

Overall Score:

71 - Moderate

Legal Framework Score:

84 - Strong

Actual Implementation Score:

60 - Weak

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

1.1. ⁸⁵Anti-Corruption Non-Governmental Organizations

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

67

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

Yes | No

References:

Association Law of 1976 (approved date), effective date 1977, latest revision 2002.

Constitution of the Republic of Liberia, Article 17.

NGO Policy Guidelines.

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:

There is no restriction or taxes on NGO funding.

References:

NGO Policy Guidelines; Annex 3, Ministry of Planning and Economic Affairs, 2008.

Association Law, 1977, Section 23.2.

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:

The NGO guidelines require reporting of the source of a group's funding and making these reports public.

References:

NGO Policy Guidelines, Annex 3, Ministry of Planning and Economic Affairs, 2008.

NATIONAL POLICY ON NON-GOVERNMENTAL ORGANIZATIONS IN LIBERIA, Annex 3 and Annex 4: <http://www.emansion.gov.lr/doc/NGOPolicguidelines.pdf>

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.

2. Are anti-corruption/good governance NGOs able to operate freely?

92

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

100 | 75 | 50 | 25 | 0

References:

Sebastine Muah, Deputy Minister of Planning and Economic Affairs, Monrovia; September 24, 2011.

Carolyn Myers, Program Manager, AGENDA, October 1, 2011, Monrovia.

Beyond Numbers: An Assessment of Liberian Civil Society, February 25, 2011, AGENDA & CIVICUS, Graceland Publishers.

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:

NGOs/CSOs have enormous effect in shaping the policies of the government of Liberia. For an example, AFELL and a host of women organizations drafted and lobbied for the passage of the Women Inheritance Bill and the Rape Bill. These bills have been passed into law today.

CEMESP, AGENDA, LMC, CENTAL and a host of other organizations now part of the Liberia Freedom of Information Coalition (LFIC), and the Liberia Free Expression Coalition (LFEC), working in partnership with the media and the Bar Association drafted the Freedom of Information Bill that the Legislature passed in 2010, after two years of lobbying and advocacy.

LDI, SDI, SAMFU, Green Adocates and others working on Forestry and Community Rights drafted the Community Rights Law and lobbied for passage of the law through the Legislature.

References:

Sebastine Muah, Deputy Minister of Planning and Economic Affairs, Monrovia; September 24, 2011.

Carolyn Myers, Program Manager, AGENDA, October 1, 2011, Monrovia.

Beyond Numbers: An Assessment of Liberian Civil Society, February 25, 2011, AGENDA & CIVICUS, Graceland Publishers.

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:

In the last five years, no NGO/CSO has been closed or its members physically harassed, or its operations suspended.

References:

Sebastine Muah, Deputy Minister of Planning and Economic Affairs, Monrovia; September 24, 2011.

Carolyn Myers, Program Manager, AGENDA, October 1, 2011, Monrovia.

Beyond Numbers: An Assessment of Liberian Civil Society, February 25, 2011, AGENDA & CIVICUS, Graceland Publishers.

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.

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

References:

Sebastine Muah, Deputy Minister of Planning and Economic Affairs, Monrovia; September 24, 2011;
Carolyn Myers, Program Manager, AGENDA, October 1, 2011, Monrovia;
Beyond Numbers: An Assessment of Liberian Civil Society, February 25, 2011; AGENDA & CIVICUS; Graceland Publishers;

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

References:

Sebastine Muah, Deputy Minister of Planning and Economic Affairs, Monrovia; September 24, 2011;
Carolyn Myers, Program Manager, AGENDA, October 1, 2011, Monrovia;
Beyond Numbers: An Assessment of Liberian Civil Society, February 25, 2011; AGENDA & CIVICUS; Graceland Publishers;

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

References:

Sebastine Muah, Deputy Minister of Planning and Economic Affairs, Monrovia; September 24, 2011;
Carolyn Myers, Program Manager, AGENDA, October 1, 2011, Monrovia;
Beyond Numbers: An Assessment of Liberian Civil Society, February 25, 2011; AGENDA & CIVICUS; Graceland Publishers;

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.

4. Can citizens organize into trade unions?

100

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

Yes | No

References:

Liberian constitution of 1986, Article 17

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

References:

Sebastine Muah, Deputy Minister of Planning and Economic Affairs, Monrovia; September 24, 2011;

Carolyn Myers, Program Manager, AGENDA, October 1, 2011, Monrovia;

Beyond Numbers: An Assessment of Liberian Civil Society, February 25, 2011; AGENDA & CIVICUS; Graceland Publishers;

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.

1.2. Media's Ability to Report on Corruption

5. Are media and free speech protected?

100

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

Yes

No

References:

Article 15, Liberian Constitution

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:

Article 15, Liberian Constitution

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

No: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form print media entities?

100

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

100 | 75 | 50 | 25 | 0

References:

Blamo Kofa; Criminal Justice Professor, AME Zion University; September 22, 2011; Monrovia, Liberia;
Gradijah Walker, Executive Director, Media Women for Development, September 22, 2011, Monrovia, Liberia;
Peter Queque, President; Press Union of Liberia; September 22, 2011; Monrovia

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:

Not stated verbatim in law, but in practice a person requiring service from an agency of government or an agent of government can seek a writ of Mandamus to compel that service. However, if the issuance is based on discretion, then it would be difficult. There is no law entitling a media agency to a license, but there is a law entitling a citizen to free speech.

References:

Blamo Kofa; Criminal Justice Professor, AME Zion University; September 22, 2011; Monrovia, Liberia;
Gradijah Walker, Executive Director, Media Women for Development, September 22, 2011, Monrovia, Liberia;
Peter Queque, President; Press Union of Liberia; September 22, 2011; Monrovia

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:

Peter Queque: Getting print media licenses is much easier than getting a radio broadcast license. First you need a business registration fee, payable at the Ministry of Commerce. Once you get this you just pay a small fee at the Ministry of Information, and then you get your entity registered with M.O.I.

References:

Blamo Kofa; Criminal Justice Professor, AME Zion University; September 22, 2011; Monrovia, Liberia;
Gradiyah Walker, Executive Director, Media Women for Development, September 22, 2011, Monrovia, Liberia;
Peter Queque, President; Press Union of Liberia; September 22, 2011; Monrovia

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:

Peter Queque: Getting print media licenses is much easier than getting a radio broadcast license. First you need a business registration fee, payable at the Ministry of Commerce. Once you get this you just pay a small fee at the Ministry of Information, and then you get your entity registered with M.O.I for 100 dollars. This fee is payable every year.

References:

Blamo Kofa; Criminal Justice Professor, AME Zion University; September 22, 2011; Monrovia, Liberia;
Gradiyah Walker, Executive Director, Media Women for Development, September 22, 2011, Monrovia, Liberia;
Peter Queque, President; Press Union of Liberia; September 22, 2011; Monrovia

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

75:

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

25:

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

7. Are citizens able to form broadcast (radio and TV) media entities?

100

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

100 | 75 | 50 | 25 | 0

Comments:

The government does not put barriers in the way of the formation of TV and radio stations, and this is manifest by the number and proliferation of radio stations. In the last few years, the stations formed include Love FM, Radio Monrovia, Adventist FM, Methodist Radio, Fabric Radio, and many more.

References:

Blamo Kofa; Professor of Sociology, A.M.E Zion University; September 24, 2011, Monrovia, Liberia;
Norris Tweah; Deputy Minister of Information; September 24, 2010; Monrovia, Liberia;
Peter Queque; President, Press Union of Liberia; September 24, 2011, Monrovia, Liberia

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:

Not stated verbatim or textually committed in law, i.e. statute, relative to obtaining a license. But a decision of such nature can be appealed, and this may be appealed through a court of law. The rationale is that denial of a license is a denial of free speech. Since free speech is a constitutional guarantee, such denial is recognizable before the law, because the judiciary can review the action of the executive or its officer, who is not acting on instructions of the president, or who is not exercising discretion in a matter where same is necessary. As long as the requesting party(person) fulfills all of the requirements thereto. See case law in *Wiles v. Simpson*, 8 LLR 365 (1971). This case was decided based on case law from persuasive precedent in the case *Marbury v. Madison* 5 US. 137, 2 L.Ed. 60 (1803)

References:

Blamo Kofa; Criminal Justice Professor, AME Zion University; September 22, 2011; Monrovia, Liberia;
Gradiah Walker, Executive Director, Media Women for Development, September 22, 2011, Monrovia, Liberia;
Peter Queque, President; Press Union of Liberia; September 22, 2011; Monrovia

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.

100 | 75 | 50 | 25 | 0

Comments:

There is no report of denial, and the number of radio and television stations, including opposition stations, indicates that they can.

References:

Blamo Kofa; Criminal Justice Professor, AME Zion University; September 22, 2011; Monrovia, Liberia;
Gradiah Walker, Executive Director, Media Women for Development, September 22, 2011, Monrovia, Liberia;
Peter Queque, President; Press Union of Liberia; September 22, 2011; Monrovia

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.

100 | 75 | 50 | 25 | 0

Comments:

The number of television and radio stations, including those of opposing views to the government, indicates that citizens can form media entities. There is no report of denial of registration.

References:

Blamo Kofa; Criminal Justice Professor, AME Zion University; September 22, 2011; Monrovia, Liberia;
Gradiyah Walker, Executive Director, Media Women for Development, September 22, 2011, Monrovia, Liberia;
Peter Queque, President; Press Union of Liberia; September 22, 2011; Monrovia

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

75:

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

25:

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

8. Can citizens freely use the Internet?

100

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

100 | 75 | 50 | 25 | 0

Comments:

The government of Liberia has launched a project to make internet more affordable. A cable connecting Europe and Africa is due to be ready in June 2012.

References:

Blamo Kofa; Criminal Justice Professor, AME Zion University; September 22, 2011; Monrovia, Liberia;
Gradiyah Walker, Executive Director, Media Women for Development, September 22, 2011, Monrovia, Liberia;
Peter Queque, President; Press Union of Liberia; September 22, 2011; Monrovia

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.

100 | 75 | 50 | 25 | 0

Comments:

There are so many sites that speak against the government, and it exercises tolerance to listen to these views. The government has never sanctioned, blocked or edited the content of any sites

E.g., See "Liberia Media Reach and Penetration Study, Liberia Media Center, 2009-2010."

References:

Blamo Kofa; Criminal Justice Professor, AME Zion University; September 22, 2011; Monrovia, Liberia;
Gradijah Walker, Executive Director, Media Women for Development, September 22, 2011, Monrovia, Liberia;
Peter Queque, President; Press Union of Liberia; September 22, 2011; Monrovia

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

92

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

Yes

No

Comments:

Nevertheless, there are statutes that inhibit free speech.
Penal Code: IV LCLR tit. 26 (1976). This citation means volume four of the Liberian Code of Laws Revised, title 26 enacted in 1976. Title 26 of the revised code of Liberian Laws is the Penal Law of Liberia. Often, it is referred to as the New Penal Law because it was the revision of an earlier Penal law.
See Criminal Malevolence, Criminal Libel Against the President, Sedition.

References:

Article 15 of the Liberian 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:

The media reports vigorously on corruption issues, but the issue of ownership of the media is cardinal. Some people in government or powerful people who have interest in media institutions would have issues of corruption allegations against them blocked out of the print media that they control. An example: Love FM would not report anything negative against Benoni Urey, rather they would defend him, similarly, Real TV or FM would not report against Musa Bility, neither would Clar TV or City FM report anything negative allegedly done by George Weah.

References:

Blamo Kofa; Professor of Sociology, A.M.E Zion University; September 24, 2011, Monrovia, Liberia;
Norris Tweah; Deputy Minister of Information; September 24, 2010; Monrovia, Liberia;
Peter Queque; President, Press Union of Liberia; September 24, 2011, Monrovia, Liberia

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

References:

Blamo Kofa; Professor of Sociology, A.M.E Zion University; September 24, 2011, Monrovia, Liberia;
Norris Tweah; Deputy Minister of Information; September 24, 2010; Monrovia, Liberia;
Peter Queque; President, Press Union of Liberia; September 24, 2011, Monrovia, Liberia

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

75:

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

25:

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

10. Are the media credible sources of information?

40

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

Yes | **No**

Comments:

This was part of the PRC Communications Act which the Ministry of Information considers defunct and unenforceable. The Ministry does not use or enforce this Communication Act/decrees; just as it does not enforce Decree 88A under which libel against members of the PRC was considered treasonable. During the administration of Interim President Amos Sawyer, PRC decrees were overturned by the Interim National Assembly; some scholars of law disagree that this ever happened. Now the Law Reform Commission is gathering all inconsistent law for possible synchronization.

Regardless of the existence or non-existence of the decrees, media practitioners opined that the practice of ownership disclosure is a basic part of media ethics.

References:

There is no law requiring public disclosure of company owners.

Interview with Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building, January 25, 2012; Monrovia, Liberia;
Peter Queque, President Press Union of Liberia, January 25, 2012, Monrovia, Liberia;
Norris Tweah, Deputy Minister for Information, Republic of Liberia, January 26, 2012, Monrovia, Liberia.

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

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

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

Yes | **No**

Comments:

This is not covered under the law. Under the PRC it was part of the Communication Regulation but that regulation is redundant. However, media practitioners provide this information as part of their ethics. Radio and television provide signature tunes and ownership information, and print media provide inprint. It's part of ethics.

References:

Malcolm Joseph, Director, Center for Media Studies and Peace Building, December 24, 2011, Monrovia, Liberia;
Peter Queque, President, Press Union of Liberia, December 21, 2011, via phone;
Norris Tweah, Deputy Minister of Information for Administration, December 23, 2011, Monrovia, Liberia

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:

Because they focused on chasing news stories where some kickback or sponsorship is expected, the level of professionalism is sometimes questionable, especially for those collecting or gathering news. This is unprofessional.

References:

<http://www.cemesp.org/images/stories/pdf/2010-annual-report-cemesp.pdf>
Malcolm Joseph, Director, Center for Media Studies and Peace Building, 24 December 2011, Monrovia, Liberia;
Gradijah Walker, Former Executive Director, Media Women Center for Democracy, 24 December, 2011, via phone.

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:

The events leading up to the November 7, 2011 riots before the run-off shows that the media was polarized. One set of media organizations paints one picture, while a number of others paint another picture. It is ownership that drives the content in such situations, and this is regrettable.

References:

http://imcliberia.com/elections/documents/Because_Accountability_Matters_Summary_Report.pdf

Peter Queque, President, Press Union of Liberia, September 29, 2011, Monrovia, Liberia

Carolyn Myers, Programme Manager, AGENDA, September 29, 2011, Monrovia, Liberia

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:

Since the Congress for Democratic Change (CDC) was established as a political entity, its national headquarters, located in the township of Congo Town, has been a hostile environment for journalists. There, journalists have been flogged, intimidated and their materials have being confiscated by partisans of the CDC.

In the last development, several local journalists from many media institutions and their drivers were brutalized and tortured by partisans of the CDC, dressed in military uniforms, in the presence of Standard Bearer and Vice Standard Bearer, Amb. Winston A. Tubman and Amb. George M. Weah for overtaking a convoy belonging to the party, while on their way to Grand Gedeh County. The victims include Nathaniel Bajay of Front Page newspaper, television crews of Real TV and Power TV, as well as the senior reporter for New Dawn newspaper and Boimah J.V. Boimah and Robert Clark and one Massalay, with both reporters from SKY FM. But the Secretary General of the CDC confirmed the allegation and said the party is putting measures in place to stop their partisans from assaulting journalists.

References:

Liberia at Crossroads of its Democracy-Update 3, Rescue Alternatives Liberia; October 6, 2011, Monrovia;
Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building, September 30, 2011, via telephone, Monrovia, Liberia;
Peter Queque, President, Press Union of Liberia, September 30, 2011, Monrovia, Liberia, via telephone

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

75:

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

25:

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

11. Are journalists safe when investigating corruption?

67

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

Yes | **No**

Comments:

There were some cases of intimidation but not imprisonment. In November, three media institutions were ordered closed down by the civil law court upon a petition filed by the Ministries of Justice and Information; for broadcasting contents believed to be hate-related and tantamount to jeopardizing public peace. They were subsequently reopened by the court with a stern warning.

References:

http://www.cemesp-liberia.org/alert_20july_2011.html

Oscar Bloh, Executive Director, Search for Common Ground, September 30, 2011, Monrovia, Liberia; via telephone
Peter Queque, President, Press Union of Liberia; September 30, 2011, Monrovia, Liberia

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:

Journalists are normally allowed to report and investigate corruption stories without molestation. What might probably happen is the people being investigated might attempt to influence the report in their favor.

References:

Blamo Kofa, Professor of Sociology, AME Zion University, Monrovia, Liberia; September 30, 2011

Carolyn Myers, Program Manager, AGENDA, Monrovia, Liberia; September 29, 2011

Peter Queque, President, Press Union of Liberia; Monrovia, Liberia, September 30, 2011

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

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

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

Yes | No

References:

Georgia Owens Holder, Chairman and CEO, Gemini Entertainment Inc; October 17, 2011, Monrovia, Liberia;

Carolyn Myers, Program Manager, AGENDA, October 10, 2011, Monrovia, Liberia;

Peter Queque, President, Press Union of Liberia, October 14, 2011, Monrovia, Liberia

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.

1.3. ⁸⁵Public Requests for Government Information

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

100

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

Yes

No

References:

FOI law of September 2010.

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:

Right of appeal starts by requesting an internal review within the agency refusing to release the data. Following a final determination of that internal review, and the return of a decision less acceptable to the requester, the requester may then file a complaint with the Information Commissioner either by filling in a form or drafting a letter.

The Information Commissioner presides over the hearing; the head of the agency refusing to provide the information or data is summoned, and at this hearing, the burden of persuasion and proof rests on the head of the agency denying the request. The proof and persuasion relates to the status of the information or data requested. If the data is exempt, the appeal falters. But if it's not exempt, the agency is mandated to produce it.

References:

FOI law of September 2010.

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:

Each government's agency names an Information Officer responsible for handling requests. Where a request is denied, internal review is guaranteed by law, followed by appeal to an Information Commissioner.

References:

FOI law of September 2010.

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

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

13. Is the right to information requests effective?

58

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

100

75

50

25

0

Comments:

Where requests are granted, bottlenecks might cause delay for up to a month or more. The law requires thirty days. But this most often is not the case in practice. Four requests filed in four counties by AGENDA — Cape Mount, Lofa, Nimba and Bong in the same month — resulted in a response from Lofa County only, after three weeks or so, while the others did not respond.

References:

http://www.access-info.org/documents/6QC/6QC_Report_Publication_version_September_2011.pdf;

Carolyn Myers, Program Manager, AGENDA, September 17, 2011, Monrovia, Liberia

Blamo Kofa, Professor, Sociology; AME University, September 20, 2011, Monrovia, Liberia

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.

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

Comments:

For those in the far reaches of the country who want to access documents that are available only in the capital, cost would be prohibitive. The public transportation made available by the National Transit Authority reaches only seven out of 15 counties; Montserrado, Bomi, Cape Mount, Bong, Margibi, Bassa, and Nimba. The roads are less pliable in the others.

References:

http://www.access-info.org/documents/6QC/6QC_Report_Publication_version_September_2011.pdf

Paul Tamba, Programme Assistant, AGENDA, December 24, 2011, via phone

Alfred Wreh, Programme Assistant, CEMESP, December 24, 2011, via phone

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.

100 | 75 | 50 | 25 | 0

Comments:

Where responses are provided the quality is good, although there are times when they may not be good. For an example, under 'Ask, and Ye shall Receive' project research conducted by the Center for Media Studies and Peace Buiding, on behalf of the Media Rights Agenda, the quality of responses was said to be good.

References:

Ask, and You May Receive; Media Rights Agenda; September 2010

Carolyn Myers, Programme Manager, AGENDA, September 17, 2011, Monrovia, Liberia

Blamo Kofa, Professor, Sociology; AME University, September 28, 2011

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:

Appeals at the moment would take time because the commissioner's office is in its embryonic stages. But internal review, which is part of that appeal process, would typically take time because the head of agency is responsible for this and the agency head is usually occupied with so much other work, work that is typically the agency's primary responsibility.

AGENDA made an information request to the Ministry of Education, and when that was not forth-coming, they sought to see the Minister of Education in person as a follow-up. That meeting never came off because the Minister was often out of the country or busy and could not meet.

References:

Ask, and You May Receive; Media Rights Agenda; September 2010
Carolyn Myers, Program Manager, AGENDA, September 17, 2011, Monrovia, Liberia
Blamo Kofa, Professor, Sociology; AME University, September 28, 2011

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:

Such cost would be hard for those living in the far reaches of the country, and who have to come to Monrovia for an internal review, especially where public transportation is virtually non-existent. It's eight out of 15 counties.

References:

Ask, and You May Receive; Media Rights Agenda; September 2010
Carolyn Myers, Program Manager, AGENDA, September 17, 2011, Monrovia, Liberia
Blamo Kofa, Professor, Sociology; AME University, September 28, 2011

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:

Mute refusal is more typical than an outright refusal.

References:

Ask, and You May Receive; Media Rights Agenda; September 2010
Carolyn Myers, Program Manager, AGENDA, September 17, 2011, Monrovia, Liberia
Blamo Kofa, Professor, Sociology; AME University, September 28, 2011

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.

2.1. ⁷⁹Voting and Party Formation

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

100

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

Yes

No

Comments:

All elections shall be by secret ballot as may be determined by the Elections Commission, and every Liberian citizen not less than 18 years of age, shall have the right to be registered as a voter and to vote in public elections and referenda under this Constitution. The Legislature shall enact laws indicating the category of Liberians who shall not form or become members of political parties.

References:

Article 77(b) Liberian Constitution.

Yes: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

No: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

Yes

No

References:

Article 83(a), (b) of the Liberian Constitution.

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

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

15. Can all citizens exercise their right to vote?

100

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

100 | 75 | 50 | 25 | 0

Comments:

No reports of denial of bona fide citizens to vote.

References:

<http://www.necliberia.org/results2011/>

ECC Post Election Press Statement broadcast on National Radio, October 13, 2011 (See attached);

Reverend James Lablah, Program Manager, ECC, October 14, 2011

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

<http://www.necliberia.org/results2011/>

<http://www.necliberia.org/other.php?&7d5f44532cbfc489b8db9e12e44eb820=Mjgx>

Peter Queque, President; Press Union of Liberia; October 14, 2011, Monrovia, Liberia

Reverend James Lablah; Program Manager, ECC, October 14, 2011, Monrovia, Liberia

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:

The last elections were held in 2005, six years after, according to term, these elections are being held.

References:

<http://www.necliberia.org/other.php?&7d5f44532cbfc489b8db9e12e44eb820=Mjgx>
Peter Queque, President; Press Union of Liberia; October 14, 2011, Monrovia, Liberia
Reverend James Lablah; Program Manager, ECC, October 14, 2011, Monrovia, Liberia

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

75:

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

25:

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

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

100

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

Yes | No

References:

Article 17 of the Liberian Constitution.

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

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

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

Yes | No

References:

Article 81 of the Liberian 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.

100 | 75 | 50 | 25 | 0

References:

<http://www.necliberia.org/other.php?&7d5f44532cbfc489b8db9e12e44eb820=Mjc1>

Oscar Bloh, Chair, ECC, October 16, 2011, Monrovia, Liberia

Rev. James Lablah, Program Manager, ECC, October 17, 2011, Monrovia, Liberia

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

References:

Example: See final listing after nominations(Senate): http://www.necliberia.org/page_info.php?&7d5f44532cbfc489b8db9e12e44eb820=MTUw

Oscar Bloh, Chair, ECC, October 16, 2011, Monrovia, Liberia

Rev. James Lablah, Program Manager, ECC, October 17, 2011, Monrovia, Liberia

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

References:

See Inquirer Newspaper, Monday, October 18, 2011, page 8-10: 11 October 2011 Presidential and Legislative Elections Progressive Results as of 16 October 2011

Oscar Bloh, Chair, ECC, October 16, 2011, Monrovia, Liberia

Rev. James Lablah, Program Manager, ECC, October 17, 2011, Monrovia, Liberia

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.

2.2. Election Integrity

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

Comments:

The law empowers the commission to conduct the polls and to monitor the conduct of all persons in the process: media, political parties, voters, poll workers, etc.

References:

The National Elections Commission (NEC);
New Election Law of 1986;
Also see Liberian Constitution, Article 89.

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.

18. Is the election monitoring agency effective?

65

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

Yes | No

Comments:

Commissioners have security of tenure. The commission has regular funding from government. Issues of disagreements are handled in the courts.

However, there is no verbatim phrase or section in the law that says the Commission cannot be interfered with.

References:

The New Election Law of 1986;
Electoral Reform Law of 2004.

Yes: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

No: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

The current Commission was appointed by the current administration but the membership is not partisan. The Chairman had been accused of partisanship by the main opposition but there has been no proof to substantiate their claims. The Chairman has since resigned and is replaced by the Co-chair. The membership is balanced in terms of gender, regional, professional, and religious backgrounds. The appointments are not one-sided. Public criticism would have latched out at the administration, had it appointment a lopsided commission.

References:

Oscar Bloh, Chair, ECC, October 14, 2011; Monrovia, Liberia;
Carolyn Myers, Program Manager, AGENDA, October 17, 2011, Monrovia, Liberia;
David Baysah, Professor of Sociology; AME University, October 17, 2011

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 Commission now has a part-time staff of over 26,000 and a full-time staff of less than 30. There is regular staffing up to the quantity needed for the Commission's work. There has not been public complaints of low staffing levels. And, where necessary, the Commission recruits staff for mid-terms and by-elections. At this writing, a by-election is taking place in one of the districts in Sinoe County, and they have recruited additional full time staff, in addition to the part time staffs for the by elections. Another by election is due in Montserrado County in three months.

References:

Bobby Livingstone; Public Affairs Director, National Election Commission, October 18, 2011; Monrovia, Liberia;
Carolyn Myers; Program Manager, AGENDA, October 18, 2011, Monrovia, Liberia;
James Larblah, Program Manager; ECC, October 18, 2011, Monrovia, Liberia

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:

Reports are announced based on elections calendar.

References:

Bobby Livingstone; Public Affairs Director, National Elections Commission; October 18, 2011; Monrovia, Liberia;
Oscar Bloh, Chair, Electoral Coordination Committee (ECC), October 19, 2011; Monrovia, Liberia;
Malcolm Joseph, Member ECC and Executive Director, CEMESP, October 19, 2011; Monrovia, Liberia;
Carolyn Myers, Programme Manager, AGENDA, October 19, 2011; Monrovia, Liberia

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:

Penalties are not imposed as much as the public would anticipate. For an example, all of the election-related violence was instigated by parties, but none of them were fined or sanctioned. All of the reckless statements outside of the regulations governing campaign did not get sanctioned.

References:

Bobby Livingstone; Public Affairs Director, National Elections Commission; October 18, 2011; Monrovia, Liberia;
Oscar Bloh, Chair, Electoral Coordination Committee (ECC), October 19, 2011; Monrovia, Liberia;
Malcolm Joseph, Member ECC and Executive Director, CEMESP, October 19, 2011; Monrovia, Liberia;
Carolyn Myers, Programme Manager, AGENDA, October 19, 2011; Monrovia, Liberia

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

19. Are elections systems transparent and effective?

100

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

100 | 75 | 50 | 25 | 0

Comments:

Voter registration was carried out on schedule, and the system used for the process was able to weed out 10,000 illegal or double registrants.

References:

Bobby Livingstone; Public Affairs Director, National Elections Commission; October 18, 2011; Monrovia, Liberia;
Oscar Bloh, Chair, Electoral Coordination Committee (ECC), October 19, 2011; Monrovia, Liberia;

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:

See Article 83(C) of the Liberian 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 referendum results were challenged in court, and the court overturned the results on one of the propositions.

References:

Bobby Livingstone; Public Affairs Director, National Elections Commission; October 18, 2011; Monrovia, Liberia;
Oscar Bloh, Chair, Electoral Coordination Committee (ECC), October 19, 2011; Monrovia, Liberia;
Malcolm Joseph, Member ECC and Executive Director, CEMESP, October 19, 2011; Monrovia, Liberia;
Carolyn Myers, Programme Manager, AGENDA, October 19, 2011; Monrovia, Liberia

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:

The police only provided security at the polls, for Election 2011. The military wanted to use their vehicles to transport ballot boxes, but this offer was turned down.

References:

Bobby Livingstone; Public Affairs Director, National Elections Commission; October 18, 2011; Monrovia, Liberia;
Oscar Bloh, Chair, Electoral Coordination Committee (ECC), October 19, 2011; Monrovia, Liberia;
Malcolm Joseph, Member ECC and Executive Director, CEMESP, October 19, 2011; Monrovia, Liberia;
Carolyn Myers, Programme Manager, AGENDA, October 19, 2011; Monrovia, Liberia

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

References:

Election Law of 1986;
Code of Conduct for Observers.

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:

Observers can stand as close as four feet from the ballot box, if they wish. They stay throughout the process, including counting.

References:

Bobby Livingstone; Public Affairs Director, National Elections Commission; October 18, 2011; Monrovia, Liberia;
Oscar Bloh, Chair, Electoral Coordination Committee (ECC), October 19, 2011; Monrovia, Liberia;
Malcolm Joseph, Member ECC and Executive Director, CEMESP, October 19, 2011; Monrovia, Liberia;
Carolyn Myers, Programme Manager, AGENDA, October 19, 2011; Monrovia, Liberia

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.

88
2.3. Political Financing Transparency

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

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

Yes | **No**

Comments:

There is no restriction of donation, see Liberian Constitution, Campaign Finance Regulations of 2011. There are six safeguards for providing integrity, transparency and a level playing field in party financing, and Liberia has five of the six, i.e. limit on contribution, ceiling on spending, restriction on certain contributions, public disclosure, restriction on use of administrative resources, and restriction on certain expenditures, such as vote buying. There is no limit on contributions from individuals.

References:

No law addresses this.

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

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

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

Yes | No

Comments:

Corporate donations are banned or restricted.

References:

Article 82(A) of the Liberian Constitution.

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:

President 2,000,000;
Vice President 1,000,000;
Senator 600,000;
Representative 400,000;
all in USD.

References:

Election Reform Law of 2004.

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

No: A NO score is earned if there are no limits on political party expenditures during an election. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are requirements for the disclosure of donations to political parties.

Yes

No

References:

Article 83 (D) of the Liberian Constitution;
Campaign Finance Regulations of 2005.

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

References:

Article 82(C) of the Liberian 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:

Article 82-83 of the Liberian Constitution;

National Elections Commission (NEC).

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.

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

80

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

Yes | No

Comments:

Research Campaign Finance Regulations 2011, and Liberian constitution. There are no limits on contributions.

References:

No law addresses this.

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

No: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

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

Yes | No

Comments:

Corporate institutions cannot contribute funds to political institutions or individuals, so there are both limits and restrictions.

References:

Article 82 of the Liberian 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

References:

Campaign Finance Regulations 2011.

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:

Following the polls, all reports and disclosures made to the elections commission need auditing, Every year, on September 1, parties are required to submit reports of their sources of funding and the expenditure pursuant to those funds. It is those records that the independent audit firm has to audit.

References:

Article 82(c) of the Liberian Constitution, and Revised Campaign Finance Regulations 2011.

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:

National Elections Commission.

References:

Article 82 (b) of the Liberian Constitution.

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.

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

17

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

100 | 75 | 50 | 25 | 0

Comments:

There are no limits, and no laws providing limits.

References:

Oscar Bloh, Chair, Election Coordinating Committee (ECC), October 20, 2011, Monrovia, Liberia
James Labla, Program Manager, Election Coordinatin Committee (ECC), October 20, 2011, Monrovia, Liberia

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:

Due to lack cooperation from other agencies it is difficult to do this. A full scale audit is require to examine this issue, and for the commission, this is not considered a priority.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M. E University, October 17, 2011; Monrovia, Liberia
See "Abuse of Incumbency, Administrative Resources and Political Corruption", Liberia Democratic Institute, September 2011, Monrovia, Liberia

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:

Incumbents, especially the President, use more resources or funds that exceed the limit, with no sanctions brought against them. For the other positions, they remain within limits.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M. E University, October 17, 2011; Monrovia, Liberia

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:

No investigation commenced, even in the face of calls from some civil society organizations for investigations into the sources of funding for the ruling party.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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:

No fines imposed, even though there have been calls for action in the 2011 elections for parties and individual violating the campaign regulations, such as making callous statements and probable use of state resources for political purposes.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (GEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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:

No audit has been carried out.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

100: Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

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

15

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:

No limits.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct

donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There are restrictions which are bypassed easily. The Elections Commission makes limited or no effort to enforce campaign finance regulations.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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:

Investigations might only be initiated based on complaint. The agency would not do this sua sponte (of their own accord), except where investigation is in keeping with the awarding of some certification.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
 Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
 David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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:

The agency is particularly weak and slow against incumbent candidates. There were several calls on the issue of abuse of state and administrative resources, but no action was taken against any incumbent candidate. Only a general statement came out admonishing people not to use state and administrative resources in the 2011 Elections.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
 Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
 David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
 Also see "Abuse of Incumbency, Administrative Resources and Political Corruption", Liberia Democratic Institute, September 2011, Monrovia, Liberia

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:

2005 election records have not been audited.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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

75:

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

25:

0: The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

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

44

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

100 | 75 | 50 | 25 | 0

Comments:

Parties rarely disclose on time, and the only timely disclosure is where the disclosure for candidates is a pre-requisite to certification of nomination.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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:

Center for Transparency and Accountability in Liberia (CENTAL) filed a request to obtain disclosure records for the ruling party and the main opposition, but got mute refusal. AGENDA filed similar request, but got mute refusal.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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 living outside of Monrovia would find the cost prohibitive to come to Monrovia in order to access records that they need.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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:

Many people complained about the reluctance of political parties to maintain the right kind of records. And because of this, the President's move to veto the bill on political party financing was hailed. It has been reasoned that if parties cannot keep adequate records, why should they receive public financing?

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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:

People don't run for office every quarter. Election is every three or six years, or by-elections seasonally. I think the question should refer to public officials instead of candidates.

The question asks about candidates, not public officials holding public office. The context of the question is situated around elections, and so it has to be answered within that context. Candidates in elections are not office holders, therefore they are not under any legal or moral obligations to declare their sources of income quarterly when they are not running. The idea around this question is best suited for public office holders who have earned public office either through elections or political appointment. Within the context of elections, yes they do disclose or file their disclosures according to law. Financial disclosures are made during candidates' nomination and registration periods.

According to Article 83 (d) of the Liberian constitution: "Every political party shall, on September 1 of each year, and every candidate of such political party and every independent candidate shall, not later than thirty days prior to the holding of an election in which he is a candidate, publish and submit to the Elections Commission detailed statements of assets and liabilities. These shall include the enumeration of sources of funds and other assets, plus lists of expenditures. Where the filing of such statements is made in an election year, every political party and independent candidate shall be required to file with the Elections Commissions additional detailed supplementary statements of all funds received and expenditures made by them from the date of filing of the original statements to the date of the elections. Any political party or independent candidate who ceases to function shall publish and submit a final financial statement to the Elections Commission."

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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:

The records are supposed to be available online but they have not been posted for some time now. For citizens outside of Monrovia it would take some time.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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:

In the face of poor public transportation, cost would be prohibitive for those traveling from the far reaches of eight counties.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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.

Comments:

Might be difficult to track specific assets that are addressed as "Monrovia, Liberia" or "Gbarnga, Bong County," because the location is so broad that it could be any house. And for receipts, broad expense categories such as mobilization, etc are so unspecific that such reporting lacks real value.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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

75:

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

25:

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

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

3.1. ⁶⁷Conflicts of Interest Safeguards & Checks and Balances: Executive Branch

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

References:

Private Wrongs Law;
Constitution of Liberia, Article 26

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?

88

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

100 | 75 | 50 | 25 | 0

Comments:

Liberia is not a parliamentary system where the prime minister appears in parliament at least once a week to propose and get policy decisions approved or rejected. However, where necessary, the President or his press secretary addresses the press every week, and when necessary, either the House of Reps or Senate invites the President for inquiry.

Major policy proposals are outlined in the President's State of the Nation's address or in the budget proposal that is submitted once a year, or it may be contained in a supplementary budget proposal due at the third quarter of the budget.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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

75:

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

25:

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

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

Yes | No

References:

Article 2 of the Liberian 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:

Some petitions have been side-stepped by the judiciary as political, e.g. the petition on the issue of the threshold bill, and the petition on the residency clause for the presidential candidates.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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

75:

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

25:

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

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

Comments:

The failure to pass on any issue of public concern is exactly one of the reasons for the executive order doctrine. As of January 2012, the President issued 39 executive orders, with the last being the Executive Order delimiting the maritime Zones of Liberia. In six years of her first term, the president issued 38 executive orders, up to January 9, 2012, compared to U.S. President Barack Obama who signed 111 Executive Orders up to February 9, 2012, still in his first four-year term, which ends in January 2013. In four years, Obama is moving at a speed of 27.75 per year, compared to President Sirleaf moving at a speed on 6.33 per year. Do you see the gap? Obviously it does not matter, as long as it is used for the right purposes under Liberian law. Where an interest or right of a person or group of persons are affected against the principles of the constitution by an executive order, the person may seek judicial review action. In the case where the person is part of a group, he/she may bring derivative action.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (GEMESP), October 21, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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:

Article 61: The President shall be immune from any suits, actions or proceedings, judicial or otherwise, and from arrest, detention or other actions on account of any act done by him while President of Liberia pursuant to any provision of this Constitution or any other laws of the Republic. The President shall not, however, be immune from prosecution upon removal from office for the commission of any criminal act done while President.

References:

Article 61 of the Liberian 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

References:

Article 26 of the Liberian Constitution.

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

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

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

50

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

Yes

No

Comments:

No specific regulation. But under the principle of legislative powers in constitutional law, the legislature can delegate powers to institutions to issue regulations, and such regulations have the force of law, as long as they do not contradict the Constitution.

References:

Anti-Corruption Commission Disclosure Regulations.

Executive Order no. 38, Part X

This is applicable only to members of the Executive

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

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

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

Yes | No

References:

Anti-corruption Commission Disclosure Regulations.

Executive Order no. 38, Part X

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

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

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

Yes | No

Comments:

This order was issued to enforce the draft Code of Conduct for Members of the Executive in lieu of the fact that the legislature has held up the Code for over four years without passing it.

References:

Code of Conduct for Members of the Executive (Pursuant to Executive Order n. 38; January 9, 2012).

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

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

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

Yes | No

References:

General Auditing Commission Act of 2005.

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:

See this New Dawn story: http://www.thenewdawnliberia.com/index.php?option=com_content&view=article&id=4864:code-of-conduct-key-to-graft-fight-ngafuam&catid=25:politics&Itemid=59

References:

No law restricts this.

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

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

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:

http://www.thenewdawnliberia.com/index.php?option=com_content&view=article&id=4864:code-of-conduct-key-to-graft-fight-ngafuam&catid=25:politics&Itemid=59

This story addresses the lack of a code of conduct. Without a code, one cannot measure the effectiveness of its enforcement.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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:

No known audits have been conducted.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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?

25

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

Yes | No

Comments:

The law provides for access to all government generated records, except those exempted. Even where there is a claimed exemption, a requester may seek internal review and subsequent appeal with the office of the Information commissioner. Not satisfied with the outcome, the requester may then move on to the judicial process, beginning with the circuit court. Liberia's law ranks the fifth best in the world by the Global Freedom of Information Coalition IFEX.

References:

Freedom of Information Act 2010.

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:

They are reluctant to disclose for fear of public exposure and vulnerabilities, and this speaks to the suspicion that they have something to hide.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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:

The declarations are not made, so they cannot be accessed.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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:

Disclosures are not made, so they cannot be accessed.

References:

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (CEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Shine Williams, Anti-Corruption Campaigner, Center for Transparency and Accountability, October 18, 2011, Monrovia, Liberia

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.

100

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:

Government's assets, functions such as events, roles such as responsibilities, like provision of services, personnel such as staffs

are different from those of the ruling party. And now, Executive order no. 38 prohibits the use of government offices for any party activities whatsoever. There is supposed to be no kind of co-mingling. In the 1970's party members were required to pay dues deducted from public servants salaries. Membership cards of partisan had recognition and influence in public offices. Today, this is not the case. Part

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia;

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.

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

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

100

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

Yes

No

Comments:

Someone has to be affected by this issue or law before the judiciary can review it. The person has to file a petition.

References:

Article 2 of the Liberian 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

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

Malcolm Joseph, Executive Director, Center for Media Studies and Peace Building (GEMESP), October 21, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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

75:

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

25:

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

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

Yes | No

References:

Article 11 C of the Liberian 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?

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

Yes | No

Comments:

The LACC regulations cover the entire government, including the judiciary, and these regulations were promulgated in 2010.

References:

Review of LACC regulations;

Anti-Corruption Commission Regulations

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:

This principle is contained in the draft Code of Conduct for Public Officials, but it has not been passed into law.

References:

Review of LACC regulations. There is no law addressing this.

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

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

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

Yes | **No**

References:

There is no law addressing this. This is contained in the draft code of conduct that has not been passed into law.

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

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

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

Yes | No

References:

GAC Act of 2005.

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 is no such regulation.

References:

Heron Gbidi, Program Manager, Foundation for Human Rights and Democracy, October 5, 2011, Monrovia, Liberia
Oscar Bloh, Chair, Election Coordinating Committee (ECC), October 20, 2011, Monrovia, Liberia
James Labla, Program Manager, Election Coordinating Committee (ECC), October 20, 2011, Monrovia, Liberia
Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M. E University, October 17, 2011; Monrovia, Liberia

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:

This is part of the code of conduct which is not enacted yet.

References:

Heron Gbidi, Program Manager, Foundation for Human Rights and Democracy, October 5, 2011, Monrovia, Liberia
Oscar Bloh, Chair, Election Coordinating Committee (ECC), October 20, 2011, Monrovia, Liberia
James Labla, Program Manager, Election Coordination Committee (ECC), October 20, 2011, Monrovia, Liberia
Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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:

They resist being audited and having assets disclosed.
see <http://legislature.gov.lr/node/308>.

Members of the House of Senate in Legislature refuse to declare their assets and resist assets audits on frivolous grounds. First they claim that the staff of the General Auditing Commission (GAC) that wrote them does not have the stature to write them. Second, they claim the entire audit is being spurred by political motivation. The Senate strategy was to delay the issue and throw it out of the political limelight, but it is re-emerging. A clear example is their interaction with the GAC on the whole issue of assets audit. See "Liberian Senate Auditing Commission in Battle", <http://www.modernghana.com/news/329552/1/the-liberian-senate-auditing-commission-in-battle.html>. Also see: "Declare Your Assets or Leave Public Office", http://www.cental.org/index.php?option=com_content&view=article&id=75:declare-your-assets-or-leave-public-service&catid=35:opinion&Itemid=75

References:

Heron Gbidi, Program Manager, Foundation for Human Rights and Democracy, October 5, 2011, Monrovia, Liberia

Oscar Bloh, Chair, Election Coordinating Committee (ECC), October 20, 2011, Monrovia, Liberia

James Labla, Program Manager, Election Coordination Committee (ECC), October 20, 2011, Monrovia, Liberia

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M. E University, October 17, 2011; Monrovia, Liberia

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

75:

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

25:

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

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

50

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

Yes

No

References:

FOI law of 2010.

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:

They refuse to disclose after the one they did before entering office. The one they did was made to the National Elections Commission (NEC)

See <http://allafrica.com/stories/201001150147.html>

References:

Heron Gbidi, Program Manager, Foundation for Human Rights and Democracy, October 5, 2011, Monrovia, Liberia
Oscar Bloh, Chair, Election Coordinating Committee (ECC), October 20, 2011, Monrovia, Liberia
James Labla, Program Manager, Election Coordination Committee (ECC), October 20, 2011, Monrovia, Liberia
Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M. E University, October 17, 2011; Monrovia, Liberia

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:

The ones declared to the NEC are available at its headquarters in Monrovia. Given the lack of public transportation for eight of the 15 counties, cost would be high for people living in those counties.

References:

Heron Gbidi, Program Manager, Foundation for Human Rights and Democracy, October 5, 2011, Monrovia, Liberia
Oscar Bloh, Chair, Election Coordinating Committee (ECC), October 20, 2011, Monrovia, Liberia
James Labla, Program Manager, Election Coordination Committee (ECC), October 20, 2011, Monrovia, Liberia
Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M. E University, October 17, 2011; Monrovia, Liberia

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:

Especially the ones disclosed before taking office. These ones are disclosed to the National Election Commission, but some details are scanty. For an example, someone would say they have two or three houses without indicating the location.

References:

Heron Gbidi, Program Manager, Foundation for Human Rights and Democracy, October 5, 2011, Monrovia, Liberia
Oscar Bloh, Chair, Election Coordinating Committee (ECC), October 20, 2011, Monrovia, Liberia
James Labla, Program Manager, Election Coordination Committee (ECC), October 20, 2011, Monrovia, Liberia
Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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

75:

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

25:

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

35. Can citizens access legislative processes and documents?

50

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

Yes | No

References:
FOI law of 2010.

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:

The law requires 30 days, but it would be longer than that were citizens to try to access this document — the one disclosed to the NEC.

References:

Heron Gbidi, Program Manager, Foundation for Human Rights and Democracy, October 5, 2011, Monrovia, Liberia
Oscar Bloh, Chair, Election Coordinating Committee (ECC), October 20, 2011, Monrovia, Liberia
James Labla, Program Manager, Election Coordination Committee (ECC), October 20, 2011, Monrovia, Liberia
Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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:

For an example, someone in Grand Kru cannot access legislative records without coming to Monrovia, which is several miles away, and the journey would take two days at best.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

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.

57

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

36. Are judges appointed fairly?

92

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

Yes

No

Comments:

Article 68 describes the appointment of the Chief Justice and Associate Justices of the Supreme Court by the President. The Chief Justice and Associate Justice of the Supreme Court shall, by the consent of the Senate, be appointed and commissioned by the President; provided that any person so appointed shall be a citizen of Liberia and of good moral character, and counselor of the Supreme Court Bar who has practiced for at least five years.

Article 69 covers the selection process/appointment of judges of subordinate courts by the President, with the consent of the Senate, provided the person appointed is: a) a citizen of Liberia and of good moral character, b) an Attorney who has practiced for at least 3 years, or a counselor of the Supreme Court Bar.

References:

Articles 68 and 69 of the Liberian Constitution.

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

Article 68: The Chief Justice and Associate Justice of the Supreme Court shall, with the consent of the Senate, be appointed and commissioned by the President; provided that any person so appointed shall be:

- a. a citizen of Liberia and of good moral character; and
- b. a counselor of the Supreme Court Bar who has practiced for at least five years.

Article 69: The judges of subordinate courts of record shall, with the consent of the Senate, be appointed and commissioned by the President, provided that any person so appointed shall be:

- a. a citizen of Liberia and of good moral character; and
- b. an attorney-at-law who has practiced for at least three years, or a counselor of the Supreme Court Bar.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone

Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

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

75:

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

25:

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

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

Yes | No

References:

Article 68 of the Liberian 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).

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

92

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

Yes

No

Comments:

This is not stated verbatim but implied as to what the judge should do in ruling on cases. In bench trials, the judge renders decisions on the basis of the law, and in doing so he states the reasons why the applicable law applies to a set of facts. In bench trials, the judge is both trier of facts and of the law.

In jury trials, the judge instructs the jury on the basis of the requests of either the plaintiff or the defendant's lawyers. Depending on circumstances, i.e. the judge's discretion, he/she may ask the jury to find based on certain instructions, either a modified version of the plaintiff or defendant's requested instructions, or on instructions of his own.

When the jury has made its finding, the judge on the basis of the finding has four days to contemplate the finding and rule. The judge may ignore the finding of the jury based on a motion filed by either party for a judgement notwithstanding the verdict, i.e. judgment n.o.v. Or the judge may rule based on the verdict.

In such ruling the key questions/issues are answered, and the rationale for the ruling is provided. The key guidance for the judge is stare decisis, i.e. precedents of similar cases in the same jurisdiction or from other jurisdictions, which in such instance would be persuasive.

References:

Judicial Law; Civil Procedure Law, and Criminal Procedure Law Rules of Court.

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.

Comments:

Lower courts may deviate but on appeal any error is righted. The courts operate on the fundamental principles of stare decisis. Common law precedents are followed, mandatory rulings are followed, and statutes are interpreted based on canons of statutory interpretations.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

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:

Disciplinary Committee that investigates and recommend to the Chief Justice for action.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

New Judicial Law, Title 17, Examples 18.5-18.6; 17.7-17.10;

Powers of Supreme Court. The Supreme Court shall have power and control over all attorneys and counselors at law and all persons practicing or assuming to practice law and is hereby authorized to censure, suspend from practice or remove from office any attorney or counselor at law admitted to practice who is guilty of professional misconduct, malpractice, fraud, deceit, crime or misdemeanor or any conduct prejudicial to the administration of justice and is further authorized to revoke such admission for any misrepresentation or suppression of any information in connection with his application for admission to practice. In any case, however, an attorney or counselor at law, if convicted of a felony, shall upon conviction cease to be an attorney or counselor at law or be competent to practice law as such and upon presentation of a certified copy of the judgment of such conviction to the Supreme Court, thereupon the name of the person so convicted shall by order of the Court be struck from the roll of attorneys or counselors at law.

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:

Extrapolated and interpreted, no one branch interferes in the affairs of the other, except for oversight functions.

References:

The doctrine of separation: See Article 3 of Liberian Constitution.

New Judicial Law, Title 17, Examples 18.5-18.6; 17.7-17.10;

Powers of Supreme Court. The Supreme Court shall have power and control over all attorneys and counselors at law and all persons practicing or assuming to practice law and is hereby authorized to censure, suspend from practice or remove from office any attorney or counselor at law admitted to practice who is guilty of professional misconduct, malpractice, fraud, deceit, crime or misdemeanor or any conduct prejudicial to the administration of justice and is further authorized to revoke such admission for any misrepresentation or suppression of any information in connection with his application for admission to practice. In any case, however, an attorney or counselor at law, if convicted of a felony, shall upon conviction cease to be an attorney or counselor at law or be competent to practice law as such and upon presentation of a certified copy of the judgment of such conviction to the Supreme Court, thereupon the name of the person so convicted shall by order of the Court be struck from the roll of attorneys or counselors at law.

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 court may sua sponte initiate an investigation, or ask an Amicus Curiae, i.e. friend of the court, or form a committee. The Bar Association has its own committee. The court has an administrator who looks into administrative issues if the nature of misconduct is administrative. Besides, in cases, lawyers can take a judge on review. Also, the court may hold contempt proceedings on its own. So there are so many ways they initiate investigations.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

New Judicial Law, Title 17, Examples 18.5-18.6; 17.7-17.10;

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

75:

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

25:

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

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

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

Comments:

There are fines, suspensions, or disbarment in extreme cases such as fraud.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

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?

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

Yes | No

Comments:

They are required to declare, but they don't.

References:

Anti-Corruption Agency Regulations.

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:

This is part of the code of conduct for public officials, but the code has not been passed into law. Article 90(b) refers to all public officials.

References:

Article 90(b) of the Liberia Constitution.

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

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

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

Yes | No

Comments:

The GAC website is under construction, so the article is not available at the moment, but the existence of the provision is confirmed with Shine Williams, Program Officer, Center for Transparency and Accountability in Liberia, December 26, 2011; Monrovia, Liberia, and Brezhnev Passawe, Independent Anti-corruption Researcher, December 26, 2011, Monrovia, Liberia.

References:

GAC Act of 2005.

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

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

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

Yes | No

Comments:

There are only regulations concerning refraining from active membership in political parties. Otherwise there is no law on the issue of post appointment employment.

References:

Review of Liberlii (Government of Liberia Legal website), Review of Rules of Court; Review of Rules of Ethics, and Interview with Kanio Gbala, President, Law Students Association, Louis Arthur Grimes School of Law, University of Liberia, January 26, 2012; via telephone. Interview with Prof. Dr. Jallah A. Barbu, Chairman, Law Reform Commission, January 26, 2012, Monrovia, Liberia; and Interview with Vasco Brown, Judge, Magisterial Court, January 25, 2012; Monrovia, Liberia

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:

No such mechanism exists.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

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:

There is no such mechanism in place for enforcing a code of ethics and conduct.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

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:

They have not disclosed in the first place.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

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

25:

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

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

50

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

Yes | No

References:

FOI law of 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:

Judiciary is cagey, and they have not made any asset disclosures. The Judiciary resists the disclosure of assets, and they have not been confronted for this lack of interest in issues of integrity.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

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:

Records are generally costly to access for people living outside of the capital.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

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:

Those that have declared, and are available, have some level of information that shows sources of income.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia

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.

3.4. Budget Process Oversight & Transparency

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

92

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

Yes | No

References:

Article 34 of the Liberian 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:

Legislative approval is sought for supplemental budgets, where additional revenue has been identified to support the budget. When these revenues are identified, the supplemental budget is prepared and submitted to the House Committee on Ways, Means and Finance. The Committee reviews it, and the send it report to plenary. At plenary, the Chief Clerk prepares an agenda, and then when it is time, he/she places same on the agenda for deliberations.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia;

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:

They now propose significant changes, and have now created a legislative budget office.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
 David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
 Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia;

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

41. Can citizens access the national budgetary process?

67

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

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

Comments:

Some sticky issues are discussed in executive sessions. No one knows exactly what those issues are, but in order to reach compromises, whenever the process gets stuck over any contentious issue, the legislature would recede into executive session.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
 David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
 Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia;

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:

CSO's are irregularly called to make presentations.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia;

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.

100 | 75 | 50 | 25 | 0

Comments:

The budget is available on the Ministry of Finance Web site most times (<http://mof.gov.lr/content.php?sub=67&related=21&res=67&third=67>), and when there is a delay for any reason, it is available in the library of the legislature or at the administrative building in the counties or available on request from the Bureau of the Budget.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

Budget documents from the Ministry of Finance available on this link: <http://mof.gov.lr/content.php?sub=67&related=21&res=67&third=67>

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.

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

References:

Legislative Rules and Regulations;
Public Financial Management Act;
Liberian Constitution of 1986-Article 38.

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:

Legislative committee provide oversight but they do not demand formal reports, they only ask questions here and there. The public actually does not feel the impact or see the outputs of the work of the legislative committee.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

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

Comments:

They have not conducted any known investigation. This committee is not as robust as it should be.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

Category 4. Public Administration and Professionalism

4.1. ³⁷Civil Service: Conflicts of Interest Safeguards and Political Independence

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

50

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

Yes

No

References:

Civil Servant Regulations, 2008

See Civil Service Reform Strategy, downloadable from [http://csa.gov.lr/content.php?sub=Civil Service Reform Strategy&related=About CSA](http://csa.gov.lr/content.php?sub=Civil%20Service%20Reform%20Strategy&related=About%20CSA)

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

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

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

Yes | **No**

Comments:

The Code of Conduct covers this but it is not enacted yet.

References:

This conclusion is reached based on a review of the draft code of conduct. No law addresses this.

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:

Where the issue the civil servant is bothered about is human rights, the Independent Human Rights Commission of Liberia is a forum to hear it. But when the issue is employment related, it should be heard by a hearing officer in the agency.

References:

Interview with Maxim Kumeh, Executive Director, Initiative for Positive Change; January 26, 2012; Brezhnev Passawe, Independent Anti-corruption Consultant, January 26, 2012; Monrovia, Liberia; Carolyn Myers Zoduah, Program Manager; AGENDA, January 26, 2012, Monrovia, Liberia.

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

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

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

Yes | **No**

Comments:

There is no law covering this issue. Service in government comes from three different sources. i.e. civil service recruitment, which is based on testing and application, and the hiring. The other is elective office as commissioner, chief or representative. There has been no attempt to exempt a person from contesting because of past crimes. The last is political appointment. This is reviewable before the Senate. No matter what a person has done, if the Senate gives approval, the person is going to serve the post.

The TRC report recommended a ban from office for people accused of certain crimes during the war. This idea was widely debated, and it was found that this is not supported by law.

References:

Review of Civil Service Act, Code of Conduct for the Executive, and Civil Service Regulations

Interview with Maxim Kumeh, Executive Director, Initiative for Positive Change; January 26, 2012; Brezhnev Passawe, Independent Anti-corruption Consultant, January 26, 2012; Monrovia, Liberia; Carolyn Myers Zoduah, Program Manager; AGENDA, January 26, 2012, Monrovia, Liberia.

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?

39

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

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

Comments:

Civil servants cannot be fired from their positions because they do not support the government in power. In ministries and agencies there are people who support the main opposition and are openly partisans of the opposition. They remain in their positions. There may be pressure but not dismissals.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

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:

There is a professional criteria and grade of civil servants. This determines pay, allowances and other benefits. Delivery of results is the key measure of performance.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia;

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The system has greatly improved but it would be an false to say that some level of nepotism does not exist. Nepotism is now tied around elements such as tribe and political affiliation. But what occurs now is far better than it was 10 or 15 years ago when the government was bloated.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia;

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:

Since 2007/2008, the government of Liberia in partnership with Adam Smith International, a UK based consulting firm, has been streamlining all positions (commonly called downsizing). The object of that exercise had been to streamline and regularize all civil servant positions, and it would be wise to assume that the process is successful. According to the Civil Service Agency, all civil service positions that are generic have had TOR developed for them. The CSA has just completed the exercise for the national legislature. Presently a reference manual is being developed to clear up doubt and provide a reference for ministries and agencies.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia;

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:

Special and general allowances are more than basic pay.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The government does not publish the list of civil servants.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

There is no independent mechanism.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Since 2006, civil servants' pay has been regular.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Although it is almost impossible to work in two different government agencies now, as it was before, there is easy work mobility between government agencies and parastatals. There are several instances of civil servants leaving one agency for another, even when the circumstances for leaving one for another is unclear, or allegations of malpractice or graft have taken place. Political appointment has undermined the standard for thorough scrutiny of civil servants. In fact, the public is sometimes in awe when someone accused of corruption or mismanagement is transposed from one political position to another. This makes it easier and more acceptable for civil servants to do the same.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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?

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

Yes | No

Comments:

The Executive Order covers only members of the Executive, not the entire government, and it activates the draft code of conduct that the legislature refuses to pass.

References:

GAC Regulations

Anti-Corruption Commission Agency Law

Blamo Kofa, Investigator, Enforcement Division, Liberia Anti-corruption Commission (LACC)

Executive Order No. 38

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:

Covers only members of the Executive.

References:

Executive Order No. 38: Code of Conduct for Members of the Executive.

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 does not cover post-service employment. Even though it has not been passed in the legislature, the Executive has issued an executive order for its enforcement among members of the Executive. During the drafting of the code of conduct in the 2006-2007 period, this provision was vehemently opposed as unrealistic.

References:

Review of Code of Conduct for Members of the Executive
Review of Civil Service Regulations
Review of Civil Service Act

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:

This code covers everyone in the Civil Service and every Government official in the executive. It forbids receiving gifts from officers of foreign governments, international Organizations, etc. It also forbids the use of office for private purposes, and forbids the receipt of gift as inducement or influence.

References:

Article 90(c) of the Liberian Constitution;
Executive Order No. 38 Part IX "Gifts, Bribes and Conflict of Interests"

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:

Independent as done by the GAC. The GAC may choose to bring in extra help or outsource the job. By virtue of the fact that the GAC has this discretion, one can safely say that independent auditing is permissible.

References:

GAC agency law

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:

It does not exist de jure, and is not in practice de facto. Anyone from government can take up any post after their service, whether in direct line of the people they were dealing with as clients of the government or elsewhere.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

The regulations contained in the code of conduct enacted by an executive order are not effective. There is little or no monitoring mechanism in place.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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 is not effective. In fact; this is the area where the public has a problem with the fight against corruption. Public perception is that people in government are cooking deals to suit their tastes.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

Comments:

Asset disclosure by political appointees, elected officials or civil servants have never been audited.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

50

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

Yes | No

References:

FOI law 2010.

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:

They hardly disclose as they should.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Prohibitive cost for those far outside the capital.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

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

Comments:

If anything useful were to be disclosed, it would lack important details.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

4.2. Whistle-blowing Protections

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

25

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

Yes | **No**

References:

Executive Order on Whistle Blower Protection, 2009.

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

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

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

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

Comments:

Whistle blowers have been welcome, but generally people are afraid to come forward for fear of repercussions. People who blew the whistle at agencies such as state-owned enterprises like NPA were eventually booted out of the system, allegedly as a reaction to the employee's breach of confidence.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

Yes | **No**

References:

Executive Order on Whistle Blower Protection, 2009.

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:

Fighting corruption is focused most on the public sector.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

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

0

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:

There is no law or regulation that establishes such mechanism.

References:

Review of liberlii, i.e. www.liberlii.org
Blamo Kofa, Investigator, LACC, Jan 7, 2012, Monrovia, Liberia

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?

0

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

100 | 75 | 50 | 25 | 0

Comments:

No such mechanism exists.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M..E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no independent reporting mechanism.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

As mentioned previously, this mechanism does not exist in law, neither is it existing in practice. Whistle blowing of corruption is not secretly done, it's done through open allegations or disclosure of the facts.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Citizens may report corruption to the LACC. But there is no mechanism in place widely known to the public. There is no separate office that corruption can be reported to. There is a slim chance that such a report to the LACC would be investigated because the LACC is not fully staffed in the investigation section.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

8
4.3. Government Procurement: Transparency, Fairness, and
Conflicts of Interest Safeguards

51. Is the public procurement process effective?

75

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

Yes | No

References:

Public Procurement Act of 2005.

Yes: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

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

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

Yes | No

References:

Public Procurement Act of 2005:

<http://www.ppcc.gov.lr/doc/PPCA%20Sept%2013%202010%20FINAL.pdf>

Peggy Mires, Executive Director, PPCC, January 20, 2012; Monrovia, Liberia

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:

Conflict of interest rules are not fully implemented, and there are known conflict of interest situations that are ignored. For an example, the Defense Minister's company selling the Army supplies.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

Yes | **No**

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Any procurement above 10,000 requires competitive bidding.

References:

Public Procurement Act of 2005; Section 101

See recent National Competitive bidding: <http://www.ppcc.gov.lr/doc/>

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

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

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

Yes | No

References:

Public Procurement Act of 2005, Section 55.

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

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

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

Yes | No

References:

Public Procurement Act of 2005, sections 10, 125, 126, 127, 128 and 129 of the Act.

Yes: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

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

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

Yes | No

References:

Public Procurement law of 2005; Section 125;
Article 26 of the Liberian Constitution

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:

Blacklisting is supported by the law, but it is not enforced under the PPCC Act.

References:

Public Procurement law of 2005

Brezhnev Paasawe, Independent Anti-Corruption Researcher, January 10, 2012

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:

No companies have been blacklisted, even though there have been reports of misconduct.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

52. Can citizens access the public procurement process?

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

Yes | No

References:

FOI law of 2010

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

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

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

Yes | No

References:

Review of the "Regulations Covering the Public Procurement and Concession Commission Act, 2009"

Yes: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

No: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

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

100 | 75 | 50 | 25 | 0

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Documents are now placed online. See www.ppcc.gov.lr

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia

Peggy Meres, Exedcutive Director, PPCC, January 10, 2012, Monrovia, Liberia

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

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

There are no known requests for supply of information in this area, but typically such information would not be easily released.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

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

53. Is the privatization process effective?

0

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

Yes | **No**

References:

There is no law addressing this.

Review of the Government legal Web site: www.liberlii.org, and interview with the Chairman of the Law Reform Commission, Professor Dr. Jallah A. Barbu, January 23, 2011, Monrovia, Liberia

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

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

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

Yes | **No**

References:

No law addresses this.

Review of www.liberlii.org

Interview with Chairman of the Law Reform Commission, Professor, Dr. Jallah A. Barbu, January 23, 2011 Monrovia, Liberia

Yes: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

No: A NO score is earned if there are no such formal regulations.

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

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

Comments:

There are no laws on privatization, and government assets are not being privatized. Some state owned enterprises are handed over to private entities under management contracts, and these contracts follow the procurement law.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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?

40

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

Yes

No

Comments:

Under Liberian FOI law, citizens can access any documents which are not exempt. Exempt documents, according to Section 4.0 are Documents relating to National Defense, Trade Secrets, subject of criminal investigation, privileged communication, and personal information. Further, exemption cannot be claimed for the sake of doing so, rather exemptions must be justified, according section 4.8.

References:

FOI law of 2010. FOI Law Section 3, and Section 1.6 Scope of the Act

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.

Comments:

There are no laws on privatization. Some SOE's are under management contracts, and these contracts are procured according to the PPCC procedures and regulations.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

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

Yes | **No**

References:

No law on privatization.

Review of www.liberlii.org (Government of Liberia legal website)

Interview with Professor, Dr. Jallah A. Barbu; Chairman of the Law Reform Commission; January 23, 2012, Monrovia, Liberia

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:

Documents can be access in reasonable time it is the cost that would be prohibitive for people in certain parts of the country. By law, agencies and ministries have 30 days to respond to request. Request might be responded to before this period elapsed. But on the average most requests might received mute refusal for most agencies, the chances of getting documents are 50/50 for now.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

The cost associated with citizens accessing documents is uniformly applied across the Board. The cost of accessing one document is not disproportionate to the cost of accessing another, therefore only location is the determining factor or a denominator for arriving at the cost, and because most offices are centralized from the rest of the country, the cost is uniformly applied to be something high, and perhaps prohibitive for those from the farthest areas.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

Category 5. Government Oversight and Controls

5.1. National Ombudsman

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

Comments:

The INHRC was set up as an outcome of the peace talks of 2003, popularly known as the ACPA. But following its passage, it was inoperative, in law and in fact. It was not until 2010 that it became operationalized.

References:

Independent Human Rights Commission Act of 2005

<http://www.iberlii.org/lr/legis/acts/incohraao617/>

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.

56. Is the national ombudsman effective?

30

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

Yes

No

Comments:

Protected from influence by tenure of five years.

References:

Independent National Human Rights Commission Act of 2005.
See Section II.

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:

Public opinion expressed by Civil Society members criticizes the INHRC for not taking on the TRC report head on.

References:

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Heron Gbidi, Programme Manager, Foundation for Human Rights and Democracy, October 5, 2011, Monrovia, Liberia

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

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

100 | 75 | 50 | 25 | 0

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

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

100 | 75 | 50 | 25 | 0

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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.

Comments:

This report, according to the Commission, is not available to the public yet. It has to be presented to the legislature first before its release to the public

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;

Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia; Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;

Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia; Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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

75:

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

25:

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

57. Can citizens access the reports of the ombudsman?

67

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

Yes | No

Comments:

Citizens can access documents on almost anything by law, once it is not exempt, including documents from this office if it existed.

References:

FOI law of 2010

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:

Generally citizens would have difficult time accessing documents. If it existed its records would be public but difficult to access in cases that are highly political. Example, information about the Party Financing Report for the ruling party was requested by the Center for Transparency and Accountability in Liberia; Information about the Buchanan Renewables agreement was requested by the Liberia Media Center, and information about the basis for the setting up of political districts was requested by the Election Coordinating Committee (a coalition of CSO's working on elections). All of these requests were not honored.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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:

Center for Media Studies and Peace Building accessed information about the Forestry Development Authority. Information about the Ministries of Health and Education was accessed without paying any cost, not even photocopy fees. Information about the INHRC Commission can be accessed in similar fashion. The score here is put at 50 because this would be costly for people from other parts of the country.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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.

5.2. Supreme Audit Institution

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

Comments:

General Auditing Commission: See <http://www.gacliberia.com/>

References:

General Auditing Act of 2005.

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.

59. Is the supreme audit institution effective?

91

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

Yes | No

References:

GAC Act of 2005: See www.gacliberia.com (under maintenance at the moment)

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 last Auditor General only left the job because his tenure expired, and the administration refused to renew his contract. He was effective, and no one attempted to remove him, but there were several exchanges of hot words between him and other members of the executive branch.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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 GAC is fully equipped. Over the last five years, the last AG made sure he employed and trained qualified people. Some of them are even undergoing advanced training in Kenya, Zambia, South Africa and the UK.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
 David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
 Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Judging from the appointment of the last AG, and the way the Senate scrutinized the recently appointed and rejected AG, one can say there is independence, but the scrutiny process is really rigorous.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
 David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
 Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Yes the GAC receives sufficient funding in the budget, and support from some donors. For an example, the EU was paying the last AG 25,000 per month.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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 Commission's reports are published on its Web site, put on CDs, printed in hard copies and distributed to schools, libraries, civil society organizations, county superintendents, etc. The Communications Department is very effective.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

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

25:

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

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

Comments:

Audit reports were not accorded the type of attention that the public anticipated. The public wants to see prosecution for corruption, dismissals, and prohibition from taking other position of trust. But these reports are politicized, thus undermining the objectives of the audit. The executive backs its appointees.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

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

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

The agency develops its own work schedule and decides who it wants to audit and when.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

60. Can citizens access reports of the supreme audit institution?

100

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

Yes | No

References:

GAC Act of 2005; FOI law of 2010.

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:

Available in Libraries
Distributed by the GAC Public Information Office
Available on its Web site
Available in CDs

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The GAC makes an effort to reach everyone.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

61. In law, is there a national tax collection agency?

100

61a. In law, is there a national tax collection agency?

Yes | No

Comments:

The Ministry of Finance-Revenue Department.

References:

<http://www.liberlii.org/lr/legis/acts/pfmao2009225/>

Financial Management Act of 2009

Revenue and Finance Law of 2000

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?

100

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The agency has a full time staff that carry out the tasks assigned to it. In the Ministry of Finance there are several other departments with different responsibilities, and each receives a fair share of resources to hire competent staff to carry out the functions of their offices.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Tax collection is done by the bureau of revenue at the Ministry of Finance, and they receive sufficient funding in the budget.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

63. In practice, are tax laws enforced uniformly and without discrimination?

25

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Although the government vigorously collects taxes, there are certain taxes where leniency applies because of the group of people involved. For example, property taxes are lax, because the higher income earners and political weights have more properties. A bulk of the people are poor, and so as a trade-off, property taxes are lax.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

64. In law, is there a national customs and excise agency?

100

64a. In law, is there a national customs and excise agency?

Yes

No

References:

Revenue and Finance Law of 2000.

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 Bureau has a full time staff, and they are posted at major entry points.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

This agency is covered under the Ministry of Finance. The Ministry of Finance receives adequate support in the national budget, and each one of its departments also does.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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?

75

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

Some people may evade or be given special privileges unlawfully. This was the case especially in the business community. Now, this treatment is given to high level people in the society with networking connections. For an example, real estate taxes are not vigorously pursued as they should be.

This is because they are part of the elites. Their connections can ensure cover-ups for them, and prevent the exacting of penalties. In some instances it is the general policy of the government. When the Ministry of Finance paid allowances to members of the legislature and deducted taxes, they made a heavy row, and summoned the Minister. These kinds of behavior indicate that there are special exemptions for certain people.

Nevertheless, the situation is improving: (1) Free reportage of the press; (2) Checking from civil society organizations; (3) Supervisory checking from the Bureau of Customs; and (4) Openness in the media about the ills in the society that are aired all of the time on different talk shows. People are watching.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

5.4. Oversight of State-Owned Enterprises

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:

Bureau of State Enterprises.

References:

Interim National Assembly (INA) Decree NO. 8

Decree by the Interim National Assembly of the Republic of Liberia providing for the establishment of an economic and financial management committee, its subordinate institutions and other related matters. Bureau of State Enterprises This is part of the Executive Law of Liberia.

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?

25

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes

No

References:

Review of the Executive Law of 1972/Interim National Assembly Decree Article II

Count 3. Leadership and Organization of the Bureau of State Enterprises.

The Bureau of State Enterprises shall be headed by a Director General whose status shall be on par with that of a deputy minister or above and shall have such division which shall be organized in such manner as the committee shall approve.

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:

Under the GEMAP this agency was recommended for scrapping, and the government is contemplating this seriously. Because of this, it has lost relevance and is not providing that oversight it should anymore. The reason for this downsizing was to streamline the sector.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Funded minimally.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

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

25:

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

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

At the moment this agency is practically dead; because it does not receive the necessary funding to carry out its job. As said earlier, this agency is not a policy priority for the government at the moment. The whole idea behind scrapping this agency is first to cut down the public sector, and second, most, if not all of the SOE are going to be under management contracts.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

At the moment this agency is practically dead. it does not conduct investigations or impose penalties on anyone or entity. State-owned enterprises now report directly to the office of the President through the Board of Directors.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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?

50

69a. In law, citizens can access the financial records of state-owned companies.

Yes

No

References:

FOI law of 2010.

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:

Public corporations do not even publish their financial data.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Records are audited by the GAC. But it has only started this within the last five years.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

They are very cagey about their records.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

This is especially difficult for those living outside Monrovia.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

70. Are business licenses available to all citizens?

100

70a. In law, anyone may apply for a business license.

Yes | No

References:

Article 7 and 8 of the Liberian Constitution.

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 Business Registry Office established by an MOU between the Ministry of Commerce and the World Bank carries out the registration of business now. Denial of registration for whatever reasons is appealable to the Ministry of Commerce,

References:

Ministry of Commerce
Executive Law of 1972, Chp. 29

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:

Liberia jumped from the 64th place on the starting business index to 35th place. Starting a business is easy, and less time consuming. See Liberia Business Registry Web site: <http://www.lbr.gov.lr/?p=912>

References:

<http://www.doingbusiness.org/data/exploreeconomies/liberia/starting-a-business>

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Cost for acquiring business license is minimal and now free of corruption. Application can be made online, and tracked online.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

<http://www.doingbusiness.org/data/exploreeconomies/liberia/starting-a-business>

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

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

25:

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

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes

No

References:

FOI law. This falls under proactive disclosure.

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:

This is part of the proactive disclosure requirement.

References:

FOI law 2010.

Yes: A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

No: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

Yes

No

Comments:

<http://epaliberia.org/EIA%20PROCEDURAL%20GUIDELINE%20FINAL.pdf>

References:

Public Health & Environmental Safety Law

EPA Regulations:

See <http://epaliberia.org/EIA%20PROCEDURAL%20GUIDELINE%20FINAL.pdf>

Also see MOHSW Guidelines:

http://liberiamohsw.org/Policies%20&%20Plans/MOH_HSRP%20ESMF%20Final%20Report.pdf

Yes: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

No: A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

50

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.

100

75

50

25

0

Comments:

Bribes may exchange hands, and the current level of inspections are not comprehensive, largely due to capacity gaps, and sometime lack of the political will to enforce. For an example, when construction projects of a certain nature are ordered stopped for public safety and health reasons, they soon resume because of the political connection of the person carrying out the project.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;

Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;

Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

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

Comments:

Inspections are not uniform due to capacity problems or protection for certain businesses with inside connections.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

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:

Bribes may change hands, and because of this certain businesses might not be inspected as they should be. Therefore, the certification process becomes more perfunctory than actually achieving the purpose it was intended for.

References:

Aaron Weah-Weah; Program Associate; Partners for Democratic Development; October 20, 2011; Monrovia, Liberia; via telephone;
Boikai Kanneh, Professor at Law, Louis Arthur Grimes School of Law; University of Liberia, November 3, 2011; Monrovia, Liberia;
Lincoln Brownell; Reporter and Presenter, Power FM & Television; October 21, 2011, Monrovia, Liberia.

100: Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category 6. Anti-Corruption Legal Framework, Judicial Impartiality, and Law Enforcement Professionalism

6.1. ⁸¹Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

Yes

No

References:

Article 90 (B) of the Liberian Constitution.

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:

Article 90(B) of the Liberian Constitution.

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:

<http://www.liberlii.org/lr/legis/codes/plt26lcolr367/>

Section 12.50 of the Penal Code.

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:

Article 91(b) of the Liberian Constitution.

Yes: A YES score is earned if receiving a bribe is illegal.

No: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes | No

References:

Penal Code Section 12.5.

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:

LACC Act of 2008.

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:

New Executive law.

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:

Penal Code as amended in 2005.

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:

Penal Code Section 10.4.

Yes: A YES score is earned if organized crime is illegal.

No: A NO score is earned if this is not illegal.

6.2. Anti-Corruption Agency or Equivalent Mechanisms

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

References:

Liberia Anti-Corruption Agency Act.

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.

75. Is the anti-corruption agency effective?

64

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes | No

Comments:

It has security of tenure. But its prosecution is handled by the Ministry of Justice, which is politically controlled

References:

LACC Act.

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

No: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The appointment of people accused of corruption in audit reports or the failure of the Ministry of Justice to carry out some prosecutions. See examples of such accusations made by the LACC: http://gnnliberia.com/index.php?option=com_content&view=article&id=1636:lacc-boss-wants-former-police-chief-indicted-revealed-accusers-plan-to-bribe-her-3-jeeps&catid=34:politics&Itemid=54

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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 commissioners are protected by fixed tenure, and they have equivalent ranking in government as circuit court judges See section 5.4 of the LACC Act.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Civil Society protested the configuration of the current Commission but this was ignored by the Executive and the Senate. In fact the appointments were fast-tracked. The protest was based on the need for consultations and opening up the entire nomination process to public vetting. This was neglected.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Commission is understaffed in the key enforcement and investigation department. It lacks adequate full-time lawyers to give legal advice in investigations.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Because of lack of adequate funding, the Commission cannot hire the number of investigators and lawyers it needs. There is even a lack of adequate mobility in the enforcement department investigators.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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 LACC does not or has not made its report public and widely circulated and debated like those of the GAC.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

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

Comments:

The Commission does not have prosecutorial powers. This is essential for the effectiveness of its work, since the Ministry of Justice which now handles prosecution is not only overburdened but subject to political influences.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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 agency may initiate investigations but sometimes gets inhibited for a multitude of reasons. For an example, the Commission does not have the power to subpoena or to conduct search and seizures. This undermines their investigative powers.

There are so many cases that it has shied away from: Harris Greaves bribery scandal; Report of bribery in the removal of Edwin Snowe from office; Report of bribery in the award of contracts for the Western Cluster Iron deal.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

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

25:

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

76. Can citizens access the anti-corruption agency?

50

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

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

Comments:

Because of low capacity and other attending factors such as investigative shortfalls, the Commission does not speedily or readily address complaints, or it may not address a complaint at all.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Someone making a complaint with the LACC about another person engaged in corruption has to be careful, because even though there is talk about protection, in actuality, there is none.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

71
6.3. Judicial Independence, Fairness, and Citizen Access to Justice

77. Is there an appeals mechanism for challenging criminal judgments?

83

77a. In law, there is a general right of appeal.

Yes | No

References:

Article 20(b) of the Liberian Constitution;
Part II Section 24 of Criminal Procedure law.

Yes: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

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

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Appeal may be delayed due to conduct of either of the parties or by conduct of the court. Where the appeal process is delayed by the court, the case might not have reached the docket, but would be heard in the next term.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Government provides a public defender for those who cannot afford a lawyer. It may not be too effective but it provides some level of defense for indigent persons.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

78. In practice, do judgments in the criminal system follow written law?

100

78a. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

Judgments are made based on Penal Code.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

79. In practice, are judicial decisions enforced by the state?

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

Comments:

Judicial decisions are generally enforced, but service of certain writs such as mandamus, prohibition on a highly influential and powerful member of the Executive might be ignored. There are other instances where they are obeyed, especially for powerful people not in favor with the political establishment. For example, the arrest of former Chairman Gyude Bryant.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

80. Is the judiciary able to act independently?

94

80a. In law, the independence of the judiciary is guaranteed.

Yes | No

References:

Article 3 of the Liberian Constitution;

Article 71 of the Liberian 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:

The Judiciary has Financial autonomy (see Financial Autonomy to the Judiciary (Amending Title 17) AN ACT TO AMEND CERTAIN PROVISIONS OF CHAPTERS 3, 7, 12, 14, 15, 18, AND 21 OF THE NEW JUDICIARY LAW TO PROVIDE FINANCIAL AUTONOMY TO THE JUDICIARY)

Because of this autonomy, the Judiciary is not obligated to the Executive, and they are independent. It is corruption that undermines the system, not political interference.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Judges are not assigned to cases but to terms, and whatever case comes before the judge during a term he is bound to dispose.

References:

<http://www.liberlii.org/cgi-bin/disp.pl/lr/other/LRLRes/2011/5.html?stem=0&synonyms=0&query=judge> assignment

Section 3.9 of the Judiciary Law

Yes: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

No: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

Yes | No

References:

Article 71 of the Liberian 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:

No judge has been threatened or killed for handling any case.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

No judge has been killed or maimed because of handling any case.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

Yes: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

No: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82. Do citizens have equal access to the justice system?

71

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

The courts do not discriminate. Everyone has access, except for those who live in areas where there are no courts, or where the judicial system is not too strong.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Judicial Law Section 19.1.

Yes: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

No: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

The government of Liberia set up the public defender, but some defendants may not get the best defense because some public defenders prefer clients who have money and can afford to tip them.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia;
Mike Marvey, Attorney At Law, January 23, 2012, Monrovia, Liberia.

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

Some attorneys would be charging legal fees as high as 2,000 dollars or more. If one wants good representation, it really does not come cheap.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Fees for attorneys represent a major cost. It's large businesses that really can afford to retain services of a lawyer. Small businesses would go to court as a very last resort, but would use other means such as alternative dispute or mediation. The cost of going to court is high and there is no guarantee that one is going to win in a legal duel.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Theoretically, yes, all citizens have access to justice. Practically, there are limitations—cost, geographic locations that are remote from provisional cities. Because of poor transportation, infrastructure, etc, not everyone would have easy access. Therefore, others would prefer the customary system, instead of the statutory system. Under the customary system, traditional norms and rules are enforced instead of statutory laws.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.

6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

83. Is the law enforcement agency (i.e. the police) effective?

58

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

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

Comments:

Some level of professionalism counts but more often than not, it's the political affiliation factor that outweighs everything else. This has been the trend all through–Taylor appointment of Momo Gebah and Joe Tate; Ellen's appointment of Mike Amblard.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The problem with the inadequacies in police operations is not necessarily budget but the management of funds. Among all the security forces under the direction of the Ministry of Justice, the police department has the highest budget.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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:

Law enforcement members are de facto politically controlled because the head of the agency is politically appointed, and there is no independent commission that oversees appointment, retention, training, and retirement.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

84. Can law enforcement officials be held accountable for their actions?

71

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes

No

References:

<http://www.liberlii.org/lr/legis/acts/incohra2005551/>

Independent National Commission on Human Rights Act 2005 (Amendment)

“AN ACT TO AMEND CERTAIN PROVISIONS OF ARTICLES VI, VIII, IX, XI AND XVII OF THE INDEPENDENT NATIONAL COMMISSION ON HUMAN RIGHTS ACT OF 2005”

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:

This has not been fully tested yet.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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

75:

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

25:

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

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes | No

Comments:

Liberia Anti-Corruption Agency act covers all sectors of the government. There is not a law singling out different elements of public service.

References:

LACC Act.

Yes: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

No: A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

Comments:

There is no specific agency set aside for this purpose, but when issues that are very contentious relative to police conduct come to public attention, an independent probing committee is set up.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia
David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia
Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

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

25:

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

84e. In law, law enforcement officials are not immune from criminal proceedings.

Yes | No

References:

Article 26 of the Liberian Constitution.

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:

Only dismissal and disrobement take place. Criminal proceedings are overlooked.

References:

Peter Queque, President, Press Union of Liberia, (PUL), October 18, 2011, Monrovia, Liberia

David Baysah, Chair, Department of Sociology, A.M.E. University, October 17, 2011; Monrovia, Liberia

Brezhnev Passawe, Independent Researcher on Corruption, Accountability, and Transparency; October 30, 2011, Monrovia, Liberia.

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.
