

Global Integrity Scorecard:

Nigeria

2008

Reporter's Notebook: Nigeria

By Olayinka Oyegbile

In May 2007, Umaru Yar'Adua succeeded Olusegun Obasanjo as president of the Federal Republic of Nigeria. Many citizens wondered what direction the new government's war against corruption would take. The regrettable answer quickly became clear: The new administration has shown no desire to carry on with the previous administration's war on corruption.

The first signal that Yar'Adua's government was not going to continue the crusade was the administration's slow prosecution of corruption-related cases. The Obasanjo administration had promised that many governors still in office at the time would face trial after their tenure was over. After Obasanjo's exit, however, Yar'Adua, who had also been a governor, decided to look the other way, rather than go ahead with the trials.

Corruption Comes into the Open

Confirmation that the war on corruption had been short-circuited came in August 2007.

The Economic and Financial Crimes Commission (EFCC) had been set up by the Obasanjo administration to combat graft and corruption among public officials. Everyone agreed that Nuhu Ribadu, its chair, was the spearhead in the fight against corruption. But the Yar'Adua government instead removed him from office that summer and asked him to take a course at the National Institute for Policy and Strategic Studies. Outcry against this change included the argument that Ribadu, because of his leadership of the anti-graft agency, had no need for any kind of training that would warrant his unceremonious removal. Others argued that the course could have been delayed until the end of his tenure in another three years.

The administration's next moves dealt the deathblow to any government engaged in the fight against corruption. Ribadu's assistant, Ibrahim Lamorde, was initially asked to act as chair of the anti-graft agency while Ribadu was taking the course, but Lamorde was soon replaced with Farida Waziri, a retired police officer who allegedly had links with one of the governors whom the agency was prosecuting for corruption.

A few months later, the government compounded Ribadu's problems by demoting him and his colleagues from assistant inspector generals of police to deputy commissioners. Many saw the policy change as directed against Ribadu.

Among those riled by the action was Gani Fawehinmi, chair of the National Conscience Party, who is also a senior advocate of Nigeria and a human rights activist. He described the actions against Ribadu as "absolutely bizarre." In condemning the government's decisions, he added, "I want President Umaru Yar'Adua to realize that any government that punishes honesty sows the seed of its own destruction by corruption. The 'offenses' that brought these atrocious and oppressive actions of the federal government down on Ribadu's head are his honest character and his unprecedented arrest, arraignment and trial of some powerful big men for corruption."

Fawehinmi added that the demotion was "ridiculous, vindictive, a dangerous signal, and a serious contradiction on the part of government."

A Blow to Public Opinion

Nigerian citizens' positive opinions regarding the new government dwindled away. Many considered the demotion as punishment against the one man they hoped could clean the country of corruption. Many also saw the demotion as a go-ahead for public officials to continue their looting without fear of prosecution. Nigerians also believe that since Yar'Adua's government came to power, public officials' brazen pillaging of their country's treasury has increased because corrupt officials believe they are no longer being watched by any serious anti-graft agency. While these allegations are rarely, if ever, supported by hard evidence, public frustration is growing.

Among the frustrated is Kayode Komolafe, a senior Nigerian journalist. According to him, "It is a symptom of a moral crisis for a society when someone like Ribadu is rewarded for his patriotism and commitment with the sort of denigration and harassment being visited on him. By this act, the

Yar'Adua administration is unwittingly giving credence to the legendary cynicism of Nigerians that their country is not worth dying for.

"In many respects, the anti-corruption campaign is essentially a moral one. It is not just a legal matter. But how can that campaign be enhanced when the man who redefined the campaign by his courage and commitment is now hounded like a criminal, while those who have questions to answer about what they did with people's resources are strutting through the corridors of power continuing to peddle their influence?"

Corruption Continues

The relentless trashing of the war on corruption continues. The government recently arrested and detained another senior official of the EFCC for allegedly possessing vital documents and files that the government feared would wind up in the hands of the press or non-governmental organizations. The documents allegedly back up the agency's cases against many of the indicted politicians that the agency would have loved to prosecute. Instead, these politicians are being shielded by the Yar'Adua government, critics contend.

Public affairs commentator Kolade John also believes the government has turned its back on fighting corruption: "The government has not been serious about the war against corruption. Ribadu told the nation before the 2007 elections that none of the 26 or so governors that the EFCC has found corrupt had been sentenced and that those who were undergoing trial either have been set free or had their cases delayed by officials. How can you convince people that corruption does not pay and that such crimes will be punished while officials flaunt their ill-gotten wealth and taunt us with it every day? People are not going to jail. Rather, they are traveling from one capital of the world to the other, spending their loot while the country, a top oil producer, cannot provide electricity and other basic amenities for its citizens. It is a shame," John said in an interview.

Indeed, in March 2008, the EFCC and the Independent Corrupt Practices and Other Offenses Commission (ICPC) estimated that more than 600 billion naira (US\$5 million) had been stolen from the country's treasury.

How do you fight this monster? Justice Emmanuel Ayoola, chair of the ICPC says, "The best way to win the war against corruption is to transform the people. And I say the surest way to transform people is to have a caring government that will put the people at the forefront of its responsibilities." But a caring government is definitely not what Nigeria has now. So has the country lost this war? Many citizens would answer yes.

Nigeria: Corruption Timeline

June 1993 — The military, led by acting President Gen. Ibrahim Babangida, annuls presidential election results. Polls indicate that the vote had been won by businessman Moshood Abiola. Babangida eventually cedes power to a transitional civilian government, pending elections planned for 1994.

November 1993 — Gen. Sani Abacha forces out the transitional civilian government and establishes a military regime.

May 1994 — Abacha cracks down on the opposition, resulting in a largely boycotted election. Two weeks later, Abiola declares himself the rightful president. Abiola is arrested and jailed for treason in June.

July 1994 — Petroleum workers launch a strike demanding that Abiola be released and declared president. The strike, which soon spreads and paralyzes much of Nigeria, ends in August as the government begins a new crackdown on opponents.

June/July 1995 — Claiming it had uncovered a coup plot, the government secretly arrests and convicts 40 alleged ringleaders. Opposition sympathizers are also caught up in the dragnet of arrests.

October 1995 — Abacha announces a three-year timetable for a return to democratic government.

November 1995 — Writer, political activist and leader of the Movement for the Survival of the Ogoni People (MOSOP), Ken Saro-Wiwa, along with eight other Ogoni activists, are executed by the Nigerian military government after being charged with the murder of four tribal leaders. The executions are widely condemned across the world. The executions are just a few of many deaths among critics of the Abacha military government.

December 1997 — Less than 10 percent of the electorate vote in local elections after it becomes clear Abacha has co-opted the electoral process. Another suspected coup leads the government to arrest over 60 people.

June 1998 — Abacha dies. Gen. Abdulsalam Abubakar assumes leadership of Nigeria. Abubakar institutes government reforms, frees political prisoners and promises a return to democratic government.

July 1998 — Abiola dies in prison of an apparent heart attack a day before his release, sparking violent riots.

August 1998 — Abubakar establishes the Independent National Electoral Commission to conduct elections and formalizes a timetable for return to civilian rule.

December 1998 to February 1999 — The electoral commission successfully conducts local, state, federal, and presidential elections.

February 1999 — Retired Gen. Olusegun Obasanjo is elected president, ending 16 years of military rule.

May 1999 — Moments before taking the oath of office, Obasanjo is presented a copy of the new constitution, finalized in secret by the outgoing Abubakar regime. In his first speech to a joint session of Parliament in June, Obasanjo pledges to make fighting corruption the centerpiece of his administration.

June 1999 — In a special closed session, the National Assembly debates whether to increase their housing allowances to 18 million nairas (US\$140,000) per year. The debate comes shortly after a divisive campaign by teachers and civil servants to institute a 4,000 nairas (US\$30)-per-month minimum wage.

July 1999 — Ibrahim Salisu Buhari, the first speaker of the House under Obasanjo, resigns when it is discovered that he lied about his academic background and age. Buhari pleads guilty to forgery and perjury and is fined 2,500 nairas (US\$20) but is pardoned the following year.

June 2000 — The National Assembly passes legislation to create the Independent Corrupt Practices

and Other Related Offences Commission (ICPC), which is inaugurated in September.

July 2000 — A government investigation finds evidence of inflated procurement contracts in the National Assembly, some awarded to companies in which legislators had a financial interest. High-level officials are implicated, including Senate President Chuba Okadigbo and Senate Deputy President Alhaji Haruna Abubakar.

August 2000 — Okadigbo is impeached for corruption and misappropriation of funds. After his impeachment, Okadigbo is indicted for spending public money on cars and car furnishings and resigns in October. The indictment is eventually dropped.

October 2000 — President Obasanjo is accused by eight House members of bribing them to help oust Speaker of the House Ghali Na'Abba, whom Obasanjo attacked for his corruption. The legislators dramatically unload the alleged bribes on the House floor.

October 2000 — Construction begins on one of Obasanjo's pet projects — a modern sports stadium in Abuja. The estimated cost of 49 billion nairas (US\$380 million) eventually goes hundreds of millions over budget.

February 2002 — A government anti-corruption commission issues its first indictment of a high-level official, accusing Justice Garba Abdullahi of demanding a 1.2 million naira (US\$9,000) bribe from a businessman to reverse an adverse ruling.

April 2002 — The House unanimously strikes down a measure signed into law that would have outlawed the formation of new political parties ahead of the 2003 presidential election, claiming Obasanjo had inserted new language into the bill after it was submitted to him.

August 2002 — The National Assembly accuses Obasanjo of 17 separate indictable offenses including incompetence, disregard for the rule of law and corruption.

September 2002 — The ICPC obtains its first conviction, sentencing local government chairman Emmanuel Egwuba to three years in prison for awarding a contract without budgetary approval.

January 2003 — Auditor-General Vincent Azie's report covering the 2001 financial year chronicles corruption, including a number of suspicious payments and honoraria to politicians, and criticizes all branches of government. Obasanjo fires Azie in February.

February 2003 — The National Assembly passes a bill replacing the ICPC with a less powerful anti-corruption entity, which Obasanjo subsequently vetoes. The Assembly's attempt to override the veto in May is ruled illegal by the Federal High Court.

April 2003 — Obasanjo wins re-election in the first civilian-run presidential elections since the end of military rule. International observers note serious irregularities during balloting.

November 2003 — A government report details the systematic looting of the once-prosperous Nigeria Airways airline and implicates 90 people in its downfall. The report recommends prosecution of several individuals and pursuing the 51 billion nairas (US\$400 million) looted by companies and government officials.

December 2003 — After the ICPC announces it is probing a bribery scandal involving French firm Sagem SA, Obasanjo fires Labor Minister Hussaini Zannuwa Akwanga. Sagem won a 27 billion naira (US\$214 million) contract to produce national identity cards. At month's end, prosecutors charge five people, including Akwanga and two other former ministers, with taking up to 128 million nairas (US\$1 million) in bribes from Sagem.

June 2004 — Shell, one of the largest oil contractors in Nigeria, admits it has inadvertently contributed to the country's poverty, environmental degradation, violence and corruption through its business activities but spurns calls for the company to leave. As a good faith gesture, Shell contributes millions of dollars to support various community development projects and formulates "13 big rules" to make sure those contributions are not misappropriated. It also claims to have fired 29 employees in 2003 for corruption.

March 2005 — Education Minister Fabian Osuji is fired for allegedly bribing the National Assembly to secure more funds for his ministry. He formally protests that such behavior is common at all levels of

government. In April, Senate Speaker Adolphus Wabara resigns after President Obasanjo accuses him of accepting Osuji's 51 million naira (US\$400,000) bribe.

April 2005 — President Obasanjo fires Housing Minister Alice Mobolaji Osomo after it is alleged hundreds of properties were sold below market value to top officials instead of going on public sale.

November 2005 — The European Commission approves 24.7 million euros (US\$31 million) to support the Economic and Financial Crimes Commission (EFCC) and other anti-corruption agencies. By August 2006, the EFCC in its three years of operation will have arrested and investigated more than 5,000 people, secured 82 convictions and recovered 641 billion nairas (US\$5 billion) in looted assets.

November 2005 — Former chief of police Tafa Balogun is convicted and sentenced to six months in jail for extorting more than 13 billion nairas (US\$100 million) during his three-year tenure.

December 2005 — Environment Minister Iyorchia Ayu resigns after lawmakers raise concerns about various procurement deals he handled.

December 2005 — Diepreye Alamieyeseigha, governor of the oil-rich Bayelsa state, is arrested on 40 counts of corruption and money laundering. In July 2006, British authorities return about 1 million pounds (US\$1.9 million) of the allegedly illicit gains that he stashed in British banks. Six months later, the EFCC proclaims that at least 24 state governors will face corruption charges at the end of their tenures in May 2007, when their constitutional immunity from prosecution expires.

April 2006 — Record high oil prices enable Nigeria to be the first African country to pay off its debt to the Paris Club, an informal group of financial officials from the world's richest countries.

May 2006 — The Senate rejects a proposed constitutional amendment that would have allowed President Obasanjo to run for a third term in 2007.

August 2006 — Switzerland's ambassador to Nigeria announces the 90 billion nairas (US\$700 million) looted by former president Sani Abacha and deposited in Swiss banks has almost completely been repatriated to Nigeria. A remaining 900 million nairas (US\$7 million) is still being held in the account of an unnamed Nigerian who seeks to prove that the money was honestly earned by Abacha.

Aug. 11, 2006 — Nigeria's anti-corruption agency, the Economic and Financial Crimes Commission (EFCC), says it will publish the names of all past and present political leaders who have stolen money from the treasury. Mallam Nuhu Ribadu, head of the EFCC, said more than US\$400 billion of oil revenue had been stolen. Ribadu asserts the commission will "close the accounts of those politicians who have laundered money and converted it for their political ambitions" and promises that it will closely monitor the use of revenue allocated to the three levels of government — federal, state and local — to make sure the money was not laundered.

April 2007 — Umaru Yar'Adua, head of the People's Democratic Party (PDP) wins controversial presidential elections by a landslide. He gains 70 percent of the votes, yet EU observers claim the elections do not meet international standards and are not credible. According to the European Union, around 200 people have died ever since campaigning began. The two main opposition parties tell their supporters to reject the results and demand a re-run. Muhammadu Buhari, one of the opposition candidates, and Atiku Abubakar, former vice president turned opposition candidate, accuse the governing PDP of rigging the elections. Nigeria's biggest election monitoring group says the presidential poll is so flawed that it should be scrapped and held again.

May 2007 — Nigeria's Justice minister condemns the unconstitutional handover of power between two men accused of corruption, in the state of Abia. Theodore Orji, while in police custody, won the elections for state governor in April. He was freed on bail for his inauguration ceremony. Uzor Orji Kalu, the outgoing governor, steps down early and flees the country. Elected officials in Nigeria have immunity from prosecution. Nigeria's anti-corruption agency EFCC said it wants to investigate Mr. Kalu on allegations of corruption. It warned that several politicians could seek to leave the country before their mandates and immunity from prosecution expire.

December 2007 — James Ibori, former governor of Delta State, and others are arrested by the Economic and Financial Crimes Commission (EFCC) on charges of abuse of office, corruption and money laundering. The EFCC had been investigating him over alleged money laundering and

embezzlement of Delta State funds for a few years. He was believed to have stolen tens of billions of naira during his eight-year tenure as governor of the state.

Police authorities confirm that the chairman of the EFCC, Nuhu Ribadu, will take a one-year study leave at the National Institute for Policy and Strategic Studies (NIPSS), in Kuru, Plateau State. Some critics such as Nigerian Nobel laureate Wole Soyinka believe Ribadu's removal was an effort for the ruling People's Democratic Party (PDP) to gain more control over the anti-graft agency. It has been argued that Ibori's arrest by the EFCC contributed to tensions between Ribadu and the Yar'Adua administration. Ibori, a fellow PDP member of Yar'Adua, provided key financing to Yar'Adua's presidential campaign.

January 2008 — Nigerian newspaper, *This Day*, reports, the Niger Delta's most formidable militant group, the Movement for the Emancipation of the Niger Delta (MEND), "vows to cripple oil exports from the Niger Delta region by providing arms including anti-aircraft gunships to the leader of the Niger Delta Vigilante Movement, Mr Ateke Tom in what it said was a renewed bid to counter any possible offensive by Federal Government's Joint-military Task Force against it."

February 2008 — The presidential Election Tribunal dismisses the petitions of the April 2007 presidential elections by candidates from the All Nigeria Peoples Party (ANPP), Gen. Muhammadu Buhari, and Action Congress (AC), Alhaji Atiku Abubakar. These former candidates asked that President Yar'Adua's electoral victory be annulled.

June 2008 — Nigerian newspaper, *The Daily Trust*, reports, Prince Vincent Ogbulafor, national chairman of the PDP, recommends on behalf of PDP that "a system of tenure of seven (7) years for the President, six years for Governors and three years for Local Government Chairmen. In the case of Houses of Assembly and the National Assembly elections, candidates may continue to seek re-election as long as they are electable." In April, Ogbulafor predicted that the PDP will rule Nigeria for the next 60 years.

Nigeria: Facts

The Global Integrity Report provides a mix of qualitative and quantitative information. To encourage comparisons between our data and other international datasets, we have collected a listing of some of our favorite third-party datasets below. We encourage our readers to use this data to make comparisons to the Integrity Indicators, and to use our source data in their original research. If you have done work based on the Integrity Indicators, or are considering it, we want to [hear from you](#).

[Press Freedom Index](#)

Assessment of how free media is at the national level. **Source:** Freedom House. **More Recent Year Published:** 2008. **Year Data Gathered:** 2007. **Methodology:** Expert Assessment, Scale from 0 (best) to 100 (worst).

[Economic Freedom Index](#)

Assesses the degree of market-oriented freedoms in a country at the national level. **Source:** Heritage Foundation. **Most Recent Year Published:** 2008. **Year Data Gathered:** Second half of 2006 and first half of 2007. **Methodology:** Composite data from various sources, Scale from 0 (worst) to 100 (best).

[Human Development Index](#)

Measures achievement in three basic dimensions of human development (life expectancy, educational level, and GDP per capita) at the national level. **Source:** United Nations Development Programme. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Composite data from various sources, Scale from 0 (worst) to 1 (best).

[Bribe Payers Index](#)

Assessment of the propensity of firms to bribe when operating abroad. **Source:** Transparency International. **Most Recent Year Published:** 2006. **Year Data Gathered:** 2006. **Methodology:** Original business firm survey, Scale from 0 (worst) to 10 (best).

[Corruption Perceptions Index](#)

Measures the perception of the level of corruption in countries at the national level. **Source:** Transparency International. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007 and 2008. **Methodology:** Composite data from various sources, Scale from 0 (worst) to 10 (best).

[Open Budget Index](#)

Assesses how open, transparent, and accessible national budgets are to their citizens. **Source:** International Budget Partnership. **Most Recent Year Published:** 2006. **Year Data Gathered:** 2005; **Methodology:** Expert Assessment, Scale from 0 (worst) to 100 (best).

[Failed States Index](#)

Aggregates three types of indicators (social, political and economic) which are believed to cause state failure (e.g. massive movement of refugees, internally displaced persons creating complex humanitarian emergencies, etc.). **Source:** Fund for Peace. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007. **Methodology:** Composite data from various sources utilizing a software tool that indexes and scans international and local media reports and other public documents for keywords, low (best) to high (worst).

[Worldwide Governance Indicators: Control of Corruption](#)

Measures the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests. **Source:** World Bank Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007 and 2008. **Methodology:** Composite data from various sources, Scale from -2.5 (worst) to 2.5 (best).

[Worldwide Governance Indicators: Voice and Accountability](#)

Measures the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media. **Source:** World Bank Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007 and 2008. **Methodology:** Composite data from various sources, Scale from -2.5 (worst) to 2.5 (best).

[GDP Per Capita \(PPP\)](#)

Gross domestic product based on purchasing power parity (PPP) per capita. **Source:** International

Monetary Fund. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2007. **Methodology:** Official government data.

Foreign Aid Per Capita (USD)

A measure of aid per capita, which includes both official development assistance (ODA) and official aid, and is calculated by dividing total aid by the midyear population estimate. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2006. **Methodology:** Composite data from official government data, Scale from 0 (worst) to 100 (best).

Unemployment Total (% of labor force)

A measure of the estimated unemployment rate. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Official government data, Scale from 0 (best) to 100 (worst).

Gross External Debt (USD millions)

Calculation consists of all loans and other types of borrowing (such as bonds and export credits) by the debtor owed to non-residents of the economy. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Composite data from official government data.

Poverty Rate

A measure of the percentage of the population living below the poverty line. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** Latest available data from period 1990 to 2004. **Methodology:** Official government data, Scale from 0 (best) to 100 (worst).

Gini Index

The Gini coefficient measures income inequality at the national level. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** unavailable. **Methodology:** Official government data, Scale from 0 (perfect equality) to 100 (absolute inequality).

Foreign Direct Investment, Net Inflows (as % of GDP)

Calculations based on World Bank data on foreign direct investment. **Source:** World Bank. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2005. **Methodology:** Official government data, Scale from 0 (low) to 100 (high).

Life Expectancy

Annual estimate of life expectancy at birth at the national level. **Source:** United Nations. **Most Recent Year Published:** 2007. **Year Data Gathered:** 2006. **Methodology:** Official government data, Scale from 0 (worst) to 100 (best).

Legatum Prosperity Index (Economic Competitiveness)

Measures factors that help to create economic growth and wealth accumulation. **Source:** Legatum Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2008. **Methodology:** Composite data from various sources, Scale from low (worst) to high (best).

Legatum Prosperity Index (Comparative Liveability)

Measures individual well-being of a country's citizens. **Source:** Legatum Institute. **Most Recent Year Published:** 2008. **Year Data Gathered:** 2008. **Methodology:** Composite data from various sources, Scale from low (worst) to high (best).

Religious Freedom

Assesses the degree of religious freedom at the national level in a country. **Source:** CIRI Human Rights Data Project. **Most Recent Year Published:** 2004. **Year Data Gathered:** 2003. **Methodology:** Expert assessment, 0 (government places some restrictions on religious practices) and 1 (government places no restrictions on religious practices).

Nigeria: Integrity Indicators Scorecard**Overall Score: 64 - Weak**

Category I	Civil Society, Public Information and Media	51	Very Weak
I-1	Civil Society Organizations	77	Moderate
I-2	Media	77	Moderate
I-3	Public Access to Information	0	Very Weak
Category II	Elections	62	Weak
II-1	Voting & Citizen Participation	75	Moderate
II-2	Election Integrity	79	Moderate
II-3	Political Financing	33	Very Weak
Category III	Government Accountability	62	Weak
III-1	Executive Accountability	57	Very Weak
III-2	Legislative Accountability	53	Very Weak
III-3	Judicial Accountability	67	Weak
III-4	Budget Processes	71	Moderate
Category IV	Administration and Civil Service	59	Very Weak
IV-1	Civil Service Regulations	43	Very Weak
IV-2	Whistle-blowing Measures	42	Very Weak
IV-3	Procurement	83	Strong
IV-4	Privatization	69	Weak
Category V	Oversight and Regulation	69	Weak
V-1	National Ombudsman	78	Moderate
V-2	Supreme Audit Institution	56	Very Weak
V-3	Taxes and Customs	85	Strong
V-4	State-Owned Enterprises	52	Very Weak
V-5	Business Licensing and Regulation	72	Moderate
Category VI	Anti-Corruption and Rule of Law	81	Strong
VI-1	Anti-Corruption Law	100	Very Strong

VI-2	Anti-Corruption Agency	72	Moderate
VI-3	Rule of Law	81	Strong
VI-4	Law Enforcement	73	Moderate

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

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

Score: YES

References: (Section 40, chapter 1V of the 1999 Constitution of the Federal Republic of Nigeria.

Social Scientist's Comments: The constitution guarantees freedom of association and peaceful assembly. CSOs are generally allowed to register and operate legally. However, some civil society associations that are considered militant, secessionist and violent are banned and their members are subject to prosecution for terrorist activities and treason.

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

Score: YES

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: There is no law regulating or controlling sources of funding for CSOs.

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

Score: NO

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: There is no law requiring CSOs to declare their sources of funding. The Company and Allied Matters Act of 1990 requires all organizations registered under it to file annual returns and audited accounts yearly. The audited accounts necessarily contain details of funds received and their sources. This law applies to all corporate bodies and not only CSOs. There is an ongoing initiative to make CSOs declare the sources of their funding. This initiative is being undertaken by the Special Control Unit Against Money Laundering (SCUML) and extends to lawyers, accountants and real estate professionals. The initiative is aimed at stopping money laundering and the illicit flow of funds and is run from the Financial Intelligence Unit (FIU). The initiative is still at the preparatory stage and is not yet being implemented.

2: Are good governance/anti-corruption CSOs able to operate freely?

2a *In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.*

Score: 75

References: Nigerian NIS Study, 2004, www.transparency.org.
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: CSOs that are focused on promoting good governance freely organize with little interference from the government. CSOs that are focused on promoting good governance can freely organize. Requirements for registration usually arise from donor agencies, which may require the the status of a legal entity. In these cases, registration is done under the Companies and Allied Matters Act of 1999. Also, more recently, the "know-your-customer," anti-money-laundering policy enforced by banks necessitate the registration of CSOs who otherwise cannot open accounts.

Peer Reviewer's Comments: The CSOs must also comply with the government's registration procedures at the Corporate Affairs Commission.

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

Score: 50

References: Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja Sept. 4, 2008).

Social Scientist's Comments: CSOs are free to offer opinions and engage with various aspects of the political process. In some instances, their opinions and ideas are taken into consideration in decision making, but often they are not.

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

Score: YES

References: Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: There is no reported case of a CSO on good governance being shut down within the reported period.

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

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

Score: NO

References: www.publishwhatyoupay.org/english/pdf/releases/pwyp_nigeria_160408
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008)

Social Scientist's Comments: Joel Bisnia, a member of the Publish What You Pay Campaign and founder of a Warri-based NGO (Niger Delta Professionals for Development) was recently arraigned in court on charges of treason for accompanying foreign journalists to the Niger Delta Region. Also Judith Asuni of PEACE ASSOCIATE, an NGO was detained and charged with treason for taking foreign journalists to the Niger Delta to report on environmental pollution

Peer Reviewer's Comments: Judith Asuni of Academic Associates Peace Works and some human rights groups were detained for a month and charged with treason by the federal government for visiting government-reserved areas in the Niger Delta where they were reporting on environmental pollution there, but were subsequently released in 2008.

Peer Reviewer's Comments: Bisnia was not "imprisoned" but taken to court to face charges. The court did not commit him to imprisonment either. As a matter of fact, he recently got a judgment from the court to the effect that his rights were violated as he was awarded monetary compensation.

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

Score: YES

References: Interview with Femi Falana, President of the West African Bar Association (Aug. 1, 2008).
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

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

Score: YES

References: Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: There is no reported case of a civil society activist being killed in the past year for their involvement with anti-corruption work.

n

.pdf.

der

gn

g

.

hts
al
en
ntly

t
ly
nd

n

n

n

t

4: Can citizens organize into trade unions?

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

Score: YES

References: Section 40, Chapter 1V of the 1999 Constitution.
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Constitution guarantees freedom of association, including the right to organize into trade unions. Various labor and trade unions freely organize and are quite proactive on governance issues.

4b *In practice, citizens are able to organize into trade unions.*

Score: 100

References: Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Citizens and workers are organized into several trade and labor unions that are quite active in politics.

Peer Reviewer's Comments: Most companies, including notable media houses and big financial institutions, are unionized only because they pay check-off dues, but workers in these organizations are really not allowed to belong to unions and union leaders often organize their members at the risk of losing their jobs.

5: Are media and free speech protected?

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

Score: YES

References: Chapter IV, Section 39 of the 1999 Constitution.

Social Scientist's Comments: The constitution guarantees freedom "to own, establish and operate any medium for the dissemination of information, ideas and opinions." This provision is however subject to some exceptions which necessitate operating licenses for television or wireless broadcasting stations.

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

Score: YES

References: Chapter IV, Section 39 (1) of the 1999 Constitution.

Social Scientist's Comments: The constitution guarantees freedom of speech.

6: Are citizens able to form print media entities?

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

Score: 75

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: Print media can freely organize within the scope of the laws. However, the licensing process is cumbersome and often fraught with delays.

6b *In law, where a print media license is necessary, there is an appeal mechanism if a license is denied or revoked.*

Score: YES

References: Section 39(2) of the 1999 Constitution.
Telephone Interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: The constitution provides for a right of appeal through a court process.

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

Score: 75

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center, (IPC); (Lagos, Sept. 11, 2008).
Further e-mail communication with Mr. Lanre Arogundade (Oct. 16, 2008).

Social Scientist's Comments: Print media licenses are obtained at the state level and the processing time varies from state to state. Most of the time, it takes less than one month to obtain the license.

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

Score: 75

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center, (IPC); (Lagos, Sept. 11, 2008). Further e-mail correspondence with Mr. Lanre Arogundade (Oct. 16, 2008).

Social Scientist's Comments: The costs are generally reasonable, but the process requires several visits to the approving office and this may entail additional costs. On average, the cost is about 5000 naira (US\$45.50).

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

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

Score: 25

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos. Sept. 11, 2008). Punch Newspapers, "FG Under Fire Over Channels TV Closure," (Thursday, Sept. 18, 2008, [[LINK](#)]).

Social Scientist's Comments:

The broadcast media are allowed to operate subject to the granting of an operating license by the National Broadcasting Commission. The criteria for obtaining this license, as provided under Section 9 of the National Broadcasting Commission Act of 1999, is cumbersome and expensive because the final approval comes from the President on the recommendation of the National Broadcasting Commission. The government has been known to deny licenses to people who are political opponents. On Sept. 16, 2008, the State Security Service (SSS) invaded the offices of Channels Television, a major television broadcasting station, and sealed up the premises after arresting some station staff. On Sept. 17, 2008, the government suspended the station's license alleging that they broadcast false information stating that the President of Nigeria was considering resigning on health grounds. The process followed in the closure of the station and arrest of the staff has been generally condemned.

Peer Reviewer's Comments: Registration of broadcast media is not prohibited, but is cumbersome and expensive. Owners/promoters of such businesses may, in practice, be people who have acquired much wealth through holding government positions, hobnobbing with government officials or receiving government patronage through (usually overpriced) contracts or other favors or, alternatively, it may be that some of these beneficiaries of the licenses are supported by or fronting for other moneybags. I am not aware of any license application denied to people supporting the opposition. I am, however, aware of subtle harassment of broadcast stations and their staff by government agencies, especially in the States, if the station is believed to be amenable to the broadcast of unfavorable information about the government or government officials.

7b *In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.*

Score: YES

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: An aggrieved party can bring an action in Court to challenge unlawful denial of a license under section 42 of the 1999 Constitution.

7c *In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.*

Score: 25

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).
Telephone interview with Mr. Akin Akingbulu, Institute of Media and Society, (Oct. 16, 2008).

Social Scientist's Comments: The process of obtaining a broadcasting license is fraught with delays and takes a long time. There have been instances where applications have been pending for ten years. The National Broadcasting Commission Act 1992 does not give the National Broadcasting Commission (NBC) full regulatory powers to grant licenses. The license application is filed with the NBC, but it has to be forwarded to the Information Minister for approval. The minister, in turn, ultimately has to forward the application to the President for final approval. This process is cumbersome and takes years, even in cases of successful applications. Most often applications are not successful, especially for groups and individuals perceived to be critical of the government.

7d *In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.*

Score: 50

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).
Telephone interview with Mr Akin Akingbulu, Institute of Media and Society, (Oct. 16, 2008).

Social Scientist's Comments: The cost of obtaining a broadcasting license is quite high. The application form alone costs 60,000 naira (US\$510.00). The licensing fee for category A radio stations (those located in Abuja, Lagos and Porthacourt) is 20 million naira (US\$169,981) while the fee for the rest of the country is 15 Million naira. For television licenses, a Category A license costs 15 million naira (US\$127,486) while the cost for a Category B license is 11,250,000 naira (US\$95,614). An additional constraint is that licenses are granted for a period of five years after which the grant undergoes review. After the review, full licensing fees are required to be paid again. In addition to the licensing fees, there is an additional charge of 2.5 percent of the annual revenue of the radio and television station which is paid annually.

8: Can citizens freely use the Internet?

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

Score: 100

References: Telephone interview with Mr. Lanre Arogundade, Coordinator International Press Center, (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: The government does not prevent Internet users from accessing online content.

8b *In practice, the government does not censor citizens creating content on-line.*

Score: 100

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: There has not been any reported case of government attempts to restrict information or discussions that are posted online.

9: Are the media able to report on corruption?

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

Score: YES

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: Media reports are regulated only by the libel laws. It is legal to report news that is damaging to the reputation of public figures as long as it is accurate.

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

Score: 75

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: Self-censorship of private media companies is not common. However, there have been instances of journalists receiving threats from corporate bodies. Also, the fear of losing advertising sometimes makes media outlets reluctant to publish certain stories. As for government-owned media, they undergo prior censorship. They already know which stories they are not allowed to publish. In corruption cases, they mostly publish news of the arrests and prosecution that they receive from anti-corruption agencies, but they do not go further into the investigation.

Peer Reviewer's Comments: Big private media owners are either politicians or have close ties to those in government, so, to a large extent, there is self-censorship. Stories of corruption are only allowed as long as they do not hurt the interests of the media owners or the interests of their close business associates.

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

Score: 50

References: Telephone interview with Mr Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: Prior government censorship of privately owned print and electronic media is rare. However, the government does engage in prior censorship of government-owned media.

10: Are the media credible sources of information?

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

Score: YES

References: Telephone interview with Mr Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: The application process for a print media license requires that a Limited Liability Company(LLC) be registered under the Companies and Allied Matters Act (CAMA) of 1990. The process requires that the directors be named in the form for Particulars of Directors.

Peer Reviewer's Comments: Big private media owners are either politicians or have close ties to those in government, so, to a large extent, there is self-censorship. Stories of corruption are only allowed as long as they do not hurt the interests of the media owners or the interests of their close business associates.

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

Score: YES

References: Section 9, National Broadcasting Commission Act of 1999. Telephone interview with Mr. Lanre Arogundade, Coordinator International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: The act requires that an applicant for a broadcasting license must be a corporation that is registered under the Companies and Allied Matters Act of 1990 (CAMA). The process requires a filing of the particulars of directors. Also, the application form contains a provision for disclosing names and nationalities of directors and shareholders of the applicant's corporate body.

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

Score: 50

References: Telephone interview with Mr. Lanre Arogundade, Coordinator International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: Nigerian journalists are reputed to accept "brown envelopes" (containing tips and gratuities). Often they will not report on issues unless they have been given these "brown envelopes." It can also be assumed that they can withhold or alter their reporting in exchange for these.

Peer Reviewer's Comments: Cases of cash-for-stories are as real as blackmail. Many editors in major newspapers often double as public relations advisers for wealthy politicians or major businesses. Most major news organizations don't have an ombudsmen or a code of ethics.

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

Score: 50

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: Media coverage is tilted in favor of the ruling Peoples Democratic Party (PDP).

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

Score: 25

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: The Electoral Act of 2006 provides that all government print or electronic media shall give equal access on a daily basis to all registered parties or candidates of such parties. It also prescribes a fine and possible withdrawal of license for denial of such access (Section 102[1] & [2]).
Furthermore, a media advisory, adopted by media owners and advocates (Newspaper Proprietors Association of Nigeria [NPAN], Nigerian Guild of Editors [NGE], Nigeria Union of Journalists [NUJ], and the Nigerian Press Council [NPC]) prior to the 2007 elections, provided for among others things, balance and impartiality in the coverage of the elections. Despite these measures, the reality is that the ruling People's Democratic Party (PDP) was given more coverage than other political parties.

Peer Reviewer's Comments: Although many laws and regulations exist to ensure equal opportunity to all political parties and candidates to access state-run media, in practice the party and candidates in control take advantage over the others.

The gravity of the situation is worsened at the state and local levels where state governors run near absolute governments and ensure that state government-owned media do not give access to opposition views.

Sometimes the managers of state-run media houses, in their zeal to curry favor with the government, willfully exclude the opposition from getting adequate or fair coverage.

Peer Reviewer's Comments: The state governors who finance these media outlets hijack them for propaganda, thereby excluding the opposition.

11: Are journalists safe when investigating corruption?

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

Score: YES

References: Telephone interview with Mr. Lanre Arogundade, Coordinator International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: There are no reported cases of journalists being imprisoned for reporting on corruption.

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

Score: NO

References: Chris Ochayi, "Vanguard Staff Manhandled at NNPC Over Question on Transparency," [\[LINK\]](#) (Wed., Aug. 20, 2008). Telephone interview with Mr. Lanre Arogundade, Coordinator International Press Center (IPC); (Lagos, Sept. 11, 2008).

Social Scientist's Comments: A recent media report says that Luka Binniyata, who reports on energy issues for one of the Vanguard daily newspapers, was manhandled at the premises of the Nigerian National Petroleum Corporation (NNPC) for asking an irksome question on transparency within the organization.

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

Score: YES

References: Telephone interview with Mr. Lanre Arogundade, Coordinator, International Press Center (IPC); (Lagos Sept. 11, 2008).

Social Scientist's Comments: There are no reported cases of journalists being killed for reporting on corruption. Recently, Abayomi Ogundeji, a journalist and a member of the editorial board of the Lagos-based daily newspaper This Day was shot, apparently by armed robbers. However, there have been strong calls to thoroughly investigate the case to determine who the assassins were. The police are still investigating.

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

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

Score: NO

References: S.39 [3] [a] and [b] of chapter 1V of the the 1999 Constitution.

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

Peer Reviewer's Comments: The Freedom of Information bill has been pending in the National Assembly since 1999 and hopes of its passage appear gloomier by the day as federal legislators drag their feet on this piece of legislation that was expected to guarantee easy access to public information.

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

Score: NO

References: Interview with Mr .Edet Ojo, Executive Director, Media Rights Agenda (MRA), Economic Community Of West African States (ECOWAS) Secretariat (Abuja, Sept. 12, 2008).

Social Scientist's Comments: There is no Access to Information Law which can provide a basis for a right to access information and resultant appeal process.
An NGO, the Media Rights Agenda (MRA) took the Code of Conduct Bureau (CCB) to court (Incorporated Trustees of Media Rights Agenda v. The Code of Conduct Bureau, et al) to get access to the Asset Declaration of then-President Olusegun Obasanjo. MRA lost the case on the basis that the existing legal framework does not allow the CCB to grant access to the required information

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

Score: NO

References: Interview with Mr. Edet Ojo, Executive Director, Media Rights Agenda (MRA), Economic Community Of West African States (ECOWAS) Secretariat, (Abuja, Sept. 12, 2008).

Social Scientist's Comments: There is no Freedom of Information Law that provides a basis for this mechanism.
The Freedom of Information Bill has been in the Nigerian National Assembly since 1999. It has not yet been passed into law.

13: Is the right of access to information effective?

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

Score: 0

References: Interview with Mr. Edet Ojo, Executive Director, Media Rights Agenda (MRA), ECOWAS Secretariat (Abuja, Sept. 12, 2008).

Social Scientist's Comments: There is no right of access to Information. The Freedom of Information Bill is yet to be passed into law. Such requests are therefore subject to the whims and caprices of the particular government department or official. Often such requests are denied.

13b *In practice, citizens can use the access to information mechanism at a reasonable cost.*

Score: 0

References: Interview with Mr. Edet Ojo, Executive Director Media Rights Agenda (MRA), ECOWAS Secretariat (Abuja, Sept. 12, 2008).

Social Scientist's Comments: The issue of cost does not arise as there is no right of access to information.

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

Score: 0

References: Interview with Mr. Edet Ojo, Executive Director, Media Rights Agenda (MRA), ECOWAS Secretariat (Abuja, Sept. 12,).2008

Social Scientist's Comments: The issue of appeal on access to information requests does not arise because there is no right of access to information.

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

Score: 0

References: "Why Reps Must Pass FOI Bill Without Defects," Punch Newspapers, www.punchng.com, (Aug. 8 2008).
Interview with Mr. Edet Ojo, Executive Director, Media Rights Agenda (MRA), ECOWAS Secretariat (Abuja, Sept. 12, 2008).

Social Scientist's Comments: There is no right of access to information, so the issue of cost does not arise.

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

Score: 0

References: "NSCIA Pleads for Passage of FOI Bill," The Nation (Fri., Aug. 8, 2008).
Interview with Mr. Edet Ojo, Executive Director, Media Rights Agenda (MRA), ECOWAS Secretariat, (Abuja, Sept. 12, 2008).

Social Scientist's Comments: There is no right of access to information, so there is no need to give reasons for denial of access.

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

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

Score: YES

References: Sections 10[1] and 13[1] of the Electoral Act 2006.
Section 50 of the Electoral Act 2006.

Social Scientist's Comments: All citizens 18 years of age and above are entitled to be registered as voters when they present themselves for registration; after that, they have a right to vote.
Section 13 of the Electoral Act provides for the registration of voters if they are citizens of Nigeria and eighteen years of age.
Section 50 provides that the presiding officer shall issue a ballot paper to individuals who present themselves if their names are on the list of registered voters.

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

Score: YES

References: S153[1][f] and Part I, Third Schedule, of the 1999 constitution.
Electoral Act of 2006.

15: Can all citizens exercise their right to vote?

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

Score: 100

References: Section 50, Electoral Act of 2006.
Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN Foundation; Chairman, Transition Monitoring Group (TMG [2005- Feb. 2008]); (Sept. 1, 2008).

Social Scientist's Comments: All adult citizens who have registered are entitled to vote. The right to vote is open to all citizens who are eighteen years of age and subject to registration and inclusion in the votes registration list.

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

Score: 50

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN Foundation; Chairman, Transition Monitoring Group (TMG [2005- Feb. 2008]); (Sept. 1, 2008).
Section 53 [1] and [4], Electoral Act 2006.

"Nigeria: Presidential Election Marred by Fraud, Violence, [Human Rights Watch, [LINK](#)].

"Nigeria: "Elections Below Acceptable Standards," Preliminary Findings of IRI's [International Republican Institute] International Election Observation Mission, [LINK](#)].

Social Scientist's Comments: Section 53 [1] of the Electoral Act 2006 provides that voting shall be by open secret ballot. This means that a voters shall indicate their choice of candidate in secret and drop the ballot in the ballot box in open view of the public [Section 53[4] Electoral Act 2006]. Despite this law, there are several reported cases of ballot boxes being snatched or tampered with by unauthorized persons.

15c *In practice, elections are held according to a regular schedule.*

Score: 75

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN Foundation; Chairman, Transition Monitoring Group (TMG [2005- Feb. 2008]); (Sept. 1, 2008).

Social Scientist's Comments: The 1999 Constitution provides specific tenures for elected public officials and elections are held according to these tenures.

Peer Reviewer's Comments: While I agree that elections conducted by the national electoral body have all been held on schedule, elections for the third tier of government (local government) have nearly all failed to have been held as scheduled.
Those elections are meant to be conducted by various state governments, but have so far been held at the pleasure of the respective state governors only when they are convinced that their

political interests will be protected. While the state laws provide fixed terms for the local governments, most state governors find it convenient to appoint interim local governments while delaying to conduct new elections.

We have had cases of back-to-back appointments of interim local governments, against the spirit of the constitution, which states that the system of local governments by a democratic means is guaranteed.

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

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

Score: YES

References: Section 40, 1999 Constitution.
Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN Foundation; Chairman, Transition Monitoring Group (TMG [2005- Feb. 2008]); (Sept. 1, 2008).

Social Scientist's Comments: The constitution provides that every person shall have a right to associate freely and, in particular, may form or belong to any political party, trade union, or any other association for the protection of his interests.

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

Score: NO

References: Section 32, Electoral Act 2006.

Social Scientist's Comments: Citizens generally have a right to run for political office, subject to certain restrictions relating to age for certain offices; they must also belong to registered political parties. However, Section 32 of the Electoral Act 2006 provides that political parties must be the ones who submit the names of candidates, not the individuals themselves.

Candidates must be on party lists and must be sponsored and fielded by the political parties.

Peer Reviewer's Comments: There is a dangerous trend in the political primary process called a consensus candidate, whereby a cabal in a political party muscled out all other candidates from the primaries, thereby allowing a single candidate favored by the cabal to emerge as the consensus candidate of the party. Threats, blackmails and all manner of subterfuge are employed to achieve this aim.

Peer Reviewer's Comments: Nigerians with dual citizenship may not run for certain offices.

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

Score: 100

References: Section 40, Chapter 1V, 1999 Constitution.
INEC & Ors v Musa & Ors (2003) 3NWLR (Pt. 806) 72 at 150.
Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN Foundation; Chairman, Transition Monitoring Group (TMG [2005- Feb. 2008]); (Sept. 1, 2008).

Social Scientist's Comments: The 1999 Constitution guarantees the right to peaceful assembly, which includes the right to form or belong to a political party. There is also a court judgment which effectively removes restrictions to the registration of political parties.

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

Score: 0

References: Sections 65[2][b], [National Assembly]106[d], [State Assemblies], and 131[c] President, and 177[c] [Governors of States], 1999 Constitution.

Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN Foundation; Chairman, Transition Monitoring Group (TMG [2005- Feb. 2008]); (Sept. 1, 2008).

Social Scientist's Comments: There is no provision for independent candidates. According to the 1999 Constitution all candidates have to be sponsored by political parties. Candidates must be on party lists and must be sponsored and fielded by the political parties. As a result, citizens' aspirations for political office are dependent on the whims and caprices of political parties whose processes are fraught with irregularities and corruption. A lot of the electoral petitions regarding the 2007 elections are based on irregularities in the nominations of the political parties leading to wrongful exclusions and other forms of misconduct.

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

Score: 50

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN Foundation; Chairman, Transition Monitoring Group (TMG [2005- Feb. 2008]); (Sept. 1, 2008).

Social Scientist's Comments: There is a main opposition party called the Action Congress. There are also smaller opposition parties such as the All Nigerian Peoples' Party (ANPP) that are represented in the legislature.

17: Is there an election monitoring agency or set of election monitoring agencies/entities?

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

Score: YES

References: The Independent National Electoral Commission (INEC) set up under Section 153[1][f] of the 1999 Constitution.
The State Independent Electoral Commissions, (SIEC), set up under Section 197[1][b] of the 1999 Constitution.

18: Is the election monitoring agency effective?

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

Score: YES

References: Section 157[1] of the 1999 Constitution.
Section 201[1] of the Constitution.

Social Scientist's Comments: The Independent National Electoral Commission (INEC) has a formal structure and members of the Commission have security of tenure provided under Section 157[1] of the 1999 Constitution. They are appointed by the President and subject to confirmation by the Senate and are removed by the President subject to support by a two-thirds majority of the Senate. A similar provision applies to members of the State Independent Electoral Commission (SIEC) under Section 201[1] of the Constitution.

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

Score: 50

References: Sections 153, 155, 157 & 158 of the 1999 Constitution.
Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman Transition Monitoring Group (TMG [2005- Feb 2008]); (Sept. 1, 2008).

Social Scientist's Comments: The law provides for security of tenure of the key staff of the Independent National Electoral Commission-INEC. However, the appointments are made by the President who is a member of a political party. Often people with clear affiliations have been appointed INEC officials and have been known to be partisan in the execution of their duties.

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

Score: 100

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG [2005- Feb 2008]); (Sept. 1, 2008).

Social Scientist's Comments: The Independent National Electoral Commission (INEC) has a professional full time staff.

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

Score: 50

References: Independent National Election Commission (INEC) website, www.inecnigeria.org.
[\[LINK\]](#).

Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG [2005- Feb 2008]); (Sept. 1, 2008).

Social Scientist's Comments: Such information includes lists of registered political parties; summary of election petitions in 2007; and lists of candidates and election results. However, the reports are not usually on time and give limited information.

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

Score: 25

References: Sections 12-139, Electoral Act 2006.
Musikilu Mojeed, "NEC Orders PDP to Conduct Fresh Congresses in 10 States," [[LINK](#)] (Monday, Aug. 11, 2008)
"INEC Investigates PDP, AC, Others," [[LINK](#)].
:Alao-Akala Dares INEC, Says No Fresh PDP Congress in Oyo by Sunday Aborisade, Ibadan, [[LINK](#)] (Fri., Aug. 15, 2008). Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG [2005- Feb 2008]); (Sept. 1, 2008).

Social Scientist's Comments: The Electoral Act of 2006 has provisions for conduct of Political parties and other citizens and also defines electoral offenses. However the enforcement is not thorough and structured. Despite the huge misconduct observed in the 2007 elections, the Independent National Electoral Commission (INEC) has not prosecuted anybody for criminal offenses. Little effort is made to regulate the conduct of political parties.

19: Are elections systems transparent and effective?

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

Score: 50

References: Sections 10-25, Electoral Act of 2006.
Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG [2005- Feb 2008]); (Sept. 1, 2008).

Social Scientist's Comments: The act provide a structure and process for a transparent voter registration. However, the implementation is fraught with problems ranging from unavailability of registration materials to lack of access to registration booths caused by inadequate distribution. There is also outright disruption of the process. Many people were unable to register and a number of those who did were unable to vote because an incomplete voter registration list was produced for the elections. Many people were disenfranchised.

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

Score: YES

References: Sections 140-151, Electoral Act 2006.
The Independent National Election Commission (INEC) website, www.inecnigeria.org.
Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG [2005- Feb 2008]); (Sept. 1, 2008).

Social Scientist's Comments: The act provides for challenging election results and the conduct of elections through election petitions.
A summary of election petitions in respect of the 2007 elections is posted at the Independent National Election Commission (INEC) website.
The 2007 elections generated a lot of controversy and many election petitions. A number of elections were annulled and in some cases by-elections were ordered.

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

Score: 75

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG [2005- Feb 2008]); (Sept. 1, 2008).

Social Scientist's Comments: Under the law, election petitions are entitled to go through an appeal process. Parties can appeal as far up as the court of appeals regarding elections to all other offices; for the presidential election, they can appeal to the supreme court.

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

Score: 50

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG [2005- Feb 2008]); (Sept. 1, 2008).

Social Scientist's Comments: There have been reported cases of security agencies, especially the police, engaging in partisan behavior during elections.

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

Score: YES

References: Network of Mobile Election Monitors(NMEM) report, [\[LINK\]](#).

Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG [2005- Feb 2008]); (Sept. 1, 2008).

Social Scientist's Comments: There is no specific law allowing for election monitoring. It is at the discretion of the Independent National Election Commission (INEC) which exercises its rule according to its whims and caprices. For instance, local monitors were not accredited until a few days before the 2007 elections. However, the 2007 elections was monitored by domestic observers such as the Transition Monitoring Group (TMG) and international observers such as the European Union and the Network of Mobile Election Monitors (NMEM).

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

Score: 50

References: "Stop Passing Buck, TMG Tells Iwu," [\[LINK\]](#) (July 5, 2008). Compilation of Press Releases issued by the Transition Monitoring Group (TMG), [\[LINK\]](#).

Social Scientist's Comments: Observers effectively monitor elections, but their reports are largely ignored by the government and the Independent National Electoral Commission (INEC).

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

20a *In law, there are regulations governing private contributions to political parties.*

Score:	YES
References:	Section 225 of the Constitution.
Social Scientist's Comments:	Regulates the funding of political parties, including restrictions on donations from outside Nigeria.
Peer Reviewer's Comments:	Even though the constitution and the Electoral Act provide restrictions on campaign funding, adherence is hardly attained. In 2003, the head of Nigeria's stock exchange openly rallied around businesses under the name Corporate Nigeria to raise funds to support the re-election campaign of then President Olusegun Obasanjo.

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

Score:	YES
References:	Section 92 of the Electoral Act 2006.
Social Scientist's Comments:	Empowers the Independent National Electoral Commission (INEC) to place limitations on the amount or assets an individual or corporate body can contribute to a political party.
Peer Reviewer's Comments:	Monitoring mechanisms are ineffective and do not ensure compliance with this law and other political financing laws in Nigeria.
Peer Reviewer's Comments:	But this law is greatly abused because politicians secretly give money to their parties to enhance their chances of election into public offices.

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

Score:	YES
References:	Section 93[9] of the Electoral Act 2006. Section 221, 1999 Constitution.
Social Scientist's Comments:	Provides that no individual or other entity shall donate more than 1 million naira (US\$8,944) to any candidate. Provides that "No association other than a political party shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to the election expenses of any candidate at an election." It has been argued that this section debars corporate bodies from donating to political parties.

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

Score:	YES
---------------	------------

References: Section 93 of the Electoral Act 2006.
Section 93[1] of the Electoral Act 2006.

Social Scientist's Comments: Places a limitation on election expenses for categories of elective offices.
Provides that election expenses shall not exceed the sums specified under the offices.

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

Score: YES

References: Section 92[2]of the Electoral Act 2006.

Social Scientist's Comments: Requires that every political party maintain a record of all contributors and the amount contributed.

20f In law, there are requirements for the independent auditing of the finances and expenditures of political parties.

Score: YES

References: Section 225 of the 1999 Constitution.
Section 226 of the 1999 Constitution.

Social Scientist's Comments: Requires every political party to submit to the Independent National Election Commission (INEC) a statement of its assets and liabilities. Provides that the INEC shall yearly submit to the National Assembly a report on the accounts and balance sheet of every political party. In the process of preparing this report, the INEC shall have access to the account books and records of the political parties

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

Score: YES

References: Section 225 of the 1999 Constitution.

Social Scientist's Comments: Gives the Independent National Electoral Commission (INEC) the legal power to monitor the financing of political parties.

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

21a *In law, there are regulations governing private contributions to individual political candidates.*

Score: YES

References: Section 93[9] of the Constitution.

Social Scientist's Comments: Sets a limit of 1 Million naira (US\$8,944) on contributions to individual political candidates by private individuals and all other entities.

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

Score: YES

References: Section 93[9] of the Electoral Act 2006.
Section 221, 1999 Constitution.

Social Scientist's Comments: Sets a limits on the amount of money or other assets of up to 1 million naira (US\$8,944) an individual can contribute to a political candidate.
Provides that no association other than a political party can contribute to the election expenses of any candidate during an election.

Peer Reviewer's Comments: This law is largely disobeyed and hardly implemented.

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

Score: YES

References: Section 221, 1999 Constitution.

Social Scientist's Comments: Prohibits corporate donations to individual political candidates: "No association other than a political party shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to the election expences of any candidate at any election."

Peer Reviewer's Comments: This law is largely disobeyed. In 2003, a group of businesses which called itself 'Corporate Nigeria' raised so much funds in suport of President Obasanjo's re-election, contrary to this law and no action was taken against them.

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

Score: NO

References: S.225, 1999 Constitution.
S.93[2], 1999 Constitution.

Social Scientist's Comments: Requires political parties to submit to the Independent National Election Commission (INEC) details and analysis of its sources of funding.
Requires political parties to maintain records of all contributors and contributions. However, there is no requirement to disclose donations to individual candidates.

21e In law, there are requirements for the independent auditing of the campaign finances of individual political candidates.

Score: YES

References: Section 93 of the Electoral Act 2006.

Social Scientist's Comments: Places a limit on the election expenses of individual candidates. It is therefore presumed that this provides a basis for monitoring and auditing of the finances of individual candidates.
The law states as follows: "The maximum election expenses to be incurred by a candidate at a Presidential election shall be N500,000,000 (US\$4,248,629)." The section goes on to provide ceilings for other elections such as Governorship, Senate, House of Representatives, etc. The reference here is to candidates and not political parties.

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

Score: YES

References: Electoral Act of 2006
S. 93, Electoral Act of 2006.
S. 92, Electoral Act of 2006.
S. 65, 1999 Constitution.

Social Scientist's Comments: The financing of political parties is monitored by the Independent National Election Commission (INEC).
Sets a limit on spending for different categories of elective offices.
Political parties are required to maintain records of donations. There is no provision in the law compelling individual candidates to submit accounts.
By law, all candidates must run under a political party.[]

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

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.*

Score: 0

References: Nigerian Integrity System Study, Transparency International, www.transparency.org. (2004, on the Governor Ngige saga). Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Interview with Emma Ezeazu

Social Scientist's Comments: The limits on individual donations are not effective at all. The "godfather" syndrome whereby one or two rich individuals bankroll the election of some candidates still persist. This gives the financiers undue influence and control over state affairs.

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.*

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008). Interview with Emma Ezeazu, Coordinator, Alliance for Credible Elections.

Social Scientist's Comments: Corporate bodies contribute to political parties without check despite the provisions of section 221, 1999 Constitution which prohibits corporate donations to political parties or individual candidates.

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.*

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: The limits are not effective at all. Political parties flout the regulations with impunity and "money politics" is still the order of the day.

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

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: There are no known cases of the Independent National Election Commission (INEC) initiating investigations over the finances of political parties.

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

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: There has not been a reported case of the Independent National Election Commission (INEC) imposing a penalty on a political party for infringing party financing guidelines.

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

Score: 25

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: The auditing of contributions to political parties are not thorough and there is no public access to the results (if any) of the audits.

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

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

Score: 0

References: Nigerian National Integrity Study 2004, www.transparency.org. Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: The limits are not effective and rich individuals still substantially sponsor a candidate with the aim of controlling the workings of government. This is known as the "godfather syndrome."

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

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: Corporate organizations still make donations to candidates despite the legal restrictions. The law is not enforced at all.

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

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: There are no reported cases of the Independent National Electoral Commission (INEC) initiating investigations on this issue.

23d *In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.*

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: There are no reported cases of the Independent National Electoral Commission (INEC) imposing penalties on offenders.

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

Score: 0

- References:** Section 225, 1999 Constitution.
Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).
- Social Scientist's Comments:** The law only requires the audit of accounts of political parties and not that of individual candidates. The Electoral Laws and the Constitution does not provide for independent candidates.
- Peer Reviewer's Comments:** There was a recent report about the audit report issued by the Independent National Electoral Commission (INEC) on the Accounts of Political Parties, including an observation that the accounts of most of the parties were either not kept or not properly kept. In other words, there is a system (on both sides) that cannot be vouched for.

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

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

Score: 25

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: Political parties are required to submit the records of their financial expenditure to the Independent National Election Commission (INEC). The financial report is required to be submitted annually. However these records are not made public. There is no access to information law that would answer the public demand for access to such records.

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

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: Citizens have no access to the financial records of political parties.

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

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: The issue of cost does not arise as citizens have no access to such records.

25: Can citizens access records related to the financing of individual candidates' campaigns?

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

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: Individual political candidates are not required to disclose data relating to their financial support. There are no known cases where they make such disclosure.

25b *In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.*

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: Citizens do not have access to such records. Moreover such records are unlikely to exist as they are not required by law to be kept.

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

Score: 0

References: Telephone interview with Mr. Innocent Chukwuma, Executive Director, CLEEN FOUNDATION; Chairman, Transition Monitoring Group (TMG; 2005-Feb. 2008); (Sept. 1, 2008).

Social Scientist's Comments: The issue of cost does not arise as citizens do not have access to such records.

26: Can citizens sue the government for infringement of their civil rights?

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

Score: YES

References: Chapter IV of the 1999 Constitution.

Social Scientist's Comments: Provides for fundamental human rights which include right to life; right to dignity of human person; right to personal liberty; right to fair hearing; right to private and family life; right to freedom of thought, conscience and religion; right to freedom of expression and press; right to peaceful assembly and association; right to freedom of movement; right to freedom from discrimination; and right to acquire and own immovable property anywhere in Nigeria.
Furthermore, the African Charter on Human and Peoples' Rights has also been accepted in Nigeria and is now part of the domestic legal framework.

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

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

Score: 50

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: Most of the time, the Chief executive gives reasons and explanations for his policy decisions.

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

Score: YES

References: The 1999 Constitution. Attorney General of Abia State v. Attorney General of the Federation and 19 others (SC. 73/2006).

Social Scientist's Comments: The Constitution, in addition to other laws, has provisions to that allow for judicial interrogation and review of executive actions. This ranges from challenges to infringement of constitutional rights to issues under the Law of Contract and Law of Tort. State and Local governments can also challenge actions of the Federal government in court and vice versa.

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

Score: 100

References: Attorney General of Ondo State v. Attorney General of the Federation (1983) 2 S.C.N.L.R. 269.

Social Scientist's Comments: There are many decided cases of judicial review and annulment of executive actions.

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

Score: 75

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: Most government policies and practices are backed by law.

28: Is the executive leadership subject to criminal proceedings?

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

Score: NO

References: Section 308 of the 1999 Constitution.

Social Scientist's Comments: Prohibits civil or criminal proceedings against the president, vice-president, the governor and deputy governor of a state while they are in office.

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

Score: YES

References: "Health Ministers, Grange, Aduku Resign Over Graft Charges," Guardian Newspapers, [LINK](#), ptitle=Health%20ministers,%20Grange,%20Aduku%20resign%20over%20graft%20charg (Wed. March 26, 2008).

"Charges against Grange, Aduku, Others," Punch Newspapers, [LINK](#), (9th April 2008).

Social Scientist's Comments: Ministers do not enjoy immunity from prosecution while in office. Currently, former Minister of Education Professor Fabian Osuji is undergoing prosecution for bribing the senate president and other members of the National Assembly. Both the Minister and the senate president were removed from office as a result of the scandal. Also former Minister of Health, Professor Adenike Grange was removed from office and is being prosecuted for embezzlement of public funds.



es,

r

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

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

Score: YES

References: The Code of Conduct Bureau and Tribunal Act, Cap 56, Laws of the Federation.
Section 11, Code of Conduct for Public Officers, Part 1 of the 5th Schedule, 1999 Constitution.

Social Scientist's Comments: The code requires that all public officials (including the president, vice-president, governors and their deputies), to declare their assets before assuming office; at the end of every four years; and at the end of their term of office.

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

Score: YES

References: The Code of Conduct for Public Officers, the Code of Conduct Bureau and Tribunal Act, Cap 56, Laws of the Federation.
Part 1 of the 5th schedule to the 1999 Constitution.

Social Scientist's Comments: Both apply to Ministers.

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

Score: YES

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

Social Scientist's Comments: Both regulate the giving and receipt of gifts by public officers including the president and his vice president as well as the governors and their deputies.

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).*

Score: YES

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

Social Scientist's Comments: The Code of Conduct Bureau, which is an agency established by statute, verifies the asset declaration of public officials.

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

Score: NO

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

Social Scientist's Comments: Provides that a retired public officer on pension shall not accept more than one remunerative position as chairman, director, or employee of a company controlled by the government or in any public authority. Prohibits the president, vice president, governor and deputy governor of a state from service or employment in foreign companies or foreign enterprises. Other than these rules, there is no other post service restrictions on entering the private sector.

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

Score: 25

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The restriction as it exists is seldom enforced.

Peer Reviewer's Comments: There are no restrictions on private-sector employment for former public officials. The only such restriction in Nigeria has to do with judges, who are not allowed to practice as barristers/advocates in court after retirement.

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

Score: 25

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The regulations are rarely enforced and are therefore not effective.

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

Score: 50

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The Code of Conduct Bureau verifies asset declaration by public officers, but due to limited capacity within the Agency, this process is not thorough and not carried out across the board.

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

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

Score: NO

References: Declaration of a former President Obasanjo while he was in office.
Incorporated Trustees of Media Rights Agenda v. Code of Conduct Bureau.
Nigerian National Integrity Systems Study 2004, www.transparency.org.

Social Scientist's Comments: The asset declaration of public officials are not accessible to the public. A nongovernmental organization (NGO), Media Rights Agenda, has unsuccessfully sued the Code of Conduct Bureau in an attempt to gain access to the asset declarations.

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

Score: 0

References: Nigerian National Integrity Study 2004, www.transparency.org.

Social Scientist's Comments: Citizens have no access at all to the asset declarations of public officials.

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

Score: 0

References: Nigerian National Integrity Study 2004, www.transparency.org.

Social Scientist's Comments: There is no provision for citizens to access the asset declarations of public officials.

31: Official government functions are kept separate and distinct from the functions of the ruling political party.

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

Score: 50

References: Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Sometimes the boundaries between State and Party issues are effaced. There have been instances when government vehicles are used for political campaigns. Also presidential official visits have been used by members of the president's party for mobilization especially in states where the opposition is in charge.

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

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

Score: YES

References: Chapter VII 1999 Constitution.
Attorney General of Ondo State v. Attorney General of the Federation & 35 Ors (2002), 14 WRN 1.

Interview with Mr Femi Falana, President, West African bar Association (Aug. 1, 2008).

Social Scientist's Comments: The judiciary has powers to review laws passed by the executive and assesses it for compliance with the Constitution and other laws. Ondo State v. Federation is an example of where the judiciary reviewed the Corrupt Practices and Other Related Offences Act 2000. Some sections of the law were excised but the court held that the federal government has the power to make the law.

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

Score: 100

References: Attorney General of Ondo State v. Attorney General of the Federation & 35 Ors (2002) 14 WRN 1.
Interview with Mr Femi Falana, President, West African Bar Association (Aug. 1, 2008).

Social Scientist's Comments: The judiciary has, at various times, reviewed laws made by the legislature.

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

Score: YES

References: The law does not provide for immunity for members of the Legislature.

Social Scientist's Comments: The law does not provide for immunity for members of the Legislature.

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

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

Score: YES

References: Section 52, 1999 Constitution.

Social Scientist's Comments: Makes it mandatory for all members of the National Assembly to declare their assets and liabilities before taking their seats.

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

Score: NO

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

Social Scientist's Comments: There are no restrictions on entering the private sector for national legislators.

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

Score: YES

References: Section 6, Code of Conduct for Public Officers, Part 1, 5th Schedule, 1999 Constitution.
Interview with Auwal Musa Rafsanjani, Executive Director, Civil Society Legislative Advocacy Center (CISLAC); (Abuja, Sept. 17, 2008).

Social Scientist's Comments: Members of the National Assembly are public officers under the Code of Conduct for Public Officers and are subject to restrictions on gifts and benefits under the Code.
In addition, the National Assembly has developed a Code of Conduct for Parliamentarians that has been adopted by the legislators.

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

Score: YES

References: The Code of Conduct Bureau verifies the Asset Declaration of Public Officers.

Social Scientist's Comments: The Code of Conduct Bureau verifies the Asset Declaration of Public Officers.

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

Score: 0

References: Interview with Auwal Musa Rafsanjan, Executive Director, Civil Society Legislative Advocacy Center, (CISLAC); (Abuja, Sept. 17, 2008).

Social Scientist's Comments: There are no post-government employment restrictions for national legislators.

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

Score: 0

References: Interview with Auwal Musa Rafsanjan, Executive Director, Civil Society Legislative Advocacy Center, (CISLAC); (Abuja, Sept. 17, 2008).

Social Scientist's Comments: The regulations on gifts and hospitality are not enforced.

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

Score: 25

References: Interview with Auwal Musa Rafsanjan, Executive Director, Civil Society Legislative Advocacy Center, (CISLAC); (Abuja, Sept. 17, 2008).

Social Scientist's Comments: The Code of Conduct Bureau tries to verify declared assets but lacks the capacity to verify all declared assets and also to carry out thorough investigations.

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

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

Score: **NO**

References: Interview with Auwal Musa Rafsanjan, Executive Director, Civil Society Legislative Advocacy Center, (CISLAC); (Abuja, Sept. 17, 2008).

Social Scientist's Comments: There is no right of access to information, including that of the asset declarations of public officers.

Peer Reviewer's Comments: The country's Official Secrets Act is still being enforced so access to classified documents is not possible.

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

Score: **0**

References: Nigerian National Integrity Systems Study 2004, www.transparency.org.
Interview with Auwal Musa Rafsanjan, Executive Director, Civil Society Legislative Advocacy Center, (CISLAC); (Abuja, Sept. 17, 2008).

Social Scientist's Comments: There is no right of access to information including that of the asset declarations of public officers.

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

Score: **0**

References: Interview with Auwal Musa Rafsanjan, Executive Director, Civil Society Legislative Advocacy Center, (CISLAC); (Abuja, Sept. 17, 2008).

Social Scientist's Comments: There is no right of access to information including that of the asset declaration of public officers.

35: Can citizens access legislative processes and documents?

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

Score: YES

References: Interview with Auwal Musa Rafsanjan, Executive Director, Civil Society Legislative Advocacy Center, (CISLAC); (Abuja, Sept. 17, 2008).

Social Scientist's Comments: Draft bills and other related documents used by legislators in the making of laws making are regarded as public documents which citizens can access by applying for certified true copies. However, since there is no right of access to information as the Freedom of Information Bill is not yet passed into law, access may be refused.

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

Score: 50

References: Interview with Auwal Musa Rafsanjan, Executive Director, Civil Society Legislative Advocacy Center, (CISLAC); (Abuja, Sept. 17, 2008).

Social Scientist's Comments: Citizens can access records of certain legislative processes, but the process takes one to two weeks.

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

Score: 50

References: Interview with Auwal Musa Rafsanjan, Executive Director, Civil Society Legislative Advocacy Center, (CISLAC); (Abuja, Sept. 17, 2008).

Social Scientist's Comments: Applicants are made to pay for the cost of making copies. The staff also often ask for tips before they release such documents. There is no fixed cost.

36: Are judges appointed fairly?

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

Score: YES

References: Section 20 of Part 1 of the Third Schedule 1999 Constitution.
Sections 231, 238, 250 of the 1999 Constitution.

Social Scientist's Comments: Judges are usually appointed on the recommendation of the National Judicial Council, which has the constitutional power to recommend the appointment and removal of judges.
The appointment of national judges are also subject to ratification by the Senate.

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

Score: 75

References: Nigerian National Integrity Systems Study 2004, www.transparency.org.
Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: Professional criteria is mostly applied to the selection of judges. To qualify as a judge a lawyer must have been at least ten years at the bar. Judges of higher courts are usually appointed on the recommendation of the National Judicial Council, which is an independent legal body. The list of nominated judges is usually released for public inputs, chiefly by the Nigerian Bar Association. For judges of the Court of Appeal and the Supreme Court, a ratification by the Senate is required.

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

Score: YES

References: 1999 Constitution.
Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: Some categories of judges, such as the Justices of the Supreme Court, require confirmation by the Senate (Section 231), as do the President of the Court of Appeal (Section 238); and the Chief Judge of the Federal High Court (Section 250).

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

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

Score: YES

References: Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: Judicial decisions are based on written codes that have set criteria for arriving at decisions.

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

Score: 100

References: Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: Judges are required to explain their judgments in detail. There is a strict procedure for following already-established precedents from higher courts.

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

Score: YES

References: Section 21, Part 1, 3rd Schedule, 1999 Constitution.

Social Scientist's Comments: The National Judicial Council has the Constitutional powers to investigate allegations of misconduct against judges and take disciplinary measures.

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

Score: YES

References: Section 154, 1999 Constitution.
Section 157[1], 1999 Constitution.

Social Scientist's Comments: The members of the National Judicial Council are appointed by the President subject to confirmation by the Senate. They can only be removed by the President acting on an address supported by a two-thirds majority of the Senate.

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

Score: 75

References: "NJC Orders Retirement of Oyo CJ, 2 Other Judges," Nigerian Tribune, [\[LINK\]](#), (March 3, 2008). "Obasanjo Okays Dismissal of Federal High Court Judge," Vanguard Newspapers, [\[LINK\]](#), (Feb. 26, 2004).

Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: The National Judicial Council sometimes initiates investigation, but more often they only respond to complaints and petitions made by aggrieved parties.

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

Score: 75

References: The Nigerian National Integrity Systems Study 2004, www.transparency.org.
Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: The National Judicial Council has imposed disciplinary measures on several judges.

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

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

Score: YES

References: Part 11, 5th Schedule, 1999 Constitution.
Section 290, 1999 Constitution.

Social Scientist's Comments: Members of the National Judiciary are Public Officers according to the definition of Public Officers in the Code of Conduct. It is therefore mandatory that they declare their assets in writing. In addition, they are mandated to declare their assets before performing the functions of their office.

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

Score: YES

References: Section 6, Code of Conduct for Public Officers, Part 1, 5th Schedule, 1999 Constitution.

Social Scientist's Comments: Judicial Officers come within the scope of Public Officers who are subject to the Code of Conduct for Public Officers. Such officers are subject to restrictions on accepting gifts and benefits.

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

Score: YES

References: Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: The Code of Conduct Bureau set up under Cap 56, Laws of the Federation, investigates and verifies declaration of assets by Public Officers.

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

Score: YES

References: Section 292[2], 1999 Constitution.
Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: The section prohibits persons who have held offices as Judicial Officers from appearing in any court or tribunal in Nigeria as legal practitioners when they have ceased to hold such office.

38e *In practice, the regulations restricting post-government private sector employment for national-level judges are effective.*

Score: 100

References: Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: The restrictions are effective.

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

Score: 50

References: Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: The score is based on the opinion of the interviewer. There is no available evidence to support breach of the provision, or lack of same.

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

Score: 50

References: Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).
Interview with Dr Uyim Akpabio, Director of Education and Training, Code of Conduct Bureau (Oct. 13, 2008).

Social Scientist's Comments: The Code of Conduct Bureau verifies asset declarations of Public Officers but this process is largely ineffective due to agency's insufficient resources. Due to lack of capacity, the Code of Conduct Bureau conducts only random checks.
The bureau, in its random verification process, focuses more on political office holders due to their fixed and limited tenure. Regarding career public servants, the focus is on agencies perceived to be corruption flash points such as customs, immigration, and the Federal Inland Revenue Service where they conduct "Conference Verification." It appears the judiciary is not one of the prioritized agencies.

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

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

Score: **NO**

References: Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: There is no provision allowing citizens to access the asset declarations of public officers as there is no right to access of information in the first place.

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

Score: **0**

References: Nigerian national Integrity Study 2004, www.transparency.org. Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: There is no provision allowing citizens to access the asset declarations of public officers.

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

Score: **0**

References: Nigerian national Integrity Study 2004, www.transparency.org. Interview with Mr. Femi Falana, President, West African Bar Association, (Nanet Suites, Abuja, Aug. 1, 2008).

Social Scientist's Comments: There is no provision allowing citizens access to the asset declarations of public officers.

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

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

Score: YES

References: Sections 80 and 81, 1999 Constitution gives the legislature the power to approve budgets and pass the appropriation bill. Section 59 of the 1999 Constitution gives the legislature the power to override the presidential veto of bills passed by the National Assembly. This power includes the override of the veto in respect of the Appropriation Bill.

Peer Reviewer's Comments: The budget, otherwise known as the Appropriations Act, is usually proposed by the executive and presented by the president via an Appropriations Bill to the National Assembly. Like other bills considered by it, the parliament, in considering the Appropriations Bill, can exercise its inherent power to change the details of the proposal. It has, in fact, done so on many occasions, often resulting in friction with the executive branch.
When the president refuses to sign the budget passed by the parliament, the parliament is, by the constitution, empowered to override the president's veto or refusal to assent by a two-thirds majority vote.

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

Score: 100

References: Section 80 & 81, 1999 Constitution.
Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

40c *In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.*

Score: 50

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The legislators lack the capacity and diligence for effective monitoring. Furthermore, resistance from government institutions also interferes with the process.

41: Can citizens access the national budgetary process?

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

Score: 50

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: There is some public debate, but not all the of the processes are accessible to the public.

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

Score: 25

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Citizens have very limited input into budget hearings. Even when they are invited to provide input, the cost of participation deter citizens and civil society organizations (CSOs).

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

Score: 50

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: It is usually difficult to access itemized budget allocations, especially at the debating stage.

42: Is there a separate legislative committee which provides oversight of public funds?

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

Score: YES

References: Public Accounts Committee Act, Cap 375, Laws of the Federation 1990.

Social Scientist's Comments: There is a standing Committee of the National Assembly, the Public Accounts Committee (PAC), which oversees the expenditure of public funds.

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

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

Score: 50

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Department heads sometimes submit reports to the Public Accounts Committee.

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

Score: 100

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The membership of the Public Accounts Committee (PAC) is equitably distributed between the opposition parties and the majority party. Traditionally, a member of the largest opposition party usually chairs the PAC.

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

Score: 25

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Public Accounts Committee sometimes initiates investigations, but this does not happen often and these investigations are not usually effective.

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

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

Score: YES

References: Section 169, 1999 Constitution.
Section 153, 1999 Constitution.
Section 156, 1999 Constitution.

Social Scientist's Comments: Establishes the civil service of the Federation.
Creates the Federal Civil Service Commission whose members have security of tenure.

Provides that the Federal Civil Service Commission shall not be subject to the direction or control of any other person or authority.

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

Score: YES

References: Section, 1 The Code of Conduct for Public Officers.
The Federal Character Commission Act.

Social Scientist's Comments: Provides that a Public Officer shall not put himself in a position where his personal interest conflicts with his duties and responsibilities.
The act has clear provisions aimed at preventing nepotism and cronyism.

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

Score: YES

References: There is a provision in the Public Service Rules for Petitions and Appeals. Aggrieved public servants can petition the Federal Civil Service Commission or the Head of the Civil Service in relation to matters of appointment, promotion, transfer and discipline. Public servants can also petition the Public Complaints Commission (Ombudsman). They can also appeal the decisions of these bodies in court.

Social Scientist's Comments: There is a provision in the Public Service Rules for Petitions and Appeals. Aggrieved public servants can petition the Federal Civil Service Commission or the Head of the Civil Service in relation to matters of appointment, promotion, transfer and discipline. Public servants can also petition the Public Complaints Commission (Ombudsman). They can also appeal the decisions of these bodies in court.
The Public Service Rules are currently under review.

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

Score: NO

- References:** Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).
- Social Scientist's Comments:** The Public Service Rules provide that after a conviction for a criminal offense, a Public Officer shall be suspended effective from the date of conviction while the Federal Service Commission determines what disciplinary measures to impose on the officer. The Commission may decide not to dismiss the officer.

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

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

Score: 50

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The Code of Conduct for Public Officers requires them to be impartial (Section 1). However, they are not totally protected from political interference and may be victimized if they resist political pressures. However, there are mechanisms for redress within the public service rules and within the Public Complaints Commission Act in the event of such victimization.

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

Score: 50

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The Public Service Rules have clear guidelines for recruitment and promotions. However, these guidelines are not always followed.

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

Score: 50

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The Federal Character Commission Act, the Code of Conduct and Tribunal Act and the Civil Service Rules prohibit practices such as nepotism, cronyism and patronage. However, such practices still exist.

45d *In practice, civil servants have clear job descriptions.*

Score: 25

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: In practice, very few civil servants have clear job descriptions. According to the interviewee, civil servants are employed on specific grade levels. Beyond that, they do not have clear job descriptions and may be given any assignment by their supervisors. However, certain professionals such as lawyers, doctors, engineers and architects have clear job descriptions when they are employed within their area of professional competence.

45e *In practice, civil servant bonuses constitute only a small fraction of total pay.*

Score: 50

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The Civil Service basic pay is very poor, so bonuses constitute a significant part of it.

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

Score: 25

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: Such publications are rare.

45g *In practice, the independent redress mechanism for the civil service is effective.*

Score: 25

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The redress mechanism is not effective because it is fraught with delays.

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

Score: 50

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The timing varies in different ministries. There are often cases where payment to civil servants is delayed.

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

Score: 50

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: There have been cases of civil servants convicted of corruption who find their way back into the service in a different capacity. The interviewee was unable to give specific examples, perhaps out of fear of being victimized.

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

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

Score: YES

References: The Code of Conduct for Public Officers, [Part 1, 5th Schedule, 1999 Constitution.
The Code of Conduct Bureau and Tribunal Act Cap 56, Laws of the Federation.

Social Scientist's Comments: All public servants are required to file an asset disclosure form.

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

Score: YES

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

Social Scientist's Comments: Provides that a public officer shall not put himself in a position where his personal interest conflicts with his duties and responsibilities.

46c *In law, there are restrictions for civil servants entering the private sector after leaving the government.*

Score: NO

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: There are no provisions in the law restricting civil servants from entering the private sector after leaving the government.

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

Score: YES

References: Section 6, Code of Conduct for Public Officers.

Social Scientist's Comments: The section has restrictions on public officers accepting gifts. Also the Public Service Rules have similar restrictions. However, there are several versions of the Public Service Rules in circulation. The last authorized version is the 2000 version but that has since been reviewed more than once. There is a 2006 version that is in the public domain but allegedly it is not officially approved. There is a 2007 version which is still in draft form after review by a presidential committee. Because of this lack of clarity, specific sections of the Rule cannot be cited. However, the provisions cited in this study are factually correct and reflected in all the versions.

46e *In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.*

Score: YES

References: The Code of Conduct Bureau is charged with the responsibility of verifying the asset declaration of public officers.

Social Scientist's Comments: The Code of Conduct Bureau is charged with the responsibility of verifying the asset declaration of public officers.

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

Score: 0

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: There are no restrictions on post-government, private sector employment for civil servants.

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

Score: 25

References: Section 10[3] of the Code of Conduct and Tribunal Act . Telephone interview with Dr Uyim Akpabio, Director of Education and Training, Code of Conduct Bureau (Oct. 13, 2008).

Social Scientist's Comments: There are regulations governing gifts under the Public Service Rules and the Code of Conduct for public officers but they are not effective as they are rarely enforced. There are several structural issues which impede enforcement . One is the failure of the law to put a value to gifts "recognized by custom."
Section 10 of the Code of Conduct and Tribunal Act prohibits public servants from asking for or accepting gifts but section 10[3] makes an exception as follows: "A public officer shall only accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognized by custom." It does not provide a ceiling for such gifts and does not define what "relatives" or "personal friends" means. These three issues provide a very wide scope for acceptance of almost all gifts from all persons in the Nigerian context.
The second issue is the absence of structures within government agencies to keep records of gifts and ensure compliance.

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

Score: 25

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The restrictions are not effective as there is still nepotism and cronyism in the civil service.

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

Score: 50

References: Telephone interview with Dr Uyim Akpabio, Director of Education and Training, Code of Conduct Bureau (Oct. 13, 2008).

Social Scientist's Comments: The asset disclosures are verified but due to the huge numbers of them, a random selection process is used. Not all of the disclosures are audited. The Code of Conduct Bureau focuses more on political office holders due to their fixed tenure. In regard to career public servants, the "Conference Verification" method has been introduced. Here, public servants from designated agencies that are considered particularly vulnerable are called in groups. It is requested that they bring supporting documents for their declared assets. Any anomalies that are revealed by this exercise then leads to more in depth investigations.

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

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

Score: NO

References: Citizens do not have access to the records on asset disclosure of civil servants. there is no Freedom of Information law yet.

Social Scientist's Comments: Citizens do not have access to the records on asset disclosure of civil servants. there is no Freedom of Information law yet.

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

Score: 0

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: Citizens do not have access to such records.

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

Score: 0

References: Interview with Dr. Anthonia Ekpa, Assistant Director and Head of Department of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The issue of costs do not arise as citizens do not have access to these records.

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

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.*

Score: **NO**

References: There is no legal protection for whistle-blowers, including civil servants. The Whistle-Blower Protection Bill is yet to be passed into law.

Social Scientist's Comments: There is no legal protection for whistle-blowers, including civil servants. The Whistle-Blower Protection Bill is yet to be passed into law.

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.*

Score: **25**

References: Interview with Dr. Tonia Ekpa, Assistant Director and Head of Communications, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: There are no formal structures for accessing whistle-blowers' reports and there are no mechanisms set up to protect them from victimization.

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.*

Score: **NO**

References: Section 64, The Independent Corrupt Practices and Other Related Offences Act of 2000.
Section 39[1], The Economic and Financial Crimes Commission (Establishment) Act of 2004.

"Review of Legal and Political Challenges to the Domestication of the Anti-Corruption Conventions in Nigeria," by Transparency International, [\[LINK\]](#) (2006).

Social Scientist's Comments: There is no whistle-blowers protection law. However, the Independent Corrupt Practices and Other Related Offences Act of 2000 provides that the Commission shall protect the identity of its informants and any information that may reveal this identity (Section 64). The Act, however, does not provide mechanisms for protecting informants when their identity is already known either through negligence or compromise by its staff or by any other means. The Economic and Financial Crimes Commission (Establishment) Act of 2004 provides that officers of the Commission shall not be compelled to disclose the source of their information or identity of their informants except by court order (Section 39[1]). It also does not provide for mechanisms to protect informants where their identity is revealed despite these rudimentary protective measures.

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.*

Score: 25

References: Interview with Mr. Chibuzo Ekwewuo, National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: There is no structured system for protection of whistle-blowers.

Peer Reviewer's Comments: In Nigeria, whistleblowers are victimized and publicly embarrassed. As an example, Festus Keyamo, who inquired about the purchase of a vehicle by the House of Representatives, was humiliated on the front page of newspapers sponsored by the House of Representatives and supporters.

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

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

Score: YES

References: There are anti-corruption units in Ministries, Departments and Agencies (ACTUS) that were set up by the dedicated anti-corruption agency known as the the independent Corrupt Practices and Other related Offences Commission (ICPC). They are usually located within the Ministries and use diverse ways to access reports. Some of them have hotlines and e-mails where reports can be made.

Social Scientist's Comments: There are anti-corruption units in Ministries, Departments and Agencies (ACTUS) that were set up by the dedicated anti-corruption agency known as the the independent Corrupt Practices and Other related Offences Commission (ICPC). They are usually located within the Ministries and use diverse ways to access reports. Some of them have hotlines and e-mails where reports can be made.

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

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

Score: 0

References: Interview with Dr. Tonia Ekpa, Assistant Director and Head Communications Department, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The ACTUS staff are usually subgroups within the ministries. They have other primary responsibilities and often regard their assignment within the ACTUS as secondary.

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

Score: 0

References: Interview with Ms. Onyinye Ugonna, former program officer and desk officer, ACTUS, Zero-Corruption Coalition (ZCC); (Aug. 13, 2008).

Social Scientist's Comments: Funding for the ACTUS is dependent on the ministries where they are located. A number of the ACTUS are not functioning due mainly to the lack of independent funding.

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

Score: 25

References: Interview with Ms. Onyinye Ugonna, former program officer and desk officer, ACTUS, Zero-Corruption Coalition (ZCC); (Aug. 13, 2008).

Social Scientist's Comments: The ACTUS in most ministries are not functional. They are run by the staff of the very ministries that they are supposed to oversee. Their careers and promotions are dependent on their managers about whom they are supposed to receive reports. As a result, reports are seldom acted upon even when they are received.

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

Score: 25

References: Interview with Dr. Tonia Ekpa, Assistant Director and Head Communications Department, Bureau for Public Service Reforms (BPSR); (Aug. 20, 2008).

Social Scientist's Comments: The ACTUS rarely initiate investigations. Most of them do not have the capacity to investigate allegations.

51: Is the public procurement process effective?**51a *In law, there are regulations addressing conflicts of interest for public procurement officials.*****Score:** YES**References:** Section 57 (8-13), Public Procurement Act 2007.**Social Scientist's Comments:** Addresses issues of Conflict of Interest in Procurement.**51b *In law, there is mandatory professional training for public procurement officials.*****Score:** YES**References:** Section 5(k), Public Procurement Act of 2007.
Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); ([Abuja, Sept. 2, 2008).

Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Public Procurement Act provides for training and development for Procurement officers.
The Bureau for Public Procurement has been conducting these trainings as part of its functions. However, the provision in the law does not make theme mandatory.**51c *In practice, the conflicts of interest regulations for public procurement officials are enforced.*****Score:** 50**References:** Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); ([Abuja, Sept. 2, 2008).
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).**Social Scientist's Comments:** The Bureau for Public Procurement (BPP) and the law setting it up are still relatively new. It is still to early to gauge how effective this process is. The Bureau sensitizes the agencies about the need to enforce the conflict-of-interest regulations. It also does "due diligence" to ensure compliance. This is done in collaboration with the Corporate Affairs Commission (CAC), the body that registers companies to find out the people behind corporate institutions. This assists in detecting possible conflict of interest issues. However, the process of implementation of the Act is still new. It is therefore too early to judge the effects. Also the Public Procurement Act provides for the development of a Code of Conduct for Public Officers involved in the Procurement process. This Code is yet to be developed.**51d *In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.*****Score:** YES

References: Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Public Procurement Act provides for no such mechanism. However the Code of Conduct Bureau (CCB) is mandated by law to monitor the assets, liabilities and general conduct of public officials. Procurement officials, by virtue of being employed in the public service, are public officials under the Code of Conduct and Tribunal Act.

51e *In law, major procurements require competitive bidding.*

Score: YES

References: Sections 24, Public Procurement Act
 Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); ([Abuja, Sept. 2, 2008).
 Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The act requires that all procurement shall be conducted by open competitive bidding (but it is subject to some exemptions allowed under the Act).

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

Score: YES

References: Section 40, Public Procurement Act 2007
 Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); ([Abuja, Sept. 2, 2008).
 Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: This section provides strict criteria for single source procurement.

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

Score: YES

References: Section 54, Public Procurement Act of 2007.
 Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); ([Abuja, Sept. 2, 2008).
 Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

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

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

Score: YES

References: Section 54(7), Public Procurement Act 2007.
Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPR); ([Abuja, Sept. 2, 2008).
Interview with Mr Chibuzo Ekwekwuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Unsuccessful bidders can challenge procurement decisions in court.

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

Score: YES

References: Sections 6 & 58, Public Procurement Act 2007.
Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); ([Abuja, Sept. 2, 2008).
Interview with Mr Chibuzo Ekwekwuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

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

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

Score: 50

References: Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); ([Abuja, Sept. 2, 2008).
Interview with Mr Chibuzo Ekwekwuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The 2007 Procurement Act and processes are still new so there are no reported cases of companies being sanctioned yet.

52: Can citizens access the public procurement process?

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

Score: YES

References: Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); (Abuja, Sept. 2, 2008).
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The rules and guidelines are generally made available to the public by the Bureau for Public Procurement (BPP). The BPP has also set up and facilitated a Civil Society Coalition to oversight the procurement process in ministries and agencies.

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

Score: YES

References: Section 33, Public Procurement Act 200.
Section 6(f), Public Procurement Act 2007.

Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); (Abuja, Sept. 2, 2008).

Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

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

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

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

Score: 50

References: Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); (Abuja, Sept. 2, 2008).
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Citizens can access the Public Procurement Regulations, but they have to visit the Public Procurement Bureau. For citizens who do not live in the capital city, this will usually take time.

52d *In practice, citizens can access public procurement regulations at a reasonable cost.*

Score: 50

References: Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); (Abuja, Sept. 2, 2008).
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The regulation documents are issued free, but citizens have to go to the offices of the Bureau of Public Procurement (BPP) to get them. However, efforts are being made to put the documents on the Web site.

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

Score: 100

References: Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); (Abuja, Sept. 2, 2008).
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Major public procurements are advertised in major newspapers.

52f In practice, citizens can access the results of major public procurement bids.

Score: 50

References: Section 30(b), Public Procurement Act 2007.
Interview with Mr. Adebowale Adedokun, Special Assistant to the Director General Bureau of Public Procurement (BPP); (Abuja, Sept. 2, 2008).
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Public Procurement Act enables interested members of the public to attend bid openings as observers. The Bureau of Public Procurement (BPP) has also put in a structures process to enable Civilian Service Organizations (CSO) monitors, as well as professional associations, attend bid openings as observers. This enables them have access to results of public procurement bids.

53: Is the privatization process effective?

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

Score: YES

References: Businesses can compete to purchase privatized State Assets. There is a government regulatory agency, the Bureau of Public Enterprises (BPE), that is charged with the overall responsibility for implementing the Nigerian policy on privatization and commercialization.

Social Scientist's Comments: Businesses can compete to purchase privatized State Assets. There is a government regulatory agency, the Bureau of Public Enterprises (BPE), that is charged with the overall responsibility for implementing the Nigerian policy on privatization and commercialization.

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

Score: YES

References: The Code of Conduct for Public Officers, Part 1. 5th Schedule, 1999 Constitution.
Interview with a government employee who requested not to be identified for fear of being sanctioned because he signed a confidentiality agreement.

Social Scientist's Comments: The act, in addition to the Code of Conduct and Tribunal Act, has regulations on conflict of interest for public officers.
The Bureau of Public Enterprises (BPE) has also developed an internal regulatory manual which deals with the issue of Conflict of Interest among others.

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

Score: 50

References: Interview with a Government employee who requested not to be identified for fear of being sanctioned because he signed a confidentiality agreement.

Social Scientist's Comments: The conflict-of-interest regulations are not always enforced. There is a regulation on Conflict of Interest but according to the interviewee, violators are not often sanctioned.

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

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

Score: NO

References: Interview with a government employee who requested not to be identified for fear of being sanctioned because he signed a confidentiality agreement.

Social Scientist's Comments: Citizens cannot always access privatization regulations.

54b *In practice, privatizations are effectively advertised.*

Score: 75

References: Interview with a government employee who requested not to be identified for fear of being sanctioned because he signed a confidentiality agreement.

Social Scientist's Comments: Privatizations are mostly advertised.

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

Score: YES

References: Interview with a government employee who requested not to be identified for fear of being sanctioned because he signed a confidentiality agreement.

Social Scientist's Comments: The government is required to announce the results of privatization decisions.

54d *In practice, citizens can access privatization regulations within a reasonable time period.*

Score: 50

References: Interview with a government employee who requested not to be identified for fear of being sanctioned because he signed a confidentiality agreement.

Social Scientist's Comments: The regulations can be obtained, but it entails visiting the office of the Bureau for Public Enterprises.

54e *In practice, citizens can access privatization regulations at a reasonable cost.*

Score: 50

References: Interview with a government employee who requested not to be identified for fear of being sanctioned because he signed a confidentiality agreement.

Social Scientist's Comments: The regulations are usually given free of charge but it requires a visit to the office of the Bureau of Public Enterprises.

55: Is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

55 *In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?*

Score: YES

References: The Public Complaints Commission, the Public Complaints Act Cap 377, Laws of the Federation.

56: Is the national ombudsman effective?

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

Score: YES

References: The Public Complaints Commission, The Public Complaints Act, CAP 377, Laws of the Federation 1990.
The Nigerian National Integrity Systems Study 2004, Transparency International, [\[LINK\]](#).

Social Scientist's Comments: The commission has a formal organizational structure with offices in all the states of the Federation and it reports to the National Assembly. The study discloses that there has not been any case of political interference with the work of the agency, However, the study also says that the agency is underfunded and has few resources to deliver on its mandate.

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

Score: 100

References: Nigerian National Integrity Systems Study 2004, Transparency International, [\[LINK\]](#).

Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and Executive Director of the Public and Private Development Centre (PPDC); (a nongovernmental organization (NGO).

Social Scientist's Comments: There has not been any incidence of political interference with the office or activities of the Public Complaints Commission.

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

Score: 100

References: Public Complaints Act CAP 377, Laws of the Federation.
Nigerian National Integrity Systems (NIS) Study 2004, Transparency International, [\[LINK\]](#).

Social Scientist's Comments: A Commissioner of the Public Complaints Commission has a secured tenure of three years that is renewable for another term of three years. There has not been an instance where Commissioner has been removed before the expiration of his or her tenure.

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

Score: 75

References: Nigerian National Integrity Systems (NIS) Study, 2004, <http://www.transparency.org>.
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The study disclosed that the capacity of the agency is low regarding human resources.
The agency has a full complement of staff including commissioners in all the thirty six states of the federation

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

Score: 100

References: Section 2(1), the Public Complaints Act.
Interview with Mr Chibuzo Ekwewwuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The act requires that appointments are based on criteria of personal integrity and other relevant qualifications: "The Chief Commissioner and other Commissioners shall be appointed by the National Assembly and shall be persons of proven integrity and shall possess such other qualifications as the National Assembly may determine."

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

Score: 100

References: Interview with Mr Chibuzo Ekwewwuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The agency receives regular annual budgetary allocation, which is not dependent on political considerations.

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

Score: 50

References: Nigeria's Public Administration Country Profile, Division for Public Administration and Development Management (DPADM).
Department of Economic and Social Affairs (DESA), United Nations 2004.
The Nigerian National Integrity Systems Study [NIS] 2004, [\[LINK\]](#).
Interview with Mr Chibuzo Ekwewwuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The agency publishes its annual reports which are made available to the public.
The NIS study also indicates that the Public Complaints Commission publishes its annual report.

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

Score: 50

References: Section 5(2), Public Complaints Act, CAP 377, Laws of the Federation.
Interview with Mr Chibuzo Ekwewwuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Agency has the powers to initiate investigations under its enabling law as follows: "A Commissioner shall have power to investigate either on his own initiative or following complaints lodged before him by any person, any administrative action taken."
However, it is not very proactive in initiating investigations. In practice, it acts mostly on complaints lodged by citizens.

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

Score: 50

References: The Public Complaints Act, CAP 377, Laws of the Federation.
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Commission's powers are mainly advisory and come in the form of recommendations to the appropriate government bodies or organs.

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

Score: 75

References: Nigeria's Country profile 2004, Division for Public Administration and Development Management (DPADM).
Department of Economic and Social Affairs (DESA), United Nations, May 2004.

Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Completed cases with concrete recommendations are usually acted upon. The problem is that the agency lacks the capacity to investigate and address most of the complaints it receives.

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

Score: 25

References: Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Commission is underfunded and its resources are low. Therefore, response time is also very slow.

57: Can citizens access the reports of the ombudsman?

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

Score: YES

References: Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The agency publishes an annual report with data and statistics about their activities. This report is available to the public.

57b *In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.*

Score: 25

References: Public Complaints Act, CAP 377, Laws of the Federation.
Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Commission periodically issues annual reports. Beyond that, there is no structured policy of obtaining the reports and records of the Commission.
The absence of a freedom of information law precludes any right of access to the reports or records, which are not voluntarily disseminated. In fact, the Public Complaints Act gives the Commissioners an absolute discretion on release of information to the public: "Any Commissioner may decide in his absolute discretion whether and if so, in what manner he should notify the public of his action or intended action in any particular case." (5[3][b]).

57c *In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.*

Score: 50

References: Public Administration Country Profile on Nigeria, Division for Public Administration and Development Management (DPADM).
Department of Economic and Social Affairs (DESA), United Nations, May 2004.

Interview with Mr Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition' (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The annual reports of the commission, when available, can be accessed at a minimal cost by visiting the offices of the commission. Other records and proceedings are privileged and are not available on demand.

58: Is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

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

Score: YES

References: Section 85, 1999 Constitution.

Social Scientist's Comments: The Office of the Auditor General of the Federation is responsible for this role.

59: Is the supreme audit institution effective?

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

Score: YES

References: Section 85(6), 1999 Constitution.

Social Scientist's Comments: The section provides as follows: "In the exercise of his functions under this Constitution, the Auditor-General shall not be subject to the direction and control of any other authority or person."

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

Score: 100

References: Section 86, Constitution of the 1999.
Nigerian National Integrity Systems (NIS) Study 2004, [\[LINK\]](#).

Social Scientist's Comments: Section provides that the auditor-general can only be removed by the president acting on an address supported by two-thirds majority of the Senate.

59c *In practice, the audit agency has a professional, full-time staff.*

Score: 75

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Office of the Auditor-General has a formal structure and reasonably adequate staffing.

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

Score: 75

References: Section 86, 1999 Constitution.
Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Section provides that the president shall appoint the auditor-general on the recommendation of the Federal Civil Service Commission, subject to confirmation by the Senate.
This ensures two different layers of quality control and also the relative independence of the audit agency.

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

Score: 75

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Office of the Auditor-General receives regular funding through appropriation by the National Assembly.

59f *In practice, the audit agency makes regular public reports.*

Score: 50

References: Section 85 of the 1999 Constitution.
Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Section provides that the auditor-general shall audit all public accounts and report to the National Assembly.
However, this report is not issued regularly and is also not accessible to the public.

59g *In practice, the government acts on the findings of the audit agency.*

Score: 25

References: Nigerian National Integrity Study (NIS) 2004, [\[LINK\]](#).
Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The government does not always act on the report of the auditor-general.

59h *In practice, the audit agency is able to initiate its own investigations.*

Score: 50

References: Nigerian National Integrity Study (NIS) 2004, [\[LINK\]](#).org.
Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: In most cases, the auditor-general does not initiate investigations.

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

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

Score: NO

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The reports are not readily available to the public, especially in the absence of an access to information law.

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

Score: 0

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The reports are not available to the public.

60c *In practice, citizens can access the audit reports at a reasonable cost.*

Score: 0

References: Interview with Mr. Chibuzo Ekwewuo, Legal Practitioner and National Secretary, Zero Corruption Coalition (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The public has no access to the report and so the question of cost does not arise.

61: Is there a national tax collection agency?

61 *In law, is there a national tax collection agency?*

Score: YES

References: Telephone interview with Mr. Ike Nweje, Special Assistant to the Executive Chairman of Federal Inland Revenue Service [FIRS] from Oct. 2004 to July 2007, (Sept. 19, 2008).

Social Scientist's Comments: The Federal Inland Revenue Service is the national tax collection agency created by Federal Inland Revenue Service (Establishment) Act, 2007.

62: Is the tax collection agency effective?

62a *In practice, the tax collection agency has a professional, full-time staff.*

Score: 75

References: Telephone interview with Mr. Ike Nweje, Special Assistant to the Executive Chairman of Federal Inland Revenue Service [FIRS] from Oct. 2004 to July 2007, (Sept. 19, 2008).

Social Scientist's Comments: The FIRS has an adequate complement of staff but not all the staff have the right set of skills.

62b *In practice, the tax agency receives regular funding.*

Score: 100

References: Telephone interview with Mr. Ike Nweje, Special Assistant to the Executive Chairman of Federal Inland Revenue Service [FIRS] from Oct. 2004 to July 2007, (Sept. 19, 2008).

Social Scientist's Comments: The agency receives its budgetary allocation from the federal government budget. The funding is quite adequate due to the fact that the FIRS retains 4 percent of all non-oil collections that it makes.

63: Are tax laws enforced uniformly and without discrimination?

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

Score: 75

References: Telephone interview with Mr. Ike Nweje, Special Assistant to the Executive Chairman of Federal Inland Revenue Service [FIRS] from Oct. 2004 to July 2007, (Sept. 19, 2008).

Social Scientist's Comments: Tax laws are enforced uniformly and without discrimination according to the criteria set by the law. However, there are corrupt officials and their agents who sometimes subvert the process.

64: Is there a national customs and excise agency?

64 *In law, is there a national customs and excise agency?*

Score: YES

References: The Customs and Excise Management Act ,1958.

**Social Scientist's
Comments:** The act set up a Customs And Excise Service.

65: Is the customs and excise agency effective?

65a *In practice, the customs and excise agency has a professional, full-time staff.*

Score: 100

References: Telephone interview with Mr. Ike Nweje, Special Assistant to the Executive Chairman of Federal Inland Revenue Service [FIRS] from Oct. 2004 to July 2007, (Sept. 19, 2008).

Social Scientist's Comments: The Customs and Excise Department is an old, established government agency with an adequate full-time staff.

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

Score: 100

References: Telephone interview with Mr. Ike Nweje, Special Assistant to the Executive Chairman of Federal Inland Revenue Service [FIRS] from Oct. 2004 to July 2007, (Sept. 19, 2008).

Social Scientist's Comments: The agency has a predictable source of funding from the federal government budgetary allocation and also generates a lot of revenue from duties and other tariffs.

66: Are customs and excise laws enforced uniformly and without discrimination?

66 *In practice, are customs and excise laws enforced uniformly and without discrimination?*

Score: 50

References: Telephone interview with Mr. Ike Nweje, Special Assistant to the Executive Chairman of Federal Inland Revenue Service [FIRS] from Oct. 2004 to July 2007, (Sept. 19, 2008).

Social Scientist's Comments: The laws are enforced uniformly but there are regular allegations of corruption in which there is an evasion of custom requirements.

67: Is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

67 *In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?*

Score: YES

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: There is no centralized agency or group of agencies charged with overseeing government-owned enterprises but rather series of agencies who exercise different levels of oversight. The agencies have supervising ministries to whom they report. However, the Ministry of Finance is a major shareholder in state-owned companies and can exercise shareholder powers.

Also, the Bureau for Public Enterprises (BPE) oversees state-owned companies when they are in the process of privatization and commercialization.

The supervision and oversight of the Ministry of Finance and the BPE are episodic and cannot therefore be regarded as total oversight.

The National Assembly also exercises some level of oversight through parliamentary oversight and enquiries on the affairs and conduct of certain public enterprises.

Peer Reviewer's Comments: Apart from ministries that supervise state-owned companies and the ministries sometimes giving specific directions to such agencies, the parliament, through its various committees overseeing a given area of the economy, also provides oversight.

The Nigerian National Petroleum Corporation has often been the subject of investigations by the parliament.

68: Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

68a *In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.*

Score: NO

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: There is no specific agency or group of agencies overseeing state-owned companies. As stated earlier, the Bureau for Public Enterprises (BPE) has supervisory power when a particular enterprise is being privatized or commercialized. They are generally supervised by a relevant government ministry. These ministries are located within the executive arm of the government and therefore cannot be free from political interference.

68b *In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.*

Score: 75

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: The ministries have a professional full-time staff. The Bureau of Public Enterprises (BPE) also has a professional full-time staff.

68c *In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.*

Score: 75

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: The ministries receive regular funding through the budgetary process.

68d *In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.*

Score: 50

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: There is no centralized overseeing agency. However, the executive arm of the government, which is in control of all the ministries, sometimes sets up panels of inquiry to investigate issues and happenings in the state-owned companies if the need arises. Also, when state-owned enterprises are under privatization or commercialization, the Bureau of Public Enterprises (BPE) sometimes initiates investigations. The BPE has a Post-Privatization Monitoring Department that monitors privatized state-owned enterprises. It also has a Commercialization and Privatization List and state-owned companies listed there are usually monitored and can be investigated.

68e *In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.*

Score: 50

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: There is no centralized overseeing agency or group of agencies. The supervising ministries are not known to impose penalties on state-owned enterprises. However, the executive arm or the legislative arm have sometimes set up panels of inquiry into the affairs of the agencies and, where necessary, have imposed corrective measures. Also, the Bureau of Public Enterprises (BPE) can also impose penalties regarding companies listed for privatization and commercialization or that have already been privatized.

69: Can citizens access the financial records of state-owned companies?

69a *In law, citizens can access the financial records of state-owned companies.*

Score: NO

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: Unless the records are published, citizens have no access to them because there is no access to information law.

69b *In practice, the financial records of state-owned companies are regularly updated.*

Score: 0

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: The financial records of state-owned companies are not publicly available and cannot therefore be assessed.

69c *In practice, the financial records of state-owned companies are audited according to international accounting standards.*

Score: 25

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: The audits of state-owned companies are poorly rated.

69d *In practice, citizens can access the financial records of state-owned companies within a reasonable time period.*

Score: 0

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: Citizens have no access to financial records of state-owned companies, unless they are published.

69e *In practice, citizens can access the financial records of state-owned companies at a reasonable cost.*

Score: 0

References: Interview with a government official who requested not to be named due to the fact that he signed a confidentiality agreement.

Social Scientist's Comments: Citizens have no access to such records unless they are published.

70: Are business licenses available to all citizens?

70a *In law, anyone may apply for a business license.*

Score: YES

References: The Companies and Allied Matters Act.
Interview with Mr Chibuzo Ekewkwuo, Legal Practitioner and National Secretary Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The act allows all citizens to apply for business license, which is granted upon fulfilling certain requirements.

70b *In law, a complaint mechanism exists if a business license request is denied.*

Score: YES

References: Interview with Mr Chibuzo Ekewkwuo, Legal Practitioner and National Secretary Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The Companies Registry usually gives reasons for refusal. These reasons are mostly based on request for additional documentation. Approval is usually given when the requirements are met. Ultimately, citizens have a right of recourse to the law courts.

70c *In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.*

Score: 50

References: Interview with Mr Chibuzo Ekewkwuo, Legal Practitioner and National Secretary Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Registering a business takes about 30 days and may take longer.

70d *In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.*

Score: 50

References: Interview with Mr Chibuzo Ekewkwuo, Legal Practitioner and National Secretary Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The cost of registering a business is high in comparison with the earnings of citizens.

71: Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

71a *In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.*

Score: YES

References: Interview with Mr Chibuzo Ekewkwuo, Legal Practitioner and National Secretary Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The requirements can be supplied by the appropriate regulatory agencies such as the Ministry of Health or the Nigerian Investments Promotion Council.

71b *In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.*

Score: YES

References: Interview with Mr Chibuzo Ekewkwuo, Legal Practitioner and National Secretary Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The requirements can be found at the federal and state environmental protection agencies.

71c *In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.*

Score: YES

References: Interview with Mr Chibuzo Ekewkwuo, Legal Practitioner and National Secretary Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: The requirements can found at the offices and, in some cases, on the Web sites of the appropriate regulatory agencies such as the Standard Organization of Nigeria (SON).

72: Does government effectively enforce basic health, environmental, and safety standards on businesses?

72a *In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.*

Score: 50

References: Interview with Mr Chibuzo Ekewkwuo, Legal Practitioner and National Secretary Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Yes. Regulatory agencies such as The Standards Organization of Nigeria (SON), the National Agency for Food, Drug Administration and Control and other agencies carry out inspections in a uniform and evenhanded manner. However, there are still "sacred cows" within the system who can get away with regulatory breaches.

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.*

Score: 50

References: Interview with Mr Chibuzo Ekewkwuo, Legal Practitioner and National Secretary Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: Regulatory agencies, such as Federal Environmental Protection Agency (FEPA), carry out their inspections, but there are still lapses in the frameworks and the implementations.

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.*

Score: 25

References: "Nigeria: 50 Trapped as Buildings Collapse in Abuja," This Day Newspaper, [\[LINK\]](#), (July 30, 2008). "Nigeria Tightens Insurance Law after Deadly House Collapses," Yahoo News, [\[LINK\]](#), (Aug. 26, 2008).

Interview with Mr Chibuzo Ekewkwuo, Legal Practitioner and National Secretary Zero Corruption Coalition, (Abuja, Sept. 4, 2008).

Social Scientist's Comments: There are still a lot of lapses in the system. In recent times, there have been several instances of collapsed buildings leading to loss of life and property despite the regulations on public safety standards.

73: Is there legislation criminalizing corruption?

73a *In law, attempted corruption is illegal.*

Score: YES

References: Sections 6 & 26, of Corrupt Practices and Other Related Offences Act 2000.
Section 17, the Money Laundering [Prohibition] Act 2004.

73b *In law, extortion is illegal.*

Score: YES

References: Section 10, Corrupt Practices and Other Related Offences Act 2000.

Social Scientist's Comments: The above section describes extortion without specific use of the word as follows: ". . . asks for, receives or obtains property or benefits of any kind for himself or any other person; . . . on account of anything already done or omitted to be done, or any favour or disfavour already shown to any person by a public officer in the discharge of his official duties . . . "

73c *In law, offering a bribe (i.e. active corruption) is illegal.*

Score: YES

References: Section 8, Corrupt Practices and Other Related Offences Act 2000 [Asking and Receiving].
Section 9, Corrupt Practices and other Related Offences Act 2000 [Giving].

73d *In law, receiving a bribe (i.e. passive corruption) is illegal.*

Score: YES

References: Section, 8, The Corrupt Practices and Other Related Offences Act 2000.

73e *In law, bribing a foreign official is illegal.*

Score: YES

References: Sections 8 and 9, Corrupt Practices Act.

Social Scientist's Comments: While there is no specific mention of foreign officials in the CPA, the law prohibits offering, giving and receiving gratification generally. In view of the fact that the United Nations Convention Against Corruption requires State Parties to criminalize bribery of Foreign officials, it may be necessary to amend domestic laws to specifically address the issue.

73f *In law, using public resources for private gain is illegal.*

Score: YES

References: Section 19, Corrupt Practices and Other Related Offences Commission Act 2000 (CPA).

73g *In law, using confidential state information for private gain is illegal.*

Score: YES

References: The Official Secrets Act, Cap 335, Laws of the Federation 1990.

Social Scientist's Comments: The act criminalizes the unauthorized use of confidential state information.

73h *In law, money laundering is illegal.*

Score: YES

References: Section 14, Money Laundering Prohibition Act 2004.

Social Scientist's Comments: Money laundering and related offenses are prohibited under the the act. Section 14 addresses the specific offenses which are punishable by a term of imprisonment of not less than two years.

73i *In law, conspiracy to commit a crime (i.e. organized crime) is illegal.*

Score: YES

References: Section 17, Money Laundering Prohibition Act 2004.
Section 18(1)(b), The Economic and Financial Crimes Commission [Establishment] Act 2004.

Social Scientist's Comments: Section 18(1)(b) states: "Any person who engages in the management, organization or financing of any of the offences under this Act commits an offence."

74: Is there an agency (or group of agencies) with a legal mandate to address corruption?

74 *In law, is there an agency (or group of agencies) with a legal mandate to address corruption?*

Score: YES

References: Corrupt Practices and Other related Offences Act 2000.
The Economic and Financial Crimes [Establishment] Act 2004. The Code of Conduct Bureau and Tribunal Act, Cap 56, Laws of the Federation.

Social Scientist's Comments: The Independent Corrupt Practices and Other Related Offences Commission (ICPC) set up under the Act has a broad mandate to combat corruption based on the tripod mechanism of Prevention, Education and Sanctions.
The Economic and Financial Crimes Commission focuses on economic crimes such as advanced fee fraud, money laundering, counterfeiting and other forms of fraud.
The Code of Conduct Bureau (CCB) is charged with enforcing the Code of Conduct for Public Officers and the Asset Declaration Regimen.

75: Is the anti-corruption agency effective?

75a *In law, the anti-corruption agency (or agencies) is protected from political interference.*

Score: YES

References: Sections 3 (6), (8) & (14) of the Corrupt Practices and Other Related Offences Commission Act 2000 (CPA).
Section 3[2] of the Economic and Financial Crimes[Establishment] Act 2004.

**Social Scientist's
Comments:**

The Independent Corrupt Practices and Other Related Offences Commission (ICPC) has legal independence which is aimed at protecting it from political interference. The Chairman and members of the ICPC also have security of tenure. They are appointed with the confirmation by a two-thirds majority of the members of the Senate and also cannot be removed without ratification of a two-thirds majority of the members of the Senate. Generally, the anti-corruption agencies have operational independence. They have established and formal organizational structures.
The other agencies such as the Code of Conduct of Bureau (CCB) and the Economic and Financial Crimes Commission (EFCC) do not have provision for legal independence. The key staff and members of these agencies also do not have security of tenure as they can be removed by the president without recourse to the Senate.

75b *In practice, the anti-corruption agency (or agencies) is protected from political interference.*

Score: 50

References: http://.wikipedia.org/wiki/Nuhu_
[\[LINK \]](#).
[\[LINK \]](#).
[\[LINK \]](#).

**Social Scientist's
Comments:**

The case of alleged unlawful interference with the tenure of the former chairman of the economic and Financial Crimes Commission (EFCC) was widely reported in both local and foreign media.

75c *In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.*

Score: 50

References: "Review of Legal and Political Challenges to the Domestication of the Anti-Corruption Conventions in Nigeria, Transparency International," [\[LINK \]](#).

**Social Scientist's
Comments:**

There are a number of anti-corruption agencies in Nigeria such as the Independent Corrupt Practices and Other Related Offences Commission, (ICPC), the Code of Conduct Bureau (CCB) and the Economic and Financial Crimes Commission (EFCC), among others. The key staff of some of the agencies such as the ICPC and the CCB have security of tenure while the key staff of the EFCC do not have such security. The removal of the former chair of the Economic and Financial Crimes Commission -EFCC-Nuhu Ribadu shows that in practice, there is no protection from arbitrary removal for the head of that particular agency

Peer Reviewer's Comments: The recent removal of Mallam Nuhu Ribadu as chairman of the EFCC, by far the most effective of the anti-corruption agencies, erases any doubt about the government's commitment to an all out war against corruption. The manner of the appointment of his successor has only confirmed the fears of many that politicians lack the courage to effectively tackle corrupt practices.

75d In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

Score: 50

References: "Fawehinmi: Waziri Not Qualified to Head EFCC," This Day Newspapers, [\[LINK\]](#) (June 6, 2008).
"Gani Asks Court to Annul Waziri's Appointment as EFCC Boss," [\[LINK\]](#) (Aug.6, 2008).
Interview with Mr Femi Falana, President, West African Bar Association (Aug. 2, 2008).

**Social Scientist's
Comments:**

Generally appointments are made on professional criteria but there have been instances of allegation of party or other affiliations influencing appointments. This kind of controversy followed the appointment of the current chairperson of the Economic and Financial Crimes Commission (EFCC), with the media and the public expressing the view that her political and other affiliations may impede the work of the agency

75e In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

Score: 75

References: Nigerian National Integrity Study (NIS) 2004, [\[LINK\]](#).
Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

**Social Scientist's
Comments:**

The agencies have full-time staff but are generally understaffed considering mandates, activities and the competencies required to deliver on the mandates.

75f In practice, the anti-corruption agency (or agencies) receives regular funding.

Score: 75

References: Nigerian National Integrity Systems (NIS) Study 2004, [\[LINK\]](#).
Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The agencies have predictable sources of funding. Some of them like the Code of Conduct Bureau (CCB) and the Office of the Auditor-General have direct appropriation from the National Assembly. Others such as the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices and Other Related Offences Commission (ICPC) access their budget as part of budget of the presidency. However, there is general complaint of underfunding and budget cuts from the agencies.

75g *In practice, the anti-corruption agency (or agencies) makes regular public reports.*

Score: 50

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: Some of the anti-corruption agencies have annual reports, but the reports are not regularly issued and are not usually available to the public.

75h *In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.*

Score: 75

References: "Review of Legal and Political Challenges to the Domestication of the Anti-Corruption Conventions in Nigeria," Transparency International, [\[LINK\]](#).
Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The enabling laws of the agencies give them wide powers, but there are a number of gray areas in their powers and mandates.

75i *In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.*

Score: 75

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The agencies have the power to initiate investigations which they exercise regularly. They have both investigative and prosecutorial powers and they usually cooperate with the police and other enforcement agencies.

76: Can citizens access the anti-corruption agency?

76a *In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.*

Score: 50

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The anti-corruption agencies act on complaints but usually not in a timely manner.

76b *In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of reprimand.*

Score: 50

References: Review of Legal and Political Challenges to the Domestication of the Anti-Corruption Conventions in Nigeria 2006, [\[LINK\]](#).

Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: There is no comprehensive Whistle-blower protection law and regimen. However, agencies such as the Code of Conduct Bureau (CCB), the Independent Corrupt Practices and Other related Offences Commission (ICPC) and the Economic and Financial Crimes Commission (EFCC) have internal mechanisms to ensure confidentiality of information and informants.

77: Is there an appeals mechanism for challenging criminal judgments?

77a *In law, there is a general right of appeal.*

Score: YES

References: The 1999 Constitution.
Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The Constitution creates different layers of courts with specific areas of jurisdiction.

77b *In practice, appeals are resolved within a reasonable time period.*

Score: 50

References: Interview with Mr. Femi Falana, President, West African bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: Court processes, including appeals, are fraught with delays.

Peer Reviewer's Comments: Most appeals in criminal trials are unduly long, especially for accused persons who cannot afford the cost of litigation. The exceptions are those appeals of high profile persons who can afford such costs.

77c *In practice, citizens can use the appeals mechanism at a reasonable cost.*

Score: 50

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: Cost of appeal is often not affordable and prevents citizens from pursuing the appeal option.

78: Do judgments in the criminal system follow written law?

78 *In practice, do judgments in the criminal system follow written law?*

Score: 75

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: Judgment in criminal proceedings usually follow written law; however; there have been cases of extra-judicial sanctions outside the written codes.

Peer Reviewer's Comments: It is wrong to lump what happens outside of the criminal system in with what happens within the system. This response and score attempts to do that. Criminal law in Nigeria is strictly written, and the burden of proof is usually on the prosecutor.

79: Are judicial decisions enforced by the state?

79 *In practice, are judicial decisions enforced by the state?*

Score: 75

References: "El-Rufai's Newfound Love For The Rule Of Law!" Daily Independent Newspapers, [\[LINK\]](#).
Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: There have been allegations of government officials ignoring court orders. At a recent inquiry conducted by a committee of the National Assembly probing land allocation in the Federal Capital Territory, there were several allegations of the former Minister of the Federal Capital Territory ignoring court orders.

80: Is the judiciary able to act independently?

80a *In law, the independence of the judiciary is guaranteed.*

Score: YES

References: Chapter VII, 1999 Constitution.

Social Scientist's Comments: The judiciary is independent and its legal status, including financial autonomy, is guaranteed by the Constitution.

80b *In practice, national-level judges are protected from political interference.*

Score: 100

References: Section 292, 1999 Constitution.
Nigerian National Integrity Systems (NIS) Study, [\[LINK\]](#).
Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The Constitution gives the judges security of tenure, which enables them to operate independently. Largely they operate without interference.

80c *In law, there is a transparent and objective system for distributing cases to national-level judges.*

Score: YES

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).
Chapter VII, 1999 Constitution.

Social Scientist's Comments: The judges are assigned cases according to delineated jurisdictions. Assignment to individual judges in a particular jurisdiction is usually handled from the office of the Chief Judge of the particular jurisdiction. The constitution also specifies the areas in which each tier of the Court structure has original jurisdiction or appellate jurisdiction

80d *In law, national-level judges are protected from removal without relevant justification.*

Score: YES

References: Section 292, 1999 Constitution.

Social Scientist's Comments: National judges can only be removed by the president acting on an address supported by a two-thirds majority of the Senate and State Judges can only be removed by the Governor acting on an address supported by a two thirds majority of the State House of Assembly.

81: Are judges safe when adjudicating corruption cases?

81a *In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.*

Score: YES

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: There has been no reported case of any judge harmed or assaulted due to involvement in trying a corruption case.

81b *In practice, in the last year, no judges have been killed because of adjudicating corruption cases.*

Score: YES

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: There has been no reported case of a judge being killed for adjudicating corruption cases.

82: Do citizens have equal access to the justice system?

82a *In practice, judicial decisions are not affected by racial or ethnic bias.*

Score: 100

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: In the experience of the interviewee, he has not come across a case of racial or ethnic bias in the courts. Judicial decisions are either based on interpretation of codes or on precedents. A departure from these will constitute a ground for appeal.

82b *In practice, women have full access to the judicial system.*

Score: 75

References: "Impact of Corruption on Women's Access to justice in Nigeria," 10th International Anti-Corruption Conference; <http://www.transparency.org>.

Social Scientist's Comments: There are socio-cultural factors militating against womens' access to justice in Nigeria. Nigeria operates a dual legal system; that is, the received English law and the Customary and Sharia laws. The dictates of the Customary laws are not codified and are substantially unfavorable to women. Also, the customary courts are manned by non-lawyers who are unable to appropriate modern legal principles.

The provisions of the Sharia Laws are also unfavorable to women. The Sharia courts are also manned by non-lawyers. Sometimes oppressive decisions of these Customary and Sharia courts are only overturned on appeal. Often, the women who are victims of these decisions do not have the resources to appeal and are forced to live with those decisions if they are not able to access pro bono legal service.

82c *In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.*

Score: YES

References: The Legal Aid Act Cap 205, Laws of the Federation of Nigeria, 1990. Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The act provides for free legal services for defendants in criminal cases who cannot afford legal representation. Lagos State has also provided for the office of the Public Defender to provide legal assistance to the indigent even in civil cases.

82d *In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.*

Score: 75

References: Article by Eze Anaba, Vanguard Newspapers, [\[LINK\]](#), (May 27, 2005).

Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: There have been criticisms of the quality of service provided under the Legal Aid Scheme.

82e *In practice, citizens earning the median yearly income can afford to bring a legal suit.*

Score: 50

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: Cost of legal actions are prohibitive and the average citizen cannot afford it.

82f *In practice, a typical small retail business can afford to bring a legal suit.*

Score: 25

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The cost of legal suits, especially attorneys' fees, are prohibitive.

Peer Reviewer's Comments: Most cases of misunderstanding are being addressed outside the courts due to the heavy financial cost and time involved. There is a tendency for many small retail businesses to resort to self-help or to mere reference to the police.

82g *In practice, all citizens have access to a court of law, regardless of geographic location.*

Score: 50

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: All citizens have access to a court of law. However, in some cases, the distance to the courts may be quite far for citizens who live in remote areas.

83: Is the law enforcement agency (i.e. the police) effective?

83a *In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.*

Score: 75

References: Section 215, 1999 Constitution.

Social Scientist's Comments: The section provides that the president shall appoint the Inspector-General of Police on the advice of the Nigerian Police Council and Commissioners of Police shall be appointed by the Police Service Commission. This ensures some level of quality control in the appointments. Generally, appointments to the Enforcement agencies are based on professional criteria.

83b *In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.*

Score: 75

References: Nigerian National Integrity Systems (NIS) Study 2004, [\[LINK\]](#).

Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The agencies have predictable budgets but there is usually a complaint of insufficient budgets.

83c *In practice, the law enforcement agency is protected from political interference.*

Score: 50

References: The Nigerian National Integrity Systems (NIS) Study 2004, [\[LINK\]](#)

Social Scientist's Comments: The key enforcement agency, the Nigerian police, is generally independent in its operation, but there have been allegations about their processes and that officers are being used to achieve political aims.

84: Can law enforcement officials be held accountable for their actions?

84a *In law, there is an independent mechanism for citizens to complain about police action.*

Score: YES

References: Police Annual report 2007.
Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The Courts have Jurisdiction over the Police and can sanction them for excesses. The Human Rights Commission can highlight their excesses but has no powers of sanction over them. Also, the police have an internal mechanism to ensure discipline within the force. There is a Public Complaints Bureau within the Police where citizens can lodge complaints against police officers. The office of the Provost Marshall within the police investigates and sanctions erring police officers and the sanctions can result in suspension, demotion, or dismissal.

84b *In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.*

Score: 50

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The Court process through which citizens can seek redress from the excesses of law enforcement agencies is slow and it takes a long time to access redress.

84c *In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.*

Score: YES

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The enforcement agencies such as the police have an internal disciplinary body to investigate corruption-related activities. In the Nigerian Police, it is called the X Squad. The enforcement agencies also come within the mandate of the anti-corruption agencies -- the Independent Corrupt Practices and Other Related Offences Commission (ICPC), the Code of Conduct Bureau (CCB) and the Economic and Financial Crimes Commission (EFCC) -- regarding issues relating to corruption.

84d *In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.*

Score: 50

References: "ICPC Quizzes Ehindero," Daily Trust Newspapers, [\[LINK\]](#), April 3, 2008).

Social Scientist's Comments: The agencies initiate investigations but are unwilling to take on politically powerful offenders. The former inspector general of police, Sunday Ehindero, has been accused of embezzling money, but the case has proceeded slowly.

84e *In law, law enforcement officials are not immune from criminal proceedings.*

Score: YES

References: Interview with Mr. Femi Falana, President, West African Bar Association (Nanet Suites, Abuja, Aug. 2, 2008).

Social Scientist's Comments: The law enforcement officers do not have immunity from prosecution or other legal sanctions for breach of the law or process. They are subject to the Criminal and Penal Codes as well as the laws of anti-corruption agencies such as the Code of Conduct Bureau (CCB), the Economic and Financial Crimes Commission (EFCC), and the Independent Corrupt Practices and Other Related Offences Commission (ICPC).

84f *In practice, law enforcement officials are not immune from criminal proceedings.*

Score: 75

References: "Tafa Balogun Opts for Deal with EFCC * to Trade Off Assets for Freedom," Vanguard Newspapers on line, [\[LINK\]](#) (Monday Oct. 17, 2005).

The Police Annual Report 2007.

"Yar Adua Orders Ehindero's Arrest," Daily Independent Newspapers, [\[LINK\]](#), (June 15, 2007). "ICPC Quizzes Ehindero Over N557m Police Fund," Guardian Newspapers, [\[LINK\]](#),

"Ehindero In Fresh Trouble; May Be Declared Wanted By ICPC," Daily Trust Newspapers, [\[LINK\]](#).

Social Scientist's Comments: There have been instances of Law Enforcement Officers prosecuted for various criminal offenses. A former Inspector General of Police, Tafa Balogun, was prosecuted and convicted for money laundering and embezzlement. He entered a plea bargain, which enabled him to serve a short term in jail in exchange for forfeiting some property. The Police Annual Report 2007 discloses that about eight hundred police officers were dismissed within the reporting period for various acts of indiscipline and corruption.

Also the former Inspector General of Police Sunday Ehindero is currently being prosecuted for alleged embezzlement of funds.