

Overall Score:

**69 - Weak**

Legal Framework Score:

**99 - Very Strong**

Actual Implementation Score:

**45 - Very Weak**

Category I. Civil Society, Public Information and Media

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## I-1. <sup>69</sup>Civil Society Organizations

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### 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:**

While the constitution guarantees the freedom of association, the Nongovernmental Organization Registration (Amendment) Act of 2006 contravenes this provision as stipulated in S.2 (1) of the act, by providing for mandatory registration of any civil society organization by the nongovernmental organization board before they are allowed to operate. ( See NGO Forum, Civil Society Petition to the Constitutional Court of Uganda seeking a declaration that the Nongovernmental Organizations Registration (Amendment) Act 2006 is unconstitutional).

Further, according to this act, NGOs are prohibited from engaging in any act prejudicial to the national interest” of Uganda and what is of “national interest” is not defined thus creating room for manipulation by the authorities in power.

**References:**

The Constitution of Uganda, 1995, Article 29 (Every person has a right to (a) freedom of assembly and to demonstrate together with others peacefully unarmed and to petition; (b) freedom of association, which includes the freedom to form and join associations or unions like trade unions or other political and public organizations.

**YES:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within

last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

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

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

**YES** | NO

**Comments:**

The law accepts freedom of association, including forming or joining organizations. However, there is no specific law that bars CSOs from accepting funding from any source unless it is from those organizations labeled as terrorists. In most cases, however, funding to CSOs is seldom known by government, let alone their sources.

**References:**

The Constitution of Uganda

**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:**

Nongovernmental Organizations, according to the Companies Act, are required to submit their annual returns, including sources of funding. The NGO Registration (Amendment) Act of 2006 also requires CSOs to annually renew their licenses and disclose their sources of funding.

**References:**

Nongovernmental Organization Registration (Amendment) Act of 2006  
The Companies Act

**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.

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## 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:**

The Nongovernmental Organization Registration (Amendment) Act of 2006 creates barriers to the organization of new CSOs. (e.g requirements for mandatory registration contravene the Art. 29(1) (e) of the Constitution, which guarantees freedom of association which includes the right to associate informally.)

The act also gives the NGO board the discretion to approve or reject applications for registration of NGOs and grant or revoke certificates of registration of NGOs and to grant or revoke permits and impose conditions on permits as to areas of operation which exposes NGOs to arbitrary interference contrary to constitution in Article 8 (a) and national objective No. II (vi) and V(ii), which guarantee that NGO shall maintain their autonomy in carrying out their lawful objectives

**References:**

Media Report June 2008-July 2009

Interview with Angella Byangwa, Coordinator Rwenzori Anti-Corruption Coalition

Interview with Robert Lugolobi, Executive Director, Transparency International Uganda

Civil Society Petition to the Constitutional Court of Uganda seeking a declaration that the Nongovernmental Organizations Registration (Amendment) Act 2006 is unconstitutional

Uganda Governance Monitoring Project Trends Report; Discerning Governance Trends in Uganda (2004-2008), February 2009

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

To a large extent nongovernmental organizations have actively engaged in policy making. A campaign by the anti-corruption coalition of Uganda on corruption in the health sector — particularly the theft of essential medicines in 2007/2008 — has culminated in a branding of essential drugs by the Ministry of Health.

NGOs have also been active in the development of the 5-year national development plan (NDP) for Uganda, where under the coordination of the Uganda National NGO Forum, they produced consolidated CSO input into the national development plan that informed the drafting of the Sector Working Papers and the NDP itself. It is expected that a draft NDP will be out by the end of September 2009.

Despite this progress, however, it is important to note that the NGO Act 2006 (Amended) narrows the space for NGOs to engage in policy making. Further to this, CSOs are not effectively organized, often acting as individual entities” rather than through a concerted effort.

**References:**

Media Reports June 2008-July 2009

Interview with Angella Byangwa, Coordinator Rwenzori Anti corruption Coalition, Aug. 4, 2009

Interview with Robert Lugolobi, Executive Director, Transparency International Uganda, Aug. 10, 2009

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

**75:**

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

**25:**

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

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

**YES** | NO

**References:**

New Vision, The Daily Monitor, Weekly Observer, The Independent ( July to August 2009)

Interview with Angella Byangwa, Coordinator Rwenzori Anti-corruption Coalition

Interview with Robert Lugolobi, Executive Director Transparency International Uganda

Anti-corruption Coalition Uganda ([www.accu.or.ug](http://www.accu.or.ug))

Uganda Debt Network ([www.udn.or.ug](http://www.udn.or.ug))

**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.

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

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

YES | **NO**

**Comments:**

At local levels it was reported by the Coordinator Rwenzori Anti-corruption Coalition that one community member in Fort Portal (a rural town) was arrested and detained by the police in March 2009 working in monitoring service delivery and unearthing corruption at local levels. According to her, the case was reported to the district authorities, and investigations were ongoing at the time of the compilation of this data.

**References:**

The Daily Monitor, Wednesday, Aug. 12, 2009

On Tuesday, Aug. 11, 2009, Mr. Moses Akena, a Daily Monitor reporter based in Northern Uganda was arrested and detained on charges of criminal defamation following a story he wrote quoting the Gulu deputy Speaker Mr. Patrick Lumumba who alleged that Mr. Odongo had abused the distribution of iron sheets to Internally Displaced Persons ( IDPs) in Gulu. The article from which the charges are drawn was published in the Daily Monitor on July 8, 2009, and said that Mr. Odongo collected 30 iron sheets from Micheal Ojara, a disabled man who gave them to his unidentified girlfriend.

Interview with Angella Byangwa, Coordinator Rwenzori Anti corruption Coalition

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

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

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

YES | **NO**

**Comments:**

At local levels it was reported by the Coordinator Rwenzori Anti-corruption Coalition that one community member in Fort Portal (a rural town) was arrested and detained by the police in March 2009 working in monitoring service delivery and unearthing corruption at local levels. According to her, the case was reported to the district authorities, and investigations were ongoing at the time of the compilation of this data.

**References:**

Interview with Angella Byangwa, Coordinator Rwenzori Anti-corruption Coalition

**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:**

Media Reports (New Vision, Daily Monitor, Weekly Observer and the Independent June 2008 to August 2009)

Interview with Robert Lugolobi, Executive Director Transparency International Uganda, Aug. 10, 2009

Interview with Angella Byangwa, Coordinator Rwenzori Anti-corruption Coalition

Anti-corruption Coalition Uganda ( ACCU)

**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.

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#### 4. Can citizens organize into trade unions?

75

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

YES | NO

**References:**

Article 29(e) of the Constitution of Uganda 1995.

It states that every citizen shall have the freedom of association which shall include the right to form or join associations or unions, which include trade unions, political or civic organizations."

**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:**

While the law guarantees the right to join trade unions, many people are not very comfortable joining them because of the trade union problems, including struggles over power and leadership and corruption, which have created a feeling of frustration among the citizens on whether their needs would be addressed if they joined trade unions in their current state.

**References:**

Interview with Robert Lugolobi, Executive Director, Transparency International Uganda, Aug. 10, 2009

Media Reports (June to August 2009)

**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.

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## I-2. Media

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### 5. Are media and free speech protected?

100

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

YES | NO

**References:**

Article (Article 29(1) (a)) of the Constitution of Uganda states that every person has a right to freedom of expression, and this includes freedom of the press and other media.

Section 2, Press and Media Act, 1995

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

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

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

**YES** | **NO**

**Comments:**

While this is guaranteed in the constitution, it is only complicated by the political situation Uganda is in, which is the advent of multi-party politics.

Due to this, any statements are sometimes thought to aid the opposition. It is no wonder the media has on several occasions been accused of aiding the opposition.

Several journalists were frequently summoned to the criminal investigations department for their stories. At a much broader level, the increased cracking down of legitimate political activities such as political rallies deemed detrimental to the sitting NRM government”.

I think it is a deliberate move to crack down on the freedom of speech. Further more, the government still uses Section 50 of the Uganda Penal Code on Publication of False News. Laws on civil defamation continue to restrict freedom of speech and expression in Uganda.

**References:**

Article Article 29(1) (a)) of the Constitution of Uganda states that every person has a right to freedom of expression and this includes 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.

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## 6. Are citizens able to form print media entities?

81

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

**Comments:**

Article 2 of the Press and Journalists Statute 1995 provides for the right to publish a newspaper.

Since the liberalization of the media in the 1980's after the NRM bush war, there are less barriers to forming a print media entity. The barriers that exist are the maintenance of what people have called oppressive laws against the media such as the law on publication of false news, which is currently being contested by Onyango Obbo and Andrew Mwenda in the constitutional court. Other hinderances include the criminalization of defamation. Such laws discourage people from forming media entities.

**References:**

Interview with journalist of New Vision ,who preferred to remain anonymous, Aug. 14, 2009,  
Asuman Bisiika, Press freedom in Uganda: Myth or reality? Published on Dec. 26, 2008 on ugpulse.com,  
Press and Journalists Statute, 1995

**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:**

The statute establishes an arbitration committee consisting of: the Chairman of the Council as its chairman, the Secretary of the Council as its Secretary and four members elected by the council from among themselves, who shall hear cases or complaints.

Article 34 of the statute details the appeals to the High Court; and states that (1) A journalist or complainant aggrieved by the decision or order of the committee may appeal against the decision or order to the High Court within 14 days from the date which the report of the committee was delivered to that journalist or complainant.

(2) An appeal made under this section shall be:

(a) Made by petition in writing under the hand of the journalist or complainant, and

(b) Heard and decided upon by a judge of the High Court after summary hearing.

(3) Where the council suspends a journalist, the journalist shall not, while an appeal is pending under this section, be entitled to practice.

**References:**

The Press and Journalists Act, 1995. Article 10 of the Press and Journalist Act, 1995, gives functions to the Media Council to include arbitration of disputes between the public and the media and the state and the media.

**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:**

The process is fairly simple and straight forward and should take a less time for as long one completes and hands in the necessary application forms, pays a prescribed fee of 50,000 Ugandan shillings (US\$26) at the Media Council Office and provides particulars to the editor.

As a matter of fact, most media organizations start operating without this license and get it later. Apart from this, other delays may be caused by administrative procedures within the the media council.

**References:**

Interview with New Vision journalist who preferred to remain anonymous

[www.mediacouncil.org](http://www.mediacouncil.org)

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The media council provides for payment of a prescribed fee of 50,000 Ugandan shillings (US\$26) at the Media Council Office. Apart from this cost, other costs may include getting all requirements ready such as photographs and certifying copies of an editor's qualifications. These costs are manageable.

**References:**

The Media Council ( [www.mediacouncil.ug](http://www.mediacouncil.ug))

Interview with New Vision Journalist who preferred to remain anonymous, Aug. 14, 2009

**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.

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## 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 are no government barriers to the formation of a broadcast media entity. This is attributed to the liberalization of the media industry to all interested parties to compete for as long as one meets the registration requirements.

While people are free to form media entities for as long as they meet the registration requirements, there is no guarantee of their continued stay on the airwaves.

Threat to media freedom continues through the use of charges such as sedition, defamation, and inciting violence. In September 2009, the broadcasting council closed four radio stations and suspended two journalists: Kalundi Serumaga and Peter Kibazo from radio and TV talk-show hosting, respectively. This was for allegedly inciting the public during the recently concluded riots. To date, only one of the closed radio stations (Radio Sapientia) has since been reopened.

### References:

New Vision, Daily Monitor, The weekly Observer, June 2008 to August 2009

Interview with Official from the Uganda Communications Commission. (Anonymous), Aug. 13, 2009.

**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

**Comments:**

To lodge a complaint, the complainant must file a written complaint to the Broadcasting Council and to the Uganda Communications Commission and the License Issuing Committee will review the complaint and write back to the complaint with decisions made.

**References:**

Electronic Media Act 1996 (establishes the Broadcasting Council consisting of 12 members). Among its duties is arbitration – in case of disputes in the industry. This duty is specifically by the License Issuing.)

[www.broadcastug.com](http://www.broadcastug.com) (FAQs)

**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:**

Upon submission of an application form and a comprehensive application to the Broadcasting Council, the licence can be issued in less than six months once all submitted information is clear . Submission information includes your area of interest, planned geographical coverage, location, and directors.

There is a provision that if within one year if the license has not been granted, the process is terminated and one has to start the process again.

**References:**

Interview with official from Uganda Communications Communication, Aug. 13, 2009 (names withheld on request)

**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:**

The cost of a T.V. license is 5 million Uganda Shillings (US\$2,668) per year and a radio license costs between 1 to 3 million Uganda Shillings (US\$533 to 1,601) per year based on current exchange rates.

This figure is still high and can only be afforded by wealthy or middle-class individuals.

**References:**

[www.broadcastug.com](http://www.broadcastug.com) ( Uganda Broadcasting Council.)

**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.

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## 8. Can citizens freely use the Internet?

100

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

100 | 75 | 50 | 25 | 0

**References:**

Media Reports

**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:**

In the case of pornography, the Directorate of Ethics and Integrity is drafting the anti-pornography bill, which will soon be tabled in Parliament for approval as a strategy of tightening laws on pornography. At the moment, various organizations and Internet cafes have their own rules on content generated online.

**References:**

New Vision, Monitor, Weekly Observer June 2008 to August 2009

**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.

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## 9. Are the media able to report on corruption?

75

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

YES | NO

**Comments:**

The Professional Code of Ethics as provided for in the Fourth Schedule of The Press and Journalist Act 1994 states that no journalist shall disseminate information or an allegation without establishing its correctness or truth.

Ethics No. 9 states that a journalist shall not originate or encourage the dissemination of information designed to promote or which may have the effect of promoting tribalism, racism or any other form of discrimination.

Once the information is accurate and does not carry any malicious intent, the law accepts for the reporting of such information

**References:**

The Professional Code of Ethics

The Press and Journalist Act 1994

Interview with New Vision Journalist who preferred to remain anonymous, Aug. 14, 2009

**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:**

The media has actively played its role of exposing corruption in Uganda. In cases where, after publication, it determines that facts were wrong, they have always apologized to concerned parties. This was the case in the Sunday Vision July 12 article, which alleged that the Kabaka had mortgaged the land title for Bulange, the seat of the Kingdom in Mengo, to a senior government minister as security for a 1 billion Ugandan shilling (US\$533,333) loan. The newspaper was taken to court, and upon establishing its facts, it apologized to the Mengo government.

Some editors publish or edit content based on political pressure or concerns. This influence comes through dismissal, suspension or errant journalists or editors" in some instances, or through use of charges such as sedition, defamation, and inciting violence. The suspension of two journalists; Kalungi Serumaga and Peter Kibazo from radio and T.V. talk-show hosting, respectively, is a case in point. More recently, it was the dismissal of Mr Mark Walungama as television manager of the Uganda Broadcasting Corporation for sanctioning pictures of armed security personnel clobbering rioters in city streets during the recent riots in Uganda. (Daily Monitor, 2 October 2009).

**References:**

Media Reports ( New Vision, Daily Monitor, The Weekly Observer ( June 2008 to August 2009)

Interview with Journalist from the New Vision, Aug. 14, 2009 (Names withheld on request)

**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:**

Prior government restraint is very limited and only occurs when articles are highly sensitive. However, in most cases it is the media organization's discretion to decide what to publish depending on their facts, or status. The New Vision, which is 80 percent owned by government, will want to adopt publication policies that do not so injure the government.

**References:**

Interview with Journalist, Aug. 13, 2009

The Media (New Vision, Daily Monitor, Weekly Observer articles)

**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.

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## 10. Are the media credible sources of information?

55

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

YES | NO

**Comments:**

This provides that a proprietor of mass media organizations shall, on appointing an editor, register with the Media Council the following particulars in relation to the editor: his or her name and address, two passport-size photographs, certified copies of the relevant testimonials as proof of his or her qualifications and experience, and the name and address of the newspaper.

**References:**

Press and Journalist Act of 1995

**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

**Comments:**

This requires that to be issued a license to operate, one must write an application letter to the secretary of the Broadcasting Council indicating, among other things, the directors and the location of the company.

**References:**

Electronic Media Act of 2000 Cap. 104

**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.

100 | 75 | 50 | 25 | 0

**Comments:**

Professional ethics is weak among most journalists and some editors, because some are practicing journalism without any formal training in journalism. Therefore, they don't know what ethics to adhere to. However, among key media organizations, there is an attempt to adhere to professional ethics.

**References:**

Media Reports (both print and broadcast)  
Interview with Journalist, Aug. 14, 2009

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

**75:**

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

**25:**

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

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

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

**Comments:**

According to the 2006 Presidential Elections, the NRM (ruling party) got 62.4 percent coverage in national media compared to the FDC's 6.4 percent and no coverage for all other parties.

It is important to note that most media stations (particularly broadcast) are owned by politicians, and these tend to use them unfavorably during elections such as during the recently concluded Rugaba LC III chairperson by-elections held in May 2009. The winner, Mr. Peter Ssematimba, used his radio station Super FM for campaigns.

**References:**

Parliamentary-Executive Relations in the run-up to the 2006 Elections in Uganda, February 2006 monthly report (Christian Michelles Institute and Makerere University)

Media Reports (Broadcast and Print)

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The broadcast media (TV-Uganda Broadcasting Television and UBC-Radio) is even worse. They are afraid and stopped hosting Dr. Kizza Besigye. Print media coverage is a little more fair, a factor attributed to the level of professionalism in the media entity.

**References:**

Media Reports (New Vision, Daily Monitor, The Weekly Observer)

**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.

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## 11. Are journalists safe when investigating corruption?

67

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

YES | NO

**Comments:**

On Tuesday, Aug. 11, 2009, Mr. Moses Akena, a Daily Monitor reporter based in northern Uganda was arrested and detained on charges of criminal defamation following a story he wrote quoting the Gulu deputy Speaker Mr. Patrick Lumumba who alleged that Mr. Odongo had abused the distribution of iron sheets to Internally Displaced Persons (IDPs) in Gulu.

The article from which the charges are drawn was published in the Daily Monitor on July 8, 2009, and quoted that Mr. Odongo collected 30 iron sheets from Micheal Ojara, a disabled man, who gave them to his unidentified girlfriend.

**References:**

The Daily Monitor, Wednesday, Aug. 12, 2009

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

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

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

YES | NO

**References:**

Media Reports (New Vision, Daily Monitor, the Weekly Observer)

**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:**

Media Reports (New Vision, Daily Monitor, The Weekly Observer)

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

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

---

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

100

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

**YES** | NO

### References:

Article 41 of the 1995 Constitution of Uganda states:

Every citizen has a right of access to information in the possession of the state or any other organ of the state except where the release of the information is likely to interfere with the security of the state or the right to the privacy of any other person.

Access to Information Act, 2005

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

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

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

**YES** | NO

### References:

Section 37 of the Access to Information Act, 2005 states:

A person may lodge a complaint with the chief magistrate because of a decision by an information officer that resulted in information being denied.

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

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

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

YES | NO

**References:**

Section 10 of Access to Information Act, 2005 states:

For the purposes of this Act, the Chief Executive of each public body shall be responsible for ensuring that records of the public body are accessible under this Act.

Section 10 (1) of the Access to Information Act, 2005 states:

A request for access to a record or information shall be in writing in the prescribed form to the information officer of the public body in control of the record or information required and shall provide sufficient details to enable an experienced employee of the body to identify the record or information.

**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.

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### 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:**

Responses vary according to information being sought.

Sometimes it takes less time for information that is already in the public domain, such as reports accessible through websites. But for information not accessible through the public domain, requests take a very long time. For example, the government still refuses to release information on the oil agreements it signed with Tullow Oil and Heritage Oil companies on how proceeds will be shared. The government refuses to release this information even to Parliament, despite complaints from the general public and individuals.

On June 17, members of the civil society, East African Legislative Assembly (EALA) visited oil areas in Hoima under the ownership of Tullow Oil Company, but were denied access to the Tullow drilling sites by the Petroleum Exploration Production Department. (The Independent July 28, 2009)

**References:**

The Independent July 28, 2009

Uganda Governance Monitoring Project Trends Report; Discerning Governance Trends in Uganda ( 2004-2008), February 2009.

**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:**

Despite the government passing the Access to Information Law, there are still challenges to its use.

First of all, the government has not developed specific guidelines for the implementation of the law. These guidelines should be developed and shared with all responsible officers under the act to guide them on implementation of specific aspects of the law. But this hasn't been done yet.

For example, Section 39 of the Access to Information Act 2005, provides that the rules committee shall, within six months after the enactment of the act, make rules of procedure to regulate the procedure made under the same act. The same section goes on to say that these rules of procedure will regulate the procedures. However, the regulations have never been made, delaying the effective operationalization of the law.

Secondly, the act actually doesn't repeal the Official Secrets Act which creates barriers to citizen access to information other than that which would interfere with the security of the state. Due to this, it is sometimes difficult for citizens to use the Access to Information Law alone to get access to records such as those which are up-to-date. The government has refused to make public oil agreements despite requests from the public.

**References:**

Media Reports (New Vision. Daily Monitor July 2008 to August 2009)

Uganda Governance Monitoring Project Trends Report; Discerning Governance Trends in Uganda ( 2004-2008), February 2009.

Interview with officials from Transparency International Uganda and the Rwenzori Anti-corruption Coalition

Sept. 28, 2008. Human Rights Network Uganda (HURINET-U), and members of the Coalition on Freedom of Information (COFI) petition to the Parliament of the Republic of Uganda to expedite the implementation of the Access to Information Law (Under Article 41 of the Constitution of Uganda, 1995 and the Access to Information Act, 2005).

**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:**

Responses given normally relate to information interfering with the security of the state and the requirements under the Official Secrets Act.

**References:**

New Vision, Daily Monitor, Weekly Observer, The Independent June 2008 to August 2009

**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:**

Time spent is dependent on the type of information being requested for and the availability of officers to sanction the sharing of information in accordance to the Official Secrets Act, the Rule in Public Service and the Access to Information Act. This places authority to sanction the release of information in the hands of the Permanent Secretary or Head of Department and Chief Administrative Officer in the case of local governments.

It is true often times when citizens are denied information, they do not appeal at all because they are not aware of the appeal mechanisms. The only documented case where citizens seek appeals for being denied access to information is in the recent court case where Two Ugandan Journalists Charles Mwangushya Mpagi, a Political Editor at Uganda's Independent Daily Monitor and Angelo Izama a journalist at the same newspaper have filed a suit seeking a court order to force government to avail oil agreements that were signed with two oil companies doing exploration in western Uganda. This case is currently in court and is due for hearing in late December 2009.

**References:**

The Official Secrets Act,  
Interviews with Officials from Transparency International and Rwenzori Anti-corruption Coalition

**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:**

The appeals process is free, but the cost of appealing is high because it would then require the citizens to pay the fees charged by the lawyers in case an appeal is filled in the courts of law. This is a case not easily affordable by many Ugandans, unless the appeal is being filled by an institution.

Presently, two Ugandan journalists, Charles Mwangushya Mpagi, a political editor at Uganda's Independent Daily Monitor, and Angelo Izama, a journalist at the same newspaper, have filed a suit seeking a court order to force the government to release oil agreements that were signed with two oil companies doing exploration in western Uganda. The case was filled at the Kampala High Court through a lawyer and Member of Parliament Abdul Katuntu.

**References:**

[www.ugandanjournalist.vox.com](http://www.ugandanjournalist.vox.com)  
Interview with Angella Byangwa, Coordinator Rwenzori Anti-corruption Coalition, Aug. 4, 2009

**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.

**Comments:**

Where Information is denied, often times no substantive reason is given except that the information being sought would interfere with the security of the state.

In the case of not releasing oil agreements which caused two monitor journalists to sue the state, sighting the Access to Information Law, no reason has been given for denying citizens access to information.

However, access to information is a procedural issue, such as getting clearance from the Permanent Secretary or Head of Department, sometimes going through this procedure is cited as a reason.

**References:**

Media Reports (New Vision, Weekly Observer, Daily Monitor, The Independent June 2008 to August 2009)

**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.

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## Category II. Elections

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### II-1. ~~61~~ Voting & Citizen Participation

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

100

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

**YES** | NO

**References:**

Article 103 (1) of the Constitution of Uganda. The election of the president shall be by universal adult suffrage through a secret ballot.

The Presidential Elections Act, 2005 Section 2 (1)

**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

**References:**

Article 103 (3), 1995 Constitution of Uganda states:

Election of the President shall be held during the first 30 days of the last 90 days before the expiration of the term of the President, except in the case of the first election under the constitution, an election held under article 104(6) of the constitution, or where an election could not be held as a result of an existence of war or state of emergency, in which case the election shall be held within such period as Parliament may, by law, prescribe.

**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.

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## 15. Can all citizens exercise their right to vote?

75

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

100 | 75 | 50 | 25 | 0

**Comments:**

While Article 59 (1) of the Constitution of Uganda states that every citizen of Uganda of 18 years of age or older has the right to vote, in practice not all participate in elections, because not all are registered to vote. Even those registered sometimes do not vote due to voter apathy.

A case is in the recent Rubaga LC3 by-elections held on May 21, 2009, where only 9.3 percent of the 170,557 voters on the Uganda Electoral Commission roll of registered voters in Rubaga participated in the polls.

There are no institutional barriers, political or government pressure that prevents citizens from voting.

What instead prevents most people from voting is external, such as voter apathy or voters' own non-registration.

In terms of pressure, there have been instances where opposition political parties have called for mass boycott of elections such as during the 2005 referendum on restoring multi-party democracy. Even in that, it was mainly those persons with a very strong allegiance to the parties calling for the boycott that eventually preferred to stay away from voting.

**References:**

www.bugandapost.com (Peter Sematimba Wins Tainted Elections With 9 percent of Registered Voters), May 24, 2009.

Interview with official of the Electoral Commission who preferred not to be named (July 31, 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:**

Ballots have to a large extent been kept secret. Most cases are registered during and after elections, where media have reported cases of ballots being tampered with — particularly ballot stuffing.

To some extent, people are able to vote in secret and while military or party agents are normally present at polling stations, they don't overtly pressurize voters at the polls, although their presence has an intimidation factor in a sense and on a small scale influences the way some people vote. Cases of tampering with ballots are evident for example, The Supreme Court ruling following the Presidential and Parliamentary Elections in 2006 pointed out that there was bribery, vote stuffing, multiple voting and intimidation in different parts of the country as well as disenfranchisement of voters by deleting their names from the register without their (voters') consent. Allegations of Vote rigging have continued even in recent elections such as in the Kyadondo South Bye-elections as well as elections. A recently launched report by Human Rights Watch- Preparing for the Polls: Improving Accountability for Electoral Violence in Uganda, notes that several of the crimes committed during the 2006 elections, were never investigated, culprits not punished and in some instances with officers who committed them continuing to hold high political offices.

**References:**

New Vision, Daily Monitor

The weekly Observer, December 10, 2008 (NRM GROUP NAMED IN POLL RIGGING)

**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 normally held within a regular time frame.

Mandatory end-of-term office elections such as presidential or parliamentary elections are normally held in time before the constitution deadline.

However in case of the replacement of any leader, such as when a leader dies, the constitution provides specific time periods within which elections must be held. These dates have greatly been adhered to. For example in the replacement for Kyadondo South following the death of the MP Hon. Israel Gibirige Ssebunya.

For LC IV elections, the law allows for six months. However for the rest, such as LC I, III elections, the law is silent and the dates are normally fixed by the electoral commission. It is important to note, however, that the law is silent on LC I and III elections, and therefore it is at the discretion of the electoral commission to set an appropriate date, subject to availability of funding.

**References:**

Interview with official of the Electoral Commission, Aug. 14, 2009

The New Vision, Daily Monitor, The Weekly Observer

[www.ec.co.ug](http://www.ec.co.ug)

**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?

70

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

YES | NO

**References:**

Article 29, 1995 Constitution states:

Every person has a right to (a) freedom of assembly and to demonstrate together with others peacefully and unarmed and to petition; (b) freedom of association, which includes the freedom to form and join associations or unions like trade unions or other political and public organizations.

Article 72 (1) of the Constitution of Uganda states:

The people of Uganda have a right to form political parties and other political

Part II, The Political Parties and Organizations Act, 2005. 3 (2) Every citizen of Uganda has a right to form or join a political party or organization of his/her choice.

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

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

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

YES | NO

**References:**

Presidential Elections Act 2005, 4 (1) (Qualifications of Candidates for election as president and 4 (4) qualification as Member of Parliament)

Article 72 (2) of the 1995 Constitution of Uganda states:

Any person has a right to stand for an election as an independent candidate

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

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

There are 36 officially-registered political parties with the Electoral Commission. Media reports also indicate the operation of other political parties that are not officially on the electoral commission list of fully-registered parties.

**References:**

Interview with Official from the Electoral Commission, Aug. 14, 2009  
[www.ec.or.ug](http://www.ec.or.ug)

**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:**

Anybody is free to run for political office as long as they are elected by the party during the party primaries.

Some have run as independents, where they think party structures have crowded out the right to run for political office such as the recently concluded Ssemabule by-elections. A recent move by the NRM to ban independents from its party is seen by many as a move to deny some people the right and opportunity to run for political official, especially if they feel aggrieved by party structures.

The biggest challenge and key deterrent for people intending to run for political office is the financial cost involved. This cuts across from individuals to political parties.

However, there is a recent move. If passed, it could see political parties funded by the government if the Political Parties and Organizations Amendment Bill, presented to Parliament in April 2009, is passed.

Though already heavily criticized the bill, if passed, would see political parties funded in respect of elections and their normal day-to-day activities, but the funding would be based on the numerical strength of each political party or organization in Parliament.

**References:**

[www.ugpulse.com](http://www.ugpulse.com)  
The New Vision, Daily Monitor, Weekly Observer

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

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

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

**Comments:**

Numerically, the opposition political parties are represented.

The structure of 8th parliament is as follows; NRM (ruling party)- 210 legislators. The rest, excluding independents who are mainly NRM represent the opposition-Forum for Democratic Change (FDC)- 39, Uganda Peoples Congress (UPC)- 9, Democratic Party (DP)- 8, Conservative Party (CP)- 1, JEEMA- 1.

These are, however, few and cannot advance legislation because they are defeated whenever it comes to voting. They have thus always walked out of parliamentary proceedings as a way of protesting.

**References:**

[www.ugpulse.com](http://www.ugpulse.com)

Media Reports (New Vision, Daily Monitor, the Weekly Observer)

**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.

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## 18. Is the election monitoring agency effective?

40

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

YES | NO

### Comments:

While the law attempts to shield the agency from political interference, the nature of appointments to key positions in the commission makes it vulnerable to political interference, particularly from the president and the ruling National Resistance Movement Organization because it the president who is the chairperson and commissioners. Therefore is the only one who can remove individuals.

The provision for parliamentary approval is only a paper tiger, as the Parliament is more of a rubber stamp than a body that can objectively check the powers of the president.

### References:

Section 13, Electoral Commission Act, 1997

Article 62 of the 1995 Constitution of Uganda states:

(1) The Electoral Commission is an independent body consisting of a chairperson and six other members appointed by the President with the approval of Parliament.

**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:

According to the survey, about six out of 10 Ugandans believe that the current EC headed by former Makerere Faculty of Technology Dean, Eng. Badru Kiggundu, has not managed past elections well. 56 percent said the EC was not independent and of those, 63 percent cited government interference in the electoral system. Meanwhile 16 percent cited rigging of elections and the fact that the EC is appointed by the ruling party, while a further 11 percent said the body is influenced by the president in power.

**References:**

Article 60 (1) of the Constitution of Uganda. The Electoral Commission is an independent body consisting of a chairperson and six other members appointed by the President with the approval of Parliament.

Media Reports June 2008-May 2009 (Daily Monitor Dec. 11, 2008) Poll: 56 percent Ugandans doubt Electoral Commission independence

Survey conducted by Steadman Group on behalf of the Foundation for Human Rights Initiative as part of celebrations to mark the 60th Anniversary of the Universal Declaration on Human Rights (UDHR) and the Human Rights Day (Dec. 11, 2008).

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

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

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

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

**Comments:**

The Electoral Commission relies mainly on temporary staff to conduct voter registration, supervise elections at polling stations. These, however, are easily compromised in their objectivity in their work.

**References:**

Interview with official from the electoral commission, August 14, 2009

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

**75:**

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

**25:**

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

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

**Comments:**

The law requires that election results are declared within 24 hrs, but the commission sometimes fails to do so, because it does not have all the required logistical needs.

Even delivering the statutory reports to Parliament, such as general election reports, is sometimes delayed due to logistical challenges. Making them public through the website takes a very long time, thus making them inaccessible.

**References:**

[www.ec.co.ug](http://www.ec.co.ug)

Interview with official from the Electoral Commission, Aug. 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.

**Comments:**

The Electoral Commission has had no record of imposing penalties particularly when the offenders are political heavyweights”.

For example, the law provides for penalties for those political parties who fail to comply with provisions of the Political Parties and Organizations Act, 2005, on declaration of assets and liabilities as well as submission of audited accounts on an annual basis. But to date, the NRM party has failed to comply and no penalty has been applied despite the breach of the law.

**References:**

Interview with official from the Electoral Commission, Aug. 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?

54

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

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

### Comments:

Voter registration is a continuous process and is done on a voluntary basis especially by those who qualify to vote.

The challenge is that people take a long time to check their status and wait for a few days until the election day, which makes it hard for the electoral commission to conduct effective cross-checking of registered voters due to the huge volume of people. It also explains why some people end up missing out on the voting register due to late registration and/or checking with the registers to establish their status.

### References:

Interview with official from the electoral commission, Aug. 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<sup>7</sup> voting by non-existent voters is common.

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

**YES** | NO

### References:

Section 60 (1) of the Parliamentary Elections Act, 2005 states that election petitions shall be filed with the high court, (3), every election petition shall be filled within 30 days after which the result of the election is published by the commission in the gazette.

Article 104 of the constitution; challenging a presidential election (1) subject to the provisions of this article, any aggrieved candidate may petition the supreme court for an order that a candidate, declared by the electoral commission, elected as president was not validly elected.

**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:**

Several petitions have been filled in courts of law with some annulments at parliamentary and local government levels. The most recent being nullifications of elections earlier held for a female member of Parliament for Isingiro and Member of Parliament for Bujumba, Kalangala District that led to by-elections that were held on Jan. 7, 2009.

In other instances, electoral petitions have taken too long to be disposed off, raising questions about the effectiveness of the judiciary. Cited in this regard, the appeal lodged by Betty Namboze, challenging the election of Hon. Bakaluba Mukasa filled in 2006 but up to now has not been disposed off, as well as the case involving Hon. Salamu Musumba for the Kamuli LC V by-elections.

Effectiveness at the presidential level is still questionable, especially following the failure for elections to be nullified in 2001 and 2006, despite a supreme court ruling that both elections were marred by electoral malpractices.

**References:**

[www.ec.or.ug](http://www.ec.or.ug)

Interview with official from the Electoral Commission, Aug. 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.

**Comments:**

In the 2006 elections, the military was heavily criticized for its involvement in elections. In the recently concluded elections for the Kyadondo MP seat held in May 2008, the media reported the involvement of the Internal Security Organisation (ISO) rigging elections for the ruling party.

**References:**

The weekly Observer, Dec. 17, 2008

The Daily Monitor, July 16, 2006

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

**75:**

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

**25:**

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

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

**YES** | **NO**

**References:**

Section 16 of the Electoral Commission Act 1997 details the powers of the commission to accredit observers who can be national or international.

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

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

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

**Comments:**

International observers only witness events on the polling day and most malpractices tend to happen before the polling day. Even with this, most international observers tend to concentrate only in urban areas

**References:**

Interview with official from the electoral commission, Aug. 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.

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## 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

**References:**

Article 61 of the constitution (h) gives powers to the Electoral Commission to organize, conduct and supervise elections and referendum in accordance to the constitution.

Article 16 of the Electoral Commissions Act gives powers to the commission to accredit observers to monitor elections on its behalf, a role it has always contracted out to other entities

**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.

65  
II-3. Political Financing

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

100

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

YES | NO

**References:**

Parties and Organizations Act, 2005, Section 14 (1).

The persons or bodies referred to in subsections (2) of the act shall not directly or indirectly make a contribution, donation or loan whether in cash or in kind in excess of the value of 20,000 currency points within any period of 12 months, to funds held or to be held by or for the benefit of a political party or organization. Persons specified in subsection 2, include a non-Ugandan citizen, a foreign government or diplomatic mission, a non-Ugandan nongovernmental organization, registered in Uganda under the NGO Registration Act.

**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

**References:**

Political Parties and Organizations Act, 2005, Section 14 (1). A foreign person or body cannot make a contribution to a political party or organization in excess of the value 400 million shillings (US\$212,539).

Section 14 (3) of the Political Parties and Organizations Act, 2005, a political party or organization cannot ask for or receive a contribution in excess of the value of 4 billion shillings (US\$2.1 million) from one or more foreign sources.

**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:**

Section 20, Political Parties and Organizations Act (PPOA), 2005 (Amended).

**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:**

Political Parties and Organizations Act, 2005 (amended), Section 9 (3) states:

A declaration submitted to the electoral commission under subsections (1) or (2) shall state the sources of funds and other assets of the political party or organization.

Section 12 (1)(b) requires that every political party or organization maintains.....a statement of its accounts, showing the sources of its funds and names of any person who has contributed to the funds including contributions by persons who are not citizens of Uganda, membership dues paid, donations in cash or kind and all the financial transactions of the political party or organization which are conducted through, by, or with the head or national office of the party or organization.

**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:**

Section 12 (3) of the Political Parties and Organizations Act, 2005 (Amended) states that the accounts of every political party or organization shall be audited once in every year but not later than six months after its financial year by an auditor from a recognized professional body.

**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:**

Section 12(4) of the Political Parties and Organizations Act, 2005 (Amended) (PPOA) requires political parties to file with the electoral commission audited statement of accounts, including a written declaration of assets and liabilities within 60 days after the first year of registration, audited statements of accounts within six months from the end of the financial year of a political party or organization

**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?

100

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

YES | NO

**Comments:**

However, the law doesn't list or define what the lawful means are, except that it provides on on asking for and receiving funds for campaign from a foreign government, institution body or person (sec.22(4)).

There is no requirement to disclose the source of a candidate's electoral campaign finances except that a candidate is to keep a record of all funds he/she asked for and received and their sources (sec.22(6)) and account, within 30 days after the election, for the use of public resources including 20 million shillings (US\$10,678) made as contribution from the electoral commission to all candidates (Handbook for civil society on elections and electoral campaigns under the multiparty political system, January 2006, Transparency International Uganda.)

**References:**

Presidential Elections Act, 2005, section 22 (2)-(3). This provides that a candidate or his agents may raise additional funding for a candidate's campaign through lawful means.

(Handbook for civil society on elections and electoral campaigns under the multiparty political system, January 2006, Transparency International Uganda.)

**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**

**Comments:**

However, the law doesn't list or define what the lawful means are, except that it provides on on asking for and receiving funds for campaign from a foreign government, institution body or person (sec.22(4)).

There is no requirement to disclose the source of a candidate's electoral campaign finances except that a candidate is to keep a record of all funds he/she asked for and received and their sources (sec.22(6)) and account, within 30 days after the election, for the use of public resources including 20 million shillings (US\$10,678) made as contribution from the electoral commission to all candidates (Handbook for civil society on elections and electoral campaigns under the multiparty political system, January 2006, Transparency International Uganda.)

**References:**

Presidential Elections Act, 2005, section 22 (2)-(3). This provides that a candidate or his agents may raise additional funding for a candidate's campaign through lawful means.

(Handbook for civil society on elections and electoral campaigns under the multiparty political system, January 2006, Transparency International Uganda.)

**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

**Comments:**

The legal regulation and restrictions on financing of candidates in elections are provided under the Presidential Elections Act 2005 and the Parliamentary Elections Act 2005.

With regard to presidential elections, the law requires a presidential candidate to submit an account for campaign finances to the Electoral Commission in terms of all funds he or she asked for and received and their sources ( Sec. 22 (6) of the Presidential Elections Act 2005). However, more attention is put to the presidential elections than parliamentary elections. The only challenge is that these declarations are only made to the Electoral Commission with a lot of restrictions for the public to access copies of the declarations.

**References:**

Handbook for civil society on elections and electoral campaigns under the multiparty political system, January 2006, Transparency International Uganda.)

The Presidential Elections Act 2005 and the Parliamentary Elections Act 2005

Section 12, Political Parties and Organizations Act (PPOA), 2005 (Amended).

**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

**Comments:**

The accounting to the Electoral Commission is to be done within 30 days after the elections are held.

**References:**

Section 26 (6) of the Presidential Elections Act, 2005 requires that a candidate submits an account for campaign finances to the Electoral Commission for the use of the public resources (20 million shillings (US\$10,678)) and other facilities.

**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

**Comments:**

The accounting to the Electoral Commission is to be done within 30 days after the elections are held. Accounts for campaign financing also include keeping a record of all funds a candidate asked for and received (and their sources).

**References:**

Section 26 (6) of the Presidential Elections Act, 2005 requires that a candidate submits an account for campaign finances to the Electoral Commission for the use of the public resources (including the 20 million shillings (US\$10,678) contribution made to all candidates) and other facilities.

**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.

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

13

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:**

The enforcing organization (Electoral Commission) has failed to enforce penalties on violating political parties on declarations of assets, liabilities as well as audited accounts which has thus rendered provisions on funding to political parties unenforceable.

**References:**

The EC Bulletin, Volume 6, Issue 1, May 2008  
[www.ec.or.ug](http://www.ec.or.ug)

**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:**

The enforcing organization (Electoral Commission) has failed to enforce penalties on violating political parties on declarations of assets, liabilities as well as audited accounts which has thus rendered provisions on funding to political parties unenforceable.

**References:**

The EC Bulletin, Volume 6, Issue, May 2008  
[www.ec.or.ug](http://www.ec.or.ug)

**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:**

The enforcing organization (Electoral Commission) has failed to enforce penalties on violating political parties on declarations of assets, liabilities as well as audited accounts which has thus rendered provisions on funding to political parties unenforceable.

**References:**

www.ec.or.ug

The EC Bulletin, Volume 6, Issue 1, May 2008

**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:**

The Electoral Commission has never initiated any investigations even when it is clear that some political parties, including the NRM, have deviated from the provision requiring declaration of assets and liabilities, including audited accounts on an annual basis.

**References:**

www. EC Bulletin, Volume 6, Issue 1, May 2008

www.ec.or.ug

Interview with an official from the Electoral Commission, Aug. 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:**

Interview with an official from the Electoral Commission, Aug. 14, 2009  
Media Reports (New Vision, Daily Monitor, The Weekly Observer)

**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:**

According to available reports, the political parties have failed to submit audited accounts on an annual basis to the electoral commission, so in essence they are indicating that their accounts are not audited.

**References:**

Interview with an official from the Electoral Commission, Aug. 14, 2009  
The EC Bulletin, Volume 6, Issue 1, May 2008

**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?

0

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

100 | 75 | 50 | 25 | 0

**Comments:**

The Electoral Commission had failed to enforce penalties on candidates who fail to comply with the law.

**References:**

Interview with the Electoral Commission  
[www.ec.or.uf](http://www.ec.or.uf)

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The electoral commission has failed to impose penalties on offenders, thus rendering the law ineffective.

**References:**

Interview with the Electoral Commission  
www.ec.or.ug

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The Electoral Commission has never imposed any penalty on offenders.

**References:**

Interview with an Electoral Commission official, Aug. 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:**

Interview with an official from the Electoral Commission

**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

**Comments:**

Audits are not conducted because audited accounts have not been submitted to the Electoral Commission.

**References:**

Interview with an official from the Electoral Commission

The EC Bulletin, Volume 6, Issue 1, May 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.

0

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

100 | 75 | 50 | 25 | 0

**Comments:**

Political parties have grossly failed to comply with the provisions of the law relating to declaration of assets and liabilities as well as audited accounts that indicate their finances and expenditures.

**References:**

Interview with an official from the Electoral Commission  
The EC Bulletin, Volume 6, Issue 1, May 2008

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The reports are not filed with the enforcing body (the Electoral Commission), and are not published on the respective party's website. On the other hand, citizens have not been educated enough to demand for this information, thus leaving them with no option for accessing financial records of political parties, except through media reports.

**References:**

Interview with an official from the Electoral Commission, Aug. 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:**

The records are not available, so there is no cost incurred.

**References:**

Interview with an official from the Electoral Commission, Aug. 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:**

There are no records available.

**References:**

Interview with an official from the Electoral Commission, Aug. 14, 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

**Comments:**

No candidate has ever disclosed data relating to financial support and expenditure to the Electoral Commission.

**References:**

[www.ec.or.ug](http://www.ec.or.ug)

Interview with an official from the Electoral Commission, Aug. 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

**Comments:**

There are no records available at the Electoral Commission.

**References:**

[www.ec.or.ug](http://www.ec.or.ug)

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

**75:**

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

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

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

100 | 75 | 50 | 25 | 0

**Comments:**

There are no records available to be accessed.

**References:**

[www.ec.or.ug](http://www.ec.or.ug)

**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

**Comments:**

There are no records available.

**References:**

[www.ec.or.ug](http://www.ec.or.ug)

Interview with an official from the Electoral Commission

**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.

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## Category III. Government Accountability

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### III-1. <sup>71</sup>Executive Accountability

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

56

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

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

**Comments:**

The executive makes commendable attempts to give reasons for his policy decisions, which he does through the party's parliamentary caucus and press briefings, which are held at the state house on a routine basis. When necessary, he has convened press conferences to explain decisions such as during the Mingo saga.

**References:**

Media Reports (New Vision, Monitor, Weekly Observer June 2008 to August 2009)

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

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

**YES** | NO

**References:**

Article 126 of the 1995 Constitution of Uganda; (1) Judicial power is derived from the people and shall be exercised by the courts established under the Constitution in the name of the people and in agreement with law, values and aspirations of the people.

**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:**

The judiciary hasn't demonstrated a lot of ability to review actions of the executive, except in a few cases. A recent example was on July 17, 2009, when it ruled through the Constitutional Court that former Inspector General of Government Faith Mwendha's re-appointment following the expiration of her contract was subject to parliamentary approval/vetting. This was contrary to the decision by the president, who had earlier re-appointed her as Inspector General of Government.

**References:**

The Daily Monitor, July 12, 2009

**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:**

The president has, on several occasions, used orders that disregarded formal institutional processes.

A recent case being in July 2009 when he ordered the arrest of several police officers including the OC Nateete Police Station and other police constables, who carried out evictions in Nateete the previous week.

Other incidents involving the president, include his orders to allocate chunks of police land at Naguru to a local businessman (Weekly Observer, Feb. 11, 2009) in complete disregard of the powers of the Uganda Land Commission.

**References:**

Monitor, New Vision, Weekly Observer, June 2008 to August 2009

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

**75:**

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

**25:**

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

---

## 28. Is the executive leadership subject to criminal proceedings?

50

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

YES | **NO**

**References:**

Article 98 (3) of the 1995 Constitution of Uganda; The president cannot be taken to court during his or her term of office for anything done in his or her personal capacity before or during the term of office.

**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:**

Article 118 of the 1995 Constitution of Uganda

**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.

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

72

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

**YES** | NO

**References:**

Section 4 of the Leadership Code Act, 2002, (1) A leader shall (a) within three months after the commencement of this Code; and (b) thereafter every two years, during the month of March, submit to the Inspector-General a written declaration of the leader's income, assets and liabilities, the names, income, assets and liabilities of his or her spouse, child and dependent in the prescribed form, without prejudice to the rights of the leader's spouse, child and dependent to independently owned property.

**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

**References:**

Section 4 of the Leadership Code Act, 2002, (1) A leader shall (a) within three months after the commencement of this Code; and (b) thereafter every two years, during the month of March, submit to the Inspector-General a written declaration of the leader's income, assets and liabilities, the names, income, assets and liabilities of his or her spouse, child and dependent in the prescribed form, without prejudice to the rights of the leader's spouse, child and dependent to independently owned property.

**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, Section 10 of The Leadership Code Act, 2002 notwithstanding, a leader may in Section 10 (3) accept a gift if the gift is in the nature of a souvenir or ornament and does not exceed five currency points in value

**References:**

Section 10, Leadership Code Act, 2002 (1) A gift or donation to a leader on any public or ceremonial occasion, or commission to a leader on any transaction shall be treated as a gift or donation or commission to the government or institution represented by the leader, and shall be declared to the Inspector-General; but the government or institution shall keep an inventory of any such gifts.

**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

**References:**

Sections 3 and 4, Leadership Code, 2002

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

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

YES | NO

**References:**

Part IV-Post Employment (section 16 of the Leadership Code Act, 2002).

**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:**

The IGG does not have the capacity to monitor what all leaders do after serving in government. Apart for the president, which is easy to monitor considering the number of former presidents, for other leaders this law is kept dormant and only used if there is information about irregularities caused by a leader.

**References:**

Media Report; Daily Monitor, New Vision, The Weekly Observer (June 2008 to August 2009)

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

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

**75:**

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

**25:**

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

Attempts have been made from the executive to declare gifts and hospitality such as during the period 2005 to 2007, the president H.E. Yoweri Kaguta Museveni was able to declare US \$100,000 he received as gift to the Inspector General of Government (IGG).

Despite this, enforcing this law is hard and often relies on the goodwill of persons to declare gifts received, as the office of the IGG does not have the capacity to monitor what leaders get as gifts wherever they go.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

Inspectorate of Government, Activities and Achievements of the Inspectorate of Government, June 2008.

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

There are more than 17,000 leaders, who have made their declarations. Due to this big volume versus the limited staffing, the inspectorate of government doesn't verify all the declarations, but randomly selects a few to verify/audit or selects by category/position or verifies when a complaint against a leader's declaration is lodged to the inspectorate.

**References:**

www.igg.go.ug

Media Reports (June 2008 to August 2009)

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

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

**75:**

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

**25:**

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

---

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

50

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

YES | NO

**References:**

Section 7, Leadership Code Act, 2002. The contents of a declaration under this code shall be treated as public information and shall be accessible to members of the public upon application to the Inspector General of Government in the form prescribed under this code.

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

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

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The declarations are accessible to the public, but only upon with application to the Inspectorate General of Government. Formerly, the forms were published, but in 2002 this led to a court case against the inspectorate, which thereafter stopped publication of declaration forms.

Once an application has been made to the inspectorate, this could take up to more than a month for one to retrieve a form out of the 17,000 declarations.

**References:**

New Vision, Monitor, Weekly Observer and the Independent, June 2008 to August 2009

Inspectorate of Government website ([www.igg.go.ug](http://www.igg.go.ug))

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

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

**75:**

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

**25:**

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

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Once retrieved, and if request is for genuine reasons and approved by the Inspector General of Government, records are given out free of charge.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

Inspectorate of Government website ([www.igg.go.ug](http://www.igg.go.ug))

**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:**

Some assets have often been hidden in their children's and other relative's names.

**References:**

Media Reports ( New Vision, Daily Monitor, Weekly Observer)  
[www.igg.go.ug](http://www.igg.go.ug)

**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.

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## 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 20 of the 1995 Constitution of Uganda, (1) Basic rights and freedoms of the individual are inherent (natural) and not given by the state.

Article 20 (2) All rights and freedoms must be respected, and promoted by all organs of government and by all persons.

**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.

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

0

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

100 | 75 | 50 | 25 | 0

**Comments:**

The party structures are fused with the government. For example, politicians in government use government/public resources such as cars and staff (for example sub-county chief), who despite being civil servants are required to attend a mandatory para-military training” and are often used for partisan purposes in the interest of the National Resistance Movement Organization.

**References:**

New Vision, Daily Monitor, The Weekly Observer

**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.

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## 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 126, of the 1995 Constitution of Uganda; (1) Judicial power is derived from the people and shall be exercised by the courts established under the Constitution in the name of the people and in agreement with law, values and aspirations of the people.

**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 in some instances, reviewed the laws passed by the executive. For example, regarding use of military courts to try civilians.

### References:

Media Reports ( New Vision, Monitor, Weekly Observer  
[www.allafrica.com](http://www.allafrica.com)

Uganda Law Society & Anor v The Attorney General (Constitutional Petitions No.2 & 8 of 2002) [2009] UGCC 1 (Feb. 5, 2009)

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

**75:**

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

**25:**

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

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

YES | NO

**References:**

Sections 3 and 19, Parliament (Immunities and Privileges) Act, 1955

**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.

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

64

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

YES | NO

**References:**

Section 4 of the Leadership Code Act, 2002, (1) A leader shall (a) within three months after the commencement of this Code; and (b) thereafter every two years, during the month of March, submit to the Inspector-General a written declaration of the leader's income, assets and liabilities, the names, income, assets and liabilities of his or her spouse, child and dependent in the prescribed form, without prejudice to the rights of the leader's spouse, child and dependent to independently owned property.

**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:**

Section 16, Leadership Code Act, 2002. (2) A leader shall disclose in writing to the Inspector General all offers of future employment that could place the leader in a position of conflict of interest.(3) A leader who accepts an offer of future employment shall immediately disclose in writing to the Inspector General as well as the authorized person the acceptance of the offer, and in such even, where it is determined by the Inspector General that the leader is engaged in significant official dealings with the future employer, the leader shall be assigned other duties and responsibilities immediately.

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

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

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

YES | NO

**Comments:**

The law notwithstanding, a leader may accept a personal gift or donation from a relative or personal friend to such an extent and on such occasion as is recognized by custom.(Section 10 (2))

Furthermore, in Section 10 (3), a leader may accept a gift if the gift is in the nature of a souvenir or ornament and does not exceed five currency points in value.

**References:**

Section 10, Leadership code Act, 2002. (1) A gift or donation to a leader on any public or ceremonial occasion, or commission to a leader on any transaction shall be treated as a gift or donation or commission to the government or institution represented by the leader and shall be declared to the Inspector-General. But the government or institution shall keep an inventory of any such gifts.

**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

**Comments:**

The Leadership Code Act (2002) provides the Inspectorate of Government (IGG) with powers to conduct an audit of asset disclosures submitted by a member of the national legislature.

This is done randomly and not for all members of the national legislature, because the number of declarations are too many compared to available staff at the inspectorate. It may also be done when members of the public request for an auditing of a specific members assets or when the IGG deems it's necessary.

**References:**

The Leadership Code Act, 2002.

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

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The IGG has no capacity to monitor what all past legislators do after leaving government employment. As a result, the law is kept dormant but is only used when there are irregularities by the leader.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

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

**75:**

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

**25:**

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

Between 2005 and 2007, of all gifts declared, none has been by a legislator.

It is not that they didn't receive any gifts, but because the Inspectorate of Government has no capacity to track all gifts received wherever they are given. Largely the implementation of this law depends upon the goodwill of the person receiving the gift to declare it.

**References:**

Media Reports (New Vision, Daily Monitor, Weekly Observer)

[www.igg.go.ug](http://www.igg.go.ug)

Inspectorate of Government, Activities and Achievements of the Inspectorate of Government, June, 2008

**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

**Comments:**

There are more than 17,000 leaders who have made their declarations. Due to this large volume compared to the limited staffing, the Inspectorate of Government doesn't verify all the declarations. Instead, the inspectorate randomly selects a few to verify/audit, sometimes done by category/position. It can also be done when a complaint against a leader's declaration is lodged to the inspectorate.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

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

**75:**

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

25:

0: 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.

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

56

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

YES | NO

#### References:

Section 7 of the Leadership Code Act, 2002. The contents of a declaration under this Code shall be treated as public information and shall be accessible to members of the public upon application to the Inspector General of Government in the form prescribed under this code.

**YES:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

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

100 | 75 | 50 | 25 | 0

#### Comments:

The declarations are accessible to the public, but only upon application to the Inspectorate General of Government. Formerly, the forms were published, but in 2002 this led to a court case against the inspectorate, which thereafter stopped publication of declaration forms.

Once an application has been made to the inspectorate, this could take up to more than a month for one to retrieve a form out of the 17,000 declarations.

#### References:

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

Inspectorate of Government website ([www.igg.go.ug](http://www.igg.go.ug))

**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:**

Once retrieved, and if the request is for genuine reasons and approved by the Inspector General of Government, records are given out free of charge.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 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.

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

100 | 75 | 50 | 25 | 0

**Comments:**

Public officials do sometimes hide assets in the names of their children, spouses and other relatives.

**References:**

Media Reports

**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.

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## 35. Can citizens access legislative processes and documents?

92

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

YES | NO

### References:

Section 5 of the Access to Information Act, 2005 and Article 29 of the Constitution of Uganda.

Every citizen has a right of access to information and records in the possession of the state or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the state or interfere with the right to the privacy of any other person.

**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

### Comments:

Parliamentary/legislative processes such as sittings are aired live on two Ugandan Television stations (UBC TV and WBS TV) every day, which have increased access to proceedings.

Most legislative processes are published in the Hansard, which is publicly available on the website. Other committee documents can also be accessed fairly fast, depending on their availability and the approving authority for their release.

**References:**

WBS Television  
Uganda Broadcasting Corporation  
Parliamentary website ( [www.parliament.go.ug](http://www.parliament.go.ug))

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The live broadcast of Parliamentary proceedings are processes have greatly reduced the cost of access to records.

The Hansard, which also captures processes, is available online. While it may not be up-to-date, it nonetheless is useful and has proceedings as far back as 1993. Where records are not published on the website, they are available at the parliamentary office with the only cost is for photocopying.

**References:**

Uganda Broadcasting Cooperation  
WBS Television  
Parliamentary website ([www.parlimament.go.ug](http://www.parlimament.go.ug))

**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.

36. Are judges appointed fairly?

100

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

YES | NO

**References:**

Article 142 of the Constitution of Uganda. The President, acting on the advice of the Judicial Service Commission and with the approval of Parliament, shall appoint the Chief Justice, Deputy Chief Justice, Principal Judge, justices of the Supreme Court, and Court of Appeal and judges of the High Court.

**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:**

The Judicial Service Commission nominates a list of persons and forwards them to the president for appointment. The president then advises the Judicial Service Commission and appoints judges and sends the names of appointed judges to the Parliament for vetting.

This process is very professional. For example, during the recent appointment of three Supreme Court judges, including the former Inspector General of Government Jotham Tumwesigye; Dr. Esther Mayambala Kisaakye, a lecturer at Makerere University Law School; and elevated Appeal Court Judge Christine Kitumba as new Supreme Court judges.

It is true that some of the appointments for known cadres in the ruling NRM party and other former Ministers but this alone doesn't disqualify the process from being professionally based because most of these qualify for their positions such as Jotham Tumwesigye and Faith Mwendha ( all former Inspector Generals of Government), and later appointed judges. Judges appointed have formal legal training to qualify to be nominated by the Judicial Service Commission and therefore, National-level judges selected have relevant professional qualifications

**References:**

The Daily Monitor, July 30, 2009

**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

**Comments:**

This gives special powers to the Parliament to approve nominations by the president in the appointment of Chief Justice, Deputy Chief Justice, Principal Judge, justices of the Supreme Court, and Court of Appeal and judges of the High Court.

**References:**

Article 142 of the Constitution of Uganda. The president, acting on the advice of the Judicial Service Commission and with the approval of Parliament, shall appoint the Chief Justice, Deputy Chief Justice, Principal Judge, justices of the Supreme Court, and Court of Appeal and judges of the High Court.

**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).

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

96

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

**YES** | NO

**Comments:**

The court proceedings carry decisions made, or ruling by the judge(s) and the reasons.

**References:**

Article 28(5) of the Constitution of Uganda gives every accused person the right to a copy of court proceedings upon payment of a fee.

**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:**

List of judgments made at the Courts of Uganda Sighted Examples include; Presidential Election No. 1 of 2006 Judgment and the Supreme Court Ruling on the Death Penalty  
[www.judicature.go.ug](http://www.judicature.go.ug)

**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

**References:**

Judicial Service Commission established by article 146 of the Constitution

**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:**

Article 128 of the Constitution of Uganda, 1995 states that; (1) The courts shall be independent and shall not be subject to the control or direction of any person or authority;  
(2) A person exercising judicial power will not be legally responsible for any act or omission in the exercise of that power.

**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:**

The commission conducts investigations. An example includes the investigation into corruption in the judiciary that led to the dismissal of several judicial officers in May 2008.

**References:**

The Daily Monitor, May 30, 2008

**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:**

In May 2008, the Judicial Service Commission dismissed and interdicted several judicial officers linked to corruption including among others; Buganda Road Grade I Magistrate Gastur Kaawa Mugoya; Henry Okiria Okia (grade I Magistrate); Godfrey Bangirana, Grade II Magistrate (Mbarara) (Grade II magistrate, Fort Portal); and Mr. Biganyire and Mr. Richrad Adubango (Nebbi District Land Tribunal). Others were demoted such as the Acting Chief Magistrate of Kasese Magistrates Court Mr. Obbo Londo who was demoted to the rank of Senior Principal Magistrate.

**References:**

The Daily Monitor, May 30, 2008

**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.

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

68

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

YES | NO

**References:**

Section 4 of the Leadership Code Act, 2002, (1) A leader shall (a) within three months after the commencement of this Code; and (b) thereafter every two years, during the month of March, submit to the Inspector-General a written declaration of the leader's income, assets and liabilities, the names, income, assets and liabilities of his or her spouse, child and dependent in the prescribed form, without prejudice to the rights of the leader's spouse, child and dependent to independently owned property.

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

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

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

YES | NO

**Comments:**

The law notwithstanding, a leader may accept a personal gift or donation from a relative or personal friend to such an extent and on such occasion as is recognized by custom (Section 10 (2) of the Leadership Code Act, 2002).

It further states that a leader may accept a gift if the gift is in the nature of a souvenir or ornament and does not exceed five currency points in value (Section 10 (3)).

**References:**

Section 10 of the Leadership Code Act, 2002. (1) A gift or donation to a leader on any public or ceremonial occasion, or commission to a leader on any transaction shall be treated as a gift or donation or commission to the government or institution represented by the leader and shall be declared to the Inspector-General; but the government or institution shall keep an inventory of any such gifts.

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

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

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

YES | NO

**Comments:**

The Leadership Code Act (2002) provides the Inspectorate of Government (IGG) with powers to conduct an audit of asset disclosure submitted by a member of the national legislature.

However this is done randomly and not for all members of the national legislature, because the number of declarations are too many compared to available staff at the inspectorate. Audits are also done when members of the public request for an auditing of a specific members assets or when the IGG deems it's necessary.

**References:**

The Leadership Code Act, 2002

**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:**

Section 16 (2) of the Leadership Code Act. A leader shall disclose in writing to the Inspector General all offers of future employment that could place the leader in a position of conflict of interest.

(3) A leader who accepts an offer of future employment shall immediately disclose in writing to the Inspector General as well as the authorized person the acceptance of the offer, and in such even, where it is determined by the Inspector General that the leader is engaged in significant official dealings with the future employer, the leader shall be assigned other duties and responsibilities immediately.

**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 IGG has no capacity to monitor what all past national level judges do after leaving government employment. As a result, the law is kept dormant but is only used when there are irregularities by the leader.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**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

**Comments:**

Some gifts have been declared by Justice Faith Mwendha including a handbag, necklace, foldway table and deluxe camping chair, wooden plaques and a honorarium of 200,000 shillings (US\$10).

While she is the only judge according to records to have declared gifts between 2005 and 2007, this doesn't mean other members of the judiciary didn't receive anything, but the implementation of this law is dependent on the goodwill of the person receiving the gifts to declare them, as the IGG does not have capacity to monitor what gifts people get at all times.

**References:**

Inspectorate of Government, Activities and Achievements of the Inspectorate of Government, June, 2008

**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:**

There are more than 17,000 leaders who have made their declarations, and due to this big volume compared to the limited staffing, the inspectorate of government doesn't verify all the declarations, but randomly selects a few to verify and audit. Sometimes this can be done by category or position, and sometimes it is done when there is a public complaint lodged against a leader's declaration to the inspectorate.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**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.

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

56

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

**YES** | NO

**References:**

Section 7 of the Leadership Code Act, 2002. The contents of a declaration under this Code shall be treated as public information and shall be accessible to members of the public upon application to the Inspector-General in the form prescribed under this Code.

**YES:** A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

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

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

**Comments:**

The declarations are accessible to the public, but only upon application to the Inspectorate General of Government.

Formerly, the forms were published, but in 2002 this led to a court case against the inspectorate, which thereafter stopped publication of declaration forms. Once an application has been made to the inspectorate, this could take up to more than a month for one to retrieve a form out of the 17,000 declarations.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

Once retrieved, and if the request is for genuine reasons and approved by the Inspector General of Government, records are given out free of charge.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 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.

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

**Comments:**

Some of the assets are hidden in their children's and other relative's names.

**References:**

Media Reports (New Vision, Monitor, Weekly Observer)

**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.

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## III-4. Budget Processes

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

83

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

YES | NO

**References:**

No.147 of the Rules of Procedure of Parliament establishes the Committee on Budget to among others; ....(b) Consider the National Budget and compile amendments and refer them to relevant Committees.

**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 most recent is during the presentation of the 2009/10 National Budget

**References:**

[www.parliament.go.ug](http://www.parliament.go.ug)

[www.finance.go.ug](http://www.finance.go.ug)

**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 Legislators use the advice of the Uganda Parliamentary Budget Office, which has a computerized office, with 20 economists, statisticians, and information technologists. These staff are few, and the office often is not adequately resourced to adequately perform all their duties.

**References:**

Uganda APRM Country Review Report, Launched March 23, 2009

[www.parliament.go.ug](http://www.parliament.go.ug)

**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?

42

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:**

While budget documents, such as budget proposals are accessible by the public, beyond the information, the budget process is not very transparent.

For example, it should be noted that the legislature used to hold public hearings on the budget in which civil society organizations could participate, but this is no longer the case.

**References:**

International Budget Partnership; Open Budget Index for Uganda 2008. [www.openbudgetindex.org](http://www.openbudgetindex.org)

**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:**

The space to provide input is narrow. Public hearings on the budget that used to be organized by the legislature in which civil society organizations could participate are no longer organized, which limits participation.

Furthermore, civil society organizations formed the Civil Society Budget Advocacy Group (CSBAG) currently led by the African Centre for Trade and Development (ACTADE), which produces annually a joint civil society paper to the budget.

This is limited to a few organizations, and while a report is produced, no information is provided on whether the recommendations and proposals by civil society organizations are successfully implemented.

**References:**

International Budget Partnership. Open Budget Index for Uganda, 2008. [www.openbudgetindex.org](http://www.openbudgetindex.org)  
Civil Society Budget Advocacy Group. c/o of African Centre for Trade and Development (ACTADE).

**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:**

Access to the highly detailed budget information needed to understand the government's progress in undertaking a specific project or activity remains somewhat limited. This is despite the fact that Uganda has codified the right to access government information into law, through the Access to Information Act 2005.

**References:**

The International Budget Partnership. Open Budget Index for Uganda. 2008. [www.openbudgetindex.org](http://www.openbudgetindex.org)

**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.

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

Department heads submit their reports regularly because it is the only sure way to get their budgets approved.

**References:**

Media Reports (New Vision, Daily Monitor June 2008 to August 2009)

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

Of the total number of members serving on the committee, 14 represent the Ruling NRM Party, three represent the FDC party, two represent the Independents, and there is one each for Democratic Party and UPC, respectively.

**References:**

Uganda Governance Monitoring Project Trends Report; Discerning Governance in Uganda (2004-2008), February 2009

Parliamentary Website ([www.parliament.go.ug](http://www.parliament.go.ug))

**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:**

In May 2009, the Parliamentary budget committee ordered a special audit into army spending after it emerged that more than 40.5 billion shillings (US\$2.4 million) was spent on questionable activities touted as a classified expenditure.

The call for a special audit followed the government's request for a supplementary budget of 250 billion shillings (US\$133 million) which is 3.75 percent over and above the 6.6 trillion shillings (US\$3.5 billion) that was approved by parliament this financial year.

The defense department had the biggest supplementary budget request of 100 billion shillings (US\$53 million) followed by State House with 23 billion shillings (US\$12 million).

**References:**

Daily Monitor, May 23, 2009 (Ugandan parliament orders probe into military expenditure).

**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.

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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

**Comments:**

The functions stipulated under Rule 147, 3a) include; (a) Consider Preliminary Estimates and the Macroeconomic Plan and

- Programs and submit recommendations to the Speaker;  
(b) Consider the National Budget and compile amendments and refer them to relevant Committees;  
(c) Carry out such other functions relating to the National Budget as may be assigned to it by Parliament or any law.

**References:**

Rule 147, Rule of Procedure of Parliament, 2006 establishes and stipulates the functions of the committee on the budget

**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).

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## Category IV. Administration and Civil Service

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### IV-1. <sup>78</sup>Civil Service Regulations

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

75

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

**YES** | NO

**References:**

Chapter 288, The Public Service Act, 1969

Chapter 10 of the Constitution of Uganda

Article 165 of the Constitution of Uganda that establishes the public service commission.

**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:**

The Leadership Code aims to minimize incidences of bribery among leaders, to prevent misuse of public property, and to admonish nepotism, favoritism and other forms of self-aggrandisement.

**References:**

The Leadership Code Act, 2002, Sections 8-13  
The Public Service Code of Conduct, 2005

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

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

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

YES | NO

**Comments:**

Redress mechanisms for civil servants exists at the central and local government level. At the central government level is the Public Service Commission, while at local government level is the District Service Commission.

The functions of the Public Service Commission include, among others: appointing persons to hold office in the public service other than those appointed by the president, exercising disciplinary control over them and removing them from office, reviewing the terms and conditions of service of public officers; guiding and coordinating district service commissions, and hearing and settling grievances from persons appointed by district service commissions.

The functions and duties of the District Service Commission, on the other hand, include the power to appoint persons to hold or act in any office in the service of the district, including the power to confirm appointments, to exercise disciplinary control over them and to remove them from office.

**References:**

Article 165 of the Constitution of Uganda 1995 establishes the Public Service Commission  
Article 198 of the Constitution of Uganda 1995 establishes the District Service Commission

**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**

**Comments:**

There is no specific law that explicitly states that civil servants convicted of corruption are prohibited from future government employment.

An effort has been made to address this by including it in the Anti-Corruption Bill that is slated to come into force starting September 2009, after the Parliament passed it in May 2009 and was assented to by the president in August 2009.

Under this law, a public official convicted of corruption will be disqualified from holding a public office for 10 years, along with a fine of 100 million shillings (US\$53,000). This is even not a lifetime ban, as it is restricted to only 10 years, after which an officer can then be recruited back into public office.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Public Relations and Communications, the Inspectorate of Government. Aug. 25, 2009

**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.

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

39

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

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

**Comments:**

The recent cases of interference in the management of Kampala, particularly markets, have presented a good case of political interference in the work of Kampala city council. KCC projects that it loses over 2.5 billion shillings (US\$1.3 million) per month in uncollected market dues resulting from political interference in leasing of public markets to traders.

**References:**

The Daily Monitor, Aug. 29, 2009  
The New Vision, Daily Monitor (June 2008 to August 2009)

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

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

100 | 75 | 50 | 25 | 0

**Comments:**

Appointments and promotions are not based on professional standards, but rather tribalism and other considerations in most local governments in Uganda. This is one of the criticisms of decentralisation in Uganda. For one to be employed in a given district, they have to be originally from the same district.

In Lyantonde, for example, the IGG has ordered the dismissal of all members of the District Service Commission over alleged influence peddling in staff recruitment. It was established that the recruitment exercise conducted in Lyantonde between November and December 2007 was marred with irregularities, where five public officers with forged academic papers were given jobs, while others were fraudulently promoted to higher positions.

**References:**

Monitor, Aug. 29, 2009 (Decentralisation blamed for poor service delivery)  
www.allfrica.com  
Daily Monitor, Aug. 27, 2009

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

Hiring, firing and promotion of staff is not transparent and is often influenced by nepotism. In the recently Concluded Third National Integrity Systems Survey (NIS III) by the Inspectorate of Government, the district service commissions were rated among the most corrupt institutions in Uganda, just behind the Uganda Revenue Authority, the judiciary and the police force.

The survey also noted a high level of informality in recruitment to public institutions, as many employees have no formal appointment letters. (This was reported by 20 percent of respondents in public institutions.)

This informal recruitment is fueled by nepotism, the survey states.

**References:**

Inspectorate of Government: Third National Integrity Systems Survey, October 2008

**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

**Comments:**

Job descriptions are issued where there is formal recruitment, particularly for senior officials. However, the National Integrity Systems Survey (NIS III) identified a high level of informality in recruitment of civil servants, thus creating employees without formal appointment letters. This was reported by 20 percent of respondents in public institutions for the NIS survey.

Because these appointments are normally fuelled by corruption and nepotism, it is very unlikely that such people will have job descriptions.

**References:**

The National Integrity Systems Survey (NIS III). October 2008

**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:**

Civil servants don't get any bonuses.

However, they are given a pension after their years of service with the civil service. This is non-contributory. There are proposals that, if passed, could see civil servants contribute 5 percent toward a pension fund. The other benefits paid include: monthly pension, contract gratuities and death gratuities. Severance packages include: special compensation, repatriation expenses and pay in lieu of leave.

**References:**

Interview with staff of Public Service, Sept. 3, 2009  
Monitor, Aug. 20, 2008  
[www.publicservice.go.ug](http://www.publicservice.go.ug)

**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:**

The civil service structure in Uganda, except for the recent move to centralize some elements, had been transformed from being a highly centralized traditional civil service model, into a decentralized structure with most of the authority and positions traceable at district level.

However, this information (on available positions, filled or not) is not readily available and even where it is, it is often incomplete with a lot of missing information and ghost workers.

What only happens is that some vacancies are advertised in the media, through district administration notice boards for positions to be filled. Even with this, corruption renders this whole process null and void as most advertised positions are either filled by the time of application or will simply not be filled on merit. The latest National Integrity Systems Survey (NIS III) ranked the district service commissions among the most corrupt public institutions in Uganda.

**References:**

Media Reports (New Vision, Daily Monitor. (June 2008 to September 2009)  
The National Integrity Systems Survey (NIS III), October 2008

**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 district service commissions, which are key to the decentralization process in Uganda, are not very effective. They are marred by corruption, a concern that is likely to eat away their independence.

The recently concluded National Integrity Systems Survey (NIS III), conducted by the Inspectorate of Government named the district service commissions among the most corrupt public institutions in Uganda, ranking fourth after the Uganda Revenue Authority, the judiciary and the Uganda Police Force.

**References:**

The Inspectorate of Government: National Integrity Systems Survey (NIS III), October 2008.

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

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

100 | 75 | 50 | 25 | 0

**Comments:**

Overall, in most local governments, payment of salaries to civil servants has improved following the introduction of the electronic money Ttransfer system, managed by the Ministry of Finance. With this system, districts are no longer involved in payment of salaries. Despite this, some delays have happened in paying civil servants. For example, there was a delay in salaries for August.

It is important to note that the issue is not only payment, but how much they get. The 2008-2009 salary structure for public servants shows that a doctor gets a gross monthly salary of 626,181 shillings (US\$333) when recruited. This is less than a third of the 2 million shillings (US\$1,066) an RDC earns. A soldier at the rank of private, gets 200,000 shillings (US\$106); the same amount a primary teacher earns. A police constable is worse off, pocketing about 174,000 shillings (US\$92).

**References:**

The Daily Monitor, Nov. 25, 2008  
New Vision (June 2008 to August 2009)  
The Monitor, Sept. 5, 2009

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The law only talks about dismissal or vacating of office, but not explicitly on barring one from future employment.

However, the Public Service Act bars recruitment of people convicted of a criminal offense, but not necessarily corruption.

The challenge is on maintaining proper records of each and every official and sometimes it is hard to verify their previous experiences to establish their prior involvement in acts such as corruption.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009.

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

**25:**

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

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

64

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

**YES** | NO

### References:

Section 4 of the Leadership Code Act, 2002, (1) A leader shall (a) within three months after the commencement of this Code; and (b) thereafter every two years, during the month of March, submit to the Inspector General a written declaration of the leader's income, assets and liabilities, the names, income, assets and liabilities of his or her spouse, children and dependent in the prescribed form, without prejudice to the rights of the leader's spouse, children and dependent to independently own property.

**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:

Section 8 of the Leadership Code Act, 2002. (1) A leader shall not put himself or herself in a position in which his or her personal interest conflicts with his or her duties and responsibilities.

**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:**

Part IV-Post Employment (section 16 of the Leadership Code Act, 2002)

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

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

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

YES | NO

**References:**

Section 10, Leadership Code Act, 2002 (1) A gift or donation to a leader on any public or ceremonial occasion, or commission to a leader on any transaction shall be treated as a gift or donation or commission to the government or institution represented by the leader and shall be declared to the Inspector General; but the government or institution shall keep an inventory of any such gifts.

**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:**

Sections 3 and 4, Leadership Code, 2002

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

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The IGG has no capacity to monitor what former civil servants do after leaving government employment. As a result, the law is often not used, but is only evoked when there are irregularities by a former civil servant.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

Some efforts have been made for some civil servants to declare gifts such as Allen Kagina (Commissioner General Uganda Revenue Authority), who between 2005 and 2007 declared a watch, and two Blackberry 8800 smart phones.

Other people who have declared items include Major General Kazini who declared 200 bags of cement, former Minister for Lands (Baguma Isoke) a bull (worth 180,000 shillings (US\$96)). Despite these examples, declaration of gifts is still limited, yet IGG has no capacity to monitor all gifts to every leader at all times. Thus enforcement of this law is largely dependent on the goodwill of leaders to declare gifts they receive.

**References:**

Inspectorate of Government, Activities and Achievements of the Inspectorate of Government, June, 2008

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

Despite the existence of laws on conflict of interest, this still continues as a key practice in national and local governments. It is estimated that Uganda loses about 500 billion shillings (US\$266 million) annually to graft. Conflict of interest is one of those forms of corruption that accounts for this high figure.

**References:**

The New Vision, Sept. 2, 2009

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

There are more than 17,000 leaders who have made their declarations and due to this big volume compared to the limited staffing, the inspectorate of government doesn't verify all the declarations, but only randomly selects a few to verify and audit. due

to limitations in staff capacities, only conducts random audits of disclosure statements filled with it. Under this, civil servants as well as politicians almost have a equal probability of being audited. Sometimes this is done by category or position, or when a public complaint is filed about a leader's declaration.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

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

**75:**

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

**25:**

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

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

50

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

YES | NO

**References:**

Section 7 of the Leadership Code Act, 2002 (The contents of a declaration under this Code shall be treated as public information and shall be accessible to members of the public upon application to the Inspector General in the form prescribed under this Code.)

**YES:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**NO:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The declarations are accessible to the public, but only upon application to the Inspectorate General of Government. Formerly, the forms were published, but in 2002 this led to a court case against the inspectorate, which thereafter stopped publication of declaration forms.

Once an application has been made to the inspectorate, it could take up to more than a month for one to retrieve a form out of the 17,000 declarations.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

Once retrieved and if the request is for genuine reasons and approved by the Inspector General of Government, records are given out free of charge.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 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.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

100 | 75 | 50 | 25 | 0

**Comments:**

It is hard to establish whether the information declared is correct or not unless it is verified, and often this is not done for all public leaders.

It is unlikely that the information declared is correct going by the media reports of corruption by public leaders and illegal acquisition of wealth by public leaders, which doesn't match the actions taken by the Inspectorate of Government.

According to the IGG report to Parliament for January to June 2008, only one leader's assets were to be confiscated or forfeited to government while only 26 caveats were lodged on properties of some leaders. This could mean that the ill-gotten could be hidden in other people's names, which makes the declarations of a low quality.

**References:**

The Inspectorate of Government, Report to Parliament, January to June 2008  
Media Reports (New Vision, Monitor, June 2008 to September 2009)

**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.

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## IV-2. Whistle-blowing Measures

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

75

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

YES | NO

**Comments:**

There are efforts to introduce a Whistle Blowers Protection Law. Currently the Whistle Blowers Protection Bill has been developed, but this is yet to be passed into law.

The Whistle Blowers Protection Law will beef up the protection of informers already provided by the Inspectorate of Government Act and the Leadership Code Act.

The law will specifically offer protection to witnesses, who are afraid of testifying against corrupt people. The current anti-corruption legislation does not explicitly address the issue of protection of whistle blowers, and this is the gap the whistle blower protection law will bridge as law that shall exclusively tackle the question of protection of whistle blowers.

**References:**

Section 34 (1) of the Inspector General of Government Act, 2002; 34. (1) A person who provides information to the inspectorate shall be protected, and his or her identify shall not be disclosed and may be rewarded for his or her information and paid an amount of five percent of the money recovered consequent upon his or her information to the inspectorate.

Section 44 (1) of the Access to Information Act, 2005: No person shall be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or information which would disclose a serious threat to health, safety or the environment, as long as that person acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.

**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:**

While the IGG Act and Leadership Code Act make provisions for protection of whistle blowers, and while a whistle blower/protection bill was drafted, it has not yet been enacted.

A study by the Rwenzori and Teso Anti Corruption Coalitions indicated that most of persons who report cases have been issued death threats and some have been tortured, particularly at local levels.

**References:**

Successes and Challenges of regional anti-corruption coalitions programmes in Uganda-Random survey, conducted in Teso and Rwenzori regions, commissioned by the Rwenzori and Teso Anti Corruption Coalitions between 2002 and 2008 to assess the local communities' contribution in the fight against graft.

Interview with Angella Byangwa, Coordinator Rwenzori Anti corruption Coalition. Aug. 4, 2009

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and

accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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

**YES** | NO

**Comments:**

There are efforts to introduce a Whistle Blowers Protection Law. Currently the Whistle Blowers Protection Bill has been developed, but this is yet to be passed into law.

**References:**

Section 34 (1) of the Inspector General of Government Act, 2002; 34. (1) A person who provides information to the inspectorate shall be protected, and his or her identify shall not be disclosed and may be rewarded for his or her information and paid an amount of five percent of the money recovered consequent upon his or her information to the inspectorate.

Section 44 (1) of the Access to Information Act, 2005: No person shall be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or information which would disclose a serious threat to health, safety or the environment, as long as that person acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.

**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:**

While the IGG Act and Leadership Code Act make provisions for protection of whistle blowers, and while a whistle blower/protection bill was drafted, it has not yet been enacted.

A study by the Rwenzori and Teso Anti Corruption Coalitions indicated that most of persons who report cases have been issued death threats and some have been tortured, particularly at local levels.

**References:**

Successes and Challenges of regional anti-corruption coalitions programmes in Uganda-Random survey, conducted in Teso and Rwenzori regions, commissioned by the Rwenzori and Teso Anti Corruption Coalitions between 2002 and 2008 to assess the local communities' contribution in the fight against graft.

Interview with Angella Byangwa, Coordinator Rwenzori Anti corruption Coalition. Aug. 4, 2009

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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

50

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

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

**Comments:**

The IGG has limited staff right from the top to the lower level officials. On Aug. 4, 2009, while appearing before the legal and parliamentary affairs committee of Parliament to discuss the budget and funding gaps, Rapheal Baku, the Acting IGG called on the government to expedite the appointment of a substantive IGG and two deputies. He further added that attracting, recruiting and retaining qualified staff is a challenge, citing poor remuneration as the cause for the high turnover of staff, especially lawyers and accountants.

The Inspectorate has 13 regional offices and ideally each is supposed to have at least six investigative staff. Presently, however, regional officials have only three investigative staff. This is coupled with a high turnover, estimated at an average of between five and 10 people per year.

**References:**

The New Vision, Aug. 5, 2009

Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009.

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

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

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

**Comments:**

The funding is not sufficient and has been reduced over the past three years. For example in 2007-2008 year, the institution received 25 billion shillings (US\$13.3 million), in 2008-2009 financial year, it was reduced to 17 billion shillings (US\$9 million ) and for 2009-2010, the inspectorate has been allocated only 13 billion shillings (US\$6.9 million). This is equivalent to the institutions wage bill.

**References:**

The Daily Monitor, July 21, 2009

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

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

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

**Comments:**

Complaints take long to be acted upon for example, of 3,400 corruption complaints in the 2008-2009 financial year, only 813 were investigated and completed. Of the 58 cases in court last year, only 10 were concluded, five of them resulting in conviction and five in acquittals.

This is partly attributed to staffing challenges and huge case backlogs. While in some cases prosecution takes too long.

For example, the case involving two former ministers for the abuse of Global Fund, reported in 2006 has yet to be disposed of as of Sept. 28. And there yet been fixed to hear a petition by three former health ministers challenging the power of the Inspector General of Government to prosecute them in connection with Global Alliance Vaccine for Immunization (GAVI) money.

**References:**

The New Vision, Aug. 5, 2009  
www.accu.or.ug

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The IGG has been quite fast on initiating investigations both single-handedly or through collaborations with other institutions such as the Anti-corruption squad and others.

Some of the recent cases include among others investigation of Jinja Mayor Mohammed Kezaala, for corruption and abuse of office, the investigation into sale of Naguru estates, the mismanagement of NAADS (National Agricultural advisory Services) funds, and investigation into the collapse of the Makerere University wall, constructed at a whopping 1 billion shillings (US\$533,000).

**References:**

www.accu.or.ug ( anticorruption caoalition of Uganda)

Daily Monitor, Wednesday, Aug. 19, 2009

New Vision, Tuesday, Aug. 18, 2009

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

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

100

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

YES | NO

**Comments:**

To ease the process of enabling people to submit complaints or report cases of corruption, the institution of the Inspector General of Government created a phone hotline and opened up regional offices through which people can report corruption. Other agencies that have opened up hotlines for people to report corruption include the Uganda Police and the Uganda Revenue Authority.

**References:**

Section 24. (1) of the Inspector General of Government Act, 2002 provides that a complaint or allegation under this act may be made by an individual or by any body of persons whether corporate or not, and shall be strictly confidential and addressed to the Inspector-General.

**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.

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75  
IV-3. Procurement

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51. Is the public procurement process effective?

88

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

YES | NO

**References:**

Fifth Schedule of the Public Procurement and Disposal of Public Assets Act, 2003  
Section 8, Leadership Code Act, 2002

**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

**Comments:**

On Dec. 11, 2008, the Basic Requirements and Minimum Standards for Public Procurement Education and Training Regulation, 2008, was launched, under the Statutory Instrument No. 35 of 2008 by the National Council for Higher Education.

The regulation, which was gazetted in 2006, requires all institutions to comply with minimum standards for procurement study, set by the National Council for Academic and Professional Teaching Program. Subsequently, the Institute of Procurement Professionals (IPPU) has been established and among others, it also regulates professionals and their conduct.

**References:**

Section 7 (c) of the Public Procurement and Disposal of Public Assets Act, 2003  
Basic Requirements and Minimum Standards for Public Procurement Education and Training Regulation, 2008

**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:**

While the laws exist, they are sometimes not implemented particularly where high-ranking government officials have been implicated for fear of them using their connectedness to fight back.

According to the PDDA, the weak enforcement can also be attributed to high levels of corruption, lack of capacity particularly at local government levels and the weak laws.

**References:**

Media Reports, September 2008 to June 2009

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

**75:**

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

**25:**

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

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

**YES** | NO

**References:**

Under the Section 4(1) (b) of the Leadership Code Act, 2002, all leaders, as prescribed under the law, are required to submit to the Inspector General of Government, a written declaration of incomes, assets and liabilities every two years in the month of March.

[www.igg.go.ug](http://www.igg.go.ug)

**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

**Comments:**

The choice of procurement method used is determined by the thresholds for example in procurement of supplies and goods services, open bidding shall be used if the estimated value of the procurement exceeds 30 million shillings (US\$15,988) whichever is greater.

Selective bidding shall be used if the estimated value of the procurement does not exceed 30 million shillings (US\$15,988), whichever is greater. Micro procurement may be used if the estimated value of the works, supplies and services does not exceed 1 million shillings (US\$533). While community purchase may be used if the estimated value of the works does not exceed 500,000 shillings (US\$265).

**References:**

Local Governments Public Procurement and Disposal of Public Assets Guidelines, 2008  
Part VI of the Public Procurement and Disposal of Assets (PPDA) Act, 2003

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

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

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

**YES** | NO

**Comments:**

The law states that open bidding shall be used if the estimated value of the procurement exceeds 30 million shillings (US\$15,988) whichever is greater.

Selective bidding shall be used if the estimated value of the procurement does not exceed 30 million shillings (US\$15,988), whichever is greater. Micro procurement may be used if the estimated value of the works, supplies and services does not exceed 1 million shillings (US\$533). While community purchase may be used if the estimated value of the works does not exceed 500,000 shillings (US\$265).

**References:**

Part VI, Public Procurement and Disposal of Assets (PPDA) Act, 2003  
Local Government Public Procurement and Disposal of Assets (PPDA) Guidelines 2008

**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:**

90. (1) A complaint by a bidder against a procuring and disposing entity shall first be submitted in writing to the Accounting Officer within 15 working days from the date the bidder first became aware of the circumstances giving rise to the complaint. (2) On receiving a complaint, the Accounting Officer shall make a decision in writing within 15 working days indicating the corrective measures to be taken if any, including the suspension of the proceedings where he or she deems it necessary and giving reasons for his or her decision.

**References:**

Part VII of the Public Procurement and Disposal of Public Assets Act, 2003

**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:**

Part VII, Public Procurement and Disposal of Assets (PPDA) Act, 2003

**YES:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

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

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

**YES** | NO

**References:**

Part VIII, (94) The Public Procurement and Disposal of Public Assets Act, 2003

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

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

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

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

**Comments:**

Enforcement of the law is weak, such as when it involves blacklisting companies.

This is even made more complex, especially if owners of companies are politically well connected. For example, throughout its lifetime, only one company has so far been blacklisted: Ms. African Central Auctioneers, which was blacklisted in November 2006 for a period of three years and may soon be off the hook in October 2009.

The PPDA states that blacklisting is particularly complex because the onus to initiate this is on the procuring entities to recommend to PPDA to blacklist. If this doesn't come through, it leaves PPDA with little options.

**References:**

Media Report, June 2008 to June 2009,

[www.ppda.go.ug](http://www.ppda.go.ug)

Interview with PPDA Publicist, July 30, 2009

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

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## 52. Can citizens access the public procurement process?

63

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

**YES** | NO

**Comments:**

Article 5. Right of Access. (1) Every citizen has a right of access to information and records in the possession of the state or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the state or interfere with the right to the privacy of any other person.

**References:**

Part II of the Access to Information Act 2005

**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:**

Part III, Public Procurement and Disposal of Assets (PPDA) Act, 2003

**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:**

On the Internet, these regulations are posted and are just a click away. But due to low Internet use in Uganda, one may have several visits to the procurement authority, which increases the time one would have used to access information.

Secondly, at the procurement authority, information to be released has to be approved by either the head of department or the executive director.

**References:**

[www.ppda.go.ug](http://www.ppda.go.ug)

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The acts are accessible free of charge on the PPDA website, but use of the Internet is very limited in Uganda. For those who can't access Internet, they would then need to purchase copies of the act from bookshops, which makes it costly for most citizens.

**References:**

[www.ppda.go.ug](http://www.ppda.go.ug)

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

**75:**

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

**25:**

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

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

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

**Comments:**

There is a formal process for advertising major procurements but this is deliberately flawed by the parties involved.

While major procurement bids are announced on the PPDA website. For example, the supply of equipments to the civil aviation authority, some procurements are never advertised publicly. Instead it is not until information leaks out through the media that people get to know these items, such as the controversial sale of Nakawa, Naguru Estates Land Deals.

**References:**

[www.ppda.go.ug](http://www.ppda.go.ug)

Daily Monitor, July 16, 2009

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

**75:**

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

**25:**

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

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

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

**Comments:**

The results are normally published on the PPDA website and in newspapers, but not all citizens have access to these. At the local government, they are published on district notice boards.

**References:**

[www.ppda.go.ug](http://www.ppda.go.ug)

**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.

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## IV-4. Privatization

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53. Is the privatization process effective?

83

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

**YES** | NO

**References:**

Part IV-Basic Procurement and Disposal Principles, PPDA Act, 2003

(44). A bidder shall not be excluded from participating in public procurement and disposal on the basis of nationality, race, religion, gender or any other criterion not related to qualification, except to the extent provided for in this act.

(45). All procurement and disposal shall be conducted in a manner which promotes transparency, accountability and fairness.

The Public Enterprise Reforms and Divestiture Statute, 1993 (Divestiture Guidelines (2)) In the case of public enterprises for sale, lease or management contract the target enterprises shall be advertised accordingly.

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

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

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

YES | NO

**References:**

The Public Enterprises Reform and Divestiture Statute, 1993. Section 7. (1) A member of the Committee (Divestiture and Reform Implementation Committee) who has a direct personal interest in a matter being considered or about to be considered by the committee shall, as soon as possible, after the relevant facts have come to his knowledge, disclose the nature of his interest to the committee.

Section 8 of the Leadership Code Act, 2002 (1) A leader shall not put himself or herself in a position in which his or her personal interest conflicts with his or her duties and responsibilities.

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

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

Conflict of interest is hard to enforce, especially where politicians are involved. For example, during the sale of Kinyara Sugar Factory in 2006, President Museveni was quoted to have openly backed Madhvani's bid to buy 51 percent of shares in the factory.

**References:**

Media Reports (New Vision and Daily Monitor, March 2006)

**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.

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

75

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

**YES** | NO

**Comments:**

Despite this law, there is still a general lack of awareness of the legal right to access information, such as rules and regulations that govern the privatization process.

**References:**

Part II of the Access to Information Act, 2005

Article 53 of the PPDA Act, 2003 (Copies of the act, regulations, guidelines, and forms made under this act, standard bidding documents and decisions of the authority shall be made accessible to the public by the authority.)

**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:**

Results of major privatizations are advertised on the Privatisation and Utility Sector Reform website and in national media.

However, the challenge is that often times some major privatizations are not advertised until the secret behind it leaks to the media. Examples of these include the proposed giveaway of Entebbe International Airport to a foreign investor.

**References:**

[www.perds.go.ug](http://www.perds.go.ug)

The Daily Monitor, July 26, 2009

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

**75:**

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

**25:**

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

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

YES | NO

**Comments:**

Not all results of privatization are announced, unless they are unearthed by the media such as the sale of former Shimoni Land to Kingdom Holding, Ltd., and other companies that have been secretly sold off.

**References:**

Article 54 of the PPDA Act, 2003 (The Authority shall organize and maintain a system for the publication of data on public procurement and disposal opportunities, awards and any other information of public interest that may be determined by the authority.)

**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

**Comments:**

The rules and regulations are free documents and can be accessed within a short time.

But delays are normal because the release of the documents must first need to be approved by the head of department or head of the institution, which means approval could take several days depending on his or her schedule.

**References:**

Interview with an official from the Privatisation and Utility Sector Reform Project (PUSRP), Sept. 3, 2009

**100:** Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

This information is given out free of charge, if it is available at the secretariat. To access this information however, one has to make a visit sometimes several to a physical office as this information is not on the department websites. This imposes a financial burden on persons seeking access to the regulations.

**References:**

Interview with an official from the Privatization and Utility Sector Reform Project (PUSRP), Sept. 3, 2009

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

**75:**

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

**25:**

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

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Category V. Oversight and Regulation

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V-1. National Ombudsman

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56. Is the national ombudsman effective?

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

YES | NO

**References:**

Section 10 of the Inspector General of Government Act, 2002; The Inspectorate shall be independent in the performance of its functions and shall not be subject to the direction or control of any person or authority and shall only be responsible to Parliament.

Article 227 of the Constitution of Uganda; The Inspectorate of Government is an independent body that reports and is only answerable to Parliament.

**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:**

Political interference is reported to be minimal, particularly from the executive. What is experienced, however, are indirect influences through threats by some ministers, often those under investigation.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations Unit, Aug. 25, 2009

**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

**Comments:**

The recent constitutional ruling requiring the IGG to undergo parliamentary vetting, to retain her position as IGG provided a clear test on how the IGG can be removed. Faith Mwendha's refusal to go through a parliamentary approval for her re-appointment led to the president relieving her of her duties and appointing Mr. Rapheal Baku as Acting IGG.

**References:**

The Independent, July 17, 2009  
The Daily Monitor, July 17, 2009

**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 IGG has limited staff right from the top to the lower level officials.

On Aug. 4, 2009, while appearing before the legal and parliamentary affairs committee of Parliament to discuss the budget and funding gaps, Rapheal Baku, the Acting IGG called on gGovernment to expedite the appointment of a substantive IGG and two deputies. He further added that attracting, recruiting and retaining qualified staff is a challenge, sighting poor remuneration as the cause for the high turnover of staff, especially lawyers and accountants.

The Inspectorate has 13 regional offices and ideally each is supposed to have at least six investigative staff. Presently, however, regional officials have only three investigative staff. This is coupled with a high turnover, estimated at an average of between five to 10 people per year.

**References:**

The New Vision, Aug. 5, 2009  
Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

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

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

**Comments:**

The appointments process promotes independence of the institution. As appointment is made by the president and approved by Parliament, it makes the institution accountable not only to the president but also the Parliament.

The recent removal of the IGG from office for refusing to appear before Parliament for vetting despite re-appointment by the president is evidence of how involvement of Parliament in the approval process ensures independence.

**References:**

The New Vision, and Daily Monitor, August 2009

Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

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

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

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

**Comments:**

The funding is not sufficient and has been reducing over the past three years. For example in 2007-2008 year, the institution received 25 billion shillings (US\$13 million), in 2008-2009 financial year, it was reduced to 17 billion shillings (US\$9 million), and

this budget for 2009-2010, the inspectorate has been allocated only 13 billion shillings (US\$6.9 million). This is equivalent to the institutions wage bill.

**References:**

The Daily Monitor, July 21, 2009

Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The reports are publicly available at the inspectorate library or upon request. Some are posted on the website, but this process is slow particularly in ensuring that up-to-date reports are posted.

**References:**

Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**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.

**Comments:**

The IGG has been quite fast on initiating investigations both single-handedly or through collaborations with other institutions such as the anti-corruption squad and others.

Some of the recent cases include among others investigation of Jinja Mayor Mohammed Kezaala, for corruption and abuse of office, the investigation into sale of Naguru estates, the mismanagement of NAADS (National Agricultural advisory Services) funds, the investigation into the collapse of the Makerere University wall, constructed at a whopping 1 billion shillings (US\$533,000).

**References:**

www.accu.or.ug ( anticorruption coalition of Uganda)

Daily Monitor, Wednesday, Aug. 19, 2009

New Vision, Tuesday, Aug. 18, 2009

Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**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.

**Comments:**

The inspectorate in most cases only recommends for responsible people to take action against those convicted, such as the removal of Dr. Bakibinga as Deputy Vice Chancellor of Makerere University following the investigations into the collapse of the Makerere University wall.

Other cases where it has recommended for action and it has been taken include the removal of Mohamed Beswale Kezaala as Mayor of Jinja Municipality.

So in most cases, the onus of enforcing penalties is not in the hands of the IGG but other agencies such as the executive and responsible bodies.

**References:**

Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**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:**

The government sometimes acts, but the action is not very strong. For example, following the implication of Hon. Kahinda Otafire in the sale of Naguru/Nakawa estates by the IGG, the government acted by only relocating him from being Minister of Local Government to Minister of Tourism.

**References:**

Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**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:**

Complainants take long to be acted upon.

For example, of 3,400 corruption complaints in the 2008/09 financial year, only 813 were investigated and completed.

Of the 58 cases in court last year, only 10 were concluded, five of them resulting in conviction and five in acquittals.

This is partly attributed to staffing challenges and huge case backlogs. While in some cases, prosecution takes too long.

For example, the case involving two former ministers for the abuse of Global Fund, reported in 2006 is yet to be disposed of as Sept. 28. It has been fixed to hear a petition by three former health ministers challenging the power of the Inspector General of Government to prosecute them in connection with Global Alliance Vaccine for Immunisation (GAVI) money.

**References:**

The New Vision, Aug. 5, 2009  
www.accu.or.ug

**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

**References:**

Article 41 of the 1995 Constitution of Uganda and Section 5(1) of the Access to Information Act 2005; Every citizen has a right of access to information in the possession of the State or any other organ of the State except where the release of the information is likely to interfere with the security of the State.

**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:**

All reports are accessible at the inspectorate library or upon request from the office of the Inspector General of Government. This doesn't take a very long time depending on the type of report.

**References:**

Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

Reports of the national ombudsman are accessible free of charge. Activities of the office are documented through the Annual Report to Parliament and other specific publications. These are accessible free of charge on the igg website although sometimes is rarely updated or when one visits to library at the ombudsman office. They are given out to all persons interested and if copies are few, people are allowed to photocopy specific sections or the entire booklet.

**References:**

Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**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.

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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

**References:**

The Ombudsman functions are vested in the Inspectorate of Government under Article 225 (1) of the Constitution and section 8 of the IGG Act, 2002, which in particular mandates the Inspectorate of Government to promote and foster strict adherence to the rule of law and principles of natural justice in administration.

**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.

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## V-2. Supreme Audit Institution

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59. Is the supreme audit institution effective?

56

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

YES | NO

**References:**

Article 163 (6) of the Constitution of Uganda. In performing his or her duties the Auditor General shall not be under the direction or control of any person or authority.( 4) The Auditor General shall in each year submit to Parliament a report of the accounts he or she has audited.

**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:**

While Article 163 of the Constitution states the conditions for the removal of the auditor general, it vests a lot of powers in the president to remove the Auditor General. This compromises the independence of the Auditor General.

**References:**

The International Budget Partnership. The Open Budget Index for Uganda, 2008. [www.openbudgetindex.org](http://www.openbudgetindex.org)

**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:**

The OAG has a total workforce of 338 employees, of which 254 are technical staff and 84 are administrative and support staff. With 62 professional accountants, the office is currently the largest employer in Uganda of qualified accountants working in the profession.

Despite this staffing, it is still low in comparison to the large number of public sector organizations and programs within its audit mandate. Furthermore, the office also faces a challenge of improving skills and knowledge among personnel of the Office of the Auditor General. This problem is, however, not limited to only the Auditor General but is a problem across public service departments in Uganda.

**References:**

Office of the Auditor General [www.oag.go.ug](http://www.oag.go.ug) (Frequently Asked Questions).

**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:**

independence of Office of the Auditor General is limited because the head of the institution is appointed by and may be removed by the president. (Article 163 of the Constitution of Uganda)

**References:**

International Budget Partnership. Open Budget Index for Uganda, 2008. [www.openbudgetindex.org](http://www.openbudgetindex.org)

**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:**

The Office of the Auditor General receives regular funding, allocated to it in the budget. This and other resources to the institution are, however, limited compared to the large number of public sector organizations and programs within its audit mandate.

**References:**

[www.oag.go.ug](http://www.oag.go.ug) (Frequently Asked Questions)

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

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

**Comments:**

The office makes available its reports including annual reports to Parliament, audited ministry/agency accounts, audited local government accounts and performance audits.

These, however, are sometimes not timely due to capacity issues and audit backlogs. It is important to note, however, that beyond making accessible this information, no information is provided on whether the audit report's recommendations are successfully implemented.

**References:**

[www.oag.go.ug](http://www.oag.go.ug)

International Budget Partnership. Open Budget Index for Uganda, 2008. [www.openbudgetindex.org](http://www.openbudgetindex.org)

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

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

**Comments:**

No information is provided on whether the audit report's recommendations are successfully implemented.

Reports are debated by Parliament (mainly the Public Accounts Committee), the challenge however is that apart from exposing the corrupt, nothing much is done to implement the findings and recommendations. For example, in April 2008, the Minister of Foreign Affairs, Sam Kuteesa was implicated in a case of irregularly securing a 1.2 billion shillings deal for Hunton and William, a PR firm in the United Kingdom from March 2005 to April 2006 to promote the image of Uganda and no action has been taken on the implicated Minister. This is normally the case where members of the executive are implicated. I however acknowledge that sometimes the audit reports have been used to ensure people refund funds such as in 2005 when Dr. James Nsaba Buturo (then Minister for Information and now Minister of Ethics and Integrity) was forced to refund about 20 million shillings that he had diverted from government owned Mega FM. These are however few instances to quote!

**References:**

International Budget Partnership. Open Budget Index for Uganda, 2008. [www.openbudgetindex.org](http://www.openbudgetindex.org)

**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 Office of the Auditor General is a strong pillar and has worked closely with the Police, Inspectorate of Government, the Parliamentary Budget Committee, and the Directorate of Public Prosecutions to initiate and conduct investigations into utilization of public funds at central and local government levels.

**References:**

Media Reports (New Vision, Daily Monitor, June 2008 to August 2009).

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

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

YES | NO

**References:**

Article 41 of the Constitution of Uganda and Access to Information Act, 2005; Every citizen has a right of access to information in the possession of the state or any other organ of the state, except where the release of the information is likely to interfere with the security of the state or the right to the privacy of any other person.

**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:**

Reports are available on the website or not all.

One can also and request report by email at [auditgen@infocom.co.ug](mailto:auditgen@infocom.co.ug) or visit the office at the Treasury Building, Plot 2/4, Treasury Building, Apollo Kagwa Road, Kampala.

For visits, reports can be accessed within two weeks with delays if they are experiences of administrative nature.

**References:**

[www.oag.go.ug](http://www.oag.go.ug)

**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:**

Reports are accessible free of charge on the website. ([www.oag.go.ug](http://www.oag.go.ug))

However internet access in Uganda is still low, which implies that people must visit the office of the auditor general. In doing this this, they have to meet costs of photocopying, which are sometimes prohibitive if it is to be paid for by an individual, as most organizations can afford this. This is because the reports tend to bulky. For example the reports to Parliament are in the range of 400 pages or more.

**References:**

[www.oag.go.ug](http://www.oag.go.ug)

Interview with Executive Director, Transparency International Uganda.

**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

**References:**

Article 163 (1) of the Constitution of Uganda. There shall be an Auditor General appointed by the President with approval of Parliament with powers to in 3 (a and b), audit and report on public accounts; (b) conduct financial and value for money audits in respect of any project involving public funds.

**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.

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## 77 V-3. Taxes and Customs

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### 62. Is the tax collection agency effective?

63

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

While the agency's staffing is not very sufficient, URA also faces a high staff turn over. URA Commissioner General, Ms Allen Kagina while appearing before a Parliamentary Committee in July 2009, noted that URA lost 110 skilled and experienced staff to the private sector in the financial year 2008-2009. She also noted to effectively function well, URA needs an additional 256 staff to facilitate international trade, following the extension of customs service at Malaba, Busia, Katuna, Kampala, Entebbe and Mutukula to 24- hour service

**References:**

The Daily Monitor, July 20, 2009

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The funding is regular but not sufficient. According to the URA budgetary estimates for 2009-2010 that the tax body submitted to Parliament, URA was facing a budget shortfall of 6.7 billion shillings (US\$3.5 million).

**References:**

The Daily Monitor, July 20, 2009

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

## 65. Is the customs and excise agency effective?

63

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

While the agency's staffing is not very sufficient, URA also faces a high staff turnover. URA Commissioner General Ms. Allen Kagina while appearing before a Parliamentary Committee in July 2009, noted that URA lost 110 skilled and experienced staff to the private sector in the financial year 2008-2009.

She also noted to effectively function well, URA needs an additional 256 staff to facilitate international trade, following the extension of customs service at Malaba, Busia, Katuna, Kampala, Entebbe and Mutukula to 24-hour service

**References:**

The Daily Monitor, July 20, 2009

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Funding to the Uganda Revenue Authority is regular but not sufficient. According to budget estimated for 2009-2010 presented to Parliament, URA reported a budget shortfall of 6.7 billion shillings (US\$3.5 million) to enable it effectively conduct its activities. This money was needed for, among things, to facilitate the increasing staff levels in the customs (unfunded priorities).

**References:**

The Daily Monitor, July 20, 2009

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

61. In law, is there a national tax collection agency?

100

61. In law, is there a national tax collection agency?

YES | NO

**Comments:**

Article 3 (1) of the Uganda Revenue Authority Act, 1991, stipulates the functions of the body including among others to to assess, collect and account for all revenue.

**References:**

Section 2 of the Uganda Revenue Authority Act, 1991; There is established an authority to be known as the Uganda Revenue Authority.

**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?

25

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

100 | 75 | 50 | 25 | 0

**Comments:**

Enforcement of tax laws is often not transparent due to the high levels of corruption in the tax agency.

As a matter of fact, the Uganda Revenue Authority was, in October 2008, named by the Inspectorate of Government in the Third National Integrity Survey (NIS III) as the the third most corrupt public institution in Uganda. The list of most corrupt institutions is topped by the judiciary and police. The report notes that at least 36.8 percent of respondents reported to have paid bribe in tax payment.

A Transparency International report in June 2009 ranked Uganda Revenue Authority as the most corrupt tax institution in East Africa. According to the report, URA ranks as the seventh most corrupt, coming ahead of Kenyan and Tanzanian tax bodies at positions 25 and 38 respectively, among 99 institutions sampled.

**References:**

Inspectorate of Government: The Third National Integrity Survey (NIS III) , October 2008  
The Monitor, July 6, 2009

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

**75:**

**50:** Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

**25:**

**0:** Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

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### 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

**Comments:**

The Customs and Exercise Agency is under the Uganda Revenue Authority. The institution has a Customs and Exercise Department with the mandate to plan, manage and coordinate the collections and accounting for international trade taxes in accordance with the tax laws, government policy and the provisions of COMESA and the EA Customs Union.

**References:**

Uganda Revenue Authority Act 1991 (Ch. 196)

**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?

25

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

100 | 75 | 50 | 25 | 0

**Comments:**

Enforcement of tax laws is often not transparent due to the high levels of corruption in the tax agency. As a matter of fact, the Uganda Revenue Authority was, in October 2008, named by the Inspectorate of Government in the Third National Integrity Survey (NIS III) as the the third most corrupt public institution in Uganda. The list of most corrupt institutions is topped by the judiciary and police. The report notes that at least 36.8 percent of respondents reported to have paid bribes in tax payment.

**References:**

The Inspectorate of Government, Third National Integrity Survey (NIS III). October 2008

**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.

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## V-4. State-Owned Enterprises

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68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

60

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

**References:**

Article 163 (6) of the Constitution of Uganda. In performing his or her duties the Auditor General shall not be under the direction or control of any person or authority. (4) The Auditor General shall, in each year, submit to Parliament a report of the accounts he or she has audited.

**YES:** A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The OAG has limited resources including staffing. This is in comparison to the large number of public sector organizations and programs within its audit mandate. Furthermore, another challenge is on improving skills and knowledge among personnel of the Office of the Auditor General. This problem is not limited to only the Auditor General, but is a problem across public service departments in Uganda.

**References:**

[www.oag.go.ug](http://www.oag.go.ug) (Office of the Auditor General)

**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 Office of the Auditor General receives regular funding, allocated to it in the budget. This and other resources to the institution are limited compared to the large number of public sector organizations and programs within its audit mandate.

**References:**

[www.og.go.ug](http://www.og.go.ug)

**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 Office of the Auditor General is a strong pillar and has worked closely with the police, Inspectorate of Government, the Parliamentary Budget Committee, and the Directorate of Public Prosecutions to initiate and conduct investigations into utilization of public funds at central and local government levels.

**References:**

New Vision and Daily Monitor, June 2008 to August 2009

**100:** When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

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

**Comments:**

The Office of the Auditor General has not had capacity to enforce penalties.

Its mandate is to provide reports to Parliament with recommendations. The role of enforcing penalties thus rests upon the executive and other bodies as may be sanctioned by Parliament.

However, often times its recommendations are never implemented, sometimes due to the influence of politics, while in other instances, the Parliament takes too long to debate the reports from the institution, so by the time penalties are sanctioned, some offenders have changed jobs or even responsibilities.

**References:**

Media Reports (New Vision, Daily Monitor June 2008 to August 2009)  
[www.oag.go.ug](http://www.oag.go.ug)

**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.

69a. In law, citizens can access the financial records of state-owned companies.

YES | NO

**Comments:**

Despite this law, the Official Secrets Act has often been used by some officials to deny citizens access to information.

**References:**

Article 41 of the Constitution of Uganda guarantees every citizen a right of access to information in the possession of the state or any other organ of the state except where the release of the information is likely to interfere with the security of the state or the right to the privacy of any other person.

**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:**

In most cases, some of the state-owned enterprises go unnoticed unless a huge event puts them in the limelight happens.

For example, the Sugar Corporation of Uganda (SCOUL), in which the government has 51 percent of shares, has not been checked by the Auditor General, since the company's establishment in 1980 by April 2007 with the company declaring losses. This revelation came after its involvement in the purchase of controversial Mabira Forest Land.

**References:**

www. Media Reports. (New Vision, April 11, 2007)

**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:**

Accounts are audited according to International Standards. The office of the Auditor General is also a member of the INTOSAI and its regional grouping in Africa, AFROSAI. INTOSAI (International Organization of Supreme Audit Institutions) is the professional organization of Supreme Audit Institutions (SAIs, i.e. national audit offices) in countries that belong to the United Nations or its specialized agencies.

**References:**

[www.oag.go.ug](http://www.oag.go.ug)

**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:**

Some reports are available on the auditor general's website, but even there most reports are not published, so one has to physically visit the office of the auditor general.

**References:**

[www.oag.go.ug](http://www.oag.go.ug)

Media reports (New Vision, Monitor, June 2008 to August 2009)

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

**75:**

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

**25:**

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

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

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

**Comments:**

Reports are accessible free of charge on the website. ([www.oag.go.ug](http://www.oag.go.ug))

However internet access in Uganda is still small, which implies that people must visit the office of the auditor general. In doing this, they have to pay costs of photocopying, which are sometimes prohibitive if it is to be met by an individual. Most organizations can afford this. This is because the reports tend to bulky for example the reports to Parliament are in the range of 400 pages or more.

**References:**

[www.oag.go.ug](http://www.oag.go.ug)

**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

**Comments:**

The Office of the Auditor General works hand in hand with committees of the Parliament including the Public Account Committee (PAC), Committee on Statutory Authorities and State Enterprises (COSASE) and the local government accounts committees.

**References:**

Article 163 (1) of the Constitution of Uganda. There shall be an Auditor General appointed by the president with approval of Parliament with powers to in 3 (a and b), audit and report on public accounts; (b) conduct financial and value for money audits in respect of any project involving public funds

**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.

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## 73 V-5. Business Licensing and Regulation

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### 70. Are business licenses available to all citizens?

75

70a. In law, anyone may apply for a business license.

**YES** | NO

**Comments:**

[www.justice.go.ug](http://www.justice.go.ug) (Registration of Companies, in FAQs): Any individual or corporation can register any type of business association they want. They can do it by personally presenting the required documents to the Registrar General's office or through an advocate with a valid practicing certificate.

**References:**

Section 11, Trade Licensing Act, 1959 (Subject to this Act, a licensing authority may, on application, make to it in the prescribed manner and on payment of the appropriate fee specified in the Schedule to this Act, grant to the applicant a trading licence)

The Companies Act – Chapter 85

**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

**Comments:**

All compliants pertaining to registration and denial of business license are handled by the Registrar of Companies.

**References:**

Part I of the Companies Act

**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:**

Fullfillment of all requirements can take up to to 25 days. This could even take more days, for example, if public holidays are encountered or other administrative challenges.

**References:**

[www.doingbusiness.org](http://www.doingbusiness.org) (Doing Business 2009. Country Profile for Uganda)

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The fees payable vary depending on city, municipality or town where the and the size of the business. For example, within the city of Kampala, a small business license would cost between 20,000 shillings (US\$10) to 150,000 shillings (US\$80).

The Doing Business survey indicates that for a standardized company, a business license would cost about 500,000 shillings (US\$266).

**References:**

Trade (Licensing Act, 1969)

www.doingbusiness.org (Doing Business 2009. Country Profile for Uganda)

**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.

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## 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

**Comments:**

These laws are publicly available through the Internet (National Environmental Management Authority). Despite this, very few people know about the existence of this law.

**References:**

Part VI of the National Environmental Act

**YES:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

**Comments:**

These laws are publicly available through the Internet (National Environmental Management Authority). Despite this, very few people know about the existence of this law.

**References:**

Part V, National Environment Act

**YES:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

**Comments:**

The standards are stipulated in the Public Health Act. The act also creates Sanitary Boards (Part II, 4) and Health Boards (Part II, 8) to safeguard and promote public health, and to exercise the powers and perform the duties in respect of the public health conferred or imposed by this act or by any other law.

**References:**

Public Health Act, 1935

**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?

33

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:**

Business inspections are weak and often conducted on an ad hoc basis often after a tragedy. Cases of several recent market fires such as the Owino Market fire in February 2009 and had collapsing buildings, are a result of weak inspections.

**References:**

Media Reports (Monitor, New Vision, June 2008 to September 2009)  
The New Vision, Feb. 25, 2009

**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:**

In several instances there are efforts to ensure public environmental standards are being met. Kampala Industrial and Business Park ( KIBP), for example, recruited a full-time environment specialist, whose duty is to constantly liaise with NEMA to ensure total compliance with environmental standards.

**References:**

Report of Kampala Industrial and Business Park (KIBP) Stakeholder's workshop, held on Feb. 23, 2009 at Hotel Africana

[www.ugandainvest.com](http://www.ugandainvest.com)

**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:**

Business inspections are weak and often conducted on an ad hoc basis, often after a tragedy.

**References:**

Media Reports (New Vision, Daily Monitor, June 2008 to August 2009)

**100:** Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

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## Category VI. Anti-Corruption and Rule of Law

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### VI-1. ~~71~~ Anti-Corruption Law

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#### 73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

YES | NO

**References:**

Section 2, Prevention of Corruption Act, 1970,

The Inspector General of Government Act 2002 that defines corruption as the abuse of public office for private gain and includes, but is not limited to, embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial or property loss and false accounting in public affairs.

**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:**

Sections 2 and 3 of the prevention of Corruption Act, 1970,

The Inspector General of Government Act 2002 that defines corruption as the abuse of public office for private gain and includes, but is not limited to, embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial or property loss and false accounting in public affairs.

**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

**Comments:**

Bribery as an act of corruption is provided for as a criminal offence under a number of laws in Uganda such as the Prevention of Corruption Act, which penalises passive and active acts of seeking or offering gratification, inducement, or reward by and to public officials. The gratification includes gifts, commissions, favours, etc.

**References:**

Sections 2 and 3 of the prevention of Corruption Act, 1970,

The Inspector General of Government Act 2002 that defines corruption as the abuse of public office for private gain and includes, but is not limited to, embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial or property loss and false accounting in public affairs.

**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

**Comments:**

The Prevention of Corruption Act 1970, penalizes passive and active acts of seeking or offering gratification, inducement, or reward by and to public officials. The gratification includes gifts, commissions, favours, etc.

**References:**

The IGG Act 2002 that defines corruption as the abuse of public office for private gain and includes, but is not limited to, embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial or property loss and false accounting in public affairs.

**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:**

Corruption means the abuse of public office for private gain and includes, but is not limited to, embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial or property loss and false accounting in public affairs. The act remains corruption irrespective whether it involves a foreign official or not.

**References:**

IGG Act 2002

**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:**

The Inspector General of Government Act 2002 that defines corruption as the abuse of public office for private gain and includes, but is not limited to, embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial or property loss and false accounting in public affairs.

**YES:** A YES score is earned if using public resources for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

YES | NO

**References:**

Section 14 (1) of the Leadership Code Act, 2002; Without derogating from any other written law, a leader shall not directly or indirectly use or allow any person under his or her control to use for furthering any private interest, whether financial or otherwise, any information obtained through or in connection with the office of the leader and not yet made available to the public.

**YES:** A YES score is earned if using confidential state information for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

YES | NO

**Comments:**

The Anti-Money Laundering Bill was presented to Parliament in September 2009 for debate and has not yet been finalized. This Law once passed will put together all laws to guard against money laundering which currently are scattered in various pieces of legislation. For example the Anti-Terrorism Act criminalizes the financing of terrorism in Uganda with specific reference to Part V, Sections 12-16. The Penal Code too under section 262 (b) (Cap. 106), provides for the freezing of a bank account under a court order upon application by the Director of Public Prosecutions.

In December 2002, the Bank of Uganda, as an interim measure, issued anti-money laundering guidelines to financial institutions. These guidelines require financial institutions to implement a number of anti-money laundering policies and measures at least to comply with the minimum requirements, including:-The know your customer/client principle; and to- Report suspicious transactions and financial activities to the authorities.

In complying, financial institutions are required to adhere to and follow anti-money laundering guidelines aimed at combating financing of terrorism.

**References:**

The East African Business Week, July 19, 2008

The Institute for Security Studies ( [www.iss.co.za](http://www.iss.co.za))

Legislative and Policy Measures in Uganda vis-à-vis Practical Challenges of Compliance with AU anti-corruption Convention, Transparency International-Uganda, October 31, 2005.

The Uganda Anti-Terrorism Act, No 14/2002

IBA Anti-Money Laundering Forum ([www.anti-moneylaundering.org/africa/Uganda.aspx](http://www.anti-moneylaundering.org/africa/Uganda.aspx))

**YES:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**NO:** A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

**YES** | NO

**Comments:**

Further to this, the Government of Uganda ratified the United Nations Convention Against Transnational Organized Crime; and United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, on April 21, 2005. Despite this, the government hasn't yet passed any domestic legislation to implement the treaty agreements.

**References:**

[www.dpp.go.ug](http://www.dpp.go.ug)

The Prevention of Corruption Act, 1970 ( Section 2); Any person who shall, by himself or herself or by or in conjunction with any other person, corruptly solicit or receive, or agree to receive for himself or herself, or for any other person; or corruptly give, promise or offer to any person whether for the benefit of that person or of another person, any gratification as an inducement to, or reward for, or otherwise on account of any member, officer or servant of a public body doing or forbearing to do anything in respect of any matter or transaction, actual or proposed, in which that public body is concerned, commits an offence.

**YES:** A YES score is earned if organized crime is illegal.

**NO:** A NO score is earned if this is not illegal.

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## VI-2. Anti-Corruption Agency

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75. Is the anti-corruption agency effective?

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

**References:**

Article 227 of the 1995 Constitution of Uganda; The Inspectorate of Government is an independent body that reports and is only answerable to Parliament.

Inspectorate of Government Act, 2002 section 10; The Inspectorate shall be independent in the performance of its functions and shall not be subject to the direction or control of any person or authority and shall only be responsible to Parliament.

**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:**

Political interference is reported to be minimal particularly from the executive. What is experienced are indirect influences through threats by some ministers, often those under investigation.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

The recent constitutional ruling requiring the IGG to undergo parliamentary vetting, to retain her position as IGG provided a clear test on how the IGG can be removed. Faith Mwendha's refusal to go through a parliamentary approval for her re-appointment led to the president relieving her of her duties and appointing Mr. Rapheal Baku as Acting IGG.

**References:**

The Independent, July 17, 2009  
The Daily Monitor, July 17, 2009

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Appointments are made by the president and approved by Parliament.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

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

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

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

**Comments:**

The IGG has limited staff right from the top to the lower level officials.

On Aug. 4, 2009, while appearing before the legal and parliamentary affairs committee of Parliament to discuss the budget and funding gaps, Rapheal Baku, the Acting IGG called on government to expedite the appointment of a substantive IGG and two deputies. He further added that attracting, recruiting and retaining qualified staff is a challenge sighting poor remuneration as the cause for the high turnover of staff, especially lawyers and accountants.

The Inspectorate has 13 regional offices and ideally each is supposed to have at least six investigative staff. Presently, regional officials have only three investigative staff. This is coupled with a high turnover, estimated at an average of between five to 10 people per year.

**References:**

The New Vision, Aug. 5, 2009

Interview with Simon P. Opolot Okwalinga. Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

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

**Comments:**

The funding is not sufficient and has been reducing over the past three years.

For example in the 2007- 2008 year, the institution received 25 billion shillings (US\$13 million), in the 2008-2009 financial year, it reduced this amount to 17 billion shillings (US\$9 million) and this just read budget for 2009-2010, the inspectorate has been

allocated only 13 billion shillings (US\$6.9 million). This is equivalent to the institutions wage bill.

**References:**

The Daily Monitor, July 21, 2009

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The reports are publicly available at the inspectorate library or upon request. Some are posted on the website, but this process is slow particularly in ensuring that up-to-date reports are posted.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

The Inspectorate has the powers to invoke the constitutional provisions that give it powers to prosecute or cause prosecution, arrest or order arrest, search premises including bank accounts for the case of enforcing the leadership code act when need be.

**References:**

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The IGG has been quite fast on initiating investigations both single handedly or through collaborations with other institutions such as the Anti-corruption squad and others.

Some of the recent cases include among others investigation of Jinja mayor, Mohammed Kezaala, for corruption and abuse of office, investigation into sale of Naguru estates, Mismanagement of NAADS (National Agricultural advisory Services) funds, and investigation into the collapse of the Makerere University wall, constructed at a whopping 1 billion shillings (US\$533,000).

**References:**

[www.accu.or.ug](http://www.accu.or.ug) ( anticorruption caoalition of Uganda)

Daily Monitor, Wednesday, Aug. 19, 2009

New Vision, Tuesday, Aug. 18, 2009

Interview with Simon Opolot Okwalinga, Principal Inspectorate Officer/Head Media, Communications and Public Relations, Aug. 25, 2009

**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?

38

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Complaints take a long time to be acted upon.

For example, of 3,400 corruption complaints in the 2008/09 financial year, only 813 were investigated and completed. Of the 58 cases in court last year, only 10 were concluded, five of them resulting in conviction and five in acquittals.

This is partly attributed to staffing challenges and huge case backlogs, while in some cases prosecution takes too long.

For example, the case involving two former ministers for the abuse of Global Fund was reported in 2006 and is yet to be disposed of. As of Sept. 28, it has been fixed to hear a petition by three former health ministers challenging the power of the Inspector General of Government to prosecute them in connection with Global Alliance Vaccine for Immunization (GAVI) money.

**References:**

The New Vision, Aug. 5, 2009  
[www.accu.or.ug](http://www.accu.or.ug)

**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.

**Comments:**

Citizens can complain without fear in the initial stages. However, when it comes to court cases, often they draw back and would not want to openly come out because some face intimidation or simply do not testify freely as most often they are accomplices.

**References:**

Inspectorate of Government Report to Parliament, January to June 2008

**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

**Comments:**

Other agencies with legal mandates to address corruption include: The Directorate of Public Prosecutions (DPP), The Auditor General, The Directorate of Ethics and Integrity, The Policy.

These all work with the Inspectorate of Government, which has the powers to prosecute or cause prosecution, arrest or cause arrest of any person suspected of corruption.

**References:**

Chapter 13 of the 1995 Constitution of Uganda establishes the Inspectorate of Government as an autonomous and constitutional institution.

The Inspectorate of Government Act, 2002, 3 (1). There shall be an Inspectorate of Government whose functions include among others; to eliminate and foster the elimination of corruption, abuse of authority and public office.

**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.

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69  
VI-3. Rule of Law

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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 50 (3) of the Constitution of Uganda. Any person aggrieved (not satisfied) by any decision of the court may appeal against the decision in an appropriate court.

Subsequently, Article 134 of the 1995 Constitution (3) creates the Court of Appeal to hear appeals from decisions of the High Court as provided by law.

**YES:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

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

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The process of resolving appeals in Uganda takes a very long time. This is attributed to the increasing case backlogs at all levels of courts. It is further exacerbated by the problem of few judges.

Taking an example of the High Court at Nakawa, the daily Monitor on Aug. 4, 2008 reported that 4,711 cases were yet to be heard by the High Court at Nakawa as of Aug. 4, 2008.

According to the article, civil suits constitute a total of 503 files, civil miscellaneous applications (1,712), civil appeal (386), civil revision (76) while criminal cases reduced from 847 to 617 by July 31. Such huge case backlogs make hearing of appeals to take a very long time.

**References:**

Media Reports, June 2008 to August 2008

[www.judiciary.go.ug](http://www.judiciary.go.ug) (Graphical expression of Court Performance for the period 2006 to 2009)

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

**75:**

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

**25:**

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

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

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

**Comments:**

Appeals are free but the cost of hiring lawyers and meeting other related costs in a law suit are prohibitive and is often times not affordable to many citizens.

**References:**

Interview with Angella Byangwa, Coordinator Rwenzori Anti corruption Coalition  
New vision, Daily Monitor, Weekly Observe and the Independent ( 2008 and 2009)

**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?

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

100 | 75 | 50 | 25 | 0

**Comments:**

The judiciary uses the following laws and acts as reference in the process of making decisions. The Magistrates Court Act, The Evidence Act, The Judicature Act, The Penal Code Act and the 1995 Constitution of Uganda.

**References:**

[www.judicature.go.ug](http://www.judicature.go.ug)

**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?

50

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

100 | 75 | 50 | 25 | 0

**Comments:**

Interference is mainly by state agencies such as LC officials, the police, the directorate of public prosecutions.

For example, on May 27, 2008, the Constitutional Court nullified a section in the Police Act that required police permission to hold a public rally, saying that it unduly limited the rights to freedom of assembly and association.

However, the police have been involved in halting gathering organized by the opposition in the last couple of months. Other instances where judicial decisions have been ignored are in detaining people without any charges beyond the constitutional limit of 48 hours.

**References:**

The New Vision, Jan. 18, 2009

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

**75:**

**50:** Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

**25:**

**0:** Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

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## 80. Is the judiciary able to act independently?

88

80a. In law, the independence of the judiciary is guaranteed.

YES | NO

### References:

Article 128 (1) of the Constitution of Uganda. The courts shall be independent and shall not be subject to the control or direction of any person or authority.

**YES:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence 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:

National level judges are independent however this independence could be threatened following call by the president of Uganda for auditing of court verdicts. There have also been recent cases where government has deliberately and arbitrarily kept suspects/reused to produce them in court above the mandated 48 hours even after court orders for them to be produced in court.

**References:**

Progress, Stagnation or Regression; Discerning Governance Trends in Uganda ( 2004-2008), February, 2009. Uganda National NGO Forum.

**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:**

Article 20, Part IV of the Judicature Act, 1996. (Subject to article 141 of the Constitution, the principal judge may determine the distribution of business before the High Court among the judges and may assign any judicial duty to any judge and shall, in doing so, take into account article 28 of the Constitution).

Article 28 provides for the right to a fair hearing before an independent court or tribunal established by law.

**YES:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**NO:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

**YES** | NO

**References:**

Article 144 (2) of the Constitution of Uganda. A judicial officer may be removed from office only for: (a) inability to perform the functions of his or her office arising from poor health of body or mind; (b) misbehavior or misconduct; or (c) incompetence.

The provisions for the Independence of the judiciary in Article 128 further reinforces this.

**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.

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## 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

**Comments:**

There have been no cases in the last year.

**References:**

Media Reports ( New Vision, Daily Monitor, the Weekly Observer, Independent, June 2008 to August 2009

Judiciary website ( [www.judicature.go.ug](http://www.judicature.go.ug))

**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:**

Media Reports ( New Vision, Daily Monitor, the Weekly Observer, Independent, June 2008 to August 2009

Judiciary website ( [www.judicature.go.ug](http://www.judicature.go.ug))

**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?

61

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

### Comments:

Judicial decisions are made in accordance to principles spelled out in Article 126 (2) of the Constitution of Uganda which include; Justice shall be done to all irrespective of their social or economic status; Justice shall not be delayed; Adequate compensation shall be awarded to victims of wrong; Reconciliation between parties shall be promoted; and Substantive justice shall be administered without undue regard to technicalities.

### References:

Courts of Judicature, Judiciary Staff Handbook, First Edition, November 2006

[www.judicature.go.ug](http://www.judicature.go.ug)

**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:

Media Reports ( New Vision, Daily Monitor, the Weekly Observer, Independent, June 2008 to August 2009

Judiciary website ( [www.judicature.go.ug](http://www.judicature.go.ug))

**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:**

Article 28 (d) of the Constitution of Uganda entitles everybody to a lawyer at the expense of the state in case of an offence which carries a sentence of death.

**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:**

Legal Aid is not effective because there are staffing challenges with the directorate of public prosecutions office, lack of fund to transport witnesses among other challenges.

For example, there is only one fingerprint expert in the country and five handwriting experts, all based in Kampala.

**References:**

[www.allafrica.com](http://www.allafrica.com)

New Vision, Aug. 1, 2009

**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:**

Court fees are not so prohibitive mainly to middle class. The court fees are charged depending on the value of the subject matter. Where a poor person cannot afford the fees, he may apply to the court to waive the fees, which provides an opportunity for those who can't afford to access justice.

However, prohibitive costs are incurred if one is to engage a lawyer, which varies from lawyer or firm to firm.

**References:**

The Judiciary, Simplified Court Users Guide

**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:**

The court fees are charged depending on the value of the subject matter. Where a poor person cannot afford the fees, he may apply to the court to waive the fees, which provides an opportunity for those who can't afford to access justice. However, prohibitive costs are incurred if one is to engage a lawyer, which varies from lawyer or firm to firm.

**References:**

The Judiciary, Simplified Court Users Guide

**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:**

The Ugandan Judiciary comprised of a Supreme Court, Court of Appeal, High Court, Chief Magistrates Court, Magistrate Grade 1, Magistrate Grade 2 and other courts including subordinate courts including Qadhis Courts for marriage, divorce, inheritance of property and guardianship, as prescribed by Parliament.

The High Court is decentralized to 12 High Court stations up country, and one within greater Kampala. Magistrate Courts are located throughout Uganda.

**References:**

Media Reports ( New Vision, Daily Monitor, The Independent, Weekly Observer, June 2008 to August 2009)

The Judiciary website ([www.judicature.go.ug](http://www.judicature.go.ug))

**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.

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### 83. Is the law enforcement agency (i.e. the police) effective?

8

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Appointment of the Inspector General of Police and deputy is made according to a professional criteria by the president and is approved by Parliament.

However, there have been complaints of tribalism and nepotism in the appointment of lower level police officers. The last recruitment of 350 cadet assistant superintendents of police (CASP) in 2007 raised a lot of controversy as according to media reports, about 37 percent, or 130 of the 350 recruited officers, were alleged to have come from the same region of Western Uganda.

(This was the last recruitment to the force after which a ban on recruitment was placed).

**References:**

The Weekly Observer, August 2007

**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:**

The police is one of the most under-funded units. This has constrained investigations, leading to poor pay, poor and insufficient living standards and houses with more than two families sharing one housing unit in the police barracks, while others are living in houses that should have been condemned years ago.

**References:**

The New Vision, Aug. 11, 2009 (Decent Accommodation Will Improve the Police)

**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 increased militarization of the Ugandan police force in both appointment of senior officers and the creation of militaristic units as the Rapid Response Unit (formerly known as the Violent Crimes Crack Unit, the Black Mamba, the Joint Anti-Terrorist Task Force), have deprived the police of its independence.

Due to this, it has engaged in acts that can be interpreted as partisan in favor of the NRM such as stopping legitimate political activities guaranteed under Article 221 of the Constitution. As described in the Daily Monitor editorial on July 19, 2009, The police are increasingly being mistaken to be the armed wing of the ruling NRM government."

**References:**

Human Rights Watch, January 2008

Uganda Human Rights Network (HURINET)

Daily Monitor, July 19, 2009

**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.

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84. Can law enforcement officials be held accountable for their actions?

84a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

**Comments:**

The Uganda Police Force established the Professional Standards Unit to handle complaints from the general public concerning the misconduct of police personnel and their misconduct. The police force has further set up a complaints line (+256-0414 – 340611) where citizens can report complaints. The police also established a Police Human Rights Desk.

**References:**

Article 70 (1) of the Uganda Police Act, 1994. A person is entitled, without prejudice to any other legal means of redress available to him or her, to make a written complaint as to any instance of bribery, corruption, oppression or intimidation by a police officer; any neglect or non-performance of his or her duties by a police officer; any other misconduct by a police officer.

A complaint made under subsection (1)(a) shall be addressed to the most senior police officer in charge of the district or unit to which the police officer against whom the complaint is made is stationed or to the inspector general.

**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 Professional Standards Unit and the Human Rights Desk handle complaints from the general public concerning the misconduct of police personnel and their misconduct.

The police force has further set up a complaints line (+256-0414 – 340611) where citizens can report complaints.

However, these are still performing below expectations despite a few progress made. Some examples include the Police Professional Standards Unit (PPSU) arresting 17 traffic police officers in Kampala for accepting bribes from motorists (The Monitor, May 9, 2008). The PPSU also uncovered 909 cases of alleged police misconduct and completed investigations into just over half of them by June 2008.

The challenge is, however, that the complaint mechanisms are located in Kampala and may not be easily accessible to those in other regions.

The desk is not adequately staffed or resourced to properly investigate complaints, investigations into complaints are internal and not transparent, disciplinary courts are manned by police officers (i.e., the police are policing themselves) and information on whether disciplinary action is taken against accused police officers is not always shared with the public.

**References:**

The Daily Monitor, May 9, 2008

Immigration and Refugee Board of Canada (June 2008). Uganda: Overview of the police force, including structure, size and division of duties; police militarization; existence of police complaints authority and recourse available to individuals who file complaints against the police. (available at <http://www.unhcr.org>).

**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:**

At the national level, the High Court of Uganda has established The Anti-Corruption Division, with an Anti-Corruption Court to handle corruption, embezzlement, causing financial loss, abuse of office among others. The court is headed by Justice John Baptist Katutsi (New Vision, May 25, 2008).

**References:**

Article 49 of the Police Act (establishes a police disciplinary court at every police unit to hear and determine any disciplinary matter involving a person subject to the police code and has powers to award any punishment authorized by or under the Police Act.)

**YES:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**NO:** A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

**Comments:**

The police initiates investigations, such as the recent arrests of some police officers in Apac and Lira Districts in August 2009 for corruption. The arrests of corrupt traffic officers in May 2008 is an example of their willingness to investigate and prosecute law enforcement officials.

However, these investigations are not objectively handled, especially if they involve high-ranking officers.

**References:**

Daily Monitor, Aug. 8, 2009

New Vision (June 2008 to August 2009)

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

**References:**

The Constitution of the Republic of Uganda, 1995

Article 49 of the Police Act, 2004 provides for the establishment of a police disciplinary court to hear and determine any disciplinary matter involving a person subject to the police code of conduct. It also has powers to award any punishment authorized by or under this act.

**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:**

No one is above the law in Uganda. Several cases exist where law enforcement officials are arrested and prosecuted for crimes committed.

For example, the arrest of Nateete Police chief Robert Semata, the Officer In Charge, Criminal Investigation Department and other police officers following an eviction of tenants in Natete in July 2009.

Other instances include the February 2009 arrest of 10 police officers, who opened fire on rioting traders in Kiseka Market, Kampala. The recent arrest was of District Police Commander James Peter Aurien, who is accused of murdering his wife, Apolot, in April 2009.

**References:**

The New Vision, July 20, 2009

[www.Reuters.com](http://www.Reuters.com)

The Daily Monitor, June 2008 to August 2009

**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.