

Overall Score:

**60 - Weak**

Legal Framework Score:

**73 - Moderate**

Actual Implementation Score:

**44 - Very Weak**

Category 1. Non-Governmental Organizations, Public Information and Media

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## 1.1. <sup>59</sup>Anti-Corruption Non-Governmental Organizations

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

100

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes

No

**Comments:**

There is a controversial constitutional review process going on, but the proposed amendments do not affect this section. The amended Constitution, as required by law, has been passed by the both Chambers of the Legislature and adopted by the State Legislative Houses, too. The bone of contention is if it requires assent by the President like every other Act of the Legislature.

The limitation to this section is the power conferred by the Constitution to the national election management body to confer recognition on political parties.

**References:**

Section 40, 1999 Constitution of the Federal Republic of Nigeria,  
<http://www.nigeria-law.org/>

**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. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

**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.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes

No

**Comments:**

This is the law that governs civil service organization incorporation. It has no clause preventing foreign or domestic funding.

**References:**

The Company and Allied Matters Act (CAMA) 1990, available on [www.nigeria-law.org/CompaniesAndAlliedMattersAct.htm](http://www.nigeria-law.org/CompaniesAndAlliedMattersAct.htm)

**Yes:** A YES score is earned if anti-corruption/good governance NGOs 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 NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes

No

**Comments:**

This whole part of Companies and Allied Matters Act (CAMA) mandates companies and other registered entities to make annual returns to Corporate Affairs Commission (CAC) and this should include financial details like sources of funding.

**References:**

1. Part XII , Companies and Allied Matters Act (CAMA) 1990

**Yes:** A YES score is earned if anti-corruption/good governance NGOs 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 anti-corruption/good governance NGOs able to operate freely?

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

**Comments:**

Nongovernmental organizations (NGOs) operating in Nigeria can freely organize without interference from the government. Legal registration is required to obtain legal status to access certain privileges like opening bank accounts or accessing funding from donors.

Relatively speaking, Nigerian NGOs are not subjected to an elaborate set of laws.

The legal framework for NGOs is defined by provisions of the Constitution as well as federal and state laws. Prominent among the federal enactments are Companies and Allied Matters Act 1990 (whose Part C has repealed and replaced the Lands (Perpetual Succession) Act 1924) and Companies Income Tax Act 1961. These are general enactments.

Specific laws also exist to regulate specialized organizations, such as trade unions, cooperative societies and political parties. Apart from the enforcing of laws that recognize and regulate these organizations, government departments in some instances require NGOs to register with them for the purpose of collaborating with or working for such departments in some program areas. However, these registrations are most times granted.

**References:**

1. United States International Grantmaking (USIG) Country Report for Nigeria, September 2010, available on <http://www.usig.org/countryinfo/laws/Nigeria/International%20Reporter%20-%20NIGERIA.pdf>

2. Interview with Hillary Ogonna, National Coordinator, United Nations MDG Campaign Nov. 2, 2010

**100:** NGOs 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:** NGOs 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 NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

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

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

**Comments:**

Civil service organizations (CSOs) are becoming increasingly relevant in governance and the policymaking process in Nigeria. Their role is merely advisory, by offering opinions and technical support. However, many times these opinions do not count in decision making.

CSOs have also been actively involved in legislative advocacy, pushing for passage of good governance laws. On some bills, their input is reflected, on some it is not. Generally, CSOs do not have the clout to get bills passed into law, it has to be a law the executive or legislature is interested in. For instance, the Freedom of Information Coalition (a coalition of CSOs and media) have, for 12 years, been advocating for the passage of a freedom of information law. This bill has not been passed because it is considered a CSO and media bill.

Many of the good governance laws are conditions of partnership with international bodies like the public procurement and fiscal responsibility acts. CSOs were successful in making inputs into these laws.

**References:**

1. Interview with Muhammad Mustapha, Executive Director, Democratic Action Group, Oct. 29, 2010
2. Interview with Hillary Ogbonna, National Coordinator, United Nations MDG Campaign Nov. 2, 2010

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

**75:**

**50:** Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs 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 NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

Yes

No

**Comments:**

Anti-corruption nongovernmental organizations are generally allowed to operate without interference from the government.

**References:**

1. Interview with Muhammad Mustapha, Executive Director, Democratic Action Group, Oct. 29, 2010
2. Interview with Hillary Ogbonna, National Coordinator, United Nations MDG Campaign Nov. 2, 2010

**Yes:** A YES score is earned if there were no NGOs 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 NGO 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 NGO's work may not be explicit, however the burden of proof here is low. If it seems likely that the NGO 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 anti-corruption/good governance NGO activists safe when working on corruption issues?

100

03a. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been imprisoned.

Yes

No

**Comments:**

There have not been any cases of this.

**References:**

1. Interview with Muhammad Mustapha, Executive Director, Democratic Action Group, Oct. 29, 2010
2. Interview with Hillary Ogbonna, National Coordinator, United Nations MDG Campaign Nov. 2, 2010

**Yes:** A YES score is earned if there were no NGO 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.

03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed.

Yes

No

**Comments:**

There have not been cases of this occurring in the period covered by this study.

**References:**

1. Interview with Muhammad Mustapha, Executive Director, Democratic Action Group, Oct. 29, 2010
2. Interview with Hillary Ogbonna, National Coordinator, United Nations MDG Campaign Nov. 2, 2010

**Yes:** A YES score is earned if there were no documented cases of NGO 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.

03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes | No

**Comments:**

There have been no known cases of this occurring.

**References:**

1. Interview with Muhammad Mustapha, Executive Director, Democratic Action Group, Oct. 29, 2010
2. Interview with Hillary Ogbonna, National Coordinator, United Nations MDG Campaign Nov. 2, 2010

**Yes:** A YES score is earned if there were no documented cases of NGO 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?

100

04a. In law, citizens have a right to organize into trade unions.

Yes | No

**References:**

1. Section 40, of the Nigerian 1999 Federal Constitution
2. Section 2, of the 2005 Trade Union (Amendment) Act, [http://www.nigeria-law.org/TradeUnion\(Amendment\)Act2005.htm](http://www.nigeria-law.org/TradeUnion(Amendment)Act2005.htm)

**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.

04b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens are able to freely organize into trade unions and have been able to influence government policy and actions. For instance, by going on strikes, the Nigerian Labour Union has been able influence government policies on fuel price and minimum wage.

**References:**

1. Interview with Muhammad Mustapha, Executive Director, Democratic Action Group, Oct. 29, 2010
2. Interview with Hillary Ogbonna, National Coordinator, United Nations MDG Campaign Nov. 2, 2010

**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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## 1.2. Media's Ability to Report on Corruption

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

100

05a. In law, freedom of the media is guaranteed.

Yes | No

**References:**

Section 39, 1999 Constitution of the Federal Republic of Nigeria,  
<http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>

**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.

05b. In law, freedom of speech is guaranteed.

Yes

No

**References:**

Section 39, 1999 Constitution of the Federal Republic of Nigeria,  
<http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>

**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

06a. In practice, the government does not create barriers to form a print media entity.

100

75

50

25

0

**Comments:**

There are no barriers in forming a print media entity. They, however, do need a license to operate. This is usually granted, but the process is usually time consuming.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

2. Interview with Akin Akingbulu, Executive Director, Institute for Media and Society on Dec. 7, 2010

**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.

06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

**Comments:**

This is covered as a civil action and can be appealed under the various civil procedure rules of the various courts. The hierarchy of courts as stated in the constitution implies a right of appeal for both civil and criminal cases.

**References:**

1. Chapter V11, 1999 Federal Constitution of Nigeria

**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.

06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

These licenses are granted by states and the processing time varies, state by state. The process may take up to two months, depending on the state.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010
2. Interview with Akin Akingbulu, Executive Director, Institute for Media and Society on Dec. 7, 2010

**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.

06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The costs of the licenses are fairly reasonable, averaging about \$50. Additional transportation costs are required, as licenses cannot be applied for online.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010
2. Interview with Akin Akingbulu, Executive Director, Institute for Media and Society on Dec. 7, 2010

**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?

50

07a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

To operate a broadcast media entity, a license is needed and the process of licensing is quite tedious. The National Broadcasting Commission (NBC) grants this license, guided by Section 9 of the NBC Act, 1999. An application is made to NBC, who processes it and forwards to the Minister of Information who forwards it to the President for approval before a license is granted.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010
2. Interview with Akin Akingbulu, Executive Director, Institute for Media and Society on Dec. 7, 2010
3. 2009 Survey on Nigeria, Public Broadcasting in Africa Series, Open Society Institute Media Program, pp. 43-46

**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.

07b. 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:**

A suit can be instituted in Court to challenge a denial.

**References:**

1. Section 42, Chapter V11, 1999 Federal Constitution of Nigeria

**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.

07c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

**Comments:**

The process is very time consuming and can take years. The National Broadcasting Commission (NBC) regulation provides that any person intending to apply for a broadcast license must first incorporate a limited liability company, with Nigerians holding a majority of the shares. A prospective applicant must then fill in and return an application form to the Secretary of the Commission. The application is then processed by the Commission's staff and who makes a recommendation to the Board of the Commission. The Board then sends its recommendation through the Minister of Information to the President who gives the final approval. The usual bureaucracy of the different government bodies involved in the process affects the time of issue. Also, the licenses are often either denied or issued for the purpose of political patronage.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010
2. Interview with Akin Akingbulu, Executive Director, Institute for Media and Society on Dec. 7, 2010
3. 2009 Survey on Nigeria, Public Broadcasting in Africa Series, Open Society Institute Media Program, pp. 43-46

**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.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

**Comments:**

The cost of obtaining a broadcasting license is quite high. The application form alone costs 60,000 naira (US\$510.00). The licensing fee for category A radio station (those located in Abuja , Lagos and Port Harcourt) is 20 million naira (US\$169,981) while the fee for the rest of the country is naira 15 Million (US\$127,486). For television licenses, a Category A license costs naira 15 million (US\$127,486) while the cost for a Category B license is naira 11,250,000 (US\$95,614).

An additional constraint is that licenses are granted for a period of five years after which the grant undergoes review. After the review, full licensing fees are required to be paid again. In addition to the licensing fees, there is an additional charge of 2.5 percent of the annual revenue of the radio and television station which is paid annually.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010
2. Interview with Akin Akingbulu, Executive Director, Institute for Media and Society on Dec. 7, 2010
3. 2009 Survey on Nigeria, Public Broadcasting in Africa Series, Open Society Institute Media Program, pp. 43-46

**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

08a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

### Comments:

There have been no reported cases.

### References:

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010
2. Interview with Akin Akingbulu, Executive Director, Institute for Media and Society on Dec. 7, 2010

**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.

08b. In practice, the government does not censor citizens creating content on-line.

**Comments:**

There have been no reported cases of this.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010
2. Interview with Akin Akingbulu, Executive Director, Institute for Media and Society on Dec. 7, 2010

**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

09a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

Yes

No

**Comments:**

The Constitution in section 39 gives everyone the freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference. The section only limits this right as follows:

(a) for the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of moving picture films; or

(b) imposing restrictions upon persons holding office under the Government of the Federation or of a State, members of the armed forces of the Federation or members of the Nigeria Police Force or other Government security services or agencies established by law.

**References:**

Sections 22 and 39, 1999 Federal Nigerian Constitution

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

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

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

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

**Comments:**

Many private media houses are owned by political figures, so some sort of self-censorship happens. This media houses will not report on corruption news that can hurt their owners or their networks. Government-owned media houses also practice self-censorship. It has been the practice not to report on corruption news that can hurt the sitting government.

**References:**

1. Interview with Ben Adoga, General News Editor, Summit Newspaper on Nov. 22, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

**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.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

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

**Comments:**

This does not happen in privately owned media houses, but there have been a few instances where this happens in government-owned media houses.

**References:**

1. Interview with Ben Adoga, General News Editor, Summit Newspaper on Nov. 22, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

**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?

60

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

Yes

No

**Comments:**

Print media companies must be registered as corporate entities with the Corporate Affairs Commission (CAC). The CAC requires, among other things, a document that lists the directors of the company.

**References:**

1. Section 35, Company and Allied Matters Act (CAMA) 1999

**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:**

Broadcast media companies must be registered as as corporate entities with the Corporate Affairs Commission (CAC). The CAC

requires, among other things, a document listing the directors of the company.

**References:**

Section 35, Company and Allied Matters Act (CAMA) 1999

**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:**

It is an established practice for most journalists or media houses to be given money to cover events or write some news. A contributing factor is that most journalists are not paid salaries or are poorly paid. Some journalists can be bribed to alter their coverage of a corruption issue.

**References:**

1. Interview with Ben Adoga, General News Editor, Summit Newspaper on Nov. 22, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

**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:**

Media coverage from state-owned media houses is usually biased, favoring the ruling party. In privately owned media houses, the coverage may tilt towards the media owner’s preference.

**References:**

1. Interview with Ben Adoga, General News Editor, Summit Newspaper on November 22, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

**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:**

State-owned media houses usually favor candidates of the ruling party in their coverage. It is not unusual for the opposition to be asked to pay exorbitant fees for coverage, whereas the ruling party gets coverage for free.

The situation at the state level is worse, as candidates and political parties that are not in power are routinely denied access to these media houses, even if they offer to pay for coverage.

**References:**

1. Interview with Ben Adoga, General News Editor, Summit Newspaper on Nov. 22, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

**75:**

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

**25:**

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

## 11. Are journalists safe when investigating corruption?

100

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

Yes

No

### Comments:

No reported cases of this during the period under review.

### References:

1. Interview with Ben Adoga, General News Editor, Summit Newspaper on Nov. 22, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

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

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

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

Yes

No

### Comments:

No reported incidence of this during the period under review.

### References:

1. Interview with Ben Adoga, General News Editor, Summit Newspaper on Nov. 22, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

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

**No:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

Yes

No

**Comments:**

In the year under review, some journalists have been killed. It has not been established that they were killed in relation to corruption-related stories. On April 24, 2010, Edo-Ugbagwu, a judicial correspondent of The Nation newspapers was murdered in Lagos. Also, Godwin Agbroko and Abayomi Ogundeji of Thisday Newspaper and Omololu Falabi and Bayo Ohu of The Guardian were all recently killed in Lagos by unidentified gunmen.

Their colleagues and media organizations have testified that the victims were not working on any known corruption-related stories.

**References:**

1. Interview with Ben Adoga, General News Editor, Summit Newspaper on Nov. 22, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

**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.

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81  
1.3. Public Requests for Government Information

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12. Do citizens have a legal right to request information?

0

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

Yes

No

**Comments:**

The constitution provides for freedom “to receive and impart ideas and information without interference.” But it goes on to provide exceptions which validate laws imposing restrictions on government officials, members of the armed forces, police and other security agencies. A combination of these restrictions on public officers and the provisions of the Official Secrets Act preclude citizen’s access to information and government records.

**References:**

1. Section 1 (1) , Official Secrets Acts, 1962
2. Section 97(1), Nigeria Criminal Code Act, 1990
3. .Section 39 [3] [a] and [b] of Chapter 1V of the the 1999 Constitution.

**Yes:** A YES score is earned if there is a formal right to request 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 a request for a basic government record is denied.

Yes | **No**

**Comments:**

There is no legal right to access information, so there cannot be a formal process for citizens to appeal a denial of an information request.

**References:**

1. Section 1 (1) , Official Secrets Acts, 1962
2. Section 97(1), Nigeria Criminal Code Act, 1990

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

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

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

Yes | **No**

**Comments:**

There is no access to information law in Nigeria.

**References:**

1. Section 1 (1) , Official Secrets Acts, 1962
2. Section 97(1), Nigeria Criminal Code Act, 1990

**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 to information requests effective?

4

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

100 | 75 | 50 | 25 | 0

**Comments:**

Without an freedom of information legislation, access to information is limited to what government officials are willing to release at their own pace.

**References:**

1. Idumange John, "No FOI Bill, No 2011 Elections," African Herald Express, Dec. 26, 2010, available on <http://africanheraldexpress.com/blog6/2010/12/26/no-foi-bill-no-2011-elections/>
2. "National Assembly and the FOI Bill," Businessday, Wednesday, Dec. 29, 2010.

**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 information request mechanism at a reasonable cost.

**Comments:**

As there is no freedom of information law, records may be given at the discretion of a public officer. This may involve cost of copying and a “tip.”

**References:**

1. Idumange John, “No FOI Bill, No 2011 Elections,” African Herald Express, Dec. 26, 2010, available on <http://africanheraldexpress.com/blog6/2010/12/26/no-foi-bill-no-2011-elections/>
2. “National Assembly and the FOI Bill,” Businessday, Wednesday, Dec. 29, 2010

**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 NGOs. 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 NGOs trying to access this information.

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

**Comments:**

There is no freedom of information law.

**References:**

1. Idumange John, “No FOI Bill, No 2011 Elections,” African Herald Express, Dec. 26, 2010, available on <http://africanheraldexpress.com/blog6/2010/12/26/no-foi-bill-no-2011-elections/>
2. “National Assembly and the FOI Bill,” Businessday, Wednesday, Dec. 29, 2010

**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 information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no freedom of information law, so there is no right to appeal.

**References:**

1. Idumange John, "No FOI Bill, No 2011 Elections," African Herald Express, Dec. 26, 2010, available on <http://africanheraldexpress.com/blog6/2010/12/26/no-foi-bill-no-2011-elections/>

2. "National Assembly and the FOI Bill," Businessday, Wednesday, Dec. 29, 2010

**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:**

There is no freedom of information law.

**References:**

1. Idumange John, "No FOI Bill, No 2011 Elections," African Herald Express, Dec. 26, 2010, available on <http://africanheraldexpress.com/blog6/2010/12/26/no-foi-bill-no-2011-elections/>

2. "National Assembly and the FOI Bill," Businessday, Wednesday, Dec. 29, 2010

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

There is no freedom of information law.

**References:**

1. Idumange John, "No FOI Bill, No 2011 Elections," African Herald Express, Dec. 26, 2010, available on <http://africanheraldexpress.com/blog6/2010/12/26/no-foi-bill-no-2011-elections/>

2. "National Assembly and the FOI Bill," Businessday, Wednesday, Dec. 29, 2010

**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 2. Elections

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### 2.1. ~~61~~ Voting and Party Formation

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

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

Yes | No

**Comments:**

This act has just been recently amended. The act mandates that all citizens 18 years and above shall be qualified to be registered as a voter.

**References:**

1. Section 12, Electoral Act 2010

**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:**

1. Third Schedule, F, Section 2(a) 1999 Federal Constitution

2.. Section 25, Electoral Act 2010

**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?

67

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

**Comments:**

All registered voters whose names are found in the register can vote. There is no deliberate policy to disenfranchise a certain ethnic group or class of people. What has happened in the past is because of the incompetence of the election management body; i.e., the names of some registered voters were missing in the voters register and they were disenfranchised as a result.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. "Election or 'Selection'? Human Rights Abuse and Threats to Free and Fair Elections in Nigeria," Human Rights Watch Report on Elections in Nigeria, pg. 46, April 2007

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

**75:**

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

**25:**

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

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

**Comments:**

The Electoral Act provides that voting should be done by open secret ballot and the ballot box should not be tampered with until openly counted by the appropriate official.

In recent elections, there have been reports of party agents and security personnel openly interfering with the secrecy of the ballot; i.e., voters being influenced by party agents or police personnel to mark their ballot papers in the open. Also, there have been reports of some stations not having had voting screens where voters could thumbprint for their choice of candidate in secret.

In the House of Representatives by-election for the Akoko South-East/South-West Federal Constituency that was held in December 2009, a serving Senator was caught snatching ballot boxes and arrested.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. "Election or 'Selection'? Human Rights Abuse and Threats to Free and Fair Elections in Nigeria," Human Rights Watch Report on Elections in Nigeria, pg. 46, April 2007

3. "Nigerian Senator Arrested While Snatching Ballot Boxes," Sahara Reporters, Dec. 5, 2009, available on <http://saharareporters.com/news-page/nigerian-senator-arrested-while-snatching-ballot-boxes>

**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:**

Recent national elections have held on a regular schedule. In November 2010, Nigeria's election umpire, the Independent National Electoral Commission (INEC), released a new timetable for the 2011 general elections in the country.

The release of the new schedule was done in compliance with Section 26 of the 2010 Electoral Act, which gives the commission the power to fix the dates of the election as well as conduct the polls. This new timetable superseded the one released by the commission in September, which was done in compliance with the old Electoral Act.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct. 13, 2010
2. "Election or 'Selection'? Human Rights Abuse and Threats to Free and Fair Elections in Nigeria," Human Rights Watch Report on Elections in Nigeria, pg. 46, April 2007
3. "Nigeria's 2011 Poll, INEC Releases Timetable," Actualité Afrique actualité africaine infos Afrique of Nov. 11, 2010, available on <http://www.afriquejet.com/news/africa-news/nigeria's-2011-polls:-indec-releases-election-time-table-2010112461842.html>

**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.

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

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

Yes

No

**References:**

1. Section 40, 1999 Constitution

2. Section 78, Electoral Act 2010

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

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

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

Yes

No

**Comments:**

These sections state criteria to qualify to run for various offices. None of the sections exempt any groups of persons. Limitations are those in regard to age and educational qualification, mostly. Nigerians with dual citizenship, however, cannot run for certain offices.

**References:**

Sections 65, 106, 131, & 177 of the 1999 Federal Constitution

**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.

**Comments:**

After a Supreme Court judgment, the national electoral body relaxed their very stringent rules for registration of political parties. Political parties are registered after they meet the criteria set out in the constitution and the electoral act.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. INEC & Ors v Musa & Ors (2003) 3NWLR (Pt. 806) 72 at 150.

**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.

**Comments:**

The cost of running an election campaign in Nigeria is prohibitive. It is estimated that in the southeast for instance, governorship election campaign in 2007 cost between naira 1.5 billion and naira 2 billion (US\$9,624,638 and US\$12,832,851). In the northern part of the country, the same governorship election cost between naira 1 billion and naira 1.1 billion ((US\$6,416,425 and US\$7,058,068) in 2007 while for the southwest and the south, the figure is between naira 1 billion and naira 1.5 billion (US\$6,416,425 and US\$9,624,638).

The result of high cost of election campaign is that credible aspirants who cannot afford the high cost of running for office are discouraged from politics, leaving the stage for charlatans and the wealthy to manipulate the system.

Also, the political parties nomination process can be undemocratic and exclude certain persons. The parties sometimes manipulate the process to favor certain candidates. A dangerous trend is what they call "consensus candidate" were other aspirants are arm twisted to step down for one individual. Also, the constitution mandates that all candidates must run under a political party. Hence, there is no provision for independent candidates.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Max Amuchie, "Impediments to Democracy in Nigeria," Point Blank News, July 1, 2010, available on <http://www.pointblanknews.com/Articles/artopn2823.html>

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

**75:**

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

**25:**

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

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

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

**Comments:**

The federal legislature is mostly made up of representatives of the ruling party. The impact of opposition members is mostly minimal, which is why many of them defect to the ruling party.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Max Amuchie, "Impediments to Democracy in Nigeria," Point Blank News, July 1, 2010, available on <http://www.pointblanknews.com/Articles/artopn2823.html>

**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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## 2.2. Election Integrity

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

100

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

Yes | No

**References:**

1. The Independent National Electoral Commission (INEC) set up under Section 153[1][f] of the 1999 Constitution.

**Yes:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

**No:** A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

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18. Is the election monitoring agency effective?

60

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

Yes | No

**Comments:**

The laws on the appointment, security of tenure and security from arbitrary removal for the head of the Independent National Electoral Commission (INEC) gives it some measure of independence.

**References:**

1. Section 157[1] and Third Schedule Part F, of the 1999 Constitution
2. Section 6, Electoral Act 2010

**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:**

Previously, the practice was to appoint card-carrying members of the ruling party as Commissioners of the INEC. The recent appointments (June 2010) of people without known party affiliations as the new Chairman of INEC and some Commissioners, is raising hope that the practice is changing.

**References:**

1. Sunday Odibashi, "Attahiru Jega: Chairman of Hope," National Daily, June 9, 2010
2. Adesuwa Tsan, "Reps Commend Jega's Appointment," Leadership, June 9, 2010

**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 agency has many professional full-time staff, but not enough to execute its mandate. During elections, it has to rely on ad hoc staff whose qualifications are questionable. Usually, this staff are not well trained. For instance, the Independent National Electoral Commission (INEC) has reported that it will be recruiting ad hoc staff from the National Youth Service Corps (NYSC) to use for the voter registration process and 2011 elections. It has reported that it will train these staff.

**References:**

1. "INEC To Recruit Ad-Hoc Staffers From NYSC," Summit Newspaper, Aug. 20, 2010
2. John Alechenu, "INEC's Problems are Beyond Iwu," Punch, March 26, 2010

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

**75:**

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

**25:**

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

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

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

**Comments:**

Previously, INEC was engaged in what was called propaganda. Its reports were unscheduled and and generally considered doctored. There seems to be some improvement with the new management in place. Their website contains valuable information and is constantly updated. Also, there is increased scheduled interaction with the press.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**100:** Reports are released to the public on a predictable schedule, without exceptions.

**75:**

**50:** Reports are released, but may be delayed, difficult to access, or otherwise limited.

**25:**

**0:** The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

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

**Comments:**

INEC has made little effort to impose sanctions on candidates or political parties when they are in breach of the electoral act.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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.

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## 19. Are elections systems transparent and effective?

58

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

100 | 75 | 50 | 25 | 0

**Comments:**

In the past, voters' registers have been inundated with various forms of irregularities ranging from registration of minors, multiple registrations and registration of foreigners or aliens. On the other hand, names of millions of Nigerian eligible adults were conspicuously missing in Independent National Electoral Commission's (INEC) old voters register. For instance, in the April 6, 2010 governorship election in Anambra state, the name of the former vice-president and elder statesman, Dr. Alex Ekwueme was conspicuously missing from his polling center, even though he claimed he had registered.

In the upcoming voter registration campaign, there are concerns that the time limit within which INEC must procure the electronic registration equipment (otherwise known as Direct Data Capturing machine (DDC)), train its staff on how to handle those equipment and register about 70 million voters is insufficient.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

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

**75:**

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

**25:**

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

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

Yes

No

**References:**

1. Part VIII of the 2010 Electoral Act
2. Section 285, 1999 Federal Constitution

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

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

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

100

75

50

25

0

**Comments:**

The main issue is that neither the Constitution nor the electoral law specifies the time frame within which election petitions should be concluded. Peter Obi, Governor of Anambra State, reclaimed his mandate three years after he won the election. The delayed disposal of election matters has created the problem of tenure interpretation for elected officials. Disputes over some legislative seats have remained unresolved more than three years after the elections.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct. 13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

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

**75:**

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

**25:**

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

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

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

**Comments:**

In the last elections, police, soldiers and other para-military organizations were deployed to the polling stations and collation centers. However, most of them did not carry out their responsibilities as expected. Many interfered with the process, were used as willing agents to rig the election. Some did not take any action when ballot boxes and other materials were being vandalized. Others were reported to have even escorted ballot boxes and materials to government houses.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct. 13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. "Election or 'Selection'? Human Rights Abuse and Threats to Free and Fair Elections in Nigeria," Human Rights Watch Report on Elections in Nigeria, pg. 46, April 2007

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

**75:**

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

**25:**

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

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

Yes

No

**Comments:**

The Act does not specifically say there must be observers, but makes mentions of persons allowed in the polling booths to include observers.

**References:**

1. Section 62(1) Electoral Act 2010

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

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

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

100

75

50

25

0

**Comments:**

In the last elections, the Independent National Electoral Commission (INEC) dragged its foot over accrediting domestic observers. Eventually, the observers were able to register at the last minute and monitor. Presently, guidelines for accreditation and forms are available for the 2011 general elections.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. "Election or 'Selection'? Human Rights Abuse and Threats to Free and Fair Elections in Nigeria," Human Rights Watch Report on Elections in Nigeria, pg. 46, April 2007

**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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73  
2.3. Political Financing Transparency

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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:**

Section 91, Electoral Act 2010

**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:**

Section 91, Electoral Act 2010

**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

**Comments:**

It provides that election expenses shall not exceed the sums specified under the offices.

**References:**

Section 91, Electoral Act 2010

**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:**

Section 93, Electoral Act, 2010

**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. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

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

**Comments:**

The constitution requires every political party to submit to the Independent National Election Commission (INEC) a statement of its assets and liabilities. It further provides that the INEC shall submit to the National Assembly a yearly report on the accounts and balance sheets of every political party. It is the INEC's duty, in preparing its report, to carry out such investigations that will enable it to form an opinion as to whether proper books of accounts and proper records have been kept by all political parties.

**References:**

Section 225 and 226 of the 1999 Constitution

**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:**

1. Independent National Elections Commissions (INEC).,Section 225 of the 1999 Constitution
2. 89-94, Electoral Act 2010

**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 non-governmental organizations.

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

60

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

Yes | No

**Comments:**

It sets a limit of naira 1 Million (US\$8,944) on contributions to individual political candidates by private individuals and all other entities.

**References:**

Section 91[9] of the 2010 Electoral Act

**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:**

It prohibits corporate donations to individual political candidates: "No association other than a political party shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to the election expenses of any candidate at any election."

**References:**

Section 221, 1999 Constitution

**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 constitution requires political parties to submit to the Independent National Election Commission (INEC) details and analysis of its sources of funding. It also requires political parties to maintain records of all contributors and contributions. However, there is no requirement to disclose donations to individual candidates.

**References:**

Sections S.93[2] and 225, 1999 Constitution.

**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. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

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 law mandates that political parties submit audited accounts to the Independent National Electoral Commission (INEC), but it is silent on whether candidates should.

**References:**

Section 93, Electoral Act 2010

**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:**

This is the Independent National Elections Commissions (INEC). It is charged with a myriad of functions like voter registration, conduct of elections, and observing political financing processes.

**References:**

1.Third Schedule, Part F, 1999 Constitution

2. Section 91 – 93, Electoral Act 2010

**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 non-governmental organizations.

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

0

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

100 | 75 | 50 | 25 | 0

**Comments:**

The Electoral Act puts a limit of naira 1,000,000 (US\$6,416.426) on individual donations with an option of fine and imprisonment for breach. However, this limit is routinely breached, with no sanctions.

Many political entrepreneurs dole out large sums of money, purchase the support of political parties and expect huge rewards for such investments. Many political aspirants are supported by the wealthy and power brokers (called “Godfathers”) who bankroll their campaigns. These transactions are kept secret and the amounts spent are hardly disclosed. Indeed, sponsorship is seen as a business transaction in which a patron must at all costs recover his investments in form of contracts and appointment of cronies into public offices.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

In the 2003 and 2007 elections, corporations in Nigeria raised billions of naira for the campaign of Olusegun Obasanjo, in violation of the Constitution. Corporate bodies were named as contributors and some individuals, including those resident abroad, made donations, contrary to Section 225 (3): “No political party shall — (a) hold or possess any funds or other assets outside Nigeria; or (b) be entitled to retain any funds or assets remitted or sent to it from outside Nigeria.”

This group also in October 2010 raised about naira 500 million (US\$3,208,212) for President Goodluck Jonathan’s primary elections.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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:**

Limits are routinely bypassed or ignored without any sanctions.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

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

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party.

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

There are no known cases of this.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010

2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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

**Comments:**

There are no known cases of this. In the 2007 elections, many political parties disclosed the mandatory reporting and disclosure requirement to the Independent National Electoral Commission (INEC) with no consequences.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010

2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

3. Victor Adetula, "Money Politics in Nigeria," 2008

**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:**

Audits are never been reported to be performed. The law requires political parties to submit audited account of finances to Independent National Electoral Commission (INEC). In the few instances of compliance by political parties, no follow-up independent audits are done.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct. 13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 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.

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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:**

Individual limits are routinely bypassed with no sanctions. There are reports of outrageous sums spent by individuals to ensure political influence when a candidate wins.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct. 13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 2008

**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:**

Corporate organizations regularly make donations to candidates of the party in power or candidates whom they know will support their businesses once in power without any sanctions. These donations are mostly done privately.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 2008

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

There are no reported cases of this.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 2008

**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

**Comments:**

Enforcement of this law does not happen.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 2008

**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:**

The law only requires the audit of accounts of political parties and not that of individual candidates. The Electoral Laws and the Constitution do not provide for independent candidates.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 2008

**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.

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

13

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

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

**Comments:**

The Electoral Act in section 89 mandates all political parties to submit annually a detailed report of their finances, including sources of funding. Also, section 92 mandates political parties to submit an audited report of their expenses not more than 6 months after every election. After the 2007 elections, only 26 out of 56 parties complied with this disclosure requirement, even after the deadline was extended.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 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 Act in section 92 compels the Independent National Electoral Commission (INEC) to make available for public inspection, at its headquarters, audited returns of political parties. However, there are no mechanisms put in place to allow the INEC to carry this out.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 2008

**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:**

Citizens cannot access these records.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010

2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

3. Victor Adetula, "Money Politics in Nigeria," 2008

**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 NGOs. 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 NGOs 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:**

These records are not made publicly available.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct. 13, 2010

2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

3. Victor Adetula, "Money Politics in Nigeria," 2008

**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?

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

100 | 75 | 50 | 25 | 0

**Comments:**

Individual candidates never publish their sources of funding and are not required to by law.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 2008

**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:**

Individuals are not required to publish their sources of finances and never do.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 2008

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

This does not happen.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct. 13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 2008

**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 NGOs. 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 NGOs 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:**

These records are not made publicly available for assessment.

**References:**

1. Interview with Austin Udechukwu, Program Officer, International Foundation for Electoral Systems (IFES), Nigeria office on Oct.13, 2010
2. Interview with Auwal Musa, Executive Director, Executive Transition Monitoring Group (TMG) and Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010
3. Victor Adetula, "Money Politics in Nigeria," 2008

**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 3. Government Conflicts of Interest Safeguards & Checks and Balances

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3.1. <sup>55</sup>Conflicts of Interest Safeguards & Checks and Balances:  
Executive Branch

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

100

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

Yes

No

**Comments:**

The Constitution guarantees fundamental rights from Section 33 to 43 and infringements of these rights are actionable in Court. Also, Section 6(b) of the Constitution gives certain courts jurisdiction on human rights infringement.

**References:**

Section 46, 1999 Federal Constitution

**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.

---

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

75

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

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

**Comments:**

The President, mostly through his Ministers, gives reasons for actions, but there is no formalized way of ensuring accountability in place.

**References:**

1. Dele Alao, "FG Defends Policy to Lift Importation Ban, as Stakeholders Set to Meet," Nigerian Compass, Dec.13, 2010, available on [http://www.compassnewspaper.com/NG/index.php?option=com\\_content&view=article&id=71378:fg-defends-policy-to-lift-importation-ban-as-stakeholders-set-to-meet&catid=649:industry&Itemid=715](http://www.compassnewspaper.com/NG/index.php?option=com_content&view=article&id=71378:fg-defends-policy-to-lift-importation-ban-as-stakeholders-set-to-meet&catid=649:industry&Itemid=715)

2. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec.1, 2010

**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

**Comments:**

These sections grant the court the power of judicial review.

**References:**

Sections 232, 233, 239, 240, 241 and 251 of the Nigeria 1999 Federal Constitution

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

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The judiciary does not hesitate to review executive actions when the matter is brought before it.

**References:**

1. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec.1, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 10, 2010

**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.

**Comments:**

The executive limits the use of the executive order and most actions are backed by law.

**References:**

1. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec.1, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov.10, 2010

**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**

**Comments:**

This section confers immunity from criminal proceedings on the President and Vice-president while they are in office.

**References:**

Section 308 of the Nigerian 1999 Federal Constitution

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

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

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

Yes | No

**Comments:**

The above section does not confer immunity on them, only the heads of the nation and the states.

**References:**

Section 308 of the Nigerian 1999 Federal Constitution

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

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

---

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

53

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

Yes | No

**Comments:**

They are required by law to declare their assets before assuming office, at the end of every four years, and at the end of their term of office.

**References:**

Section 140 of the Nigerian 1999 Federal Constitution

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

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

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

Yes | No

**Comments:**

These laws mandate all public officers to file asset disclosure forms.

**References:**

1. Fifth Schedule, Section 11, of the Nigerian 1999 Federal Constitution
2. The Code of Conduct for Public Officers, the Code of Conduct Bureau and Tribunal Act, Cap 56, Laws of the Federation.

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

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

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

Yes | No

**References:**

1. Part 1 of the 5th Schedule to the 1999 Constitution (Sections 6-8)
2. Code of Conduct for Public Officers, the Code of Conduct Bureau and Tribunal Act, Cap 56, Laws of the Federation.

**Yes:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

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

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

Yes | No

**Comments:**

The law mandates that all public officers, immediately after taking office and thereafter every four years and at the end of his/her term of office, to submit to the Code of Conduct Bureau (CCB) a written declaration of all their properties, assets and liabilities. It also mandates the CCB to examine these declarations and follow up with investigations were necessary.

**References:**

1. Fifth Schedule, Section 11, Nigerian 1999 Federal Constitution
2. Code of Conduct Bureau and Tribunal Act 1991

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

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

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

Yes | **No**

**Comments:**

The only restrictions that exist in law that affects them are those placed on public officers upon retirement. They are not to accept more than one remunerative position as chairman, director, or employee of a company that is controlled by the government or in any public authority. Also, there is a prohibition against the president, vice-president, governor and deputy governor of a state from service or employment in foreign companies or foreign enterprises.

**References:**

1. Section 4 of the Code of Conduct for Public Officers, Part 1 of the 5th Schedule, 1999 Constitution.
2. Section 6 of the Code of Conduct for Public Officers, Part 1 of the 5th Schedule, 1999 Constitution.

**Yes:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

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

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

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

**Comments:**

There are no such restrictions in existence.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on November 10, 2010

**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:**

These laws are not enforced and there allegations that members of the executive routinely collects gifts and hospitality.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on November 10, 2010

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The verification of assets that have been declared by a public officer by the Code of Conduct Bureau, as mandated by law, rarely happens.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on November 10, 2010

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

**75:**

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

**25:**

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

---

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

0

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

Yes | No

**Comments:**

This provision states that for the Code of Conduct Bureau (CCB) to make publicly available the asset declarations made by public officers, the National Assembly must make available the terms and conditions. This has never been done.

**References:**

Paragraph 3 (c) of Part 1 of the Third Schedule to the Constitution.

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

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

These records cannot be accessed by citizens. The Media Rights Agenda, a civil society organization lost its case against the Code of Conduct Bureau when it tried to gain access to the asset declarations of President Obasanjo (Incorporated Trustees of Media Rights Agenda v. Code of Conduct Bureau). These records only become public knowledge if President makes it so, like President Yar'dua did.

**References:**

1. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on November 10, 2010

**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:**

These records cannot be accessed.

**References:**

1. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec. 1, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

**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 NGOs. 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 NGOs trying to access this information.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The President's assets declaration is never public knowledge. This has only happened in 2007 when President Yar'adua voluntarily released details of his assets to the public; this did not include detailed information like sources of income.

**References:**

1. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec. 1, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

**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.

---

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

25

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

100 | 75 | 50 | 25 | 0

**Comments:**

There boundaries between state functions and party functions are regularly breached. State resources are routinely deployed for

party uses. As elections are coming up, most state functions that the president attends most of the time turn into party campaigns.

**References:**

1. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec. 1, 2010
2. Interview with Abimbola Akosile, Journalist, Thisday Newspaper on Nov. 22, 2010

**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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## 3.2. Conflicts of Interest Safeguards & Checks and Balances: Legislative Branch

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

92

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

Yes

No

**References:**

Section 233 (b) and ( c ) of the 1999 Nigerian Constitution

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

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

This happens where necessary. For instance, a Federal High Court in Lagos in November 2010, ruled that the president needs to assent to the amendments of the 1999 Constitution for them to become law.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Auwal Musa, Executive Director, Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

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

**75:**

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

**25:**

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

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

Yes | No

**Comments:**

This clause does not exempt legislative officers from criminal proceedings.

**References:**

Section 308, of the Nigerian 1999 Federal Constitution

**Yes:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**No:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

---

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

32

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

Yes | No

**References:**

Section 52, of the Nigerian 1999 Federal Constitution

**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

**Comments:**

There are no restrictions on entering the private sector for national legislators

**References:**

0

**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:**

These cover public officers and, by definition, includes them.

**References:**

1. Section 6, Fifth Schedule of the Nigerian 1999 Federal Constitution
2. Section 10, Code of Conduct Bureau and Tribunal Act 1991

**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 law mandates every public officer immediately after taking office and thereafter every four years and at the end of his term of office, to submit to the Code of Conduct Bureau (CCB) a written declaration of all his properties, assets and liabilities. It also mandates the CCB to examine these declarations and follow up with investigations were necessary.

**References:**

1. Fifth Schedule, Section 11, Nigerian 1999 Federal Constitution
2. Code of Conduct Bureau and Tribunal Act 1991

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

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

There are no such restrictions.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Auwal Musa, Executive Director, Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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:**

These regulations are not effective and are never enforced.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Auwal Musa, Executive Director, Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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:**

This is rarely done.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Auwal Musa, Executive Director, Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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?

0

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

Yes | No

**Comments:**

There is no provision for public access to information.

**References:**

Paragraph 3 (c) of Part 1 of the Third Schedule to the Constitution

**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, non-governmental 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:**

There is no right of access to information.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Auwal Musa, Executive Director, Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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:**

There is no right of access to information.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Auwal Musa, Executive Director, Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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 NGOs. 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 NGOs 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:**

The is no law empowering public access to these documents, so no judgment can be made on their quality.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Auwal Musa, Executive Director, Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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?

33

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

Yes | **No**

**References:**

There is no law granting this legal right.

**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:**

As there is no law mandating access, these documents are retrieved from individual contacts, and the time period is at the discretion of the official.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Auwal Musa, Executive Director, Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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 cost usually covers the making of copies and the staff may require a payment. Also, people who are based outside the capital where the National Assembly is based there would be an added financial burden of transportation to the capital as these documents are not mostly available online.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Auwal Musa, Executive Director, Civil Society Legislative Advocacy Centre (CISLAC) on Dec. 20, 2010

**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 NGOs. 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 NGOs trying to access this information.

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39  
3.3. Conflicts of Interest Safeguards & Checks and Balances:  
Judicial Branch

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36. Are judges appointed fairly?

100

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

Yes

No

**Comments:**

Federal judges are usually appointed by the President on the recommendation of the National Judicial Council and these appointments are subject to ratification by the Senate.

**References:**

Sections 231, 238, 250 Federal Constitution of Nigeria, 1999

**Yes:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**No:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

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

**Comments:**

In practice, the criteria is followed. National-level judges are appointed based on years of formal training legal and experience in practicing, which varies depending on the court. These conditions are stated in the constitution and strictly followed. In addition, the National Judicial Council sends a notice to the Nigerian Bar Association and the State Security Service asking them to give moral and legal reasons, if any why the candidate should not be appointed.

**References:**

1. Interview with Abasumo Ekong, Senior Partner, Ekong and Partners Law Firm on Nov. 18, 2010
2. Nigerian National Integrity Systems Study 2004, [www.transparency.org](http://www.transparency.org).

**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:**

Some categories of judges, such as the Justices of the Supreme Court, require confirmation by the Senate, as do the President of the Court of Appeal and the Chief Judge of the Federal High Court.

**References:**

Sections 231, 238, and 250 of the 1999 Constitution

**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?

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

Yes | No

**Comments:**

Judges are required to give their opinion in writing.

**References:**

Section 294, Federal Constitution of Nigeria, 1999

**Yes:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**No:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

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

100 | 75 | 50 | 25 | 0

**Comments:**

This requirement is complied with. All judges give reasons for their decisions, backing it up with precedents (where available) and statutes. There are no known cases of other practices by federal judges.

**References:**

1. Interview with Abasumo Ekong, Senior Partner, Ekong and Partners Law Firm on Nov. 18, 2010

2. Telephone Interview with Telema Whyte, Public Prosecution Counsel, Rivers State Ministry of Justice on Nov. 18, 2010.

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

**0:** Judges commonly issue decisions without formal explanations.

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

Yes | No

**Comments:**

The National Judicial Council has the Constitutional powers to investigate allegations of misconduct against judges and take disciplinary measures.

**References:**

The National Judicial Council, Section 21, Part 1, 3rd Schedule, 1999 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

**Comments:**

Their appointment process and security of tenure guarantees them independence. The members of the National Judicial Council are appointed by the President, subject to confirmation by the Senate. They can only be removed by the President acting on an address supported by a two-thirds majority of the Senate.

**References:**

Sections 154 and 157, 1999 Constitution.

**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 National Judicial Council rarely initiates investigations on its own. It mostly investigates in response to petitions from

aggrieved parties. For instance, the National Judicial Council, acting on a petition filed by a Governor over an allegation of abuse of process in an election petition matter ordered the suspension of proceedings on the matter before the Court of Appeal pending its investigations.

**References:**

1. Interview with Abasumo Ekong, Senior Partner, Ekong and Partners Law Firm on Nov. 18, 2010
2. Telephone Interview with Telema Whyte, Public Prosecution Counsel, Rivers State Ministry of Justice on Nov.18, 2010.
3. Abubakar A. Ibrahim & Rakiya A. Muhammad, Sokoto, "Supreme Court, National Judicial Council Wade into Sokoto Governorship Tussle," Sunday Trust, Feb. 21, 2010

**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:**

The Commission penalizes offenders when wrongdoing is established. It, however, applies caution and tries to be thorough before arriving at an establishment of wrongdoing.

**References:**

1. Interview with Abasumo Ekong, Senior Partner, Ekong and Partners Law Firm on Nov. 18, 2010
2. Telephone Interview with Telema Whyte, Public Prosecution Counsel, Rivers State Ministry of Justice on Nov.18, 2010

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

**75:**

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

**25:**

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

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

82

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

Yes

No

### References:

1. 5th Schedule, 1999 Constitution
2. Section 15, Code of Conduct Bureau and Tribunal Act, available on [www.theconvention.org/regulations/CODE\\_OF\\_CONDUCT\\_BUREAU.pdf](http://www.theconvention.org/regulations/CODE_OF_CONDUCT_BUREAU.pdf)

**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:

Judicial officers come within the scope of public officers who are subject to the Code of Conduct for Public Officers. Such officers are subject to restrictions on accepting gifts and benefits.

### References:

1. Section 6, Fifth Schedule of the Nigerian 1999 Federal Constitution
2. Section 10, Code of Conduct Bureau and Tribunal Act 1991

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

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

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

Yes | No

**References:**

1. Fifth Schedule, Section 11, Nigerian 1999 Federal Constitution
2. Code of Conduct Bureau and Tribunal Act 1991

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

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

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

Yes | No

**Comments:**

The section prohibits persons who have held offices as judicial officers from appearing in any court or tribunal in Nigeria as legal practitioners when they have ceased to hold such office.

**References:**

Section 292[2], 1999 Constitution

**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 restrictions are effective as there are no known cases.

**References:**

1. Interview with Abasumo Ekong, Senior Partner, Ekong and Partners Law Firm on Nov.18, 2010
2. Telephone Interview with Telema Whyte, Public Prosecution Counsel, Rivers State Ministry of Justice on Nov. 18, 2010

**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:**

This regulations has been effective. Judges are hardly known to accept gifts or hospitality. Although, there are unconfirmed reports of judges being bribed to influence judgment.

**References:**

1. Interview with Abasumo Ekong, Senior Partner, Ekong and Partners Law Firm on Nov.18, 2010
2. Telephone Interview with Telema Whyte, Public Prosecution Counsel, Rivers State Ministry of Justice on Nov. 18, 2010.

**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:**

Judicial officers, like all other public officers, are required to submit an asset declaration with the Code of Conduct Bureau, who should verify these assets. However, this is rarely done because of the low capacity of the bureau.

**References:**

1. Interview with Abasumo Ekong, Senior Partner, Ekong and Partners Law Firm on Nov.18, 2010
2. Telephone Interview with Telema Whyte, Public Prosecution Counsel, Rivers State Ministry of Justice on Nov. 18, 2010
3. Interview with Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), Nov. 20 2010

**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?

0

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

Yes | No

**Comments:**

There is no access to information law.

**References:**

- Interview with Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), Nov. 20, 2010

**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:**

These cannot be accessed by the public.

**References:**

1. Interview with Abasumo Ekong, Senior Partner, Ekong and Partners Law Firm on Nov. 18, 2010
2. Telephone Interview with Telema Whyte, Public Prosecution Counsel, Rivers State Ministry of Justice on Nov. 18, 2010.
3. Interview with Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), Nov. 20, 2010

**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:**

There is no public access.

**References:**

1. Interview with Abasumo Ekong, Senior Partner, Ekong and Partners Law Firm on Nov. 18, 2010
2. Telephone Interview with Telema Whyte, Public Prosecution Counsel, Rivers State Ministry of Justice on Nov. 18, 2010.
3. Interview with Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), Nov. 20, 2010

**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 NGOs. 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 NGOs trying to access this information.

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

100 | 75 | 50 | 25 | 0

**Comments:**

These documents cannot be publicly accessed.

**References:**

1. Interview with Abasumo Ekong, Senior Partner, Ekong and Partners Law Firm on Nov. 18, 2010
2. Telephone Interview with Telema Whyte, Public Prosecution Counsel, Rivers State Ministry of Justice on Nov. 18, 2010.
3. Interview with Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), Nov. 20, 2010

**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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### 3.4. Budget Process Oversight & Transparency

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

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

Yes | No

**Comments:**

The budget is usually initiated by the executive and presented by an appropriations bill to the National Assembly. Like other bills considered by it, the National Assembly, in considering the appropriations bill, can exercise its inherent power to change the details of the proposal.

**References:**

Sections 58 ,59 & 80, 1999 Nigeria's Federal Constitution

**Yes:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**No:** A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

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

100 | 75 | 50 | 25 | 0

**Comments:**

Most government expenditures are approved by the legislature in the budget. However, there are instances where the executive makes expenditures that were not approved in the annual budget by the legislature and also not brought before them in a supplementary budget.

**References:**

1. Open Budget Index 2010, by International Budget Partnership , October 2010, available on [http://internationalbudget.org/files/2010\\_Full\\_Report-English.pdf](http://internationalbudget.org/files/2010_Full_Report-English.pdf)

2. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec.1, 2010

**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:**

Their monitoring capacity is low and political will is low. They do not have technical capacity invested in their staff, as most times their staffing is not based on qualifications or expertise but as compensation for people who supported their campaigns or family members. If they are willing, the financial support is available for effective monitoring.

**References:**

1. Open Budget Index 2010, by International Budget Partnership , October 2010, available on [http://internationalbudget.org/files/2010\\_Full\\_Report-English.pdf](http://internationalbudget.org/files/2010_Full_Report-English.pdf)

2. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec.1, 2010

**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.

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## 41. Can citizens access the national budgetary process?

58

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:**

Budget debates at executive level is done at the Medium Term Strategy Sessions annually where ministries present and defend budget proposals. Participation here is pre-determined and not open to the general public, even though representatives of CSOs are invited.

At the level of the legislature, public hearings are also held. At these hearings, the public can attend, but have little opportunity to make meaningful input.

**References:**

1. Open Budget Index 2010, by International Budget Partnership , October 2010, available on [http://internationalbudget.org/files/2010\\_Full\\_Report-English.pdf](http://internationalbudget.org/files/2010_Full_Report-English.pdf)

2. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec.1, 2010

**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:**

Some citizens can provide limited input at the executive hearing when invited or at the legislative hearing. Their inputs generally do not carry weight. The budget proposal is rarely published with enough time to enable effective citizen participation at these hearings.

**References:**

1. Open Budget Index 2010, International Budget Partnership, October 2010, available on [http://internationalbudget.org/files/2010\\_Full\\_Report-English.pdf](http://internationalbudget.org/files/2010_Full_Report-English.pdf)

2. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec.1, 2010

**100:** Citizens, usually acting through NGOs, 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 NGOs can provide input, but this information is often not relevant to budget decisions.

**25:**

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

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

**Comments:**

This information is on the Ministry of Finance's website and is easily accessed.

**References:**

1. Open Budget Index 2010, International Budget Partnership, October 2010, available on [http://internationalbudget.org/files/2010\\_Full\\_Report-English.pdf](http://internationalbudget.org/files/2010_Full_Report-English.pdf)
2. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec. 1, 2010

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

**75:**

**50:** Citizens, journalists and NGOs 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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## 42. In law, is there a separate legislative committee which provides oversight of public funds?

100

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

Yes | No

**Comments:**

There is a standing Committee of the National Assembly, the Public Accounts Committee (PAC), which oversees the expenditure of public funds.

**References:**

1. Public Accounts Committee Act, Cap 375, Laws of the Federation 1990
2. Section 62, 1999 Nigeria Federal Constitution

**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).

---

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

42

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

100 | 75 | 50 | 25 | 0

**Comments:**

They rarely submit reports and this affects the effectiveness of this committee.

**References:**

1. Open Budget Index 2010 by International Budget Partnership, October 2010, available on [http://internationalbudget.org/files/2010\\_Full\\_Report-English.pdf](http://internationalbudget.org/files/2010_Full_Report-English.pdf)
2. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec.1, 2010

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

The membership of the committee is non-partisan. Traditionally, a member of the largest opposition party usually chairs the Committee.

**References:**

1. Open Budget Index 2010, International Budget Partnership, October 2010, available on [http://internationalbudget.org/files/2010\\_Full\\_Report-English.pdf](http://internationalbudget.org/files/2010_Full_Report-English.pdf)
2. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec.1, 2010

**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:**

The committee is considered basically ineffective. They rarely initiate investigations and when they do, their resolutions are barely implemented.

**References:**

1. Open Budget Index 2010, International Budget Partnership, October 2010, available on [http://internationalbudget.org/files/2010\\_Full\\_Report-English.pdf](http://internationalbudget.org/files/2010_Full_Report-English.pdf)
2. Interview with August Akparanta, Budget Coordinator, Pact Nigeria on Dec.1, 2010

**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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## 4.1. Civil Service: Conflicts of Interest Safeguards and Political Independence

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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

**Comments:**

The constitution establishes the civil service of the Federation. It also creates the Federal Civil Service Commission whose members have security of tenure and further provides that the Federal Civil Service Commission shall not be subject to the direction or control of any other person or authority.

**References:**

Sections 153, 156, and 169, 1999 Constitution.

**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:**

This applies to all groups of civil servants at the federal level.

**References:**

1. Part 11, Sections 2 & 3, Federal Republic of Nigeria Guidelines for Appointments, Promotion and Discipline, 2004

2. Section 1, The Code of Conduct for Public Officers

**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:**

These regulations set up the Federal Civil Service Commission and the office of the Head of Service as redress mechanisms; however, complaints have to be routed through the employee's immediate supervisor.

**References:**

1. Chapter 11, Section 11101, 11102, & 111204, Federal Government Public Service Rules, 2000

2. Part V1, Guidelines for Appointments, Promotions, and Discipline, 2004

**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:**

No such rules exist in Federal Civil Service Regulations. Prohibitions of employment exist for criminal convictions.

**References:**

No source

**Yes:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**No:** A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

---

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

Civil servants are vulnerable to political pressure and are commonly influenced by it in order to avoid being victimized. The civil service itself has its own internal mechanism for redress, although the mechanism is not very effective.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

Appointment to the federal civil service is mostly based on other considerations, such as ethnic connections and family ties. However, there have been many instances where people have been hired based on professional criteria.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

This is prohibited by civil service regulations, but is still a prevalent practice. For instance, top staff members of a Ministry may influence the hiring process to favored members of their extended families.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

Many civil service positions do not have clear job descriptions, but employees are recruited and roles actually assigned to them after they are hired. This is why many of them are redundant. However, in many other government organizations, roles are clearly delineated.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

Bonuses represent a significant part of civil servant pay.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

This rarely happens, and when it does, it has not been comprehensive. In the period under review, such publications have not appeared.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

This redress mechanisms is largely ineffective, as it is susceptible to political pressure; the process is slow and redress rarely happens.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

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

**75:**

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

**25:**

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

on.

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

100 | 75 | 50 | 25 | 0

**Comments:**

In the year under review, they have mostly been paid on time. There have been instances of late pay in some ministries that were caused by internal issues.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

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

**75:**

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

**25:**

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

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

100 | 75 | 50 | 25 | 0

**Comments:**

There is no formal system to implement this prohibition, and convictions rarely happen.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

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

**75:**

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

25:

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

---

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

53

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

Yes | No

### Comments:

All public servants are required to file an asset disclosure form.

### References:

The Code of Conduct for Public Officers, Part 1, 5th Schedule, 1999 Constitution.

The Code of Conduct Bureau and Tribunal Act Cap 56, Laws of the Federation.

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

**No:** A NO score is earned if any senior member of the civil service is not required to disclose assets.

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

Yes | No

### Comments:

The section provides that a public officer shall not put himself in a position where his personal interests conflict with his duties and responsibilities.

### References:

Section 1, Code of Conduct for Public Officers, Part 1, 5th Schedule, 1999 Constitution

**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**

**Comments:**

The Code of Conduct for public officers in the 1999 Constitution defines public officers as including the Secretary to the Government of the Federation, Head of the Civil Service, Permanent Secretaries, Directors-Generals and all other persons in the civil service of the Federation or of the State.

This provision does not prohibit civil servants from taking positions in the private sector after leaving government on conflict-of-interest grounds, but rather it prohibits a public officer, after retirement from public service and while receiving pension from public funds, from accepting more than one remuneration position as chairman, director or employee of:

(a) a company owned or controlled by the government; or

(b) any public authority.

(2) a retired public servant shall not receive any other remuneration from public funds in addition to his pension and the emolument of such one remunerative position.

**References:**

5th Schedule, Part 1(4), 1999 Constitution

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

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

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

**Yes** | No

**Comments:**

The Code of Conduct for Public Officers in the Constitution prohibits public officers from asking or accepting property or benefits of any kind for themselves or any other person on account of anything done or omitted to be done by them in the discharge of their duties.

This section however allows public officers to only accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognized by custom. It also allows accepting of gifts by public officers on any public or ceremonial occasion and this shall be treated as a gift to the appropriate institution represented by the public officer, and accordingly, the mere acceptance or receipt of any such gift is not a contravention.

The Corrupt Practices Act prohibits asking or receiving benefits of any kind on account of anything done or not done in the discharge of official duties or in any matter connected with public functions by public officers.

**References:**

1. Code of Conduct for Public Officers, Section 6, Fifth Schedule of Nigeria's 1999 Federal Constitution
2. Section 10, Corrupt Practices and Other Related Offences Act, 2000

**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

**Comments:**

This section mandates public officers, at specified periods, to submit to the Code of Conduct Bureau a written declaration of all properties, assets, and liabilities and those of unmarried children under the age of eighteen years. The Bureau is then charged with the responsibility of verifying these assets declared.

**References:**

Section 11, 5th Schedule, Part 1, 1999 Nigerian Constitution

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

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

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

100

75

50

25

0

**Comments:**

There are no such regulations; consequently, many civil servants go into private employment.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

This regulations are not effective. They are routinely breached, without any sanctions. It is also common place for civil servants to be offered gifts and other incentives to do their work.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

This requirement is mostly not complied with by civil servants. Many do not even fully disclose their interests.

**References:**

1. Interview with Usman Enejoh Ibrahim, Clerk, Committee on Petroleum Resources, House of Representatives on Dec. 20, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

Not all assets disclosures of public officers are verified as required by law, because of the poor staffing at the Code of Conduct Bureau (CCB). The verification is randomly done. The Bureau now uses the "Conference Verification" method, where public servants are requested that they bring supporting documents for their declared assets. Any anomalies that are revealed by this exercise then leads to more in-depth investigations.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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?

0

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

Yes | **No**

**Comments:**

This section is silent on citizens access to asset disclosure.

**References:**

Section 11, 5th Schedule 1999 Nigerian Constitution

**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:**

These records cannot be accessed by the public.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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.

**Comments:**

These records cannot be accessed by the public.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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 NGOs. 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 NGOs trying to access this information.

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

**Comments:**

These records cannot be assessed as they are not public documents.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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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## 4.2. Whistle-blowing Protections

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

19

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 is no whistle-blower protection law.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

There have been instances where whistle-blowers were victimized without any redress provided for them.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

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

**75:**

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

**25:**

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

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

Yes | **No**

**Comments:**

There is no specific law that protects whistle-blowers.

**References:**

There is no law.

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

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

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:**

There are no mechanisms for the protections of whistle-blowers. They are vulnerable to recrimination, depending on the particular management.

**References:**

1. Interview with Snow Ogunjimi, Business Manager, Fortis Microfinance Bank Ltd. on Dec. 14, 2010

2. Interview with Louisiana Uzoamaka, Operations Department, United Bank for Africa on Dec.17, 2010

**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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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

49a. 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:**

These are government anti-graft agencies with specific focuses where corruption can be reported by any person.

**References:**

1. The Economic and Financial Crimes Commission, established by Economic and Financial Crimes Commission Establishment Act (2004) available on [http://www.efccnigeria.org/index.php?option=com\\_content&task=view&id=12&Itemid=30](http://www.efccnigeria.org/index.php?option=com_content&task=view&id=12&Itemid=30)

2. Independent Corrupt Practices and Other Related Offences Commission (ICPC) established by the ICPC Establishment Act, 2000 available on <http://www.icpc.gov.ng/act.php>

**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.

---

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

6

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

100 | 75 | 50 | 25 | 0

**Comments:**

These units have very limited staff. The assigned staff have primary responsibilities assigned to them, but this assignment is secondary.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

These units are poorly funded and, in some ministries, they are not funded at all.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

Generally, response to complains by these units are poor. They lack resources and have no independence from persons they are supposed to oversight.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

They rarely initiate investigations, but they do act on complaints.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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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42  
4.3. Government Procurement: Transparency, Fairness, and  
Conflicts of Interest Safeguards

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51. Is the public procurement process effective?

65

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

Yes

No

**References:**

Section 57 (8-13), Public Procurement Act 2007

**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:**

Under section 5 (k) of the public procurement act 2007, the Bureau of Public Procurement is empowered to undertake training programs and human resources development for procurement officials but these are not made mandatory.

**References:**

Section 5 (k) of the Public Procurement Act 2007

**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:**

These regulations have largely not been enforced.

**References:**

1. Interview with Chibuzor Ekwewuo, Chair, National Procurement Watch Platform, Oct. 11, 2010
2. Interview with Abiodun Niyi, Communication Consultant, Bureau for Public Procurement, Oct. 14, 2010

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

**75:**

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

**25:**

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

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

Yes | **No**

**Comments:**

It makes no mention of this mechanism.

**References:**

Public Procurement Act 2007

**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:**

Sections 24 & 25 of the Act provide comprehensively for open competitive bidding process for all procurements of goods and services.

**References:**

Sections 24 & 25 of the Public Procurement Act 2007

**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:**

Section 40 of the Public Procurement 2007 Act

**References:**

Section 40 of the Public Procurement 2007 Act

**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:**

An unsatisfied bidder can appeal for an administrative review that first goes to the accounting officer of the procuring entity. If bidders are not satisfied, they can file a complaint with the Bureau of Public Procurement and subsequently may contest the decision in Court.

**References:**

Sections 53 and 54, Public Procurement Act, 2007

**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:**

Section 54 Public Procurement Act, 2007

**Yes:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

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

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

Yes | No

**Comments:**

The Act empowers the Bureau for Public Procurement to debar companies that have contravened any provisions of the Act from public procurements for a period not less than five years, as well as to impose a fine.

**References:**

Sections 6 & 58 Public Procurement Act, 2007

**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:**

A system exists, but it has not been tested.

**References:**

1. Interview with Chibuzor Ekwekwu, Chair, National Procurement Watch Platform, Oct. 11, 2010
2. Interview with Abiodun Niyi, Communication Consultant, Bureau for Public Procurement, Oct. 14, 2010

**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?

71

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

Yes | **No**

**Comments:**

There is no specific provision enabling or prohibiting public access. Although it is not in the law, the Public Procurement Manual is available and is being distributed widely free of charge to the Public by the Bureau of Public Procurement (BPP).

**References:**

Public Procurement Act, 2007

**Yes:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**No:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

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

Yes | No

**Comments:**

The Public Procurement Act provides that notice of acceptance of bids shall immediately be given to the successful bidder. The Act also requires the the Bureau of Public Procurement (BPP) to publish details in the Procurement Journal.

Some professional bodies and civil society organizations (CSOs) are permitted to attend bid openings and awards where the results are announced in their presence. Furthermore, the Federal Executive Council usually announces award of contracts up to certain thresholds after the council meetings.

**References:**

Section 33, Public Procurement Act 2007

**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:**

Many records are available in the Bureau for Public Procurement's website and can be accessed at their office.

**References:**

1. Interview with Chibuzor Ekwewuo, Chair, National Procurement Watch Platform, Oct. 11, 2010

2. Interview with Abiodun Niyi, Communication Consultant, Bureau for Public Procurement, Oct. 14, 2010

**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 regulations are issued free or available online. The costs incurred involve transportation costs to their office, which is located at the nation's capital.

**References:**

1. Interview with Chibuzor Ekwewuo, Chair, National Procurement Watch Platform, Oct. 11, 2010
2. Interview with Abiodun Niyi, Communication Consultant, Bureau for Public Procurement, Oct. 14, 2010

**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 NGOs. 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 NGOs trying to access this information.

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

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

**Comments:**

Major procurements are advertised in national dailies and in a national procurement journal.

**References:**

1. Interview with Chibuzor Ekwewuo, Chair, National Procurement Watch Platform, Oct. 11, 2010
2. Interview with Abiodun Niyi, Communication Consultant, Bureau for Public Procurement, Oct. 14, 2010

**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 Bureau for Public Procurement publishes details of procurement contracts. Also, the Act mandates that government agencies invite civil service organizations and professional bodies to observe the procurement process. Most federal ministries, departments and agencies (MDAs) comply with this.

**References:**

1. Interview with Chibuzor Ekwewuo, Chair, National Procurement Watch Platform, Oct. 11, 2010
2. Interview with Abiodun Niyi, Communication Consultant, Bureau for Public Procurement, Oct. 14, 2010

**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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#### 4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

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53. Is the privatization process effective?

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

Yes | No

**Comments:**

As long as the businesses have financial muscle, and management know-how.

**References:**

Section 4, Public Enterprise Privatization and Commercialization Act, 1999

**Yes:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**No:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

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

Yes | No

**Comments:**

The Code of Conduct and Tribunal Act has regulations on conflicts of interest for public officers. Also, the Bureau of Public Enterprises (BPE) has also developed an internal regulatory manual that deals with the conflict-of-interest issues among other subjects.

**References:**

Code of Conduct for Public Officers, Part 1, 5th Schedule, 1999 Constitution

**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.

**Comments:**

No known cases of this exist, although conflict-of-interest regulations exist.

**References:**

1. Brooke Chambers, "A Critical Appraisal of Privatization in Nigeria," Oct. 8, 2008, available on <http://www.hg.org/article.asp?id=5491>
2. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010

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

**75:**

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

**25:**

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

---

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

35

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

Yes | **No**

**Comments:**

No specific legal provision guaranteeing this. However, the Bureau for Public Enterprises (BPE), which is charged with executing the implementation process, has some regulations on their website.

**References:**

Public Enterprise Privatization and Commercialization Act, 1999

**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:**

Most privatizations are advertised in national dailies and the website of the Bureau of Public Enterprise.

However, various stakeholders have expressed their reservations about the level of transparency in some exercises. In addition to all the euphemisms of transparency, there exists a conundrum of obscurantism. For example, the advertised criteria for selection of bidders and consultants are different from those actually used for selection. There are also surreptitious and unadvertised sales, and extension and re-extensions of payment deadlines.

**References:**

1. Brooke Chambers, "A Critical Appraisal of Privatization in Nigeria," Oct. 8, 2008, available on <http://www.hg.org/article.asp?id=5491>

2. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010

**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:**

The act setting up the privatization agency does not compel them to announce the results, but they usually do.

**References:**

Public Enterprise Privatization and Commercialization Act, 1999

**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:**

Regulations can be accessed at the Bureau of Public Enterprises' office.

**References:**

1. Brooke Chambers, "A Critical Appraisal of Privatization in Nigeria," Oct. 8, 2008, available on <http://www.hg.org/article.asp?id=5491>

2. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010

**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:**

These regulations are usually given free of charge.

**References:**

1. Brooke Chambers, "A Critical Appraisal of Privatization in Nigeria," Oct. 8, 2008, available on <http://www.hg.org/article.asp?id=5491>

2. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010

**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 NGOs. 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 NGOs trying to access this information.

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## Category 5. Government Oversight and Controls

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### 5.1. ~~64~~ National Ombudsman

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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

55a. 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 Public Complaints Commission, Laws of the Federation, Public Complaints Commission Act, Chapter 377 L.F.N. 1990

**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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56. Is the national ombudsman effective?

61

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

Yes | No

**References:**

Sections 1 -5, Public Complaints Commission Act (1975) as Amended

**Yes:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

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

100 | 75 | 50 | 25 | 0

**Comments:**

There has been no reported interference by the state in the activities of the Commission.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**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 Act setting up the Commission mandates a 3-year, renewable tenure for the Commissioner; this has been complied with.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The Commission has offices and staff in all the states of the country, including the federal capital. All staff members are full time and are trained periodically for their job. The Commission is largely considered moribund by the public, even the present staff members are mostly underutilized.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**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:**

Appointments of Commissioners are done in compliance with the law, by the National Assembly. Appointees must meet certain criteria. This is not considered a lucrative government appointment, so there is little interest in the position. The other staff members are civil servants and are employed through the usual civil service recruitment process, which can be influenced by the usual biases.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**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:**

Funding of this Commission is consistent and is not based on political considerations.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**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 Commission publishes its reports and they are made available to the public on request.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

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

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

**Comments:**

The agency rarely initiates investigations and mostly acts on complaints received.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

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

**75:**

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

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

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

100 | 75 | 50 | 25 | 0

**Comments:**

The Commission methods of operation is not to impose sanctions, but to persuade and advise.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**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 law is vague. It mandates the Commission to report to the appropriate body or person. The Commission's reports do not seem to have any import nor do they lead to policy changes.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**100:** Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

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

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

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

**Comments:**

The lack of resources for the Commission results in poor response times.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**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.

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## 57. Can citizens access the reports of the ombudsman?

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

Yes | **No**

**Comments:**

All reports are made publicly available in the Ombudsman's annual report, but this is not stated in the Act.

**References:**

Public Complaints Commission Act, Chapter. 377 L.F.N. 1990, Section 10 (2)

**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:**

There is no law granting the public access to information held by Commission. The public can only access information through the annual report issued by the Commission on its own discretion or otherwise voluntarily offered.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**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:**

Annual reports of the Commission are free and the costs incurred involve transportation to their office.

**References:**

1. Dr. Uyim Akpabio, Director, Code of Conduct Bureau (CCB), CCB's Abuja office on Nov. 26, 2010
2. Interview with staff member of Public Complaints Commission on Nov. 30, 2010, anonymous on request

**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 NGOs. 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 NGOs trying to access this information.

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## 5.2. Supreme Audit Institution

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58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

Yes | No

**References:**

The Auditor General's Office, Section 85, Federal Nigeria Constitution 1999

**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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## 59. Is the supreme audit institution effective?

72

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

Yes

No

### Comments:

The law provides that “In the exercise of his functions under this Constitution, the Auditor-General shall not be subject to the direction and control of any other authority or person.”

### References:

Nigerian Constitution 1999, Section 85(6)

**Yes:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**No:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

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

100

75

50

25

0

### Comments:

The constitution lays down processes through which the Auditor General can be removed by the President with two-thirds concurrence by the Senate. Aside from that, the Auditor General stays in office until the legal retirement age. A new Auditor General was appointed in June after the previous one retired.

### References:

1. Adetutu Folasade-Koyi, “Ukura Emerges as Auditor General,” Daily Independence, June 2, 2010, available on <http://allafrica.com/stories/201006030522.html>

2. Mathias Okwe, “Auditor-General Submits 2009 Accounts, Seeks Autonomy,” Abuja News-National, Dec. 6, 2010

**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 Auditor General's office has sufficient full-time, career civil servants as staff.

**References:**

1. Andy Wynne, "Audit Independence: The Case of the Nigerian Public Service," Jan. 4, 2001, available on <http://www.accaglobal.com/archive/2888864/31245>
2. Adetutu Folasade-Koyi, "Ukura Emerges as Auditor General," Daily Independence, June 2, 2010, available on <http://allafrica.com/stories/201006030522.html>
3. Mathias Okwe, "Auditor-General Submits 2009 Accounts, Seeks Autonomy," Abuja News-National, Dec. 6, 2010

**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:**

There was a controversy that followed the recent appointment of the Auditor General that touched on the nomination process. Petitions to the Senate alleged that the Chairman of the Federal Civil Service Commission (FCSC), and some officials in the Presidency circumvented the process by nominating the Auditor General from outside the ranks of senior Directors.

The petitioners maintained that the FCSC conducted the appointment interview to the exclusion of all serving directors within the Office of the Auditor General of the Federation. This ran contrary to “well-established practices” and excluded two serving senior directors from certain sections of the country, thereby marginalizing them.

After several months, the senate still went ahead to confirm this appointment, maintaining that the nomination was not in breach of the law and the competency of the candidate should be what mattered and that was not in question.

Other staff members are recruited and promoted by the Civil Service Commission. Although the Auditor General’s Office is able to appoint its own staff, this is limited to staff on grades up to grade level six. Senior and professional staff in the Auditor General’s Office are recruited and promoted by the Civil Service Commission.

**References:**

1. Andy Wynne, “Audit Independence: The Case of the Nigerian Public Service,” Jan. 4, 2001, available on <http://www.accaglobal.com/archive/2888864/31245>
2. Adetutu Folasade-Koyi, “Ukura Emerges as Auditor General,” Daily Independence, June 2, 2010, available on <http://allafrica.com/stories/201006030522.html>
3. Mathias Okwe, “Auditor-General Submits 2009 Accounts, Seeks Autonomy,” Abuja News-National, Dec. 6, 2010
4. John Alechenu, “Auditor-General of the Federation: One Office, a Recurring Battle of Succession,” Nigeria Daily News, Jan. 5, 2010, available on <http://ndn.nigeriadailynews.com/templates/?a=22004>

**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 funding of this office is regular and consistent. The budget for the Auditor General’s Office is not decided directly by the National Assembly, but only as part of the budget for the Ministry of Finance. In practice, this has allowed this ministry to restrict the Auditor General’s budget.

**References:**

1. Andy Wynne, “Audit Independence: The Case of the Nigerian Public Service,” Jan. 4, 2001, available on <http://www.accaglobal.com/archive/2888864/31245>
2. Adetutu Folasade-Koyi, “Ukura Emerges as Auditor General,” Daily Independence, June 2, 2010, available on <http://allafrica.com/stories/201006030522.html>
3. Mathias Okwe, “Auditor-General Submits 2009 Accounts, Seeks Autonomy,” Abuja News-National, Dec. 6, 2010

**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 constitution mandates that the Office of the Accountant General of the Federation, three months after the close of the previous year's financial transaction, to produce the statement of account, which is to be audited by the Auditor-General of the Federation.

In the past, this had not been possible because the accounts, in some cases, would not reach the National Assembly until four years had passed when, by then, some of those who had abused the regulations had either died or had left the service; thus, it was difficult for the rule of law to take its course.

However, there have been improvements in recent times. The 2008 Audit Report was forwarded to the National Assembly in October 2009 and the 2009 report was submitted in December 2010. This is the first time in more than a decade that the Federal Government's accounts have been speedily prepared and audited in line with the provisions of the constitution.

**References:**

1. Mathias Okwe, "Auditor-General Submits 2009 Accounts, Seeks Autonomy," Abuja News-National, Dec. 6, 2010
2. Festus Owete, "Nigerian Embassies Steal Visa Fees, Says Auditor-General," Next Newspaper, Jan. 8, 2010, available on [http://234next.com/csp/cms/sites/Next/News/National/5513482-146/nigerian\\_embassies\\_steal Visa\\_fees\\_says.csp](http://234next.com/csp/cms/sites/Next/News/National/5513482-146/nigerian_embassies_steal Visa_fees_says.csp)

**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.

**Comments:**

There has been little indication that the findings of the audit reports are being acted upon. For instance, the 2008 report submitted last year to the National Assembly indicted four Nigerian embassies abroad for not remitting monies they collected as visa fees, plus other items, to the federal treasury in 2008. There has not been sufficient follow-up action by the National Assembly.

**References:**

1. Andy Wynne, "Audit Independence: The Case of the Nigerian Public Service," Jan. 4, 2001, available on <http://www.accaglobal.com/archive/2888864/31245>
2. Mathias Okwe, "Auditor-General Submits 2009 Accounts, Seeks Autonomy," Abuja News-National, Dec. 6, 2010
3. John Alechenu, "Auditor-General of the Federation: One Office, a Recurring Battle of Succession," Nigeria Daily News, Jan. 5, 2010, available on <http://ndn.nigeriadailynews.com/templates/?a=22004>
4. Festus Owete, "Nigerian Embassies Steal Visa Fees, Says Auditor-General," Next Newspaper, Jan. 8, 2010, available on [http://234next.com/csp/cms/sites/Next/News/National/5513482-146/nigerian\\_embassies\\_steal Visa\\_fees\\_says.csp](http://234next.com/csp/cms/sites/Next/News/National/5513482-146/nigerian_embassies_steal Visa_fees_says.csp)

**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.

**Comments:**

The Auditor General's office is able to initiate investigations, but it rarely does.

**References:**

1. Andy Wynne, "Audit Independence: The Case of the Nigerian Public Service," Jan. 4, 2001, available on <http://www.accaglobal.com/archive/2888864/31245>
2. Mathias Okwe, "Auditor-General Submits 2009 Accounts, Seeks Autonomy," Abuja News-National, Dec. 6, 2010
3. Festus Owete, "Nigerian Embassies Steal Visa Fees, Says Auditor-General," Next Newspaper, Jan. 8, 2010, available on [http://234next.com/csp/cms/sites/Next/News/National/5513482-146/nigerian\\_embassies\\_steal Visa\\_fees\\_says.csp](http://234next.com/csp/cms/sites/Next/News/National/5513482-146/nigerian_embassies_steal Visa_fees_says.csp)

**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.

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## 60. Can citizens access reports of the supreme audit institution?

0

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

Yes | **No**

### Comments:

The institution is only obliged by law to submit reports to the National Assembly.

### References:

Section 85 (1), 1999 Federal Constitution

**Yes:** A YES score is earned if all supreme auditor reports are available to the general public.

**No:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

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

### Comments:

The public cannot access these reports.

### References:

1. Andy Wynne, "Audit Independence: The Case of the Nigerian Public Service," Jan. 4, 2001, available on <http://www.accaglobal.com/archive/2888864/31245>

2. Mathias Okwe, "Auditor-General Submits 2009 Accounts, Seeks Autonomy," Abuja News-National, Dec. 6, 2010

3. Festus Owete, "Nigerian Embassies Steal Visa Fees, Says Auditor-General," Next Newspaper, Jan. 8, 2010, available on [http://234next.com/csp/cms/sites/Next/News/National/5513482-146/nigerian\\_embassies\\_steal Visa\\_fees\\_says.csp](http://234next.com/csp/cms/sites/Next/News/National/5513482-146/nigerian_embassies_steal Visa_fees_says.csp)

4. Human Rights Watch Report, "Everyone's In on the Game'- Corruption and Human Rights Abuses by the Nigeria Police Force," Aug. 17, 2010

**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:**

Citizens cannot access these reports.

**References:**

1. Andy Wynne, "Audit Independence: The Case of the Nigerian Public Service," Jan. 4, 2001, available on <http://www.accaglobal.com/archive/2888864/31245>

2. Mathias Okwe, "Auditor-General Submits 2009 Accounts, Seeks Autonomy," Abuja News-National, Dec. 6, 2010

3. Festus Owete, "Nigerian Embassies Steal Visa Fees, Says Auditor-General," Next Newspaper, Jan. 8, 2010, available on [http://234next.com/csp/cms/sites/Next/News/National/5513482-146/nigerian\\_embassies\\_steal Visa\\_fees\\_says.csp](http://234next.com/csp/cms/sites/Next/News/National/5513482-146/nigerian_embassies_steal Visa_fees_says.csp)

4. Human Rights Watch Report, "Everyone's In on the Game'- Corruption and Human Rights Abuses by the Nigeria Police Force," Aug. 17, 2010

**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 NGOs. 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 NGOs trying to access this information.

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57  
5.3. Taxes and Customs: Fairness and Capacity

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61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes

No

**References:**

The Federal Inland Revenue Service is the national tax collection agency created by Federal Inland Revenue Service (Establishment) Act, 2007.

**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.

---

62. Is the tax collection agency effective?

88

62a. In practice, the tax collection agency has a professional, full-time staff.

100

75

50

25

0

**Comments:**

The agency is well staffed with professionals. Some of the staff do not have the required skill set and have to be trained.

**References:**

1. Anonymous interview with Federal Inland Revenue staff on Oct. 26, 2010

2. Interview with Lawrence Ogwuche, Finance Manager, Deloitte, Nov. 3, 2010

**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 Federal Inland Revenue Service (FIRS) receives regular and consistent funding from the Federal government as provision is made for it in the annual budget. It also retains 4 percent of all non-oil collection it makes.

**References:**

1. Anonymous interview with Federal Inland Revenue staff on Oct. 26, 2010
2. Interview with Lawrence Ogwuche, Finance Manager, Deloitte, Nov. 3, 2010

**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.

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

50

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

Taxes are generally enforced uniformly, though there are certain stated exemptions in customs duties. Various persons through corrupt means try to evade paying tax in collusion with some officials of the FIRS, but this is not an organizational policy.

**References:**

1. Anonymous interview with Federal Inland Revenue staff on Oct. 26, 2010
2. Interview with Lawrence Ogwuche, Finance Manager, Deloitte, Nov. 3, 2010

**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

64a. In law, is there a national customs and excise agency?

Yes | No

**References:**

Nigerian Customs Service, Customs & Excise Management Act (CEMA) 2004

**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.

---

65. Is the customs and excise agency effective?

100

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The organization has sufficient staff to fulfill its mandate.

**References:**

1. Anonymous interview with Federal Inland Revenue staff on Oct. 26, 2010
2. Interview with Lawrence Ogwuche, Finance Manager, Deloitte, Nov. 3, 2010

**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:**

The organization is funded from the federal budget yearly and this funding is consistent.

**References:**

1. Anonymous interview with Federal Inland Revenue staff on Oct. 26, 2010
2. Interview with Lawrence Ogwuche, Finance Manager, Deloitte, Nov. 3, 2010

**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.

---

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

50

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**Comments:**

The laws are generally enforced uniformly, although, in collusion with some staff members, some people may evade compliance with the law.

**References:**

1. Anonymous interview with Federal Inland Revenue staff on Oct. 26, 2010
2. Interview with Lawrence Ogwuche, Finance Manager, Deloitte, Nov. 3, 2010

**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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## 5.4. Oversight of State-Owned Enterprises

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67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

100

67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

Yes | No

**Comments:**

Several government Ministries are charged with overseeing government-owned enterprises. There is no centralized agency or group of agencies charged with overseeing government-owned enterprises. Agencies are attached to different government ministries who oversee them.

Also, the Bureau for Public Enterprises (BPE) oversees state-owned companies when they are in the process of privatization and commercialization.

The National Assembly also exercises some level of oversight through parliamentary oversight and inquiries regarding the affairs and conduct of certain public enterprises.

**References:**

Bureau of Public Enterprises Act of 1993, available on <http://www.bpeng.org/bureau>

**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.

---

## 68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

45

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes | **No**

**Comments:**

There is no specific agency with oversight powers; most of the responsible bodies are government ministries.

**References:**

There is no law.

**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 ministries have a professional full-time staff. The Bureau of Public Enterprises (BPE) also has a professional full-time staff.

**References:**

1. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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 ministries and the Bureau of Public Enterprises receive regular funding through the federal budget.

**References:**

1. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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.

**Comments:**

The different ministries which are charged with oversight function of these government-owned enterprise may set up panels of inquiry to investigate wrongdoings by these organizations. These rarely are effective as the findings are rarely acted on.

The Bureau of Public Enterprises has a Post-Privatization Monitoring Department that monitors privatized state-owned enterprises. It also has a Commercialization and Privatization List and state-owned companies listed there are usually monitored and can be investigated.

**References:**

1. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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.

**Comments:**

Penalties are rarely imposed, and when imposed, are hardly enforced.

**References:**

1. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**100:** When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

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

---

## 69. Can citizens access the financial records of state-owned companies?

10

69a. In law, citizens can access the financial records of state-owned companies.

Yes | **No**

**Comments:**

There is no access to information law, so these records cannot be accessed by the public. The Official Secrets Act restricts public access to all government information and provides sanctions for public officers who contravene its regulations.

**References:**

Official Secret Act, Cap 335, Laws of the Federation of Nigeria

**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:**

These records cannot be accessed by the public by law and are not publicly disclosed voluntarily by government.

**References:**

1. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010

2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

Audits are conducted in line with standard government of Nigeria auditing standards, but not regularly.

**References:**

1. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

Citizens cannot access these documents.

**References:**

1. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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:**

Citizens cannot access these documents legally.

**References:**

1. Interview with Eloka Uzoma Chuks-Nwosu, Director, Bureau of Public Enterprises (BPE) on Nov. 24, 2010
2. Interview with Abdullahi Alkali, Administration Officer, Federal Capital Territory Administration on Nov. 26, 2010

**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 NGOs. 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 NGOs trying to access this information.

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## 70. Are business licenses available to all citizens?

50

70a. In law, anyone may apply for a business license.

Yes

No

### Comments:

The act allows all citizens to apply for business licenses, which are granted upon fulfilling certain requirements.

### References:

Part 11, Company and Allied Matters Act (CAMA) 1990, available on [www.nigeria-law.org/CompaniesAndAlliedMattersAct.htm](http://www.nigeria-law.org/CompaniesAndAlliedMattersAct.htm)

**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:

The Companies Registry usually gives reasons for refusal. These reasons are mostly based on request for additional documentation. Approval is usually given when the requirements are met. Ultimately, citizens have a right of recourse to the law courts.

### References:

The Companies and Allied Matters Act, 1990

**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:**

Getting a business license from the Corporate Affairs Commission (CAC) takes between one and three months. Officials expect to be bribed to expedite the process.

**References:**

1. Interview with Adesina Oke, Group Chairman, Moreno Group, Nov. 7, 2010
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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 unofficial cost is about \$400, which is bit out of the reach for small businesses. The official fee is much less than this, but with all the other associated costs — legal fees for lawyers; the cost of the announcement (depending on the type of organization seeking registration); and the mandatory “tipping” of the staff to facilitate the process — brings the unofficial cost to the aforementioned amount.

**References:**

1. Interview with Adesina Oke, Group Chairman, Moreno Group, Nov. 7, 2010
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

**75:**

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

**25:**

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

## 71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes

No

### Comments:

The requirements can be supplied by appropriate regulatory agencies, such as the Ministry of Health or the Nigerian Investments Promotion Council.

### References:

The National Agency for Food and Drug Administration and Control (NAFDAC), established by Decree No. 15 of 1993 as amended is a parastatal of the Federal Ministry of Health

**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:

Some of these laws are hard to find however.

### References:

Federal Environment Protection Agency (FEPA) with Decree 58 of 1988 with the overall mandate of protecting Nigeria's environment. The Decree also empowered the Agency to promulgate regulations.

To date the Agency has promulgated or issued a number of regulations including:

S.1.8 of 1991: National Effluent Limitation, Official Gazette, Federal Republic of Nigeria No 42, Vol 78, August, 1991

S.1.9 of 1991: Pollution Abatement in Industries, Industries Generating Wastes, Official Gazette, Federal Republic of Nigeria No 42, Vol 78, 20th August, 1991.

S.1.15 OF 1991: Management of Hazardous and Solid Wastes, Official Gazette, Federal Republic of Nigeria, No 102, Vol 78, 31st December, 1991.

**Yes:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**No:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes

No

**References:**

Federal Environment Protection Agency (FEPA) with Decree 58 of 1988 with the overall mandate of protecting Nigeria's environment. The Decree also empowered the Agency to promulgate regulations.

To date the Agency has promulgated or issued a number of regulations including:

S.1.8 of 1991: National Effluent Limitation, Official Gazette, Federal Republic of Nigeria No 42, Vol 78, August, 1991

S.1.9 of 1991: Pollution Abatement in Industries, Industries Generating Wastes, Official Gazette, Federal Republic of Nigeria No 42, Vol 78, 20th August, 1991.

S.1.15 OF 1991: Management of Hazardous and Solid Wastes, Official Gazette, Federal Republic of Nigeria, No 102, Vol 78, 31st December, 1991

**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.

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## 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 and are carried out in a uniform and even-handed manner.

**Comments:**

Inspections by regulatory agencies such as the Standards Organization of Nigeria (SON), the National Agency for Food, Drug Administration and Control and other agencies are carried out in a uniform and evenhanded manner. However, there are have been allegations of bribery or exemptions for businesses that belong to influential persons.

**References:**

1. Interview with Adesina Oke, Group Chairman, Moreno Group, Nov. 7, 2010
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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.

**Comments:**

The inspections of the federal regulatory body — the Federal Environmental Protection Agency (FEPA) are ad hoc because of low capabilities. The agency tends to be ineffective.

**References:**

1. Interview with Adesina Oke, Group Chairman, Moreno Group, Nov. 7, 2010
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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:**

These inspections are mostly performed in an uncoordinated way and can be arbitrary at times.

**References:**

1. Interview with Adesina Oke, Group Chairman, Moreno Group, Nov. 7, 2010
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

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## 6.1. <sup>71</sup>Anti-Corruption Law

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73. Is there legislation criminalizing corruption?

73a. In law, attempted corruption is illegal.

Yes | No

**Comments:**

These laws punish various acts of corruption.

**References:**

1. Sections 8,9,10 and 26 of the Corrupt Practices and other Related Offences Act (2000), available on [www.nigeria-law.org/Corrupt%20Practices%20and%20other%20Related%20Offences](http://www.nigeria-law.org/Corrupt%20Practices%20and%20other%20Related%20Offences)
2. Chapter 49, Criminal Code Act, Laws of the Federation (1990)
3. Sections 15(c) and 17(b) Money Laundering (Prohibition) Act 2004

**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:**

1. Sections 10,18, 21and 22 of the Corrupt Practices and Other Related Offences Act (2000)
2. Chapter 36 of the Criminal Code Act, Laws of the Federation (1990)

**Yes:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**No:** A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes | No

**References:**

1. Sections 18, 21 and 22 of the Corrupt Practices and Other Related Offences Act (2000)
2. Chapter 49, Criminal Code Act, Laws of the Federation (1990)
3. Sections 15(C), and 17(b), of the Money Laundering (Prohibition) Act (2004)

**Yes:** A YES score is earned if offering a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes | No

**References:**

Sections of 10, 18 and 22 (b) of the Corrupt Practices and Other Related Offences Act (2000)

**Yes:** A YES score is earned if receiving a bribe is illegal.

**No:** A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes | No

**Comments:**

The law, which is the most comprehensive corruption law, does not explicitly provide for this. Also, no mention is made of bribery in any other anti-corruption law in Nigeria.

**References:**

Corrupt Practices and Other Related Offences Act (2000)

**Yes:** A YES score is earned if bribing a foreign official is illegal.

**No:** A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

Yes | No

**References:**

Section 19, Corrupt Practices and Other Related Offences Act (2000)

**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 19, Corrupt Practices and Other Related Offences Act (2000)

**Yes:** A YES score is earned if using confidential state information for private gain is illegal.

**No:** A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

Yes | No

**References:**

Part 11 of the Money Laundering (Prohibition) Act 2004

**Yes:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**No:** A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Yes | No

**References:**

Section 19, Corrupt Practices and Other Related Offences Act (2000)

**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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## 6.2. Anti-Corruption Agency or Equivalent Mechanisms

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

100

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes | No

**Comments:**

These agencies have mandates to fight various aspects of corruption.

**References:**

1. Code of Conduct Bureau , Fifth Schedule of the Nigeria 1999 Federal Constitution and Code of Conduct Bureau and Tribunal Act, Cap 56, Laws of the Federation of Nigeria, 1990

2. The Economic and Financial Crimes Commission, Economic and Financial Crimes Commission (Establishment) Act, 2004, [www.efccnigeria.org](http://www.efccnigeria.org)

3. The Independent Corrupt Practices and Other Related Offences Commission, The corrupt Practices and other Related Offences Act, 2000

**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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## 75. Is the anti-corruption agency effective?

50

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes | **No**

### Comments:

The Constitution empowers the Attorney General (AG) to institute, take over and discontinue any criminal prosecution in Nigeria, including criminal prosecutions instituted by any of these agencies.

The Economic and Financial Crimes Establishment Act (EFCC) Act also empowers the AG to make rules and regulations for the Commission.

### References:

1. Section 174, 1999 Federal Constitution
2. Section 43, Economic and Financial Crimes Establishment Act 2004

**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:

There is a lack of clarity regarding the independence of the key anti-corruption agencies, the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC). Their legal status with regards to their independence is unclear. The role of the Attorney General and his part in the fight against corruption has raised questions on this issue.

While the establishment act of the EFCC grants it full powers to investigate and prosecute a case, and it has proven itself to be quite robust, for example with the arrest of several former state governors.

The Attorney General is empowered to "make rules or regulations with respect to the exercise of any of the duties, functions or powers of the Commission under [the] Act." President Yar'Adua focused attention on this directive and many have interpreted this as reducing the powers and independence of the EFCC. The independence of the agencies is also impacted by the politics and power relations in Nigeria.

**References:**

1. Adejuwon Soyinka, "Many Troubles of Aondoakaa," Tell Magazine, December 25, 20 – available on <http://www.tellng.com>
2. Abdulwahab Abdulah & Infeanyi Okolie, "EFFC Boss Laments Political Interference," December 10, 2009, available on [www.vanguardngr.com/2009/12/efcc-boss-laments-political-interference](http://www.vanguardngr.com/2009/12/efcc-boss-laments-political-interference)

**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 country has a number of anti-corruption agencies like the Independent Corrupt Practices and Other Related Offences Commission, (ICPC), the Code of Conduct Bureau (CCB) and the Economic and Financial Crimes Commission (EFCC). Generally, the appointments of the managerial staff of these anti-graft agencies are tenured and they generally serve their full term.

The EFCC is seen to be the most important of them all and is mostly in the spotlight. The chairman of the EFCC does not have job security and has in the past been changed arbitrarily. In the year under review, its leadership has not been changed.

The leadership of the ICPC usually finish their tenure without interference from government. This has been linked to the fact that it usually does not go after high-profile political actors. The President, Goodluck Jonathan, recently forwarded the name of Justice Pius Olayiwola Aderemi to the Senate for confirmation as new Chairman of the ICPC. If confirmed, Aderemi will take over from Justice Emmanuel Ayoola whose tenure at the anti-graft commission expired.

**References:**

1. Thisday Newspapers, "Jonathan Names New ICPC Chairman," on Nov. 30, 2010, available on <http://allafrica.com/stories/201012010201.html>
2. Interview with Hauwa Kazeem, Program Officer, Zero Corruption Coalition, Nov. 17, 2010 at ZCC's office in Abuja

**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 to these agencies are generally made based on professional qualifications, but they have not escaped the general Nigerian problem of taking other factors into considerations, such as ethnic and personal biases and loyalties in regard to some appointments.

**References:**

1. Interview with Hauwa Kazeem, Program Officer, Zero Corruption Coalition, Nov. 17, 2010 at ZCC's office in Abuja
2. Interview with Gabriel Aduda, Director, EFCC, on Nov. 17, 2010

**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:**

Agencies have full-time staff that are professionals in their fields, with requisite training. Many of the agencies are, however, understaffed when matched against their mandate and the geographical scope of their work.

**References:**

1. Interview with Hauwa Kazeem, Program Officer, Zero Corruption Coalition, Nov. 17, 2010 at ZCC's office in Abuja
2. Interview with Gabriel Aduda, Director, EFCC, on Nov. 17, 2010

**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 anti-graft agencies have a fairly predictable source of funding, largely from the government, that seems free of political considerations. The Presidency makes provisions and funds the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) from the yearly budget. However, these agencies complain that these funds are insufficient to carry out their mandate.

They also get support from foreign donors to supplement their budget, the majority share of which goes to the EFCC.

However, the Code of Conduct Bureau, because it is listed in the Constitution, is directly funded by the National Assembly in the National Appropriation Act.

**References:**

1. Interview with Hauwa Kazeem, Program Officer, Zero Corruption Coalition, Nov. 17, 2010 at ZCC's office in Abuja
2. Interview with Gabriel Aduda, Director, EFCC, on Nov. 17, 2010
3. Reuters, "European Donors May Cut Nigeria Anti-graft Funding," Feb. 11, 2009, available on – <http://www.saharareporters.com/news-page/european-donors-may-cut-nigeria-anti-graft-funding-reuters>

**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 agencies generally do not make reports available to the public as a matter of routine, although some of them produce annual reports. Oral reports are made to legislators when they demand them on specific issues in regard to their operations.

**References:**

1. Interview with Hauwa Kazeem, Program Officer, Zero Corruption Coalition, Nov. 17, 2010 at ZCC's office in Abuja
2. Interview with Gabriel Aduda, Director, EFCC, on Nov. 17, 2010

**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:**

Generally, the Act setting up the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) empowers them to carry their mandates.

There are, however, areas of challenges in relation to their independence. Their legal status with regards to their independence is unclear. The role of the former Attorney General and his part in the fight against corruption has raised questions on this issue.

While the establishment act of the EFCC grants it full powers to investigate and prosecute a case, and it has proven itself to be quite robust; for example, with the arrest of several former state governors. The Attorney General (AG) is empowered to "make rules or regulations with respect to the exercise of any of the duties, functions or powers of the Commission under [the] Act."

The Attorney General had used his office to take over and stall the prosecution of corruption cases that were instituted before he took office. Prominent among these is the 107 charges filed by the EFCC against Orji Uzor-Kalu, former governor of Abia State. The case was taken over by the office of the Accountant General of the Federation (AGF) on the basis of a petition written to his office by counsel to the accused claiming that there was a court order that restrained the EFCC from arresting the accused person and that the court order had been breached. As it turned out, the purported restraining order from the court never existed, while it is also on record that Uzor-Kalu was arrested on the basis of an arrest warrant issued by the federal high court.

Also, the present Attorney General, on the EFCC's advisory list on corrupt politicians forwarded to political parties, asked the Commission not to exceed its mandate.

**References:**

1. Interview with Hauwa Kazeem, Program Officer, Zero Corruption Coalition, Nov. 17, 2010 at ZCC's office in Abuja

2. Kingsley Nwezeh and Tobi Soniyi, "Advisory List-AGF Slams EFCC Chair," Thisday Newspaper, Oct. 26, 2010, available on <http://allafrica.com/stories/201010270571.html>

3. Adejuwon Soyinka, "Many Troubles of Aondoakaa," Tell Magazine, Dec. 5, 2010, available on <http://www.telling.com>

**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 act setting up the two key anti-graft agencies — EFCC and ICPC — gives them the power to investigation and prosecution. In their exercise of this, they cooperate with the police. However, the EFCC is more proactive than the ICPC in initiating investigations, as the ICPC maintains that they cannot initiate investigations without a complaint or report by law. Also, sometimes in response to the publicly controversial corruption issues, the EFCC says it is yet to get a formal complaint from a member of the public.

**References:**

1. Interview with Hauwa Kazeem, Program Officer, Zero Corruption Coalition, Nov. 17, 2010 at ZCC's office in Abuja
2. Interview with Gabriel Aduda, Director, EFCC, on Nov. 17, 2010

**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.

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## 76. Can citizens access the anti-corruption agency?

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The agencies act on some complaints, but they can be slow, depending on the profile of the case. Many high-profile cases get a quick response while normal cases move slower and some receive no response at all.

**References:**

1. Interview with Hauwa Kazeem, Program Officer, Zero Corruption Coalition, Nov. 17, 2010 at ZCC's office in Abuja
2. Interview with Gabriel Aduda, Director, EFCC, on Nov. 17, 2010

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

**75:**

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

**25:**

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

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no official whistle-blowers protection mechanism and but, generally, these agencies do not disclose sources of information.

**References:**

1. Interview with Hauwa Kazeem, Program Officer, Zero Corruption Coalition, Nov. 17, 2010 at ZCC's office in Abuja
2. Interview with Gabriel Aduda, Director, EFCC, on Nov. 17, 2010

**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.

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67  
6.3. Judicial Independence, Fairness, and Citizen Access to Justice

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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

**Comments:**

The whole hierarchy of courts gives a right of appeal for both civil and criminal cases.

**References:**

Chapter VII, 1999 Federal Constitution of the Federal Republic of Nigeria

**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:**

Appeals are usually time consuming and slow; the higher the court, the more the workload. However, high-profile cases that involve government bodies and persons move much faster. There are usually no instances where appeals go unacknowledged.

**References:**

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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:**

The costs of legal representation and litigation, including appeals, are high and can be prohibitive and impede access to justice.

**References:**

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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.

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

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

**Comments:**

Judgments in Nigeria usually follow written law, with a few isolated cases of non-compliance that can be appealed to a superior court. Judges may try to be creative in their interpretation of the written law based on other illegal factors.

**References:**

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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.

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

75

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

**Comments:**

In the year under review, the state has mostly enforced judicial decisions, except in a few instances where the government has appealed; these cases are still pending appeal.

**References:**

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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

### Comments:

The appointments of judges are tenured and their funding comes from the consolidated funds; this ensures noninterference once the annual budget is passed.

### References:

Chapter V11, 1999 Nigeria Federal Constitution

**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, especially the Supreme Courts and Court of Appeal judges, are mostly independent. There are, however, unsubstantiated allegations of bribery in regard to some judgments.

### References:

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja

2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**100:** National-level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National-level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National-level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

Yes | No

**Comments:**

The Constitution allocates to each tier of the court specific jurisdiction, based on which the Chief Judge or the head of each court allocates to various judges.

**References:**

Chapter VII, 1999 Constitution.

**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:**

Section 292, 1999 Constitution

**Yes:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**No:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

## 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 known or reported cases of such assaults.

### References:

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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

### Comments:

There are no such known cases, even though there have been some high-level corruption cases recently. Federal Judges in Nigeria have police protection.

### References:

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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?

57

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

### Comments:

There have been no known or reported instances of this. Other factors may affect judicial decisions but never racial or ethnic groupings.

### References:

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

**25:**

**0:** Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

### Comments:

Women face some issues in regard to access to judicial access. There are many discriminatory laws, such as the Constitution in Article 26(2) that limits the right of Nigerian women to transmit their nationality to foreign spouses. There is also the Criminal Code, which imposes very strict evidential requirements to prove the crime of rape, making convictions almost impossible (s. 358, requirement of corroborative evidence).

There are also many discriminatory customary and religious laws. Nigeria operates under a dual legal system; that is, the received English law and the Customary and Sharia laws. The dictates of the customary laws are not codified and are substantially unfavorable to women. Often, the women who are victims of these decisions do not have the resources to appeal and are forced to live with those decisions if they are not able to access pro bono legal service.

There are no legal provisions barring women from testifying in civil or criminal proceedings or giving their testimony less weight, but in practice, the testimony of women and non-Muslims are usually was accorded less weight in Shari'a courts. Also, many women are denied, in practice, the right to bail out persons.

**References:**

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010

**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:**

1. The Legal Aid Act Cap 205, Laws of the Federation of Nigeria, 1990
2. Section 46, 1999 Federal Constitution

**Yes:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**No:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

**Comments:**

The main reason why most defendants are not represented at trial is their financial inability to secure the services of a lawyer. Assistance from public funds was at first only available to indigent defendants in Nigeria if they were accused of capital offenses. In such cases, counsel was assigned by the court from a lot of participating lawyers who were paid a token sum for their services. This was popularly referred to as the “state brief”.

Apart from this, the only other form of assistance was provided by individual lawyers who might occasionally waive their fees for needy clients. There has been some reforms lately, but the state defenders are from the Legal Aid Council, which is underfunded and understaffed. As a result, many accused persons remain awaiting trial due to a lack of representation.

**References:**

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010
3. Muhammed Tawfiq Ladan, “Enhancing Access to Justice in Criminal Matters: Possible Areas of Reform in Nigeria,” Paper presented at National Workshop on Law Development organized by Nigeria Law Reform Commission on Jan. 12, 2010

**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.

**Comments:**

The average citizen cannot afford the prohibitive cost of legal suits, a situation that is not helped by the lengthy process of litigation.

**References:**

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010
3. Muhammed Tawfiq Ladan, “Enhancing Access to Justice in Criminal Matters: Possible Areas of Reform in Nigeria,” Paper presented at National Workshop on Law Development organized by Nigeria Law Reform Commission on Jan. 12, 2010

**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 cost of the initial lawsuit is not very exorbitant, but the process tends to take time and the final accumulative cost tends to be high. This discourages small businesses to file law suits and follow them through to the end.

**References:**

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010
3. Muhammed Tawfiq Ladan, "Enhancing Access to Justice in Criminal Matters: Possible Areas of Reform in Nigeria," Paper presented at National Workshop on Law Development organized by Nigeria Law Reform Commission on Jan. 12, 2010

**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:**

Courts are available to most people, but in some remote areas, access involves traveling to the court room and this involves significant costs in traveling expenses.

**References:**

1. Interview with Joseph Ateki, Legal Practitioner with Joseph & Joseph Law Firm, on Dec. 2, 2010 at the law firm in Abuja
2. Interview with Uju Ochuba, Legal Practitioner with Acculaw Legal Practitioners, on Oct. 8, 2010
3. Muhammed Tawfiq Ladan, "Enhancing Access to Justice in Criminal Matters: Possible Areas of Reform in Nigeria," Paper presented at National Workshop on Law Development organized by Nigeria Law Reform Commission on Jan. 12, 2010

**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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## 6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

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### 83. Is the law enforcement agency (i.e. the police) effective?

42

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

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

**Comments:**

The Police Service Commission is responsible for appointment of persons to the Nigerian police with the exception of the Inspector General of Police. The President appoints the Inspector General of Police on the advice of the Nigerian Police Council. This guarantees some level of professionalism in the appointment, based on merit, but the process is not devoid of other considerations, such as loyalties and ethnic bias.

**References:**

1. Human Rights Watch Report, "Everyone's In on the Game'-Corruption and Human Rights Abuses by the Nigeria Police Force," Aug. 17, 2010

2. Sahara Reporters, "Why Hafiz Ringim Is Not A Good Choice As IGP," Sept. 19, 2010

**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:**

Funding is one of the major problems of the Nigerian police force. The poor funding of the institution has encouraged corruption and also frustrated its ability to carry out its mandate.

**References:**

1. Human Rights Watch Report, "Everyone's In on the Game'-Corruption and Human Rights Abuses by the Nigeria Police Force," Aug. 17, 2010

2. Sahara Reporters, "Why Hafiz Ringim Is Not A Good Choice As IGP," Sept. 19, 2010

**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 President appoints the Inspector General and Police Service Commission. Consequently, the Nigerian Police has not been immune from political interference. The guidelines for the appointment, removal, and tenure of the Inspector General of Police makes the person vulnerable to political manipulation.

**References:**

1. Human Rights Watch Report, "Everyone's In on the Game'-Corruption and Human Rights Abuses by the Nigeria Police Force," Aug. 17, 2010

2. Sahara Reporters, "Why Hafiz Ringim Is Not A Good Choice As IGP," Sept. 19, 2010

**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?

67

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes

No

**Comments:**

The Police Service Commission is the civilian oversight body that was established under the Nigerian Constitution for the Nigeria Police Force. It has power to appoint, promote, discipline and dismiss all officers of the Nigeria Police Force (NPF), except for the Inspector General of Police (IGP).

The Public Complaints Commission is the general public sector oversight agency.

Also, the Courts have Jurisdiction over the police and can sanction them for excesses.

**References:**

1. Police Service Commission Establishment Act 2001

2. Section 2, Public Complaints Commission Act, 1975

**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 public seldom use these mechanisms to report police extortion and abuse, and complaints that are filed are rarely investigated.

**References:**

1. Human Rights Watch Report, "Everyone's In on the Game'-Corruption and Human Rights Abuses by the Nigeria Police Force," Aug. 17, 2010
2. Sahara Reporters, "Why Hafiz Ringim Is Not A Good Choice As IGP," Sept. 19, 2010

**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

**References:**

1. The Economic and Financial Crimes Commission, Economic and Financial Crimes Commission Establishment Act 2004
2. Independent and Corrupt Practices and Other Related Offences Commission, Corrupt Practices and Other Related Offences Act 2000

**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 Independent Corrupt Practices and Other Related Offences Commission (ICPC), which targets corruption in the public sector, has been the most successful of Nigeria's law enforcement agencies in investigating and prosecuting police officers for bribery and extortion. The ICPC established a Special Duties Department (SDD) in 2000 to investigate complaints of corruption against public officials.

However, despite the promising model of the ICPC's sting operations, the small number of prosecutions against police officers — an average of just five police officers are apprehended for bribery each year — pales in comparison to the scale of the problem. The SDD has also failed to target superior officers who take "returns" from their subordinates.

The Economic and Financial Crimes Commission (EFCC), which was established to complement the efforts of the ICPC, focuses on cases of financial fraud, money-laundering, and other financial crimes by both public officials and private citizens. The EFCC has successfully investigated and prosecuted several high-profile corruption cases against senior government officials, including a landmark case against former inspector general of police Tafa Balogun in 2005.

In 2008, the EFCC filed criminal charges against Kenny Martins and other senior officials of the Police Equipment Fund. However, aside from these two high-profile cases, the EFCC has failed to indict any other public officials for the embezzlement of police funds or any other police officers for corrupt practices.

**References:**

1. Human Rights Watch Report, "Everyone's In on the Game'-Corruption and Human Rights Abuses by the Nigeria Police Force," Aug. 17, 2010
2. Sahara Reporters, "Why Hafiz Ringim Is Not A Good Choice As IGP," Sept. 19, 2010

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

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

**25:**

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

84e. In law, law enforcement officials are not immune from criminal proceedings.

Yes

No

**Comments:**

The officials are subject to all the criminal laws.

**References:**

1. Criminal Code Act. Chapter 77. Laws of the Federation of Nigeria 1990, available on [www.nigeria-law.org/Criminal%20Code%20Act-Tables.htm](http://www.nigeria-law.org/Criminal%20Code%20Act-Tables.htm)

2. Penal Code Act, Laws of the Federation of Nigeria 1990, available on [www.nigeria-law.org](http://www.nigeria-law.org)

**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:**

Law enforcement officers are not exempt from criminal prosecution; however, records of criminal prosecution of law enforcements are low. This is because victims may not have enough evidence, are afraid of harassment and generally do not have confidence in the process. Mostly, law enforcement officers are punished by their own internal disciplinary mechanisms which are not sanctions that are commensurate with criminal offenses.

**References:**

1. Human Rights Watch Report, "Everyone's In on the Game'-Corruption and Human Rights Abuses by the Nigeria Police Force," Aug. 17, 2010

2. Sahara Reporters, "Why Hafiz Ringim Is Not A Good Choice As IGP," Sept. 19, 2010

**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.

