ghana says that no person shall be appointed or act as chairman of the governing body of a public corporation or authority while he holds a position in the service of that corporation or authority.

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:

There are no regulations to give further elaboration to the Act 550 and to facilitate the implementation of the law. The auditor-general's proposed regulations provided for verification of declarations and public disclosure but, unfortunately, Parliament failed to approve them and returned them to the auditor-general for no apparent good reason.

References:

Article 286 of the 1992 Constitution of Ghana and The Public Office Holders (Assets Declaration and Disqualification) Act, 1998 (Act 550), which provide for asset declarations, do not provide for the independent auditing of such asset declaration disclosures.

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

Comments:

There is, however, no law barring ministers and any other government officials from entering the private sector after leaving office.

References:

Article 68 (2) of the 1992 Constitution of Ghana bars the president, on leaving office, from holding any office of profit or payment except with the permission of Parliament, in any establishment other than that of the State.

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:

Restrictions apply only to former heads of state who continue to enjoy all the benefits they enjoyed when they were heads of state. Even then, the restriction is not effective as they continue to take up international assignments. There is no restriction on former ministers.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.
Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 pm.

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. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

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

100 | 75 | 50 | 25 | 0

Comments:

The CHRAJ Conflict of Interest guidelines currently remain as guidelines. They cannot be enforced. However, there is a bill pending before cabinet that will institutionalize these guidelines if enacted. For now, there are no regulations on gifts and hospitality for members of the executive, just as with other public officials.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.
Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 pm.

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

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.
Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.
Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009 at 7:45 a.m.
Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 pm.

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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

0

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

YES

NO

Comments:

The Auditor-General proposed Regulations to Act 550 that would have provided for public disclosure which, unfortunately, Parliament failed to approve.

References:

Article 286 of the 1992 Constitution of Ghana and the Public Office Holders (Asset Declaration and Disqualification), 1998 (Act 550), which provide for asset declaration by public officers, do not specifically provide for public disclosure, although they do not also bar it.

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.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009 at 7:45 a.m.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 pm.

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.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009 at 7:45 a.m.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 pm.

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.

30d. In practice, the asset disclosure records of the heads of state and government are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

The assets disclosures are not verified by the custodian or made public, so it is not possible to assess their quality.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009 at 7:45 a.m.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 pm.

100: The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

26. In law, 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:

Article 33 (1) of the 1992 Constitution of Ghana provides that a person whose human rights have been infringed upon can apply

to the High Court for redress.

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

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

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

25

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:

Applications for appointment to ministerial and, particularly district chief executives, had to be endorsed by constituency executives of the ruling National Democratic Congress.

During the campaigns, prior to the 2008 elections, there were complaints about the use of government vehicles for campaigns.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 pm.

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.

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:

Article 2 of the 1992 Constitution of Ghana as well as judiciary procedures and practices.

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:

The judiciary has the power and capacity to review laws passed by the legislature, and when a matter is taken to the Supreme Court for interpretation, a decision is usually made. This has not happened in the last year.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 pm.

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

Comments:

However, Article 116 of the 1992 Constitution of Ghana states that the members of the legislature cannot be prosecuted on issues brought by him or her before Parliament. Also, Article 117 of the 1992 Constitution of Ghana states that members of Parliament cannot be served summons or arrested while they are in Parliament or on their way to or back from Parliament.

References:

The Criminal Code, 1960 (Act 29).

Article 2 of the 1992 Constitution subordinates every citizen to the Constitution. The Constitution is otherwise silent on members of the legislature, but specifically exempts the president, which means that they can be prosecuted.

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?

14

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

YES | NO

References:

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

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

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

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

YES | NO

References:

There is no law barring parliamentarians from entering private business upon leaving office. Even when they are still in office, they are not barred from entering private business, although this requires the permission of the speaker of Parliament (Article 98 (2) of the 1992 Constitution of Ghana).

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

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

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

YES | NO

References:

Article 284 of the Constitution provides for a general code of conduct but does not specifically regulate gifts. However, a draft Public Officers Holders Liability Bill seeks to address the specifics of the code of conduct.

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

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

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

YES | NO

References:

Article 286 of the 1992 Constitution of Ghana and the Public Office Holders (Asset Declaration and Disqualification) Act, 1998 (Act 550), which provide for asset disclosure, do not provide for the independent auditing of such disclosures, not even verification by the custodian, that is, the Auditor-General.

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset

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

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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

75:

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

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

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

100 | 75 | 50 | 25 | 0

Comments:

Actually, there are no regulations governing gifts and hospitality offered to national legislators. However, Chapter 24 of the Constitution provides a general law about public officials not putting themselves in situations that conflict with their official duties.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

100: The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

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

25:

0: The regulations 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.

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

100 | 75 | 50 | 25 | 0

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 p.m.

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: 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.

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

0

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

YES | NO

References:

Article 286 of the 1992 Constitution of Ghana and the Public Office Holders (Disqualification and Assets Declaration) Act, 1998 (Act 550), which provide for asset declaration, do not provide for the independent auditing of the assets so declared.
Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.
Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.
Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.
Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.
Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.
Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Although the Member of Parliament says Yes”, he gives a low score of 25. It is not possible even for the auditor-general to access the asset disclosure records of any public official.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 p.m.

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

75:

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

25:

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

34d. In practice, the asset disclosure records of members of the national legislature are of high quality.

Comments:

The assets disclosures are not verified by the custodian or made public, so it is not possible to assess their quality.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 p.m.

100: The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals' sources of income, investments, and other financial assets.

35. Can citizens access legislative processes and documents?

100

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

YES | NO

Comments:

The Hansard is the minutes of parliamentary proceedings. So as long as Parliament sits, the Hansard is produced. The Hansard is available to all citizens for at reasonable price.

References:

Article 120 of the 1992 Constitution of Ghana and the Standing Orders of Parliament. The Hansard, which is a record of the proceedings of Parliament, is also a public document.

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 are exemptions to the general right that are not clearly defined by formal rules.

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

100 | 75 | 50 | 25 | 0

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009, at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

Personal experience

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.

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

YES | NO

References:

Article 144 of the 1992 Constitution of Ghana as well as Section 1 (4), 10 (3) and 14 (4) of the Courts Act 1993 (Act 459) define the qualification of judges of the superior courts in Ghana. Also, Section 17 of the Courts Act defines the qualification or appointment to the Regional Tribunal.

The Chronicle, (2008-07-31) Is the Ghanaian Judiciary independent?" <http://www.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=147581&comment=0#com>

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

Comments:

Although there are criteria for selecting national-level judges, these are not very clear and accessible. The president appoints national-level judges on the recommendations of the Judicial Council, and they are then confirmed by Parliament. However, with the ruling party having the majority in Parliament, these appointments are always confirmed.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009, at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

The Chronicle, (2008-07-31) Is the Ghanaian Judiciary independent?" <http://www.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=147581&comment=0#com>

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

75:

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

25:

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

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

YES

NO

References:

Article 144 of the 1992 Constitution of Ghana provides that Parliament approves the appointment of superior court judges.

The Chronicle, (2008-07-31) Is the Ghanaian Judiciary independent?" <http://www.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=147581&comment=0#com>

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency or entity 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 the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

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

38

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

YES

NO

References:

The Courts Act, 1993 (Act 459). The rules and regulations developed by the Rules of Courts Committee established under Article 157 of the 1992 Constitution of Ghana also provide for this.

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

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009, at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, Legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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:

There is a complaints desk in the Supreme Court buildings in Accra for persons to lodge complaints against members of the judiciary. Also, even though there is no established disciplinary agency for the judiciary, the chief justice can always ask that an investigation be carried out – looking into allegations of corruption and discipline.

References:

The Courts Act, 1993 (Act 459) has not provided for the establishment of such a disciplinary body.

YES: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

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

YES | **NO**

References:

This does not apply as there is no such disciplinary body.

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 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:

There is a complaints desk in the Supreme Court buildings in Accra for persons to lodge complaints against members of the Judiciary. Also, even though there is no established disciplinary agency for the judiciary, the chief justice can always ask that an investigation be carried out looking into allegations of corruption and discipline. However, we do not hear much of disciplinary action taken against members of the judiciary and judicial staff as a result of such investigations into the allegations of corruption and discipline.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009, at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, Legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is a complaints desk in the Supreme Court buildings in Accra for persons to lodge complaints against members of the Judiciary. Also, even though there is no established disciplinary agency for the judiciary, the chief justice can always ask that an investigation be carried out looking into allegations of corruption and discipline. However, we do not hear much of disciplinary action taken against members of the judiciary and judicial staff as a result of such investigations into the allegations of corruption and discipline.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009, at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, Legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

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

36

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

YES | NO

References:

Article 286 of the 1992 Constitution of Ghana and the Public Office Holders (Disqualification and Asset Declaration) Act, 1998 (Act 550) both provide for filing of an asset disclosure form by certain categories of public officers, including members of the national-level judiciary.

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

NO: A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

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

YES | NO

References:

Chapter 24 of the 1992 Constitution of Ghana provides for a Code of Conduct for public officers. Specifically, Article 284 states that a public officer shall not put himself in a position where his (her) personal interest conflicts or is likely to conflict with the performance of the functions of his or her office. However, it does not mention the judiciary or gifts and hospitality.

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

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

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

YES | NO

References:

Article 286 of the 1992 Constitution of Ghana and the Public Officers Holders (Disqualification and Asset Declaration) Act, 1998 (Act 550), which provide for asset declaration, do not provide for the independent auditing of the asset disclosure forms.

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

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

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

YES | NO

References:

There is no law barring national-level judges from entering the private sector after leaving the government. However, the provisions of Chapter 11 of the 1992 Constitution of Ghana with regards to the retirement age (60 to 70 years) and retirement awards (salary of serving judges) make it most unlikely for national level judges to enter the private sector after leaving government.

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:

The judiciary is working on a code of conduct for judges but currently there are no regulations restricting post-employment private sector employment .

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009, at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, Legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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

75:

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

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

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

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

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009, at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, Legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations 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.

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

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

Comments:

The assets disclosure are only audited when a case comes up for investigation.

References:

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in

Accra.

Mr. Rowland Atta-Kesson, Legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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: 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.

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**

References:

Article 286 of the 1992 Constitution of Ghana and the Public Office Holders (Disqualification and Asset Declaration) Act, 1998 (Act 550) do not provide for the public disclosure of asset disclosure records of public officers, including members of national-level judiciary.

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**

References:

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his

office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Mr. Rowland Atta-Kesson, Legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Mr. Rowland Atta-Kesson, Legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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

75:

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

25:

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

39d. In practice, the asset disclosure records of the national-level judiciary are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

The assets disclosures are not verified by the custodian or made public, so it is not possible to assess their quality. However, the second respondent thinks there is some quality of the asset disclosures.

References:

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009, at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Mr. Rowland Atta-Kesson, Legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

100: The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

III-4. Budget Processes

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

75

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

YES

NO

Comments:

It should not noted, however, that Parliament's amendment powers are limited. It can only cut expenditures but cannot raise them above what has been proposed by the executive. Any additional expenditure after the budget has been approved must also be

approved by Parliament. Parliament cannot also impose or raise taxes. It must always come from the executive for Parliament's approval.

References:

Article 174 to 178 of the 1992 Constitution of Ghana provides for the powers of Parliament to levy taxes, approve loan agreements and all expenditure estimates proposed by the executive in the budget.

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 is always laid before Parliament for debate and approval. Also, loans and other agreements are usually approved by Parliament. However, there are cases where expenditures are carried out before seeking Parliamentary approval. Also, the current Commission of Inquiry into the activities of the Ghana at 50 celebrations show that a lot of expenditures were carried out without Parliament's approval. Even when the Committee had returned to Parliament to request additional funds, it was approved without accounting for the previous expenditures due to the partisan nature of the debate in the House.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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:

The fact that Parliament has a research unit with an officer in charge of monitoring budgets is an indication that there is some capacity although it may not be adequate.

The work of the Public Accounts Committee of Parliament has also been generally acceptable as good.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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?

50

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:

During the approval stage, citizens and organizations are invited to submit memoranda on issues of interest to them. However, not much input is made by citizens.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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:

During the approval stage, citizens and organizations are invited to submit memoranda on issues of interest to them. However, not much input is made by citizens.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.
Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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:

Citizens who look for the information and know where to get it can access it. However, due to ignorance about the availability and location of such information, a lot of citizens do not access the information.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.
Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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?

25

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

100 | 75 | 50 | 25 | 0

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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

75:

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

25:

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

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

Comments:

The Committee has 25 members with 13 coming from the ruling party while 12 come from the opposition parties. However, the committee is chaired by somebody from the main opposition party. One cannot, however, rule out completely some partisanship in their deliberations.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.
Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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:

There has never been an investigation of financial irregularities by the Public Accounts Committee outside the normal audit work of the Audit Service. However, Parliament can order an investigation into cases of alleged financial malfeasance.

References:

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.
Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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. In law, 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

References:

Article 103 (3) of the 1992 Constitution of Ghana and the Standing Orders of Parliament (Orders 151 and 165).

Honorable Ibrahim Dey, Member of Parliament for Salaga Constituency and Member of the Public Accounts Committee of Parliament, interviewed on Friday, Aug. 28, 2009 at 4:50 p.m. at the Parliament House, Accra.

Mr. Mohammed Hardi Nyasi, Research Officer in charge of Budget Monitoring, Parliament of Ghana, interviewed in his office on Friday, Sept. 4, 2009, at 2:45 p.m.

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

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

Category IV. Administration and Civil Service

IV-1. ⁵⁹Civil Service Regulations

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

100

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

YES

NO

References:

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

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

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

YES

NO

Comments:

Practices such as nepotism, cronyism and patronage are not clearly barred, but the requirement of an impartial and fairly managed civil service implies that these practices are not allowed.

References:

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

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

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

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

YES

NO

Comments:

The Commission for Human Rights and Administrative Justice (CHRAJ) plays the role of ombudsman and is an independent redress mechanism for public employees including civil servants. Any disciplined officer who is not satisfied with the outcome of internal disciplinary procedures can seek redress from the CHRAJ.

References:

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

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

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

YES | NO

References:

Section 58 of the Civil Service Law, 1993 (PNDCL 327).

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?

58

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

100 | 75 | 50 | 25 | 0

Comments:

The chief director at the office of head of civil servants was very cautious with information. However, with the upcoming new National Democratic Party (NDC) government, some chief directors have been removed from their positions. Party functionaries have threatened some civil servants and called on the president to remove those perceived not to be loyal to the NDC party.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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 chief director at the Office of the Head of Civil Service was cautious with giving the information asked for. This is normal with civil servants, especially following a change of government. It is, however, believed that high level appointments are influenced by political considerations.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, Interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

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

25:

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

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

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

Comments:

There are allegations of employment of family members and relatives and party faithfuls into the civil service.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, Interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.
Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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

Comments:

There are some benefits, especially for the top hierarchy, that go to civil servants, such as subsidized accommodation, transportation etc. These do not show on their paychecks. However, they would not consider these bonuses.

It is often argued that the low salaries and other benefits of civil servants are the causes of the high level of corruption in the service.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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

75:

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

25:

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

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

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

Comments:

Every ministry, regional coordinating council, or metropolitan/municipal/district assembly has an establishment which indicates the number of staff are required and permitted to be engaged. When a vacancy occurs, it is filled with permission from the head of the civil service. The information is, however, published within the civil service.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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 chief director at the Office of the Head of Civil Service was cautious with giving the information asked for. This is normal with civil servants, especially following a change of government. For example, on the question as to whether the reporting mechanism for public sector corruption acts on complaints within a reasonable time period, she said there was a charter with the stated time period for which the unit should act. Asked whether the unit acts within that time, she said I should ask those who have gone through that process.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, Interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, Interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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:

There are recent cases of people who have been convicted and sentenced to imprisonment. They actually serve their prison sentences but are later given public appointments. However, these are politicians and not civil servants.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, 18th August, 2009 at 1.30 pm in the Department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, 27th August, 2009 at 12.15 pm at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday 4th September, 2009 at her office at 9.30 am.

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?

33

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

YES | NO

References:

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

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

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

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

YES

NO

References:

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

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

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

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

YES

NO

References:

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

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

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

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

YES | NO

References:

Article 284 (Chapter 24) of the 1992 Constitution of Ghana and Section 77 of the Civil Service Law, 1993 (P.N.D.C.L. 327) provide for a code of conduct for public officers but do not specifically mention gifts and hospitality. The Civil Service Law bars civil servants from doing anything that will lead to taking improper advantage of their position.

YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

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

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

YES | NO

References:

Article 286 of the 1992 Constitution of Ghana and the Public Office Holders (Disqualification and Asset Declaration) Act, 1998 (Act 550), which provide for asset disclosure by public officers, do not provide for the independent auditing of such disclosure.

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

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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:

There are no regulations on gifts and hospitality offered to civil servants. Individuals do not declare any gifts offered them.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, Interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, Interviewed on Tuesday, Aug. 18, 2009 at 1:30

p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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?

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

YES | **NO**

References:

Article 286 of the 1992 Constitution of Ghana and the Public Office Holders (Disqualification and Asset Declaration) Act, 1998 (Act 550), which provide for asset disclosure by public officers, do not provide for citizens' access to such disclosure.

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

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

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

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

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.
Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.
Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.
Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.
Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.
Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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

75:

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

25:

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

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

Comments:

The assets disclosures are not verified by the custodian or made public and so it is not possible to assess their quality.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.
Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009 at 1:30 p.m. in the department's offices.
Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.
Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.
Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.
Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

100: The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals' sources of income, investments, and other financial interests.

75:

50: The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

25:

0: The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

IV-2. Whistle-blowing Measures

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

56

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:

Section 12 of the Whistleblower Act, 2006 (Act 720). This is a law that applies to all sectors of Ghanaian society.

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:

Recently, a civil servant petitioned the president against a minister and ended up being sanctioned, creating the impression that any civil servant who blows the whistle is not protected. The Head of Civil Service would not talk about this.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009, at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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

YES

NO

References:

Section 12 of the Whistleblower Act, 2006 (Act 720) provides protection for all whistleblowers, including those in the private sector.

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:

With the high level of unemployment in the country, private sector employees are scared of reporting cases of corruption and abuse of power by their employers. There are also media reports of employers, particularly foreign ones, abusing their employees. Not much is often done about these reports.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009, at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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

25

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

100 | 75 | 50 | 25 | 0

Comments:

The representative of the head of civil service says that there is an internal reporting mechanism which has professional staff but the other respondents think otherwise.

As far as I know, there are no internal reporting mechanisms with professional staff. Although from time to time, investigation committees can be set up to investigate complaints within the civil service.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009, at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The representative of the head of civil service says that there is an internal reporting mechanism which receives regular funding, but the other respondents think otherwise.

As far as I know, there are no internal reporting mechanisms with professional staff. Although from time to time investigation committees can be set up to investigate complaints within the civil service.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, Interviewed on Tuesday, Aug. 18, 2009, at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

When a situation arises, the management may decide to appoint a temporary committee to investigate the report and make a decision on the findings. The time to get this resolved is usually given by the appointing authority

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, Interviewed on Tuesday, Aug. 18, 2009, at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

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:

Depending on the seriousness of the report, management can set up an internal committee to investigate a report and take action on the findings.

References:

Mr. Ofori Addo, Deputy Director (Community Care), Department of Social Welfare, interviewed on Tuesday, Aug. 18, 2009, at 1:30 p.m. in the department's offices.

Mr. Moses Agyeman, Senior Economist, Private Enterprise Foundation (PEF), interviewed on Thursday, Aug. 27, 2009, at 12:15 p.m. at the offices of the PEF.

Mrs. Aboagye, Chief Director, Office of the Head of Civil Service, interviewed on Friday, Sept. 4, 2009 at her office at 9:30 a.m.

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

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

25:

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

49. In law, 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

References:

Both the Civil Service Law, 1993 (PNDCL 327) and the Whistleblower Act, 2006 (Act 720) do not make provisions for an internal mechanism such as a hotline for civil servants to report corruption.

However, a civil society organization, Ghana Integrity Initiative (GII), the local chapter of Transparency International, has just set up a hotline for victims and witnesses of corruption to report such acts. The GII will provide complainants with guidance as to where and how to pursue their cases.

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.

27
IV-3. Procurement

51. Is the public procurement process effective?

75

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

YES | NO

References:

Section 86 of the Public Procurement Act, 2003 (Act 663) provides for the compilation and publication of a code of conduct for all officials involved in the procurement process while Section 92 prescribes penalties for officials who contravene the procurement law.

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

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

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

YES | NO

References:

Section 8 (3) of the Public Procurement Act, 2003 (Act 663) provides for the Public Procurement Authority to engage any consultants and experts that it needs to execute its duties.

Kwame Asare Boadu, "Politicians Beware", Daily Graphic, Thursday, Sept. 10, 2009, No. 18017: At a training of Regional Ministers and Regional Coordinators on Public Procurement Planning and Implementation, Kumasi.

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:

According to the respondent at the PPA, conflict of interest regulations are in the process of being developed, and nobody has been prosecuted for breaking conflict of interest regulations.

References:

Mr. Clement Owusu Fordjour, Senior Operations Officer (Policy and Strategy), Public Procurement Authority (PPA), interviewed on Thursday, Sept. 3, 2009, at 4:45 p.m. in the PPA offices.

Mr. John Gidigo (Mr. Bani), Electrical Contractor, Gidigo Electrical Works Ltd, interviewed on Thursday, Sept. 3, 2009, at 6 p.m. in his office.

According to the U.S. Department of State 2009, U.S. companies report that they have been asked for 'favours' in return for facilitating business transactions: <http://www.business-anti-corruption.com/country-profiles/sub-saharan-africa/ghana/corruption-levels/public-procurement-and-contracting/country-profiles/country-profiles/index.php?id=12&L=0>

Adu Koranteng, "Assemblies ignore procurement rules in award of contract study", The Statesman, 25/08/2008

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:

Article 286 of the 1992 Constitution of Ghana and the Public Office Holders (Disqualification and Asset Declaration) Act, 1998 (Act 550) provide a general requirement for certain categories of public officers to disclose their assets but there is no law specifically providing a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

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

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

YES | NO

References:

The Public Procurement Act, 2003 (Act 663)

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

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

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

YES | NO

References:

The Public Procurement Act, 2003 (Act 663)

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

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

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

YES | NO

Comments:

There are, however, exceptions spelled out in Section 78(2) of the Act, such as the choice of a procurement method, procedure and decisions to reject tenders, etc.

References:

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

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

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

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

YES | NO

References:

An Appeals and Complaints Process under the Public Procurement Act, 2003 (Act 663): Improving Efficiency and Transparency in Public Procurement" issued by the Public Procurement Authority in 2003, (www.ppaghana.org), refers to the judiciary as the final arbiter in any dispute. So any dissatisfied bidders can seek redress in the courts.

YES: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

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

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

YES | NO

Comments:

The act does not provide for the barring of any tenderers who contravene the law from taking part in future bidding.

References:

Section 92 of the Public Procurement Act, 2003 (Act 663) prescribes appropriate sanctions for both public procurement officials and other people involved in the procurement process who contravene the provisions of the Act.

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

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

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

100 | 75 | 50 | 25 | 0

References:

Mr. Clement Owusu Fordjour, Senior Operations Officer (Policy and Strategy), Public Procurement Authority (PPA), interviewed on Thursday, Sept. 3, 2009, at 4:45 p.m. in the PPA offices.

Mr. John Gidigo (Mr. Bani), Electrical Contractor, Gidigo Electrical Works Ltd, interviewed on Thursday, Sept. 3, 2009, at 6 p.m. in his office.

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?

83

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

YES | NO

Comments:

The Appeals and Complaints Process under the Public Procurement Act, 2003 (Act 663): Improving Efficiency and Transparency in Public Procurement issued by the Public Procurement Authority in 2003 is distributed free to interested citizens.

(www.ppaghana.org). The Public Procurement Authority also publishes a newsletter that provides information to the public. It also maintains a website.

References:

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

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

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

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

YES | NO

References:

Section 56(1) of the Public Procurement Act, 2003 (Act 663).

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:

Lack of knowledge or ignorance of the availability of the information could be an obstacle.

References:

Mr. Clement Owusu Fordjour, Senior Operations Officer (Policy and Strategy), Public Procurement Authority (PPA), interviewed on Thursday, Sept. 3, 2009, at 4:45 p.m. in the PPA offices.

Mr. John Gidigo (Mr. Bani), Electrical Contractor, Gidigo Electrical Works Ltd., interviewed on Thursday, Sept. 3, 2009, at 6 p.m. in his office.

The PPA is also mandated to publish a monthly Public Procurement Bulletin, which shall contain information germane to public procurement, including proposed procurement notices, notices of invitation to tender and contract award information, assess the operations of the public procurement processes and submit proposals for improvement of the processes.

The board has the authority to present annual reports to the minister of finance and economic planning on the public procurement processes, facilitate the training of public officials involved in public procurement at various levels, develop, promote and support

the training and professional development of persons engaged in public procurement, and ensure adherence to ethical standards.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Mr. Clement Owusu Fordjour, Senior Operations Officer (Policy and Strategy), Public Procurement Authority (PPA), interviewed on Thursday, Sept. 3, 2009, at 4:45 p.m. in the PPA offices.

Mr. John Gidigo (Mr. Bani), Electrical Contractor, Gidigo Electrical Works Ltd, interviewed on Thursday, Sept. 3, 2009, at 6 p.m. in his office.

The PPA is also mandated to publish a monthly Public Procurement Bulletin, which shall contain information germane to public procurement, including proposed procurement notices, notices of invitation to tender and contract award information, assess the operations of the public procurement processes and submit proposals for improvement of the processes.

http://www.businessghana.com/portal/news/index.php?news_cat_id=

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

References:

Mr. Clement Owusu Fordjour, Senior Operations Officer (Policy and Strategy), Public Procurement Authority (PPA), interviewed on Thursday, Sept. 3, 2009, at 4:45 p.m. in the PPA offices.

Mr. John Gidigo (Mr. Bani), Electrical Contractor, Gidigo Electrical Works Ltd., interviewed on Thursday, Sept. 3, 2009, at 6 p.m. in his office.

The PPA is also mandated to publish a monthly Public Procurement Bulletin, which shall contain information germane to public procurement, including proposed procurement notices, notices of invitation to tender and contract award information, assess the operations of the public procurement processes and submit proposals for improvement of the processes. http://www.businessghana.com/portal/news/index.php?news_cat_id=

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:

Mr. Clement Owusu Fordjour, Senior Operations Officer (Policy and Strategy), Public Procurement Authority (PPA), interviewed on Thursday, Sept. 3, 2009, at 4:45 p.m. in the PPA offices.

Mr. John Gidigo (Mr. Bani), Electrical Contractor, Gidigo Electrical Works Ltd, interviewed on Thursday, Sept. 3, 2009, at 6 p.m. in his office.

The Chief Executive Officer of the Public Procurement Authority in Ghana is reported to have said that the PPA is mandated to publish a monthly Public Procurement Bulletin, which shall contain information germane to public procurement, including proposed procurement notices, notices of invitation to tender and contract award information, assess the operations of the public procurement processes and submit proposals for improvement of the processes. Ministers drills CEO of Public Procurement Act" News Date: 20th August 2009, Ghana News Agency (GNA) – http://www.businessghana.com/portal/news/index.php?news_cat_id=

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?

83

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

YES

NO

References:

Chapter 24, Article 284, of the 1992 Constitution of Ghana provides for equal treatment in all public affairs. The Divestiture of State Interests (Implementation) Law, 1993 (P.N.D.C.L. 326).

<http://www.dic.com.gh/procedure/index.html>

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

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

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

YES

NO

References:

Chapter 24, Article 284, of the 1992 Constitution of Ghana provides for equal treatment in all public affairs. The Divestiture of State Interests (Implementation) Law, 1993 (P.N.D.C.L. 326).

<http://www.dic.com.gh/procedure/index.html>

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

References:

Mr. Clement Owusu Fordjour, Senior Operations Officer (Policy and Strategy), Public Procurement Authority (PPA), interviewed on Thursday, Sept. 3, 2009, at 4:45 p.m. in the PPA offices.

Mr. John Gidigo (Mr. Bani), Electrical Contractor, Gidigo Electrical Works Ltd., interviewed on Thursday, Sept. 3, 2009, at 6 p.m. in his office.

<http://www.dic.com.gh/content/divestiture-procedure.htm#>

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?

80

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

YES | NO

Comments:

The Divestiture Implementation Committee also maintains a website where citizens can access information on privatization <http://www.dic.com.gh/content/divestiture-procedure.html>

References:

The Divestiture of State Interests (Implementation) Law, 1993 (P.N.D.C.L. 326) provides for citizens' access to privatization regulations.

<http://www.dic.com.gh/procedure/index.html>

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

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

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

In spite of this, there are complaints and allegations of privatizations determined well before they are advertised, making the advertisement unnecessary and useless.

References:

Mr. Clement Owusu Fordjour, Senior Operations Officer (Policy and Strategy), Public Procurement Authority (PPA), interviewed on Thursday, Sept. 3, 2009, at 4:45 p.m. in the PPA offices.
Mr. John Gidigo (Mr. Bani), Electrical Contractor, Gidigo Electrical Works Ltd., interviewed on Thursday, Sept. 3, 2009, at 6 p.m. in his office.

<http://www.dic.com.gh/content/divestiture-procedure.html>

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

75:

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

25:

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

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

YES | NO

Comments:

Parliament debates the proposed sale of public assets before giving its approval so the public has access to some limited information about the results of privatization decisions.

References:

The Divestiture of State Interests (Implementation) Law, 1993 (P.N.D.C.L. 326).
<http://www.dic.com.gh/procedure/index.html>

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:

Mr. Clement Owusu Fordjour, Senior Operations Officer (Policy and Strategy), Public Procurement Authority (PPA), interviewed on Thursday, Sept. 3, 2009, at 4:45 p.m. in the PPA offices.

Mr. John Gidigo (Mr. Bani), Electrical Contractor, Gidigo Electrical Works Ltd., interviewed on Thursday, Sept. 3, 2009, at 6 p.m. in his office.

<http://www.dic.com.gh/content/divestiture-procedure.html>

100: Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Mr. Clement Owusu Fordjour, Senior Operations Officer (Policy and Strategy), Public Procurement Authority (PPA), interviewed on Thursday, Sept. 3, 2009, at 4:45 p.m. in the PPA offices.

Mr. John Gidigo (Mr. Bani), Electrical Contractor, Gidigo Electrical Works Ltd., interviewed on Thursday, Sept. 3, 2009, at 6 p.m. in his office.

<http://www.dic.com.gh/content/divestiture-procedure.htm#>

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. ⁸¹National Ombudsman

56. Is the national ombudsman effective?

73

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

YES

NO

Comments:

The commissioner and the two deputy commissioners have security of tenure and so once appointed, they can not be removed without any justification.

References:

Both Article 225 of the 1992 Constitution of Ghana and the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456) protect the Commission on Human Rights and Administrative Justice (CHRAJ) from political interference.

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

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

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

100

75

50

25

0

Comments:

In Ghana, the ombudsman is the Commission on Human Rights and Administrative Justice (CHRAJ) which is provided for by the

Constitution and protected from political interference. It is largely free from political interference although the public sometimes perceives it as succumbing to political pressures.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The Commission for Human Rights and Administrative Justice (CHRAJ), which doubles as the ombudsman, has professional full-time staff. However, the ombudsman role requires administrative lawyers while all lawyers in that department are general practitioners.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackumey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackumey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The ombudsman needs complaints to investigate administrative law but CHRAJ is assertive. Recently, visited the Nsawam prison to assess the situation of prisoners.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The ombudsman has imposed penalties in a number of institutions, including the Tema General Hospital, which was fined. However, the penalties of the ombudsman must pass through the Attorney General 's office before it is imposed.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

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

25:

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

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

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

Comments:

It appears the government acts on the findings of the ombudsman only when the government deems it fit and especially if it does not affect political interests.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

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

25:

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

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

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

Comments:

The ombudsman carries out its mandate in a quick and professional manner but requires additional resources to expedite its activities.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

75:

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

25:

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

57. Can citizens access the reports of the ombudsman?

83

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

YES | NO

Comments:

The CHRAJ reports to Parliament. It also publishes its annual reports and presents the reports of its investigations to the public.

References:

Article 225 of the 1992 Constitution of Ghana and the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456).

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

Reports of investigations are released to the media when they are ready. Annual reports are also presented to Parliament and published.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackumme, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackumme, Lawyer, BCMS Consulting, Accra interviewed on Friday Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009, at 11:30 a.m.
Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009 at 2:15 p.m.

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

75:

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

25:

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

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

100

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

YES

NO

Comments:

The Commissioner of Human Rights and Administrative Justice is the ombudsman in Ghana.

References:

Articles 216 and 218 of the 1992 Constitution of Ghana provide for the establishment of the Commission on Human Rights and Administrative Justice (CHRAJ). This was operationalized in 1993 by the enactment of the Commission of Human Rights and Administrative Justice Act, 1993 (Act 456) with a three-fold mandate, that is, human rights, ombudsman and anti-corruption.

YES: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

NO: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

V-2. Supreme Audit Institution

59. Is the supreme audit institution effective?

75

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

YES

NO

References:

Section 7(a) of Article 187 of the 1992 Constitution of Ghana states that the auditor-general shall not be subject to the direction or control of any other person or authority." Similarly, Section 18 (1)(a) of the Audit Service Act, 2000 (Act 584) addresses the removal of the auditor-general from office. The removal of the auditor-general can only be done according to the provisions of Article 146 of the 1992 Constitution, which provides for the removal of justices of the superior courts and regional tribunals – on stated misbehavior or incompetence or on the grounds of inability to perform the functions of his or her duties due to infirmity of body or mind.

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

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

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

100

75

50

25

0

Comments:

The head of the supreme audit institution is protected from removal without justification. However, when a vacancy is created as a result of retirement, etc., the government sometimes appoints somebody to act as head of the institution. This person does not go through the procedures of appointment to the substantive position, such as getting Parliamentary approval. Since the person is acting he or she can be replaced without contravening the Constitution. Sometimes, these acting positions can remain in force for a very long time, compromising the independence of the position. The current auditor-general is acting and not confirmed.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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:

Although the Audit Service has full-time professional staff, it has often complained of inadequate staff which leads to delays in audits and a backlog covering more than two years.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The current auditor-general is in an acting position. This can make him less assertive and uncertain about his position.

When somebody is appointed to act as the auditor-general, it means it is a temporary appointment. You do not go through the processes of appointing the auditor-general such as being approved by Parliament. This makes you vulnerable, as the provisions with regards to removal do not apply to you. The executive can replace you at any time without breaking the law.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed

on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.
 Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.
 Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Funding is regular, but it is often not adequate.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.
 Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.
 Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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

75:

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

25:

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

59f. In practice, the audit agency makes regular public reports.

100	75	50	25	0
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Comments:

Reports are regular and public, but there are delays and a backlog of audit reports. Logistics also make it difficult to produce large numbers of copies for distribution.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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
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Comments:

Action of government on audit reports appears grossly unsatisfactory, especially if it involves political figures and party faithfuls, making the audit a mere formality. The delays also make it impossible to track past public officials who have been found to have engaged in fraud and embezzlement of public funds.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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:

The Audit Service carries out routine audits on an annual basis but can also initiate its own investigations into the use of public funds.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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?

75

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

YES | NO

Comments:

Recently, the auditor-general, with support from the European Union Commission, has published a number of audit reports, which it is distributing free. Journalists can also access audit reports from Parliament or the auditor-general's office.

References:

The Audit Service Act, 2000 (Act 584) provides for the public access of audit reports. Once audit reports are laid before Parliament they become public documents that can be accessed by the public.

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

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

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In principle, citizens can access audit reports. However, the reports themselves are delayed, and then they must be laid before Parliament before they can be accessed. Also, due to logistical constraints, they are not easily accessible.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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:

Cost does not appear to be a problem with accessing the audit reports. The main problem is their availability and timeliness.

References:

Mr. Richard Quayson, Deputy Commissioner of the Commission of Human Rights and Administrative Justice (CHRAJ), interviewed on Thursday, Aug. 27, 2009 at 3:30 p.m. in his office at the CHRAJ offices at the Old Parliament House.

Mr. Gallant Akorly, Assistant Auditor General (Legal), Audit Service, interviewed on Thursday, Sept. 10, 2009, at 8:45 a.m. in his office.

Mr. Kojo Asante, Programmes Director, Centre for Democratic Development – Ghana (CDD-Ghana) interviewed on telephone on Thursday, Sept. 10, 2009, at 7:45 a.m.

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

75:

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

25:

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

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

100

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

YES

NO

Comments:

The Ghana Audit Service is the national supreme audit institution in the country.

References:

Articles 187 and 188 of the 1992 Constitution of Ghana provide for the appointment of an auditor-general, who shall be responsible for auditing the public accounts of Ghana. Further to this provision, Parliament also enacted the Audit Service Act, 2000 (Act 584), which established the Ghana Audit Service headed by the auditor-general.

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

62. Is the tax collection agency effective?

100

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Except for junior support staff, the tax agencies recruit graduates and professionals for their operations. The staff involved in actual assessments and collection also go through a professional training on tax laws and related issues for about a year before they take up their appointments.

References:

Mr. Peter Konor, Acting Deputy Commissioner, Legal. Internal Revenue Service (IRS), interviewed at the IRS headquarters, on Wednesday, Aug. 26, 2009, at 11:20 a.m.

Alhaji Farrok Adamu, Assistant Commissioner, Human Resources and Administration, Customs, Excise and Preventive Service (CEPS) interviewed at CEPS headquarters on Thursday, Aug. 27, 2009 at 10 a.m.

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

75:

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

25:

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

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

There is policy that allows the IRS to keep 3 percent and the CEPS 2.7 percent of their total collection for their operations, salaries and administrative expenditures. This ensures regular funding although due to the requirement to reconcile the collections before taking this percentage, there are sometimes delays in payment of salaries.

References:

Mr. Peter Konor, Acting Deputy Commissioner, Legal. Internal Revenue Service (IRS), interviewed at the IRS headquarters, on Wednesday, Aug. 26, 2009, at 11:20 a.m.

Alhaji Farrok Adamu, Assistant Commissioner, Human Resources and Administration, Customs, Excise and Preventive Service (CEPS) interviewed at CEPS headquarters on Thursday, Aug. 27, 2009 at 10 a.m.

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

75:

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

25:

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

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

Comments:

Except for junior support staff, the tax agencies recruit graduates and professionals for their operations. The staff involved in actual assessments and collection also go through professional training on tax laws and related issues for about a year before they take up their appointments.

References:

Mr. Peter Konor, Acting Deputy Commissioner, Legal. Internal Revenue Service (IRS), interviewed at the IRS headquarters, on Wednesday, Aug. 26, 2009, at 11:20 a.m.
Alhaji Farrok Adamu, Assistant Commissioner, Human Resources and Administration, Customs, Excise and Preventive Service (CEPS) interviewed at CEPS headquarters on Thursday, Aug. 27, 2009 at 10 a.m.

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

75:

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

25:

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

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

There is a policy that allows the IRS to keep 3 percent and the CEPS 2.7 percent of their total collection for their operations. This ensures regular funding although due to the requirement to reconcile the collections before taking this percentage, there are sometimes delays in payment of salaries.

References:

Mr. Peter Konor, Acting Deputy Commissioner, Legal. Internal Revenue Service (IRS), interviewed at the IRS headquarters, on Wednesday, Aug. 26, 2009, at 11:20 a.m.

Alhaji Farrok Adamu, Assistant Commissioner, Human Resources and Administration, Customs, Excise and Preventive Service (CEPS) interviewed at CEPS headquarters on Thursday, Aug. 27, 2009 at 10 a.m.

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

75:

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

25:

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

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

100

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

YES

NO

References:

The Internal Revenue Service Law, 1986 (P.N.D.C.L. 143) provides for the establishment of the Internal Revenue Service (IRS) to be responsible for the collection of all direct taxes in Ghana. Thie IRS is headed by a commissioner and supported by a number of deputy commissioners and other staff. The Internal Revenue Act, 2000 (Act 592) makes the commissioner responsible for the administration of the Act.

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

75

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

100 | 75 | 50 | 25 | 0

Comments:

There are complaints of corruption at both IRS and CEPS which imply that the tax laws are not enforced uniformly and without discrimination.

References:

Mr. Peter Konor, Acting Deputy Commissioner, Legal. Internal Revenue Service (IRS), interviewed at the IRS headquarters, on Wednesday, Aug. 26, 2009, at 11:20 a.m.
Alhaji Farrok Adamu, Assistant Commissioner, Human Resources and Administration, Customs, Excise and Preventive Service (CEPS) interviewed at CEPS headquarters on Thursday, Aug. 27, 2009 at 10 a.m.

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. In law, is there a national customs and excise agency?

100

64. In law, is there a national customs and excise agency?

YES | NO

References:

The Customs, Excise and Preventive Service (Management) Law, 1993 (P.N.D.C.L. 330) provides for the establishment of the Customs, Excise and Preventive Service to be responsible for the collection of trade taxes, mainly export and import duties, and excise duties. The CEPS also collects value-added taxes on imports on behalf of the Value-Added Tax Service under the Value-Added Tax Act, 1998 (Act 546). The Customs and Excise (Duties and Other Taxes) Act, 1996 (Act 512) as amended several times over the years provides for the types and amounts of taxes that are to be collected by the Customs, Excise and Preventive Service.

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. In practice, 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:

There are always complaints about corruption at both CEPS and IRS, which implies that the tax laws are not enforced uniformly and without discrimination.

References:

Mr. Peter Konor, Acting Deputy Commissioner, Legal. Internal Revenue Service (IRS), interviewed at the IRS headquarters, on Wednesday, Aug. 26, 2009, at 11:20 a.m.

Alhaji Farrok Adamu, Assistant Commissioner, Human Resources and Administration, Customs, Excise and Preventive Service (CEPS) interviewed at CEPS headquarters on Thursday, Aug. 27, 2009 at 10 a.m.

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?

30

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

References:

The State Enterprises Commission Law, 1987 (PNDCL 170), which set up the State Enterprises Commission to oversee state-owned companies does not shield it from political interference.

YES: A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Like many other public institutions, the State Enterprises Commission has professional full-time staff but they are not adequate.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kweku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

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

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The State Enterprises Commission receives regular funding, but there are complaints that the funding is inadequate.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kwaku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

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

75:

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

25:

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

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The State Enterprises Commission (SEC) may be directed to carry out investigations to advise the executive and in criminal cases, the law enforcement agencies may be asked to assist. The findings of any such investigations are only advisory.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kwaku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

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

75:

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

25:

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

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The State Enterprises Commission's role is advisory, and the president or the appropriate minister may take appropriate action.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kweku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

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?

75

69a. In law, citizens can access the financial records of state-owned companies.

YES | NO

Comments:

Some of the companies, especially the banks, even publish their financial statements in the newspapers.

References:

State-owned enterprises (companies) are governed by the Companies Code, 1963 (Act 79), which requires that these companies keep accounts and make them accessible to the public.

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

Comments:

The state enterprises have their financial years and prepare financial records on an annual basis. Some of these enterprises even publish their annual financial statements in the newspapers.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kweku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

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:

Most of the state-owned enterprises are audited according to international standards. There are a number of the big six" auditing firms in Ghana and a few local ones of similar standing. These are the auditing firms that conduct audits on these enterprises.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kweku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

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

Comments:

Many state-owned enterprises publish their financial statements in the newspapers. Some of them, like the the Ghana Commercial Bank, also have annual reports that include financial statements. However, these are always so broad that the information is relatively inadequate.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kweku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

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

75:

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

25:

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

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

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

Comments:

Many state-owned enterprises publish their financial statements in the newspapers. Some of them, like the the Ghana Commercial Bank, also have annual reports that include financial statements. However, these are always so broad that the information is relatively inadequate.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kwaku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

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. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

YES

NO

References:

The State Enterprises Commission Law, 1987 (P.N.D.C.L. 170). The Audit Service Act, 2000 (Act 584).

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.

V-5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

81

70a. In law, anyone may apply for a business license.

YES

NO

References:

The Companies Code, 1963 (Act 79).

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required

70b. In law, a complaint mechanism exists if a business license request is denied.

YES

NO

References:

The Companies Code, 1963 (Act 79) and the law courts.

YES: A YES score is earned if there is a formal process for appealing a rejected license.

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

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100

75

50

25

0

Comments:

The registration of a business has been greatly shortened over the last ten years. The certificates can be received within one month. Even then, the Registrar-General 's office has announced that it will now take only five days to get one's registration documents.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kweku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

<http://www.ask.com/web?&o=101881&l=dis&q=Doing%20Business%20in%20ghana>

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:

There are fees to be paid by anybody wanting to register a business, and though relatively reasonable, it could be beyond the reach of some citizens and scare them from registering. This is especially true due to the slowness and ignorance about the processes, which compels some applicants to use middle men, which increases the cost.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kweku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

<http://www.ask.com/web?&o=101881&l=dis&q=Doing%20Business%20in%20ghana>

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

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

25:

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

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

References:

Section 10(a) of the Labour Act, 2003 (Act 651).

YES: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

References:

Section 10(a) of the Labour Act, 2003 (Act 651).

YES: A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

References:

Section 10(a) of the Labour Act, 2003 (Act 651).

YES: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

50

72a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

The Environmental Protection Agency (EPA), the Food and Drugs Board, etc, which are supposed to regulate businesses, products and ensuring a good environment, are not performing satisfactorily with regards to their obligation. Some of them, such as Public Utilities Regulatory Commission (PURC) only initiate an inquiry when a client reports to them.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kweku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

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:

The Environmental Protection Agency (EPA), the Food and Drugs Board, et. al., which are supposed to regulate businesses, products and ensuring good environment, are not performing satisfactorily with regards to their obligation. Some of them, such as Public Utilities Regulatory Commission (PURC) only initiate an inquiry when a client reports to them.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kweku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

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:

The Environmental Protection Agency (EPA), the Food and Drugs Board, et. al., which are supposed to regulate businesses, products and ensuring good environment, are not performing satisfactorily with regards to their obligation. Some of them, such as Public Utilities Regulatory Commission (PURC) only initiate an inquiry when a client reports to them.

References:

Mr. Kingsley Adu-Opoku, Engineer, Electricity Company of Ghana (ECG), Regional Office, Accra, interviewed at the ECG, Accra offices on Wednesday, Sept. 2, 2009, at 4 p.m.

Mr. George Kweku Ofori, President of the Ghana Union of Traders Association (GUTA), interviewed on Wednesday, Sept. 2, 2009, at 10 a.m. at the GUTA office in Accra.

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. ⁷⁵Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

YES

NO

References:

The 1992 Constitution of Ghana. Sections 18 and 239 to 242 of the Consolidated Criminal Code, 1960 (Act 29) provide that any person that engages in a corrupt act or is corrupted is guilty of misdemeanor

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

YES

NO

References:

Section 151 of the Consolidated Criminal Code, 1960 (Act 29).

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

YES

NO

References:

Section 245 and 252 of the Consolidation of the Criminal Code, 1960 (Act 29)

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES

NO

References:

Section 244, 245 and 252 of the Consolidated Criminal Code, 1960 (Act 29).

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

YES

NO

Comments:

The law applies to everyone, whether local, foreign officials or citizens.

References:

Section 244, 245 and 252 of the Consolidated Criminal Code, 1960 (Act 29)

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

YES

NO

References:

Section 260 of the Consolidated Criminal Code, 1960 (Act 29). Section 62 of the Financial Administration Act, 2003 (Act 654).

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

YES

NO

References:

The 1992 Constitution of the Republic of Ghana. Section 179C of the Consolidated Criminal Code, 1960 (Act 29). Oath of Secrecy Act.

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:

The Anti-Money Laundering Act, 2008 (Act 749) was enacted by Ghana's Parliament in 2008.

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

References:

Section 23 of the Consolidated Criminal Code, 1960 (Act 29)

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

75. Is the anti-corruption agency effective?

69

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

References:

Article 225 of the 1992 Constitution of the Republic of Ghana and the Commission of Human Rights and Administrative Justice Act, 1993 (Act 456) provide for the independence of the Commission for Human Rights and Administrative Justice (CHRAJ) from political interference.

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:

The Commission for Human Rights and Administrative Justice (CHRAJ) is largely protected from political interference. CHRAJ has worked to insulate itself from political interference. CHRAJ could initiate an independent investigations on its own until the Supreme court ruled that a person must lodge a complaint before CHRAJ before it initiate investigations.

However, it is still left to the attorney-general to decide whether to prosecute cases of corruption or not.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackumme, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009 at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

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

75:

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

25:

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

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackumey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009 at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

It is believed that political considerations come into play when an opportunity arises for the president to nominate someone to fill a vacancy. This applies to the higher level appointments such as the commissioner and the deputy commissioners, who are usually nominated by the executive and approved by Parliament.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackumey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009 at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

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

75:

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

25:

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

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Although, it may not be adequate, the CHRAJ has professional full-time staff.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackumme, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009 at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

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

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

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

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Though regular, the funding is not adequate.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackumme, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009 at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

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

75:

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

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

The Commission for Human Rights and Administrative Justice submits annual reports to Parliament, which then become public documents, and releases reports of its investigations to the public when they are concluded.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.
Chris A. Ackumey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.
Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009 at 11:30 a.m.
Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

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

75:

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

25:

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

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The anti-corruption agency does not have the power to prosecute persons found to be corrupt. Even now, it cannot start investigations into some cases unless somebody makes a complaint.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009 at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009 at 2:30 p.m.

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?

75

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009 at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

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

75:

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

25:

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

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:

Some citizens complain, but when it comes to follow up, then fears creep in and some of them recoil.

References:

Lawyer John Opoku, Opoku and Associates, interviewed on Thursday, Sept. 3, 2009, in the offices of Opoku and Associates at 5:30 p.m.

Chris A. Ackummey, Lawyer, BCMS Consulting, Accra interviewed on Friday, Sept. 4, 2009, at 2:30 p.m.

Mrs. Florence Freda Dennis, Executive Secretary, Ghana Anti-Corruption Coalition (GACC), interviewed in her office on Thursday, Sept. 10, 2009 at 11:30 a.m.

Mr. Samuel Bosompem, Legal Officer, Commission for Human Rights and Administrative Justice (CHRAJ), interviewed in his office on Tuesday, Sept. 8, 2009, at 2:15 p.m.

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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

100

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

YES

NO

References:

Chapter 18 (Articles 216 to 230) of the 1992 Constitution of the Republic of Ghana provide for the establishment of the Commission of Human Rights and Administrative Justice (CHRAJ) with an additional mandate to address corruption. The Commission of Human Rights and Administrative Justice Act, 1993 (Act 456).

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.

81
VI-3. Rule of Law

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

50

77a. In law, there is a general right of appeal.

YES

NO

References:

Article 33 (3) of the 1992 Constitution of the Republic of Ghana provides for a right of appeal.

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

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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

75:

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

25:

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

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Cost is a major obstruction to justice in Ghana even if one considers official charges for filing, etc. One needs 200 Ghana cedis (US\$140) to start the process.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.
Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney 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. Attorney 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. Attorney fees greatly discourage the use of the appeals process.

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

75

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

100 | 75 | 50 | 25 | 0

Comments:

For the superior courts, most judgements follow written law but at the lower courts there is still a need for more to be done.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

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

75

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

100 | 75 | 50 | 25 | 0

Comments:

In October 2008, the Road Traffic Act 2004 (Act 683) was amended but a couple of weeks before the general elections, the Chief Justice instructed the courts to release drivers who were convicted under the law before the amendment and reverse charges on those convicted. This was viewed by many citizens to be politically motivated. Also, a court ordered that an employee of the Ghana Immigration Service who was wrongly dismissed be reinstated but the government just refused to reinstate him until there was a change in government in January 2009.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.
Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.
Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

80. Is the judiciary able to act independently?

69

80a. In law, the independence of the judiciary is guaranteed.

YES | NO

References:

Article 127 of the 1992 Constitution of Ghana guarantees the independence of the judiciary. Also, Article 146, 147 and 151 spell out the conditions under which a member of the judiciary can be removed from office.

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 includes financial issues (drafting, allocation, and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

There are a few cases of actual or perceived alleged political interference. Also, appointments to higher level positions are perceived to be influenced by political considerations.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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

References:

There is no law concerning the way cases are distributed to judges. Interviews.

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:

Article 146, 147 and 151 of the 1992 Constitution of Ghana spell out the conditions under which a member of the judiciary can be removed from office, thus, offering protection from removal without justification.

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:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.
Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.
Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82. Do citizens have equal access to the justice system?

64

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

Judicial decisions usually have to do more with political biases rather than racial or ethnic biases. It is also believed that corruption plays a very important part. If at all, ethnic biases are not very common or clear in judicial decisions.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.
Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.
Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.
Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.
Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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:

Section 2 of the Legal Aid Scheme Act, 1997 (Act 542).

YES: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

NO: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

The Legal Aid Scheme does not have enough lawyers to meet the needs of all those who cannot afford legal service. Even when a lawyer is available, there are other constraints such as transportation costs, etc.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

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:

It is not that easy to bring a legal suit before the courts. One needs 200 Ghana cedis (US\$140) to start the process.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorney 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. Attorney 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. Attorney fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

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

Comments:

It is not that easy to bring a legal suit before the courts. One needs 200 Ghana cedis (US\$140) to start the process.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorney 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. Attorney fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

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

Comments:

There are efforts to have magistrate courts in all district capitals but there still areas where one magistrate combines two districts. For higher level courts, it is a problem.

References:

Mr. B. K. Acolatse, Judicial Service, Accra interviewed on Thursday, Sept. 3, 2009, at 11:30 a.m. in the Judicial Service offices in Accra.

Ms. Ruby Aryeetey, Lawyer/Judicial Service, Project Officer, interviewed on Thursday, Sept. 3, 2009 at the Judicial Service offices in Accra at noon.

Mr. Rowland Atta-Kesson, legal Practitioner, Legal Resource Centre, interviewed on Thursday, Sept. 10, 2009, at his office in Accra at 1:15 p.m.

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

VI-4. Law Enforcement

83. Is the law enforcement agency (i.e. the police) effective?

25

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

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

Comments:

The recruitment of the Kuffuor Police as well as allegations of protocol lists for the recruitment into the Police Service and the removal of the IGP following the change of government are cases to support this score.

References:

Mr. Opoku, Lawyer, Opoku & Associates, interviewed on Thursday, Sept. 3, 2009, at 5:30 p.m. in his office.

Inspector Antoinette Fandoh, Nima Divisional Police, interviewed on Friday, Sept. 4, 2009, at the Nima Police Station at 11:30 a.m.

Deputy Superintendent of Police (DSP) Felix Mawusi, Commerical Crime Unit, Criminal Investigation Department (CID) headquarters, interviewed on Thursday, Sept. 3, 2009, at 3:30 p.m.

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

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, 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 have been several complaints about the police not having adequate resources and equipment for their work, including their low salaries.

References:

Mr. Opoku, Lawyer, Opoku & Associates, interviewed on Thursday, Sept. 3, 2009, at 5:30 p.m. in his office.
Inspector Antoinette Fandoh, Nima Divisional Police, interviewed on Friday, Sept. 4, 2009, at the Nima Police Station at 11:30 a.m.
Deputy Superintendent of Police (DSP) Felix Mawusi, Commercial Crime Unit, Criminal Investigation Department (CID) headquarters, interviewed on Thursday, Sept. 3, 2009, at 3:30 p.m.

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

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The IGP is appointed by the government of the day as illustrated by the recent removal of the IGP under the Kufuor administration. Promotions and postings are also perceived to be influenced by political considerations.

References:

Mr. Opoku, Lawyer, Opoku & Associates, interviewed on Thursday, Sept. 3, 2009, at 5:30 p.m. in his office.
Inspector Antoinette Fandoh, Nima Divisional Police, interviewed on Friday, Sept. 4, 2009, at the Nima Police Station at 11:30 a.m.
Deputy Superintendent of Police (DSP) Felix Mawusi, Commerical Crime Unit, Criminal Investigation Department (CID) headquarters, interviewed on Thursday, Sept. 3, 2009, at 3:30 p.m.

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

84. Can law enforcement officials be held accountable for their actions?

71

84a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

Comments:

Like all public institutions, one can also complain to the Commission for Human Rights and Administrative Justice (CHRAJ) or even go to the courts. In addition, under the Whistleblower Act, 2006 (Act 720) one can complain to a host of other people and institutions.

References:

There is no law providing for an independent mechanism for citizens to complain about police action. There are, however, administrative mechanisms such as the Police Intelligence and Professional Standards (PIPS) unit, which have been set up to address complaints about the action of the police.

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

Comments:

The general public usually expect the Commission for Human Rights and Administrative Justice (CHRAJ) and the Police Intelligence and Professional Standards unit to act faster than they do. This could be due to several reasons, including resource constraints. There is also the general perception that the police often protect their members when complaints are made. There are several cases of police officers coming on air to defend police action even before investigations are carried out.

References:

Mr. Opoku, Lawyer, Opoku & Associates, interviewed on Thursday, Sept. 3, 2009, at 5:30 p.m. in his office.
Inspector Antoinette Fandoh, Nima Divisional Police, interviewed on Friday, Sept. 4, 2009, at the Nima Police Station at 11:30 a.m.
Deputy Superintendent of Police (DSP) Felix Mawusi, Commerical Crime Unit, Criminal Investigation Department (CID) headquarters, interviewed on Thursday, Sept. 3, 2009, at 3:30 p.m.

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:

This is controversial. While the respondents from the Police Service answer in the affirmative, the general feeling outside the service is different.

The police see the Police Intelligence and Professional Standards (PIPS) unit as the investigative and prosecuting body but this is not institutionalized. Also, the Criminal Investigations Department (CID) of the Police and the Bureau National Investigations (BNI) investigate and prosecute all crimes in the country, including crimes by the police. There are cases of alleged police criminal activity in the courts.

References:

Mr. Opoku, Lawyer, Opoku & Associates, interviewed on Thursday, Sept. 3, 2009, at 5:30 p.m. in his office.
Inspector Antoinette Fandoh, Nima Divisional Police, interviewed on Friday, Sept. 4, 2009, at the Nima Police Station at 11:30 a.m.
Deputy Superintendent of Police (DSP) Felix Mawusi, Commerical Crime Unit, Criminal Investigation Department (CID) headquarters, interviewed on Thursday, Sept. 3, 2009, at 3:30 p.m.

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

NO: A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

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

Comments:

The power of the Bureau of National Investigations (BNI) and the Criminal Investigations Department (CID) to investigate criminal acts, including acts by the law enforcement agencies themselves, indicate that they can initiate investigations into allegations of corruption. However, their independent decision to conduct such investigation is often in doubt.

References:

Mr. Opoku, Lawyer, Opoku & Associates, interviewed on Thursday, Sept. 3, 2009, at 5:30 p.m. in his office.
Inspector Antoinette Fandoh, Nima Divisional Police, interviewed on Friday, Sept. 4, 2009, at the Nima Police Station at 11:30 a.m.
Deputy Superintendent of Police (DSP) Felix Mawusi, Commerical Crime Unit, Criminal Investigation Department (CID) headquarters, interviewed on Thursday, Sept. 3, 2009, at 3:30 p.m.

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

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

25:

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

84e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

Comments:

Even though law enforcement officials are not immune from criminal proceedings there are exceptions under the Constitution, e.g. a police officer can kill a person in the performance of his/her duty and will not be prosecuted (Article 13 (2)). This is too blanketed a provision and needs to be better framed.

References:

The Criminal Code Act, 1960 (Act 29). The Police Service Act, 1970 (Act 350).

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

Comments:

According to Article 13 (2) (b) and (c) of the 1992 Constitution of Ghana, the police can kill someone and will not be prosecuted depending on the circumstances. One of our respondents recommends a review of this section of the Constitution.

References:

Mr. Opoku, Lawyer, Opoku & Associates, interviewed on Thursday, Sept. 3, 2009, at 5:30 p.m. in his office.

Inspector Antoinette Fandoh, Nima Divisional Police, interviewed on Friday, Sept. 4, 2009, at the Nima Police Station at 11:30 a.m.

Deputy Superintendent of Police (DSP) Felix Mawusi, Commercial Crime Unit, Criminal Investigation Department (CID) headquarters, interviewed on Thursday, Sept. 3, 2009, at 3:30 p.m.

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.