

Overall Score:

79 - Moderate

Legal Framework Score:

78 - Moderate

Actual Implementation Score:

78 - Moderate

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

1.1. ⁸³Anti-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

Comments:

The Constitution guarantees and protects citizens' rights of 'freedom of association and assembly', 'freedom of thought and expression' and freedom 'to join political parties and express political views'. (Part 1 Sections 4 and 5).

The PPP election manifesto acknowledged the right of the people to participate in the governance of the country. In this regard, the Manifesto proposed the establishment of a national "Civil Society Board" and "Stakeholder Advisory Councils" to facilitate this objective.

References:

The Constitution of the Republic of Trinidad and Tobago (Act No 4 of 1976-Ch. 1.01).

The current Peoples Partnership Government in its Election Manifesto (May 2010)

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:

No specific law exists that governs or restricts the freedom of NGOs to accept funding from any foreign or domestic sources.

References:

No applicable laws

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:

Where an NGO seeks Government funding or the classification of “non-profit” status there would be a requirement for funding related and other submissions to the relevant public authority. Information on the NGO can reach the public domain indirectly through the provisions of the Freedom of Information Act, 1999.

References:

No law exists which requires such NGOs to publicly disclose their sources of funding.

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?

83

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

100 | 75 | 50 | 25 | 0

Comments:

The source cited is intended to reflect government policy which cannot be attributed to any one particular year. No evidence during the period of the report of barriers created by the government.

References:

Caribbean Sustainable Economic Development Network (CSEDNet): "Assessing Caribbean Civil Society Participation in Regional Sustainable Development Processes", UNDP Commissioned project, 2006.

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:

The source cited reported 'inter alia' on a sample survey of a range of NGOs/CBOs types which identified a major stymie on their effectiveness as the lack of formal mechanisms that would rmpower their participation in the political and policy making processes at all levels of government. There is no evidence that this situation changed during the year of review.

References:

Caribbean Sustainable Economic Development Network (CSEDNet): "Assessing Caribbean Civil Society Participation in Regional Sustainable Development Processes", UNDP Commissioned project, 2006.

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:

No reports or accounts of such enforced shut down of NGOs by the Government over the study period.

References:

Online search of newspapers archives found no incidence of any NGO being shut down by the Government.

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

Comments:

A search of newspapers' archives revealed no incidence of such activists being imprisoned.

References:

Newspaper reports.

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

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

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

Yes | No

Comments:

No cases reported in the newspapers of NGO activists being assaulted over the study period.

References:

Newspapers reports.

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

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

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

Yes | No

Comments:

No reports during the study period of such NGO activists being killed.

References:

Newspapers archives.

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

Comments:

Citizens' right to organise themselves into Trade Unions is enshrined in the Constitution of Trinidad and Tobago.

No newspapers' reports during the study period of citizens being banned from such organisations.

References:

1. Constitution of the Republic of Trinidad and Tobago, Article 15.

Yes: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

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

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

100 | 75 | 50 | 25 | 0

Comments:

The rights of citizens to organize themselves into trade unions is enshrined and protected in the Constitution of the Republic of Trinidad and Tobago.

There have been no reports of incidences where citizens have been denied this right.

References:

1. Constitution of the Republic of Trinidad and Tobago, Article 15.
2. Newspaper reports

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

Comments:

“Freedom of the Press” is a right enshrined and protected in the Constitution.

References:

Constitution of the Republic of Trinidad and Tobago, Act No 4 of 1976
(Chapter 1 Part 1)

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

Comments:

“Freedom of thought and expression” and the “right to express political views” enshrined and protected in the Constitution.

References:

Constitution of the Republic of Trinidad and Tobago, Act No 4 of 1976
(Chapter 1 Part 1)

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?

94

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

100 | 75 | 50 | 25 | 0

Comments:

Specific requirements of registration with the Registrar of Companies include:

- Name approval letter
- Statutory declaration to be sworn before Commissioner of Affidavits

– Bond in favour of the State
The Act also provides for regimes of fees and penalties

References:

The Newspapers Act, Chapter 20:01

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:

There is no specific legal requirement of a license for print media. Registration process straight forward.

References:

The Newspapers Act, Chapter 20:01

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:

There is no specific legal requirement of a license for print media. Registration process straight forward.

References:

The Newspapers Act, Chapter 20:01

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:

There is no specific legal requirement of a license for print media. Registration fees (as updated to 31st December 2009) are reasonable.

References:

The Newspapers Act, Chapter 20:01

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?

81

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

100 | 75 | 50 | 25 | 0

Comments:

Licence requirements as laid out and managed by a statutory authority.

No record over the period of review of government created barriers to the establishment of broadcast media entities beyond the statutory requirements established.

References:

The Telecommunications Act 2001 (Act No.4 of 2001). Amended by Act No. 17 of 2004.

<http://www.tatt.org.tt>

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:

Section 39 discusses termination, suspension, amendment or renewal of license for telecommunications.

References:

The Telecommunications Act 2001 (Act No.4 of 2001) Section 39. Amended by Act No. 17 of 2004. <http://www.tatt.org.tt>

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:

Legislation provides for a five (5) month period within which a determination is to be made by the Minister.

The Telecommunications Act requires the Regulatory Authority (TATT) to make recommendation to the Minister within 90 days of receipt of application for a license and for the Minister to indicate his decision within 60 days of receipt of the recommendation.

References:

The Telecommunications Act (Sec 36 -3).

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:

TATT fee structure for Concessions and licenses publicly available.

<http://www.tatt.org.tt>

[The cost associated with the application for a broadcast media license is not negotiable. There is no other 'reasonable' costs specific to the year of review that is different to those stipulated by the regulatory authority.]

References:

The Telecommunications Act 2001 (Act No.4 of 2001). Amended by Act No. 17 of 2004.

<http://www.tatt.org.tt>

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:

No reports of any such Government direct intervention that seeks to control public access to the internet.

References:

Media Reports

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

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

100 | 75 | 50 | 25 | 0

Comments:

No reports of any such Government intervention. The only Government involvement in this regard has to do with the Government's control of the use of the web suffix ".tt". The use of this domain can only be authorised by the Trinidad and Tobago Information Centre (TTNIC). The requirements are :

- adherence to the TTNIC's terms and conditions
- acceptance of the TTNIC's policy for dispute resolution
- payment of a registration fee of US\$500-750 (double for non-local registrants)

References:

Media reports.

Trinidad Express Newspaper – December 15, 2010, "What's in an Internet Country Name?" by Georgia Popplewell.

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:

The specific issue of freedom to report “accurate news even if it damages the reputation of a public figure” is not addressed in any of the relevant statutes. The Libel and Defamation Act makes “false defamatory libel” illegal ie where the publisher knows the same to be false..

References:

The Constitution of the Republic of Trinidad and Tobago

Libel and Defamation Act, Chapter 11:16 (Updated to December 31st, 2009)

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

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

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:

A television talk show host was fired on November 6, 2010 following an interview with the Foreign Affairs Minister that went ‘sour’. The reason given was “cost-cutting exercises”.

CNMG also fired journalist Afra Raymond and stopped his program that covered CL Financial/CLICO fraud related issues.

References:

Trinidad Express Newspaper – February 21, 2001, “Publish and be Damned” by Denis Solomon.
[http:// www.trinicenter.com/Denis/2001/2122001.htm](http://www.trinicenter.com/Denis/2001/2122001.htm)

“Caribbean New Media Group fires journalist Afra Raymond”, Barbados Free Press, November 18, 2010,
[\[http://barbadosfreepress.com\]](http://barbadosfreepress.com)

“Afra Raymond let go from CNMG”, Trinidad Express Newspaper, November 18,2010 [\[http://www.trinidadexpress.com\]](http://www.trinidadexpress.com)

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

No reports of any such Government intervention.

References:

Media reports.

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?

95

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

Yes | No

Comments:

Section 13 of the Newspapers Act requires that such information be printed on the “last page of every newspaper and supplement issued.”

References:

Newspapers Act Chapter 20.01

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:

In addition to the requirement that the TATT must place a notice of a licence granted in the Gazette and at least one national newspaper, the Act also requires that the terms of the licence must be made available for public scrutiny (except where contrary to national security).

References:

Telecommunications Act Chapter 47.31

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:

No reported cases of journalists being bought -off with bribes or gifts.

In recent times however, there have been instances of journalists shifting employment from independent media directly to Government communication and information jobs.

There have been instances where journalists have been accused publicly but not officially, of being less than professional in their investigations and reporting..

References:

Media reports

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

75:

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

25:

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

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

Comments:

While there have been some grumblings especially from the major political parties, there have been no records of official claims or complaints in this regard.

The "Representation of the People Act (No.41 of 1967 –Ch 2.01)" places limits on the overall campaign expenses of election candidates or their agents. There are no controls however on third party donations particularly in the form of paid for media advertisements which have become extensive in recent elections.(See newspaper report by Andre Bagoo – Newsday- Thursday April 22,2010

References:

Media reports.

Official/Legal challenges.

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.

Comments:

Generally there is equal access although during the cut and thrust of election campaigning there tends to be frequent charges and counter-charges of bias particularly directed toward to the incumbent governing party.

References:

Media Reports

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

75:

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

25:

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

11. Are journalists safe when investigating corruption?

100

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

Yes | No

Comments:

No records of any journalist being imprisoned.

References:

Media reports

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

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

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

Yes | No

Comments:

No reports of any journalist being assaulted.

References:

Media reports

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

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

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

Yes | No

Comments:

No reported cases of journalists being killed.

References:

Media reports.

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.

95
1.3. Public 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

Comments:

The Freedom of Information Act provides for the right of individuals to have access to information held by public authorities

References:

Freedom of Information Act
(No. 26 of 1999).

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:

A formal process of appeal is provided for in the Act.

References:

Freedom of Information Act
(No. 26 of 1999).

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

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

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

Yes | No

Comments:

A range of "public authorities" identified in the Act are charged with ensuring and providing access in their various areas of responsibility. These public authorities include parliament, cabinet, ministries, regional and municipal authorities, service commissions, etc.

Each public authority has a "dedicated officer" to receive and handle requests submitted.

A "Freedom of Information Monitoring Unit" exists within the Ministry of Information to provide assistance to the public in the preparation and submission of requests.

References:

Freedom of Information Act
(No. 26 of 1999). Chapter 22.02.

"Freedom of Information – A User's Guide"

http://www.nalis.gov.tz/Freedom_of_Information_Document..htm

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?

92

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

100 | 75 | 50 | 25 | 0

Comments:

The FoI Act, Chapter 22:02, stipulates a period of 30 days within which the relevant public authority must respond to requests. No response over the period of review except for a response from the Minister of Finance to the original request redirecting the request to the Central Bank which is immune from the FoIA.

References:

- Afra Raymond, December 22, 2010, “Request for Duprey Letter of 13th January 2009 and the December 2008 Accounts of HCL Financial Group”
- Afra Raymond, Follow-up request made on 28th June, 2011
<http://afraraymond.wordpress.com>

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:

There is no fee for submission of a request. Chargers are applicable where the public authority is required to locate and photocopy documents.

References:

Legislation

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

75:

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

25:

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

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

Comments:

The Act provides for the withholding of certain information where such information

- affects the “State’s law enforcement capability”
- affects “the personal privacy of a person”
- could “place a business at a competitive disadvantage”

References:

Legislation

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.

Comments:

The Act provides for a right of review of the public authority’s decision either to the High Court or the Ombudsman. The application for review of the public authority’s decision must be made in writing within 21 days of receiving the decision. The Ombudsman is required to make a decision on the review application within 30 days.

References:

Legislation

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

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

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

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

100 | 75 | 50 | 25 | 0

Comments:

The legislation makes no distinction between "middle class citizens" and others.
No costs associated with the review process.

References:

Media reports
Legislation

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:

Giving reasons for denial of requests for information required by law.

References:

Media reports
Legislation

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. Voting and Party Formation

63

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

50

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

Yes | No

Comments:

Beside the age limitation (18 years) the following groups of citizens are disqualified:

- mentally ill
- under sentence of death
- convicted of offence relating to elections
- ceases to be a Commonwealth citizen and not residing in Trinidad and Tobago for a continuous period of at least 5 years

References:

Representation of the People Act Chapter 2:01 Section 15 and Rule 36 of the Election Rules

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

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

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

Yes | No

Comments:

Elections must be held every five (5) years.

References:

Representation of the People Act Chapter 2:01

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?

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

100 | 75 | 50 | 25 | 0

Comments:

Except in the instance of a breach of the registration rules there are no official barriers.

References:

Legislation

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Except in special cases provided for no one is allowed within the voting booth other than the voter. No campaigning or soliciting of votes is allowed within 91m or 100 yards of any polling station.

References:

Media Reports: Address to the Nation by Chairman of the Elections and Boundaries Commission on November 4th 2007 (Newsday November 5th 2007).

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:

- National elections held in May 2010 more than two years before constitutionally due.
- Local Government elections which are constitutionally due every four years were held in July 2010 after a gap of seven years.
- Tobago House of Assembly elections held on schedule in 1999 is constitutionally due in 2013,

References:

- Local media reports
- www.bbc.co.uk/news

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

75:

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

25:

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

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

90

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

Yes | No

Comments:

Section 4 (e) of the Constitution guarantees the "right to join political parties and express political views".

References:

The Constitution of the Republic of Trinidad and Tobago Act No. 4 of 1976 – Chapter 1.01.

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

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

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

Yes | No

Comments:

Citizens rights to run for political office are enshrined and protected constitutionally.

References:

The Constitution of the Republic of Trinidad and Tobago Ch 1:01

Representation of the People Act, Chapter 2:01

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

The following political parties actively participated in the national elections of May 2010:

- Peoples Partnership Coalition [United National Congress, Congress of the People, Tobago Organisation of the People, National Joint Action Committee, Movement for Social Justice]– Peoples National Movement
- New National Vision.

References:

-Local Media reports

– http://en.wikipedia.org/wiki/List_of_political_parties_in_Trinidad_and_Tobago

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

75:

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

25:

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

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

Comments:

No barriers to anyone running for office once they meet the criteria and adhere to the election rules as laid out in the legislative framework. Section 48 of the Representation of the People Act places a limit on campaign expenses by individual candidates. There are no limits however on advertising expenses on behalf of a political party to which the individual candidate belongs and which invariably are met by third parties. (See article by Andre Bagoo – Newsday, April 22, 2010 in which the Chairman of the Election and Boundries Commission speaks to the exploitation of this gap in the Legislation)

References:

Media Reports

Legislation:- Representation of the People Act (Chapter 2:01)

Constitution of the Republic of T&T

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

75:

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

25:

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

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

Comments:

The procedures laid out in the Constitution and the Representation of the People Act does not allow for the opposition in parliament to introduce legislation and bring matters to a vote “without the consent of the ruling party.”

References:

Legislation:

-The Constitution

– Representation of the People Act

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:

Legislation establishes the “Election and Boundaries Commission” as provided for at Section 71 of the Constitution

References:

Constitution, Section 71

Representation of the People Act Chapter 2:01. <http://www.tparliament.org/legislations/a2000-51.pdf>

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?

100

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

Yes | No

Comments:

The Constitution provides at Section 71 that ” in the exercise of its functions under this section the Commission shall not be subject to the direction or control of any other person or authority”

References:

Constitution of Trinidad and Tobago – Chapter 1:01, Section 71.

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 Constitution provides “that the Chairman and other members of the Commission shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition” Section 71 (3).

No media reports of any challenges to appointments made.

References:

- Constitution of Trinidad and Tobago Chapter 1:01
- Media Reports

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:

Satisfaction expressed with the level and quality of staff deployed (both permanent and temporary) by the Elections and Boundaries Commission

References:

– Trinidad and Tobago General Elections Report of the Commonwealth Observer Group, 11 December 2000

– Speech by the Chairman of the Election and Boundaries Commission on the eve of Parliamentary General Elections, 21 May 2010. www.news.gov.tt

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:

The Constitution [Section 71(2)] and the Representation of the People Act [Sections 104, 106 and 108] outline the requirements wrt reporting by the Commission following an election cycle.

There has been no evidence or media reports of any instance where these requirements have not been adhered to.

References:

-Legislation
-Media reports

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:

No reports identified of the Election & Boundaries Commission (EBC) having imposed penalties on offenders during the last general election (May 2010).

References:

Media reports

Election and Boundaries Commission. <http://www.ebctt.com/index.php>

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?

92

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

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

Comments:

In practice, a transparent voter registration system provides adequate time for voters to check and ensure accuracy of records. Problems continue to exist on polling day, mainly due to voters not accessing the process or accessing it in a timely manner to ensure accuracy. As a consequence, media reports are replete with complaints of “names not on the list” or “names on the wrong list,” which result in voters not able to exercise their right on polling day.

References:

Media reports

Election and Boundaries Commission. <http://www.ebctt.com/index.php>

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

Comments:

Section 118 provides for the Court to decide “whether a person whose appointment was questioned was validly appointed or not.”

References:

Representation of the People Act Chapter 2:01
– Part V, 13-03
-PART 6 Sections 106 -129

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:

Section 109 of the Legislation provides for the handling of the process of petitions questioning the validity of the election results as declared..

References:

The Constitution of Trinidad and Tobago
-Representation of the People Act Chapter 2:01
-Media reports
– <http://aceproject.org>

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 Commonwealth Observer Group reported:
- Security measures at polling stations adequate.
 - The police observed to be helpful
 - Depth of T&T's democratic culture displayed

No media reports of any partisan interference by the police or military

References:

- Media reports
- Commonwealth Secretariat, "The Trinidad and Tobago General Election, December 11, 2000 -Report of the Commonwealth Observer Group"

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

75:

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

25:

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

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

Yes | No

Comments:

No laws prohibit the presence of election monitors, whether local, regional or international.

In December 2000, a Commonwealth Observer Group was accommodated.

References:

No law exists.

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:

December 2000 , Commonwealth Observer Group monitored and reported on the T&T general elections of December 2000

References:

Commonwealth Secretariat, COMMONWEALTH TO SEND OBSERVERS FOR TRINIDAD AND TOBAGO GENERAL ELECTION, 29 November 2000. http://www.thecommonwealth.org/press/31555/34582/140678/commonwealth_to_send_observers_for_trinidad_and_to.htm

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.

97
2.3. Political Financing Transparency

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

17

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

Yes | **No**

Comments:

No law limits the amount that individuals can contribute to political parties.

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit Law", Andre Bagoo, Newsday, Thursday, April 22, 2010

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

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

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

Yes | **No**

Comments:

No law limits the amount that corporations can donate to political parties.

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit Law", Andre Badoo, Newsday, Thursday, April 22, 2010

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

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

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

Yes | No

Comments:

Section 48 of the Representation of the People Act limits the amount a candidate can spend on his/her election campaign.

References:

Representation of the People Act, Chapter 2:01, Section 48.

"Parties Exploit Law", Andre Badoo, Newsday, Thursday, April 22, 2010

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

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

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

Yes | **No**

Comments:

No law mandates disclosure of financial contributions to political parties.

References:

Representation of the People Act, Chapter 2:01

“Parties Exploit Law”, Andre Bagoo, Newsday, Thursday, April 22, 2010

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

No: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor’s name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

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

Yes | **No**

Comments:

No law requires independent auditing.

References:

Representation of the People Act, Chapter 2:01

“Parties Exploit Law”, Andre Bagoo, Newsday, Thursday, April 22, 2010

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**

Comments:

No agency or entity monitors the financing of political parties.

References:

Representation of the People Act, Chapter 2:01

“Parties Exploit Law”, Andre Bagoo, Newsday, Thursday, April 22, 2010

Yes: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

No: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

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

0

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

Yes | **No**

Comments:

No law limits the amount individuals can donate to political candidates. However, the law places limits on the amount individual candidates can spend on their campaigns.

Further, Section 45(3) of the Representation of the People Act provides that "all monies provided by any person other than the candidate for any election expenses, whether as a gift, loan, advance or deposit, shall be paid to the candidate or his election agent and not otherwise".

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit Law", Andre Bagoo, Newsday, Thursday, April 22, 2010

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:

No law limits the amount corporations can donate to political candidates.

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit Law", Andre Bagoo, Newsday, Thursday, April 22, 2010

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.

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

Yes | **No**

Comments:

No law requires disclosure of donations to individual political candidates.

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit Law", Andre Bagoo, Newsday, Thursday, April 22, 2010

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:

No law requires independent auditing of the finances of political candidates.

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit Law", Andre Bagoo, Newsday, Thursday, April 22, 2010

Yes: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. The auditing is performed by an impartial third-party.

No: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for candidates to self-audit.

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

Yes | **No**

Comments:

Comments:

No agency or entity monitors the financing individual candidates' campaigns.

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit Law", Andre Bagoo, Newsday, Thursday, April 22, 2010

Yes: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

No: A NO score is earned if there is no such agency or entity. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

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

0

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

100 | 75 | 50 | 25 | 0

Comments:

No limits on individuals donations to political parties.

Limits exist in law on the amount of expenditure on campaigns of individual political candidates. The Chairman of the Elections and Boundaries Commission highlights the "inadequacy" and "deficiency" in both the Constitution and the Representation of the People Act that allow political parties across the board to avoid and pay little respect for the expenditure limitations imposed in the legislation.

References:

"Parties Exploit Law", Andre Bagoo, Newsday, Thursday, April 22, 2010

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

No law limits donations from corporations to political parties.

Limits exist in law on the amount of expenditure on campaigns of individual political candidates. The Chairman of the Elections and Boundaries Commission highlights the “inadequacy” and “deficiency” in both the Constitution and the Representation of the People Act that allow political parties across the board to avoid and pay little respect for the expenditure limitations imposed in the legislation.

References:

Representation of the People Act, Chapter 2:01

“Parties Exploit Law”, Andre Bagoo, Newsday, April 22, 2010

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

75:

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

25:

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

22c. In practice, the limits on total party expenditures are effective in regulating a political party’s ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

Comments:

No limits exist.

The Chairman of the Elections and Boundaries Commission (2010) highlighted the “inadequacy” and “deficiency” in both the Constitution and the Representation of the People Act that allow political parties across the board to avoid and pay little respect to the expenditure limitations imposed in the legislation.

References:

“Parties Exploit the Law”, Andre Bagoo, Newsday, April 22, 2010

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

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions

Existing limits generally represent the maximum amount a political party can receive from a donor, independent 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 agency or entity monitors and investigates the financing of political parties.

References:

"Parties exploit the Law", Andre Bagoo, Newsday, April 22,2010

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

75:

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

25:

0: The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

No such agency or entity, monitors, investigates or imposes penalties with regard to the financing of political parties.

References:

"Parties Exploit the Law", Andre Bagoo, Newsday, April 22, 2010

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 requirement mandates auditing of contributions made to political parties.

References:

"Parties Exploit the Law", Newsday, April 22, 2010

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

75:

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

25:

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

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

0

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

100 | 75 | 50 | 25 | 0

Comments:

No law limits individual donations to political candidates.

References:

Representation of the People Act, Chapter 2:01

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:

No law limits corporate donations to individual candidates.

References:

Representation of the People Act, Chapter 2:01

"Parties exploit the Law", Andre Bagoo, Newsday, April 22, 2010

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:

No agency or entity is charged with the responsibility of monitoring and investigating the financing of the campaigns of individual candidates.

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit the Law", Andre Bagoo, Newsday, April 22, 2010

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.

Comments:

No agency or entity is charged with the responsibility of monitoring and investigating the financing of the campaigns of individual candidates. No authority to imposes penalties.

References:

Representation of the People Act, Chapter 2:01

Parties Exploit the Law", Andre Bagoo, Newsday, April 22, 2010

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:

No requirement mandates that the finances of individual candidates campaigns be audited. Candidates are required to file accounts of their campaign expenses with the Election & Boundaries Commission.

References:

Representation of the People Act, Chapter 2:01

"Parties exploit the Law", Andre Bagoo, Newsday, April 22, 2010.

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?

0

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

100 | 75 | 50 | 25 | 0

Comments:

No such disclosure is required in law nor effected by Political Parties in practice.

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit the Law", Andre Bagoo, Newsday, April 22, 2010

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:

No requirement in law grants the rights to citizens for access to the financial records of political parties. No media reports indicate that citizens seek access in practice.

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit the Law", Andre Bagoo, Newsday, April 22, 2010

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

75:

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

25:

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

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The law does not grant citizen access. There are no reports of citizen attempts to access financial records of political parties; thus, cost is irrelevant.

References:

Media reports

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:

No such records are available publicly.

References:

Media Reports

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?

50

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:

Only the campaign expenses of individual candidates are required to be submitted to the EBC

References:

Representation of the People Act, Chapter 2:01

"Parties Exploit the Law", Andre Bagoo, Newsday, April 22, 2010

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:

Campaign expenses of individual candidates that are required to be submitted to the EBC and as such can be available to citizens.

References:

-Representation of the People Act, Chapter 2:01
-Parties Exploit the Law", Andre Bagoo, Newsday, April 22, 2010

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

75:

50: Records take 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:

Campaign expenses of individual candidates that are required to be submitted to the EBC and as such can be available to citizens.

References:

-Representation of the People Act, Chapter 2:01
-Parties Exploit the Law", Andre Bagoo, Newsday, April 22, 2010

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

75:

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

25:

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

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

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

Comments:

Campaign expenses of individual candidates that are required to be submitted to the EBC and as such can be available to citizens.

References:

- Representation of the People Act, Chapter 2:01
- Parties Exploit the Law, Andre Bagoo, Newsday, April 22, 2010

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. ⁶²Conflicts 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

Comments:

The Constitution provides for the recognition and protection of the fundamental human rights of all citizens without discrimination. No specific law that ensures the ability of citizens to sue the Government for infringement of civil rights.

References:

Constitution of Trinidad and Tobago, Chapter 1:01

US Department of State, "Trinidad and Tobago, Report on Human Rights, March 31, 2003" <http://www.state.gov/g/drl/rls/hrrpt/2002/18346.htm>

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?

56

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

100 | 75 | 50 | 25 | 0

Comments:

Institution of immediate post Cabinet press conferences presenting and addressing questions on the decisions made.

References:

Media Reports

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

75:

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

25:

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

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

Yes | **No**

Comments:

No specific law speaks to such a review.

References:

Constitution of Trinidad and Tobago, Chapter 1:01

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:

No media reports identifying such review having been effected in practice.

References:

Media reports

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

75:

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

25:

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

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

Comments:

No reports of any extensive use of such executive orders in practice.

References:

Media reports

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:

Section 55(2) of the Constitution provide immunity for members of both houses of Parliament.

References:

Constitution of Trinidad and Tobago, Chapter 1:01

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

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

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

Yes | No

Comments:

The law allows for public officers to be subject to prosecution for criminal offences they commit.

References:

Constitution of Trinidad and Tobago Part 1 Section 129, Subsection 1 to 7.

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?

72

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

Yes | No

Comments:

In law Heads of State and government officials are required to complete and file a declaration income, assets and liabilities with the Integrity Commission in the prescribed form.

References:

-Constitution of Trinidad and Tobago, Chapter 1:01, Section 138(2)
-Integrity in Public Life Act, Chapter 22:01, Section 11(1)

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

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

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

Yes | No

Comments:

In law ministerial level officials are required to complete and file a declaration income, assets and liabilities with the Integrity Commission in the prescribed form.

References:

-Constitution of Trinidad and Tobago, Chapter 1:01, Section 138(2)
-Integrity in Public Life Act, Chapter 22:01, Section 11(1)

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 law clearly outlines that any person in public life or exercising a public function should not accept a gift or compensation, except that which is authorized by law, that is connected directly or indirectly to the conduct of his duties. However, in cases where a gift is received exceeding two thousand dollars in value, the individual is required to file with his declaration, a statement regarding the source and circumstances under which the gift was given and/or accepted.

References:

-Integrity in Public Life Act, Chapter 22:01, Section 27

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

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

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

Yes | No

Comments:

The Commission may require any person in public life, to produce within a specified time, all books, records, accounts or any other document relating to the functions. The Commission may require that the declaration may be certified by a chartered or certified accountant. Upon satisfactory review the person in public life will be issued a certificate of compliance.

References:

– Integrity in Public Act, Chapter 22.01 Part 5 Power of Investigation, Section 13 (2c) and 34 (1b)

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

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

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

Yes | **No**

Comments:

The sections mentioned outline the tenure of office for members of parliament; however, there were no outlined laws restricting parliament officers from entering the private sector after leaving government.

References:

Source: Constitution of Trinidad and Tobago, Chapter 4 Parliament, Part 2, Sections 43 (1) and 49 (1)

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

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

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

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

Comments:

No laws restrict parliament officers from entering the private sector after leaving government.

References:

N/A

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:

There are no media or other reports showing that the regulations governing the acceptance of gifts and hospitality were ignored or abused.

References:

Media reports

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:

Over the review period there has been one case reported where a previous Prime Minister declarations were audited and the matter brought before the courts.

References:

Media reports

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

75:

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

25:

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

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

0

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

Yes | **No**

Comments:

All declarations filed with the Integrity Commission are confidential and shall not be made public except if needed in a court hearing.

References:

Integrity in Public Act, Chapter 22:01, Section 20

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:

Such records are considered confidential and are not subject to citizen's access.

References:

-Integrity in Public Act, Chapter 22:01, Section 20

<http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/IncomeAssetDisclosureinWBClientsasofJune62006.pdf>

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:

Such filings are considered confidential and not subject to citizens' access.

References:

Integrity in Public Act, Chapter 22:01, Section 20

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:

There is no citizen access to filings, so it is impossible to determine the quality of the reports.

References:

Integrity in Public Act, Chapter 22:01, Section 20

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.

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:

Use of government resources by political parties is not allowed and is not the general practice. However, there have been accusations made in the media of such use particularly with respect to vehicles.

References:

Government of the Republic of Trinidad and Tobago, News. Speaking Notes of Prime Minister Kamla Persad-Bissessar during the Budget Debate 2011/2012, House of Representatives," October 2011. <http://www.news.gov.tt/index.php?news=9682>

Trinidad Express. "On Mr Manning's secret service." Nov 13, 2010.

http://www.trinidadexpress.com/commentaries/On_Mr_Manning_s_secret_service-107827534.html

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?

0

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

Yes | No

Comments:

The law does not provide for judicial review of laws passed by parliament.

References:

Constitution of Trinidad and Tobago, Chapter 1:01

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

No law provides for such judicial review, and there are no reports of such reviews in practice.

References:

Media reports
Constitution of Trinidad and Tobago, Chapter 1:01

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

75:

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

25:

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

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

Yes | No

Comments:

The law does not specifically outline that members of the national legislature are subject to criminal proceedings. The law outlines cases for which members may be disqualified, one of which is the member being convicted of an offence relating to elections. Further to this in Section 55 of the law it outlines that legislature members are immune to criminal proceedings as a result of freedom of speech.

References:

Constitution of Trinidad and Tobago, Chapter 4 Parliament, Part 2, Sections 43 (3) , 49 (3) and 55 (2)

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?

61

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

Yes | No

Comments:

The law states that a person within three months of becoming a person in public life, is required to complete and file with the Integrity Commission in the prescribed form, a declaration of his income assets and liabilities.

References:

- Constitution of Trinidad and Tobago Chapter 10 The Integrity Commission, Section 138 (2 a)
- Integrity in Public Life Act, Chapter 22:01, Part 3 Final disclosure, Section 11 (1)

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:

The sections mentioned outline the tenure of office for members of parliament; however, there no laws restricts parliament officers from entering the private sector after leaving government.

References:

Constitution of Trinidad and Tobago, Chapter 4 Parliament, Part 2, Sections 43 (1) and 49 (1)

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

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

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

Yes | No

Comments:

This law clearly outlines that any person in public life or exercising a public function should not accept a gift or compensation, except that which is authorized by law, that is connected directly or indirectly to the conduct of his duties. However, in cases where a gift received exceeds two thousand dollars in value, the individual is required to file with his declaration, a statement regarding the source and circumstances under which the gift was given and/or accepted.

References:

Integrity in Public Act, Chapter 22.01, Part 4 Code of conduct, Section 27

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

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

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

Yes | No

Comments:

The Commission may require any person in public life, to produce within a specified time, all books, records, accounts or any other document relating to the functions. The Commission may require that the declaration may be certified by a chartered or certified accountant. Upon satisfactory review the person in public life will be issued a certificate of compliance.

References:

Integrity in Public Act, Chapter 22.01 Part 5 Power of Investigation, Section 13 (2c) and 34 (1b)

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:

No such restrictions exist in law nor are effected in practice.

References:

No media or other reports identified.

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:

No reports identified of abuse of regulations

References:

Media and other reports

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:

Auditing is at the discretion of the Integrity Commission as provided for in the legislation and not subject to any given schedule.

References:

Legislation
Media reports

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?

6

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

Yes

No

Comments:

Declarations filed with the Commission are confidential and are not accessible by the public, except if required in a court hearing.

References:

Integrity in Public Act, Chapter 22:01, Section 20

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:

Declarations filed with the Commission are confidential and not accessible by the public, except if required in a court hearing.

References:

No media reports of attempts by citizens to access such declarations.

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:

Declarations filed with the Commission are confidential and not accessible by the public, except if required in a court hearing.

References:

No media reports of attempts by citizens to access such declarations.

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:

Declarations filed with the Commission are confidential and not accessible by the public, except if required in a court hearing.

References:

No media reports of attempts by citizens to access such declarations.

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

75:

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

25:

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

35. Can citizens access legislative processes and documents?

100

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

Yes | No

Comments:

Legislative process is clearly outlined in the Constitution of Trinidad and Tobago and is also published on the website of Parliament.

References:

Constitution of Trinidad and Tobago, Chapter 4, Part 2 Power, Privileges and Procedure of Parliament.
<http://www.ttparliament.org/>

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:

No reports of failure of citizens to access legislative processes and documents

References:

Parliament website

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:

No reports on failure of any citizen to access these processes and documents. They are available on the website.

References:

- Constitution
- Parliament website

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.

42

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

36. Are judges appointed fairly?

67

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

Yes | No

Comments:

The Chief Justice according to constitutional law is appointed by the President upon consultation with the Prime Minister and the leader of the opposition. Other judges are appointed by the President acting in accordance with the advice of the judicial and legal service commission. As for the transparency of the procedure this is not outlined in the law.

References:

Constitution of Trinidad and Tobago, Chapter 7 The Judicature, Part 1, Section 102 and 104

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:

No reports or evidence of the selection process being circumvented in practice.

References:

Media and other reports

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

75:

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

25:

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

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

Yes | No

Comments:

In law there is no formal process of review. The Chief justice according to constitutional law is appointed by the President upon consultation with the Prime Minister and the leader of the opposition. Other judges are appointed by the President acting in accordance with the advice of the judicial and legal service commission. As for the transparency of the procedure this is not outlined in the law.

References:

Constitution of Trinidad and Tobago, Chapter 7 The Judicature, Part 1, Section 102 and 104

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?

79

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

Yes | **No**

Comments:

There is no formal or mandatory requirement for judges to give reasons for their decisions.

References:

The constitution of Trinidad and Tobago

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

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

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

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

Comments:

There have been no media reports of reasons not given for a judge's decision. There may be instances where written judgements are delayed or given subsequent to the verdict.

References:

Media reports.

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

75:

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

25:

0: Judges commonly issue decisions without formal explanations.

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

Yes | No

Comments:

The Integrity Commission of Trinidad and Tobago is the agency set up to deal with such.

References:

Constitution of Trinidad and Tobago, Chapter 10, Section 138, 139

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:

A member of the Integrity Commission should not be a person in public life or exercising a public function.

References:

Constitution of Trinidad and Tobago, Chapter 10, Section 138, 139 and Integrity in Public Life Act, Part 2 Establishment, Powers and Function of Integrity Commission, Section 4 (5)

Yes: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

No: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

There was the issue of Basdeo Panday, former Prime Minister, failing to declare a London Bank account to the Integrity Commission. This was in violation of Chapter 10 Section 138 (2) of the Trinidad and Tobago Constitution.

References:

Trinidad and Tobago News, Attorney General knocks Integrity Commission, 11, July 02. http://www.trinidadandtobagonews.com/forum/webbbs_config.pl/noframes/read/393

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

References:

TT Gapers, "Former Trinidad and Tobago PM Basdeo Panday Sentenced to Two Years on Corruption Charges, April 25, 2006, <http://www.ttgapers.com/News/2006/4/25/former-trinidad-and-tobago-pm-basdeo-panday-sentenced-to-two-years-on-corruption-charges/>

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?

57

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

Yes | No

Comments:

The law requires that a person within three months of becoming a person in public life is required to complete and file with the Integrity Commission in the prescribed form, a declaration of his income assets and liabilities. This includes judges and magistrates appointed by the judicial and legal service commission.

References:

-Constitution of Trinidad and Tobago Chapter 10 The Integrity Commission, Section 138 (2 a)
– Integrity in Public Life Act, Chapter 22.01, Part 3 Final disclosure, Section 11 (1)

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 law clearly outlines that any person in public life or exercising a public function should not accept a gift or compensation, except that which is authorized by law, that is connected directly or indirectly to the conduct of his duties. However, in cases where a gift received exceeds two thousand dollars in value, the individual is required to file with his declaration, a statement regarding the source and circumstances under which the gift was given and/or accepted.

References:

Integrity in Public Act, Chapter 22.01, Part 4 Code of conduct, Section 27

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:

Although the Commission may require any person in public life, to produce within a specified time, all books, records, accounts or any other document relating to the functions, no requirements mandate auditing (independent or otherwise). The Commission may require that the declaration may be certified by a chartered or certified accountant. Upon satisfactory review the person in public life will be issued a certificate of compliance.

References:

Integrity in Public Life Act, Chapter 22.01 Part 5 Power of Investigation, Section 13 (2c) and 34 (1b)

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:

No restrictions in law.

References:

Integrity in Public Life Act, Chapter 22.01 Part 5 Power of Investigation, Section 13 (2c) and 34 (1b)

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 law exists.

References:

No law exists.

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:

The Annual Report of the Integrity Commission for the year 2010 cites the following: "The judgement of Justice Judith Jones in the High Court Action 1735 of 2005 dated October 15, 2007, excludes Judges and Magistrates from the provisions of the Integrity in Public Life Act.

References:

-media reports
– Annual Report of the Integrity Commission, 2010

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The Annual Report of the Integrity Commission for the year 2010 cites the following: "The judgement of Justice Judith Jones in the High Court Action 1735 of 2005 dated October 15, 2007, excludes Judges and Magistrates from the provisions of the Integrity in Public Life Act.

References:

-media reports
– Annual Report of the Integrity Commission, 2010

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

75:

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

25:

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

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

0

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

Yes | **No**

Comments:

All declarations filed with the commission are secret and confidential and shall not be made public, except if needed on a court hearing.

References:

Integrity in Public Life Act, Chapter 22.01, Part 3 Final Disclosure, Section 20

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

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

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

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

Comments:

Asset disclosures cannot be assessed by citizens.

References:

Asset disclosures cannot be assessed by citizens.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Asset disclosures cannot be assessed by citizens.

References:

Asset disclosures cannot be assessed by citizens.

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:

Asset disclosures cannot be assessed by citizens.

References:

Asset disclosures cannot be assessed by citizens.

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?

100

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

Yes | No

Comments:

Law provides for variations of certain duties and taxes and for the introduction of provisions of a fiscal nature and related matters to the legislature.

References:

-The Finance (Supplementary Appropriation) Act, 2011
-Central Bank (Amendment Act) 2009

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

The legislature has watchdog committees.

References:

Parliament of the Republic of trinidad and Tobago. Committee Business. http://www.ttparliament.org/committee_business.php?mid=2

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:

Parliament has watchdog committees that are sufficient to monitor the budget.

References:

Government of Trinidad and Tobago. Annual Budget Statement. http://www.gov.tt/gortt/portal/ttconnect/Bus_ngoDetail/?WCM_GLOBAL_CONTEXT=/gortt/wcm/connect/gortt+web+content/TTConnect/Business/Role/AnNGO/GeneralInformation/Annual+Budget+

Government of Trinidad and Tobago. Parliament. Committee Business. http://www.ttparliament.org/committee_business.php?mid=2

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?

100

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

100 | 75 | 50 | 25 | 0

Comments:

The national budgetary process is conducted in a transparent manner in the debating stage and documents are available online for citizens.

References:

Norman Girvan, Trinidad and Tobago Economy and Budget 2010-2011, Documentation. <http://www.normangirvan.info/trinidad-and-tobago-budget-2010-2011-document/>

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

Comments:

The National Budget is presented by the Minister of Finance at the beginning of the government's financial year, which runs from October 1st to September 30th. The budget is usually presented in Parliament by the end of September, but must be presented no later than October 15th every year. Information for citizens is available online.

References:

Government of Trinidad and Tobago. Annual Budget Statement. http://www.gov.tt/gortt/portal/ttconnect/Bus_ngoDetail/?WCM_GLOBAL_CONTEXT=/gortt/wcm/connect/gortt+web+content/TTConnect/Business/Role/AnNGO/GeneralInformation/Annual+Budget+

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:

Citizens can access an itemized budget and summary.

References:

Republic of Trinidad and Tobago. Trinidad & Tobago 2011/2012 Budget Highlights. http://www.republictt.com/1asp/2012_budget/2012-Budget-Highlights.pdf

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

Comments:

The Auditor General is empowered to conduct audits of the accounts, balance sheets and financial accounts of the public accounts and is not subject to direction or control of any person in authority. Under section 119, there is the establishment of a Public Accounts Committee which oversees the public fund. A Public Accounts (Enterprise) Committee has also been established to address enterprises that are owned or controlled by or on behalf of the state.

References:

Constitution of Trinidad and Tobago, Chapter 8 Finance, Section 116 and 119

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?

92

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

100 | 75 | 50 | 25 | 0

Comments:

As stated by Jocelyn Thompson, "The Auditor General of Trinidad and Tobago has found that the internal audit function in the public service has been misunderstood, misused, abused or simply ignored..."

There has been no significant improvement since 2003.

References:

International Journal of Government Auditing, "Accountability and Audit" by Jocelyn Thompson, 2003.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The constitution provides for the Chairman of the Public Accounts Committee to be a member of the opposition in the House. The Chairman and members may comprise an equal number of members.

References:

Government of Trinidad and Tobago. Parliament. Committee Business. http://www.ttparliament.org/committee_business.php ...

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The committee initiates independent investigations into financial irregularities.

References:

Government of Trinidad and Tobago. Parliament. Committee Business. http://www.ttparliament.org/committee_business.php?mid=2

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. ⁷⁹Civil 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?

100

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

Yes | No

Comments:

Civil Service Regulations require an impartial, independent and fairly managed civil service.

References:

-Constitution of Trinidad and Tobago, Chapter 1:01
-Civil Service Act, Chapter 23:01 (Updated to December 31,2009). http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/23.01.pdf

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:

Specific regulations exist to prevent cronyism, nepotism, etc. in the civil service.

References:

-Constitution of Trinidad and Tobago, Chapter 1:01
-Civil Service Act, Chapter 23:01 (Updated to December 31, 2009) http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/23.01.pdf

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:

A Public Service Appeals Board is established under the provisions of the Constitution (Chapter 9, Part 2, Section 130).

References:

-Constitution of Trinidad and Tobago, Chapter 1:01

-Civil Service Act, Chapter 23:01 (Updated to December 31, 2009)

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:

Section 6(1) of the Prevention of Corruption Act provides that upon summary conviction "...such a person shall also be adjudged forever incapable of being elected or appointed as a member of a public body or of holding any other public office...."

References:

– Prevention of Corruption Act, Chapter 11:11, Section 6(1).

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?

94

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

100 | 75 | 50 | 25 | 0

Comments:

There have been instances of media reports and letters to Editors alleging such political interferences. No determination of how factual are these allegations.

References:

Media Reports

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The procedures for recruitment in the public service are well laid out in the Civil Service Regulations (Subsidiary legislation to the Civil Service Act, Chapter 23:01). No proof of the regulations being circumvented in practice.

References:

-Legislations
-Media Reports

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There is no proof of the regulations having been circumvented in practice. The procedures for recruitment in the public service are well laid out in the Civil Service Regulations (Subsidiary legislation to the Civil Service Act, Chapter 23:01).

References:

- Legislations
- Media Reports

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:

The statement, in compliance with Sections 7, 8 and 9 of the Freedom of Information Act.1999, identified “Job Specifications and Descriptions” among the documents in the possession of the Personnel Department and available publicly.

References:

- Public Statement of the Personnel Department, 2010 (www.cpo.gov.tt/docs)

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:

Increments in the public service salary scale which is closest to "bonuses" constitute much less than 10% of basic salary. Increments are available only to those officers below Range 70. Increments are earned based on an evaluation of satisfactory performance over the previous year as assessed by the Permanent Secretary.

References:

"Classification and Compensation Plans", The Public Service, Republic of Trinidad and Tobago.

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 Draft Estimates of Expenditure, presented annually in parliament as part of the "Budgetary exercise", contains details of establishment by departments.

References:

Draft Estimates of Expenditure

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:

No reports over the past year of any compromise of the independence of the redress mechanism.

References:

Various media and other reports.

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:

No reports of late payments to public servants over the past year.

References:

Media reports

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:

In general civil servants convicted of corruption are prohibited from future government employment. However, in practice the process required tends to be long and drawn-out. Recently (November 16th 2011) 3 civil servants and a businessman were charged with 200 criminal counts of fraud. During the arraignment it was revealed that one of the civil servants was charged about a year ago with 103 similar counts. The matter is still pending in the courts.

References:

Caribbean 360. Three TT Civil Servants and a businessman on 200 VAT fraud charges. November 17, 2011. <http://www.caribbean360.com/index.php/business/517481.html#axzz1LoS1IKG>

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?

56

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

Yes | No

Comments:

The law states that a person within three months of becoming a person in public life, is required to complete and file with the Integrity Commission in the prescribed form, a declaration of his income assets and liabilities these include permanent secretaries.

References:

Constitution of Trinidad and Tobago Chapter 10 The Integrity Commission, Section 138 (2 a)

Integrity in Public Life Act, Chapter 22:01, Part 3 Final disclosure, Section 11 (1)

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:

No specific law mandates this.

References:

Civil Service regulations, Chapter 23:01

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:

No law exists.

References:

No law exists.

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:

Sections 144 and 145 outlines the circumstances under which an officer may accept gifts and rewards for the performance of his/her duties.

References:

Civil Service Regulations Chapter 23:01

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:

Section 5 states that the Commission must receive, examine and retain all declarations filed with it under this Act and make inquiries as it considers necessary in order to verify or determine the accuracy of a declaration.

Section 15 authorizes the Commission to enquire further into any declaration so as to ascertain whether there has been a full disclosure.

References:

Integrity in Public Life Act, Chapter 22:01. Section 5, Section 15. http://www.oas.org/juridico/mla/en/tto/Inte_Pub_Life_Act.pdf

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:

No such restrictions exist in law.

References:

N/A

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:

No reports of any such abuse of the regulations.

References:

Media reports

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:

There is no requirement in the law.

References:

N/A

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Requirement of the Integrity in Public Life Act Chapter 22:01. No reports of any deviation from the requirements in practice.

References:

Media reports

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?

25

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

Yes | No

Comments:

The law states that declarations filed with the Commission and the records of the Commission in respect of those declarations are secret and confidential and shall not be made public, except where a particular declaration or record is required to be produced for the purpose of or in connection with any Court proceedings against, or enquiry in respect of a declarant under this Act, the Perjury Act, the Prevention of Corruption Act, the Exchange Control Act or the Commissions of Enquiry [sic] Act.

References:

-Integrity in Public Life Act Chapter 22:01, Part III: Financial Disclosures, Section 20. http://www.oas.org/juridico/mla/en/tto/Inte_Pub_Life_Act.pdf

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

The records are not available to citizens.

References:

N/A

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:

The records are not available to citizens.

References:

N/A

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:

The format and content of the disclosures is outlined in the legislation.

References:

-Integrity in Public Life Act Chapter 22:01
-Freedom of Information Act Chapter 22:02

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)?

100

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

Yes | No

Comments:

The law offers protection to people who raise and give evidence of corruption against alleged offenders.

References:

Justice Protection Act, Chapter 5:33, proclaimed on April 4th, 2007

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:

Two government approved programmes, "Crime stoppers" and "Dial 555," have been established to allow for whistle-blowers to have anonymity.

References:

"Trinidad and Tobago's response to the Questionnaire on the provision of the Inter-American Convention against Corruption", Senior Legal Adviser in the Ministry of the Attorney General", 2009
www.oas.org/mesicic2_tto_resp_en.doc

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

75:

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

25:

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

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

Yes | No

Comments:

The law provides protection of people who raise and give evidence of corruption against alleged offenders.

References:

Justice Protection Act, Chapter 5:33, Section 6. Proclaimed on April 4th 2007.

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:

Two government-approved programmes, "Crime stoppers" and "Dial 555," have been established to allow whistle-blowers to have anonymity.

References:

"Trinidad and Tobago's response to the Questionnaire on the provision of the Inter-American Convention against Corruption", Senior Legal Adviser in the Ministry of the Attorney General", 2009
www.oas.org/mesicic2_tto_resp_en.doc

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?

100

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

Yes | No

Comments:

Section 30 of the Integrity in Public Life Act states that anyone may make a complaint in writing to the Commission that a person in public life or any person exercising a public function violates the act, has a conflict of interest or violated the Prevention of Corruption Act.

References:

-Justice Protection Act, Chapter 5:33, http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/5.33.pdf

-Integrity in Public Life Act, Chapter 22:01, Section 30, http://www.oas.org/juridico/mla/en/tto/Inte_Pub_Life_Act.pdf

-Constitution of Trinidad and Tobago, Chapter 1:01, The Ombudsman, http://www.oas.org/dil/Constitution_of_the_Republic_of_Trinidad_and_Tobago_Act.pdf

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?

94

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

100 | 75 | 50 | 25 | 0

Comments:

Two government-approved programmes, "Crime stoppers" and "Dial 555," have been established to allow for the anonymity of whistle blowers.

References:

-Justice Protection Act, Chapter 5:33
-Integrity in Public Life Act, Chapter 22:01
-Constitution of Trinidad and Tobago, Chapter 1:01, The Ombudsman

Crime Stoppers, <http://crimestoppersst.com/home/>

Dial 555, call555.net/about555.aspx

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:

Draft Estimates of Expenditure debated and approved in Parliament. Funding for all agencies of Government appropriated.

References:

Annual Appropriations Bill (Budget Speech)

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:

Two government-approved programmes, "Crime Stoppers" and "Dial 555", have been established to allow for the anonymity of whistle blowers. For Crime Stoppers, the tipster is asked to call back within 21 days to track the status of the case

References:

Crime Stoppers, <http://crimestopperstt.com/home/>

Dial 555, call555.net/about555.aspx

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

There has been instances where investigations have been delayed or not initiated at all. A case in point has been that of Ms Mary King who was removed from her Ministerial post notwithstanding that no investigation has been initiated to date.

References:

CANA News, "Irony in the firing of Mary King," May 11, 2011, <http://www.cananews.net/news/124/ARTICLE/60211/2011-05-11.html>

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.

98

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

51. Is the public procurement process effective?

68

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

Yes

No

Comments:

-Section 12, Sub-sections 3 and 3A of the Central Tenders Board Ordinance stipulate requirement of disclosure by members of the Board and penalties for failing to so disclose.

-Section 29, Subsections 1 and 2 of the Integrity in Public Life Act outline provisions re conflict of interest and disclosure requirements thereof.

References:

-The Central Tenders Board Ordinance, Chapter 71:91

-Integrity in Public Life Act, Chapter 22:01

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

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

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

Yes | No

Comments:

No specific training requirement in law. General training procedures in the public service apply..

References:

- Central Tenders Board Ordinance, Chapter 71:91
- Other related legislations

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:

No reports of any breach of regulations regarding conflicts of interest.

References:

Media reports

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

75:

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

25:

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

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

Yes | No

Comments:

Disclosures to the Integrity Commission are required.

References:

-Central Tenders Board Ordinance Chapter 71:91
-Integrity in Public Life Act, Chapter 22:01

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:

Section 20 of the Central Tenders Board Ordinance Chapter 71:91 states that the Board shall either (a) invite members of the public by Notice published in the Gazette and in local or overseas newspapers in general to make offers, or (b) subject to the approval of the Minister, invite such bodies or persons as may be selected by the Board to make offers for the supply of such articles or for the undertaking of such works or services, as the case may be, whenever the Board considers it expedient or desirable so to do.

References:

Central Tenders Board Ordinance Chapter 71:91

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

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

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

Yes | No

Comments:

Section 24 of the states that the Board or a Committee consider the offers and accept the lowest offer which represents the best value, except as it has deems necessary or expedient for good reason. The Board is not bound to accept the lowest or any offer.

References:

Central tenders Board Ordinance Chapter 71:91, http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/71.91.pdf

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

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

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

Yes | **No**

Comments:

No provision in the governing legislation setting out ways to challenge a decision of the Central Tenders Board.

References:

- Central Tenders Board Ordinance, Chapter 71:91
- Central Tenders Board Regulations, 1965

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

Comments:

- Constitutional right to equality of treatment from any public authority (Section 4(d) of the Constitution.
- Principles of natural justice (Section 5 of the Judicial Review Act)

References:

- Constitution of Trinidad and Tobago
- Judicial Review Act, 2000

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:

No process exists.

References:

- Central Tenders Board Ordinance Chapter 71:91
- Central tenders Board Regulations, 1965

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:

Generally yes. No identifiable reporting of incidence of blacklisting.

References:

Media and other reports

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?

100

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

Yes | No

Comments:

Relevant legislation and regulations laid in parliament.

References:

Freedom of Information Act

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

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

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

Yes | No

Comments:

Section 26(3) requires the CTB to publish in the Gazette the name of the person or body to whom the contract is awarded, the amount and the date of the award.

References:

Central Tenders Board Ordinance Chapter 71:91

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

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

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

100 | 75 | 50 | 25 | 0

Comments:

No reports of the inability of citizens to access such records in reasonable time.

References:

Media and other reports.

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:

Such records are free to citizens. No reports or evidence otherwise.

References:

Media and other reports.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

No evidence or reports of inconformity of the practice with the legal requirement that procurement notices be issued in the Gazette and local or foreign newspapers.

References:

Media and other reports.

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:

No reports or evidence that in practice the requirements of the law are not adhered to.

References:

Media and other reports.

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?

33

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

Yes

No

Comments:

The Divestment Secretariat (a division of the Ministry of Finance) adheres to operational guidelines that include competitive bidding, the use of domestic financial institutions to enhance the domestic climate and the objective of expanding share ownership. (www.finance.gov.tt/about_us.php?dept=3&mid+8)

References:

No law excludes any group of businesses from competing for state assets.

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

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

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

Yes | No

Comments:

No provision in the relevant law exists.

References:

No provision in the relevant law exists.

- The Integrity in Public Life Act, Chapter 22:01, Section 14.
- The Prevention of Corruption Act, 1987

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:

No provisions exist.

References:

- The Integrity in public Life Act, Chapter 22:01
- The Prevention of Corruption Act, 1987

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?

95

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

Yes | No

Comments:

Section 3 of the Freedom of Information Act grants the right of members of the public to access to information in the possession of public authorities by (a) making available to the public information about the operations of public authorities and (b) creating a general right of access to information in documentary form in the possession of public authorities limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by public authorities.

References:

The Freedom of Information Act, Chapter 22:02, http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/22.02.pdf

Yes: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

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

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

Comments:

No reports of the process of privatisation having deviated from the Divestment Secretariat's articulated principles of "transparency" and "credibility".

References:

Media and other reports

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

75:

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

25:

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

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

Yes | No

Comments:

Constitution of Trinidad and Tobago, Section 5, requires publication in the Gazette.

References:

Constitution of Trinidad and Tobago, Section 5, Publication

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:

No records or reports of requests for such information being rejected.

References:

- Freedom of Information Act, Chapter 22:02
- Prevention of Corruption Act, 1987

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:

No reports or records of such requests being rejected or withdrawn because of unreasonable costs

References:

- Freedom of Information Act, Chapter 22:02
- Prevention of Corruption Act, 1987

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. ⁸⁹ 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:

There is an ombudsman covering the entire public sector who is appointed by the President upon consultation with the Prime Minister and the Leader of the Opposition.

References:

Constitution of Trinidad and Tobago, Chapter 6 The Ombudsman, Part 2 Section 91 – 95
The Ombudsman Act, Chapter 2:52

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?

77

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

Yes | No

Comments:

The Ombudsman is an officer of parliament and can investigate matters upon request from the House of Representatives.

References:

Constitution of Trinidad and Tobago, Chapter 6 The Ombudsman, Part 2 Section 91 (1)

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:

The constitution of Trinidad and Tobago identifies the Ombudsman as “an officer of Parliament” and provides for the appointment of the Ombudsman by the President after consultation with prime Minister and the Leader of the Opposition.

References:

Website of the Office of the Ombudsman.
The Ombudsman Act, Chapter 2:52

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

According to the Constitution, the Ombudsman is appointed for a period “not exceeding” five years but is eligible for re-

appointment.

Section 136 of the Constitution protects the Ombudsman from removal from office without relevant justification.

References:

The constitution of Trinidad and Tobago.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman's Office has sufficient staff.

References:

Website of the Office of the Ombudsman.

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

No evidence or reports that suggests otherwise.

References:

Media and other reports

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

This is part of the annual budgetary allocations.

References:

Appropriations Bill – Annual Budget Speech.

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

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

25:

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

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

Annual reports and periodic newsletters are available on the website.

References:

Website of the Office of the Ombudsman.
www.ombudsman.gov.tt

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The law empowers the Ombudsman to investigate matters on complaints, requests or its own initiative

References:

- Website of the Office of the Ombudsman – www.ombudsman.gov.tt
- Constitution of Trinidad and Tobago

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

The powers of the Ombudsman are investigatory and evidential. It has no powers to impose penalties. But, it can refer matters to the appropriate agency with recommendations for further investigations etc.

References:

- Website of the Ombudsman Of Trinidad and Tobago – www.ombudsman.gov.tt
- Constitution of Trinidad and Tobago

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Generally, yes. There have been case-based reports of undue delay in official responses to recommendations of the Office.

References:

Annual Reports of the Office of the Ombudsman
(Available on the website www.ombudsman.gov.tt)

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

75:

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

25:

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

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

100 | 75 | 50 | 25 | 0

Comments:

Generally, yes. There are reported cases of undue delay due mainly to slow responses from relevant government agencies.

References:

Annual reports of the Office of the Ombudsman.
(www.ombudsman.org.tt)

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

75:

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

25:

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

57. Can citizens access the reports of the ombudsman?

92

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

Yes | No

Comments:

Section 96 of the Constitution discusses the Ombudsman and reports it must make to Parliament. Reports subsequently are available through Freedom of Information Act requests.

References:

Website of the Ombudsman. www.ombudsman.gov.tt

Constitution, Section 91-98. Ombudsman.

Freedom of Information Act.

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:

Some delay. The latest annual report available for download from the website is that for the year 2008.

References:

Website of the Office of the Ombudsman – www.ombudsman.gov.tt

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:

No costs involved in downloading Annual Reports.

References:

Website of the Office of the Ombudsman. www.ombudsman.gov.tt

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:

There is the existence of an Auditor General who is appointed by the President upon consultation with the Prime Minister and the Leader of the Opposition.

References:

- Constitution of Trinidad and Tobago, Chapter 8 Finance, Section 116
- Exchequer and Audit Act, Chapter 69:01

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?

100

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

Yes | No

Comments:

The auditor general is not subject to direction or control of any other person or authority.

References:

- Constitution of Trinidad and Tobago, Chapter 8 Finance, Section 116 (6)
- Exchequer and Audit Act, Chapter 69:01

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

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

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

100 | 75 | 50 | 25 | 0

References:

Constitution of Trinidad and Tobago – Section 136

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:

As mandated by Section 117 of the Constitution, the Auditor General shall be provided with a staff adequate for the efficient discharge of his functions.

Staff is provided and budgeted annually in the Estimates of Recurrent Expenditure of the Government.

References:

Constitution of Trinidad and Tobago

Office of the Auditor General of the Republic of Trinidad and Tobago, Organization Chart, <http://www.auditorgeneral.gov.tt/documentlibrary/downloads/6/OrgChart.pdf>

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

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

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

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

There have been no media or other reports re questionable appointments in this regard.

References:

Media and other reports.

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

75:

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

25:

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

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Funding is identified and provided for on an annual basis.

References:

Estimates of Recurrent Expenditure of the Government

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:

As required by law, the Auditor General submits annual reports to the Speaker, the President of the Senate and the Minister of Finance. The reports are subsequently required to be laid in parliament. The reports are also made available to the general public on the Auditor General's website: www.auditorgeneral.gov.tt

References:

-Constitution of Trinidad and Tobago
-Exchequer and Audit Act, Chapter 69:01

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:

Two joint select committees of Parliament – “Public Accounts Committee” and “Public Accounts (Enterprises) Committee” establish to inter alia, consider and act upon the reports submitted by the Auditor General.

References:

“Mandates of the Supreme Audit Institutions – Trinidad and Tobago – The Auditor General,”
[www.intosaitaudit.org/mandates/mandates/Mandates/Trinidad and Tobago](http://www.intosaitaudit.org/mandates/mandates/Mandates/Trinidad%20and%20Tobago)

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:

As stated in Section 116 of the Constitution, the Auditor General conducts and audits “if he/she thinks it is necessary.”

References:

Web site of the Auditor General – www.auditorgeneral.gov.tt

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

60. Can citizens access reports of the supreme audit institution?

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

Yes | No

Comments:

Freedom of Information Act grants citizens the right to government documents. Annual Reports and other audit reports also are available on the website.

References:

Website of the Auditor General – www.auditorgeneral.gov.tt

Freedom of Information Act, http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/22.02.pdf

Yes: A YES score is earned if all supreme auditor reports are available to the general public.

No: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Reports available for free download from the website.

References:

Website of the Auditor General
www.auditorgeneral.gov.tt

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.

Comments:

Reports available for free download from the website

References:

Website of the Auditor General
www.auditorgeneral.gov.tt

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.

97 5.3. Taxes and Customs: Fairness and Capacity

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 Inland Revenue Division of the Ministry of Finance is administered by a Board of Inland Revenue made up of five(5) Commissioners.

References:

Inland Revenue Division of the Ministry of Finance
www.ird.gov.tt

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:

Staff provided as part of the Government's annual budgeting exercises.

The Inland Revenue Division of the Ministry of Finance has adequate staff.

References:

Annual "Estimates of Recurrent Expenditure" of the Government of Trinidad and Tobago

Inland Revenue Division of the Ministry of Finance, About Us, Staff Corner, http://www.ird.gov.tt/load_page.asp?ID=12

Inland Revenue Division of the Ministry of Finance, Organization Chart, <http://www.ird.gov.tt/uploadedfiles/IRD%20Organisation%20Chart.pdf>

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:

Funding provided for as part of the Government's annual budgetary exercises.

References:

Annual "Estimates of Recurrent Expenditure" of the Government

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?

100

63a. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

No reports of discrimination in the enforcement of tax laws.

References:

Media and other reports

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

Comments:

Customs and excise is a division of the Ministry of Finance.

References:

Customs and Excise Division of the Ministry of Finance
Customs Act, Chapter 78:01
Excise (General Provisions) Act, Chapter 78:50

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:

Staff provided for as part of the Government's annual budgetary exercises.

References:

"Estimates of Recurrent Expenditures" of the Government

Customs and Excise, Government of the Republic of Trinidad and Tobago, <http://www.customs.gov.tt/>

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

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

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

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Funding provided for on an annual basis as part of the Government's annual budgetary exercises.

References:

"Estimates of Recurrent Expenditures" of the government of Trinidad and Tobago.

Government of the Republic of Trinidad and Tobago, Customs and Excise, <http://www.customs.gov.tt/>

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:

No reports of discrimination in the enforcement of existing customs and excise laws.

References:

Media and other reports

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:

Several agencies have authority:

- Relevant Line Ministry
- Ministry of Finance
- Auditor General
- Public Accounts (Enterprises) Committee
- Parliament

References:

- Constitution of Trinidad and Tobago
- Exchequer and Audit Act
- Ministry of Finance, Investments Division -“State Enterprises Performance Monitoring Manual”, 2008 (Revised 2011)

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?

80

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

Yes | No

Comments:

At the level of Parliament, oversight rests with the joint select committee called the “Public Accounts (Enterprises) Committee”.

References:

- Constitution of Trinidad and Tobago
- Exchequer and Audit Act
- Ministry of Finance, Investments Division -“State Enterprises Performance Monitoring Manual”, 2008 (Revised 2011)

Parliament, Public Accounts (Enterprises) Committee,
http://www.ttparliament.org/committee_business.php?mid=17&id=12&pid=5

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:

Both full allocation of staff and current levels identified.

References:

Annual Estimates of Expenditure

Parliament, Public Accounts (Enterprise) Committee, http://www.tparliament.org/committee_business.php?mid=17&id=12&pid=5

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:

Funding is allocated as part of the annual budgetary exercises.

References:

Annual Estimates of Recurrent Expenditure

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

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

25:

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

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

References:

-Reports of the Auditor General to be laid in Parliament
-Reports of the Public Accounts(Enterprises) Committee to be laid in Parliament

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The relevant agencies have no power in law to impose penalties. Recommendations made to Parliament.

References:

Reports laid in Parliament.

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?

65

69a. In law, citizens can access the financial records of state-owned companies.

Yes | No

Comments:

State Enterprises required to publish a summary of audited accounts in at least one major newspaper within four months of the end of their financial year.

References:

Ministry of Finance, Investment Division, "State Enterprises Performance Monitoring and Manual, 2008 (Revised 2011)

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:

Some of the largest state enterprises have not published accounts for years.

References:

The Trinidad Guardian newspaper, "State Enterprises Must Account Public," August 11, 2011, www.guardian.co.tt/business-guardian/2011/08/11/stateenterprises-must-account-public

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:

The Auditor General in executing audits do adhere to international standards. The problem is undue delays in completing and submitting reports in a timely manner.

References:

Media and other reports

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Some of the largest state enterprises have not published accounts for years.

The Securities and Exchange Commission has made orders (imposing monetary penalties) in respect of contravention of the Securities Industry Act 1995 and the Security Industry Bye-Laws 1997 re the failure of state owned enterprises to publish their accounts.

References:

-Media and other reports.

-Securities and Exchange Commission

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.

Comments:

No costs involved in citizens' access to available accounts of state owned enterprises.

References:

- Media and other reports
- Governing legislations

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.

82 5.5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

63

70a. In law, anyone may apply for a business license.

Yes | No

Comments:

No law prevents any citizen from registering a business or applying for licences to operate specific businesses.

References:

No law prevents any citizen.

Doing business in Trinidad and Tobago

www.finance.gov.tt/51.pdf

www.doingbusiness.org/data/exploreeconomies/trinidad-and-tobago

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:

No formal process exist for appealing a rejected application for a specific licence.

References:

No law exists.

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:

Start-up procedures including registration processes and specific licencing requirements can take about 43 days (World Bank Project).

References:

World Bank, Doing Business 2011, Trinidad and Tobago, <http://www.doingbusiness.org/reports/global-reports/doing-business-2011>

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.

Comments:

World Bank Doing Business Project estimates costs to be 0.8% of per capita income.

References:

World Bank, Doing Business 2011, Trinidad and Tobago, <http://www.doingbusiness.org/reports/global-reports/doing-business-2011>

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

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

25:

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

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

Yes | No

Comments:

The basic standards are available publicly.

References:

Occupational Safety and Health Act, No.1 of 2004. (Amended August 2006), http://www.ilocarib.org.tt/projects/cariblex/tt_act9.shtml

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:

Basic standards are transparent and publicly available online.

References:

Occupational Safety and Health Act, No.1 of 2004. (Amended August 2006), http://www.ilocarib.org.tt/projects/cariblex/tt_act9.shtml

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:

Basic regulations are available publicly online.

References:

Occupational Safety and Health Act, No.1 of 2004. (Amended August 2006), http://www.ilocarib.org.tt/projects/cariblex/tt_act9.shtml

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?

75

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:

The Occupational Safety and Health Agency established in August 2007. -Inspection and enforcement body.

References:

The Occupational Safety and Health (Amendment) Act, No. 3 of 2007

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

The Occupational Safety and Health Agency established in August 2007. -Inspection and enforcement body.

References:

occupational Safety and Health (Amendment) Act, No. 3 of 2006

100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

The Occupational Safety and Health Agency established in August 2007. -Inspection and enforcement body.

References:

Occupational Safety and Health (Amendment) Act, No. 3 of 2006

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. ~~Anti~~ Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

Yes | No

Comments:

An attempt to commit an indictable offense is an arrestable offence.

References:

Criminal Offenses Act 11:01 Section 5

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

Comments:

Extortion is a crime.

References:

Criminal Offence Act, Chapter 11:01 Section 7

Yes: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

No: A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

Yes | No

Comments:

Bribery is a crime with up to two years imprisonment.

References:

Criminal Offence Act, Chapter 11:01 Section 5

Yes: A YES score is earned if offering a bribe is illegal.

No: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

Yes | No

Comments:

Bribery is a crime with up to two years imprisonment.

References:

Criminal Offence Act, chapter 11.01, Section 5

Yes: A YES score is earned if receiving a bribe is illegal.

No: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

Yes | No

Comments:

Bribery is a crime with up to two years imprisonment.

References:

Criminal Offence Act, Chapter 11:01, Section 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

Comments:

For example, in the case of police officers, the law indicates that it is an offence for any officer to keep and/or use for his private benefit any articles supplied at the public expense.

References:

Police Service Act 2006, Section 54

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

Comments:

Members of the Integrity Commission shall not use information found in the execution of their duties for private interests. Anyone doing this is guilty of an offense and can be fined \$250,000. or imprisonment for 5 years.

References:

Integrity in Public Life Act 22:01, Part 4 Code of conduct, Sections 25 and 35

Yes: A YES score is earned if using confidential state information for private gain is illegal.

No: A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

Yes | No

Comments:

The purpose of this Unit is for the implementation of anti-laundering policies. Money-laundering is a crime.

References:

Act 2 of 2009 Establishing of the Financial Intelligence Unit

Yes: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

No: A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Yes | No

Comments:

Conspiracy to commit a crime is illegal.

References:

Criminal Offense Act, Chapter 11:01, Section 7

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?

74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes | No

Comments:

The Integrity Commission is charged with the duty of monitoring and investigating conduct, practices and procedures which are dishonest and corrupt.

References:

The Integrity Commission
Constitution of Trinidad and Tobago, Chapter 10, Section 138 (2D)

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?

78

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

Yes | No

Comments:

Any member of the Integrity Commission should not be a person in public life or exercising a public function.

References:

-Constitution of Trinidad and Tobago, Chapter 10, Sections 138 and 139
-Integrity in Public Life Act Part 2 Establishment, Powers, and Functions of the Integrity Commission, Section 4 (5)

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:

Although examples may not be eminent, there is no protection in the law which guarantees independence of the Integrity Commission. The President has input into the appointment and officers of the Commission and each year they are to make a report to Parliament of their activities.

References:

ANDRE BAGOO, Trinidad and Tobago Newsday, "Senator: No protection for anti-corruption body," Friday, February 4 2011, <http://www.newsday.co.tt/politics/0,135194.html>

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:

No evidence in reports however the constitution makes provision for the removal by the President

References:

Media reports

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:

The new Head of the Commission is said to be favored by the ruling party.

References:

Asha Javeed, Trinidad and Tobago Guardian Online, "Gordon tipped to head Integrity Commission," October 17, 2011, <http://www.guardian.co.tt/node/25460>

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 agency has full staff.

References:

The Integrity Commission of Trinidad and Tobago, Officers, <http://www.integritycommission.org.tt/officers.html>

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:

As reported by Selwyn Ryan in the Trinidad Express Newspapers:

"Integrity Commission (IC) was being starved of funds, and that its Budget was a mere \$27.5 million, and that the allocation for investigations was a mere \$2.5 million.

"By comparison, the AG's office spent \$108 m in fiscal 2011 and \$94.5 m to do the same in 2012. It may well be that the AG's office had a number of critical enquiries to undertake. Just the same, one was stunned to learn that the sums allocated in the Budget to the IC were so inadequate."

References:

Selwyn Ryan, "The AG, the DPP and the Integrity Commission," Nov 13,

2011, http://www.trinidadexpress.com/commentaries/The_AG_the_DPP_and_the_Integrity_Commission-133757748.html

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:

Reports to Parliament are made each year.

References:

Integrity Commission. Documents. http://www.integritycommission.org.tt/documents/IntegrityCommissionAR_000.pdf

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:

Power is given to the Integrity Commission in the Constitution of Trinidad and Tobago.

References:

The Integrity Commission, <http://www.integritycommission.org.tt/>

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

References:

Integrity Commission of Trinidad and Tobago, <http://www.integritycommission.org.tt/>

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?

88

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

As reported by Dr. Hamid Ghany in the Trinidad Guardian Online:

“A frequent occurrence in the public domain is the call for the Integrity Commission to investigate matters from time to time. This has caused the Commission itself to come under scrutiny. It is noted that the last three chairmen of the Integrity Commission have all had to resign on controversial grounds.”

References:

Dr. Hamid Ghany, “Changing a Culture of Corruption”, Trinidad Guardian, November 13, 2011, <http://www.guardian.co.tt/columnist/2011/11/13/changing-culture-corruption>

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:

In addition to the law (Justice Protection Act, Ch 5:33), two Government-approved programmes, “Crime Stoppers” and “Dial 555” have been established to allow for the anonymity of whistle blowers.

References:

“Trinidad and Tobago’s response to the Questionnaire on the provision of the Inter-American Convention against Corruption”, Senior Legal Adviser in the Ministry of the Attorney General”, 2009
www.oas.org/mesicic2_tto_resp_en.doc

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.

88
6.3. Judicial Independence, Fairness, and Citizen Access to Justice

77. Is there an appeals mechanism for challenging criminal judgments?

75

77a. In law, there is a general right of appeal.

Yes | No

Comments:

The law states the Court of Appeal is responsible for appeal issues; however, the law specifies the kinds of cases eligible for appeal.

References:

Constitution of Trinidad and Tobago, Chapter 7 The Judicature, Section 108 and 109

Yes: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

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

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The Privy Council remains the final court of appeal for T&T notwithstanding the establishment of a Caribbean Court of Justice which is headquartered in T&T. The issue has been and continues to be well ventilated in the media.

References:

Various media reports.

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

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

Comments:

The costs related to access to the full range of the appeals process invariably can be prohibitive to middle class citizens.

References:

Various media reports.

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:

There have been no reports in the media of political interference, bribery, or cronyism in the decisions made by the judiciary.

References:

Various media

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?

100

79a. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

Comments:

The separation of powers between the Executive and Judiciary is well enshrined in the Constitution. No media reports of blatant disregard for this principle of good governance.

References:

Various media reports.

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?

25

80a. In law, the independence of the judiciary is guaranteed.

Yes | No

Comments:

There is no clearly outlined law indicating separation of the judiciary. The law indicates that the Chief Justice is appointed by the President upon consultation with the Prime Minister and the Leader of the Opposition and all other judges are appointed by the President and the Judicial and Legal Service commission.

References:

Constitution of Trinidad and Tobago, Chapter 7 The Judicature, Sections 102 and 104

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:

Separation of powers enshrined in the Constitution. No media reports of incidence or attempts to circumvent this principle.

References:

Various media reports.

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:

No specific stipulation in existing legislation or "Proceedings Rules" with respect to the allocation of cases to individual judges.

References:

Legislation and Rules

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

Comments:

No formal process is outlined. However, the law indicates that the Chief Justice and other judges can be removed by the President of the Judicial and Legal Services Commission. The removal and disciplinary control of judges is vested in the Judicial and Legal Services Commission.

References:

Constitution of Trinidad and Tobago, Chapter 7 The Judicature, Part 3 Judicial and Legal Services Commission, Section 111 (1)

Yes: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

No: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

Yes | No

Comments:

There were no documented cases over the past year of judges being threatened or harmed.

References:

N/A

Yes: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

No: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes | No

Comments:

There were no documented cases over the past year of judges being killed.

References:

N/A

Yes: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

No: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82. Do citizens have equal access to the justice system?

86

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

No documented cases or allegations over the past year of racial or ethnic bias in judicial decisions.

References:

Media and other reports.

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:

No documented cases or allegations of women not being treated equally in the eyes of the courts.

References:

Media and other reports.

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

Comments:

Legal Aid and Advisory Authority were established in 1976.

References:

Legal Aid and Advice Act. Chapter 7:07

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:

As mandated by the Legal Aid and Advice (Amendment) Bill of 2011, Legal Counsel is available and there are efforts to improve the efficiency of services provided.

References:

Parliament website: www.ttparliament.org

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:

Legal fees generally are considered prohibitive.

References:

Various media and other reports.

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:

Legal costs generally are prohibitive.

References:

Various media and other reports.

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:

No reports of geographical location being the basis of unequal access.

References:

Various media and other reports.

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?

83

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

The Police Service Commission with the responsibility of all appointments to the law enforcement agencies is an independent creature of the constitution.

References:

Various media and other reports.

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:

Budget allocations are debated and agreed to in Parliament.

References:

Annual Budget Speeches.

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:

Recruitment, appointments, promotions, disciplinary powers are all the remit of an independent Service Commission.

References:

Constitution of Trinidad and Tobago.

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?

100

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | No

Comments:

A mechanism in place. In law, the mechanism set forth is the Police Service Commission.

References:

Constitution of Trinidad and Tobago, Chapter 9 Part 1 Service Commission, Sections 122, 123

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:

Police Complaints Authority Act .. Chapter 15:05 requires that PCA start up investigations within 48hours after receipt of a complaint.

No media or other reports discerned questioning undue delays in this regard.

References:

Various media and other reports.

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

75:

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

25:

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

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Yes | No

Comments:

The Police Service Commission is the mechanism authorized and mandated by law to deal with issues of corruption with law enforcement officials.

References:

Police service Commissioner
-Constitution of Trinidad and Tobago, Chapter 9, Part 1, Sections 122, 123

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:

Matter of corruption by Minister Franklin Khan (2005) with misbehaviour in public office

References:

http://www.trinidadandtobagonews.com/forum/webbbs_config.pl/noframes/read/3324

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

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

25:

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

84e. In law, law enforcement officials are not immune from criminal proceedings.

Yes | No

Comments:

Police officers who commit serious offenses are liable to conviction and years of imprisonment.

References:

The Police Service Act 2006, Part 8, Section 53 (1) and (2)

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:

Seven police officers charged with murder (2011)

References:

http://www.newsday.co.tt/news/0_150638.html

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.

