

ANNEX 1

THE EXECUTIVE:

(a) Can citizens sue the Government for infringement of their civil rights?

(b) Are there procedures for the monitoring of assets, including disclosure provisions, for the chief executive, Ministers and other high level officials?

(c) Are there conflict of interest rules?

(d) Are there rules and registers concerning gifts and hospitality?

FORMAL PROVISIONS

Yes.

According to the following Laws:

Laws of Trinidad and Tobago (1980/1981): The Constitution
Ch. 1. Part V General: Section 14: Section 1-3

Chapter 5 – Executive Powers, Section 76 (2)(a) & (b) in the case of criminal proceedings in the name of the State.

Source Document: The Laws of Trinidad & Tobago (1980)
Chapter 8:02 State Liability and Proceedings

Part I - Substantive Law

The Environmental Management Act, 2000. Section 83

The Judicial Review Act. 2000

Yes.

Integrity in Public Life Act # 83 & 88 of 2000

Yes.

The Integrity in Public Life Act 2000, Part IV - Code of Conduct, Section 29.

The Integrity in Public Life Act 2000, Part IV - Code of Conduct, Section 27.

QUESTIONNAIRE

(e) If so, are these registers kept up to date? By whom?

No knowledge by anyone of these registers.

1. Have they legal powers to enforce disclosure?

Yes:

The Judicial review Act. and The Integrity in Public Life Act #83 & 88 of 2000, Section 16 (1)-(3) & 17 (1) & (2)

2. Have they staff to investigate allegation?

No.

Provisions being made for staff (Public Officers) and Regulations.

3. What powers of sanction are in place against Parliamentarians?

Yes.

The Integrity in Public Life Act #83 & 88 of 2000, Section 21 (1) and (2) plus Normal Criminal Law.

4. Have they ever been invoked?

(f) Are members of the Executive obliged by law to give reasons for their decisions.

Yes.

The Judicial Review Act, 2000. & The Integrity in Public Life Act 2000, Section 22 (1) (a)

(g) Do Ministers or equivalent high level officials have and exercise the power to make the final decision in ordinary contract award and licensing cases? Is this power limited to special circumstances?

No.

(h) Are there administrative checks and balances on decisions of individual members of the executive?

No.

Central Tenders Board Act.

THE LEGISLATURE

FORMAL PROVISIONS

(a) Is the legislature required to approve the budget?

**Yes.
The Constitution, Ch. 4: part II: Introduction of Bills**

(b) Are there significant categories of public expenditure that do not require legislative approval? Which?

**Yes.
The Constitution, Chapter 8 - Finance, Section 112 - Establishment of Consolidated Fund and Section 113 - Authorisation of expenditure from the Consolidated Fund and Section 114 - Authorisation of expenditure in advance of appropriation.**

(c) Are there conflict of interest rules for parliamentarians?

**Yes.
The Integrity in Public Life Act #83 & 88 of 2000, Part 14 - Code of Conduct, Section 29.**

(d) Are these rules concerning gifts and hospitality?

**Yes.
The Integrity in Public Life #83 & 88 of 2000, Part IV - Code of Conduct, Section 27.**

(e) If so, are these registers kept up to date? By whom?

No one is aware of any Registers.

1. Have they legal powers to enforce disclosure?

Yes. Integrity in Public Life Act.

2. Have they staff to investigate allegations?

No.

3. What powers of sanctions are in place against Parliamentarians?

Yes: The Judicial Review.

4. Have they ever been invoked?

No.

QUESTIONNAIRE

(f) If so, are there public registers for gifts and hospitality?

No.

(g) Is there an independent Electoral Commission (if not, are the arrangement for elections in the hands of agencies who are widely regarded as being non-partisan)?

**Yes.
The Constitution Section 71 & The Representation of the Peoples Act.**

POLITICAL PARTY FUNDING

FORMAL PROVISIONS

- | | |
|---|-----------|
| (a) Are there rules on political party funding? | No |
| (b) Are substantial donations and their sources made public? | No |
| (c) Are there rules on political party expenditure? | No |
| (d) Are the political party accounts published? | No |
| (e) Are accounts checked by an independent institution? | No |
| (f) Does that institution start investigation on its own initiative? | No |

THE SUPREME AUDIT INSTITUTION

FORMAL PROVISIONS

- (a) Is the national auditor general independent? i.e. Is the appointment of the general auditor required to be based on professional criteria/merit? Is the appointee protected from removal without relevant justification?**

- (b) Are all public expenditures audited annually?**

- (c) Is reporting up to date?**

- (d) Are reports submitted to a Public Accounts Committee and/or debated by the legislature?**

- (e) Are all public expenditure declared in the official budget?**

Yes.
The Constitution, Section 116 (6) and Section 117 (1).

Yes.
Section 116 (2) and Section 25 (1) of the Laws of Trinidad and Tobago - The Constitution, Chapter 69:01, Part IV - Audit of Public Accounts and the Protection and Recovery of Public Property.

Yes.
Section 25 (3) and (5) of The Laws of Trinidad and Tobago - The Constitution.

Yes.
The Laws of Trinidad and Tobago - The Constitution, Section 119 (1) to (4).

Yes.
The Laws of Trinidad and Tobago - The Constitution, Section 116 (2) and Chapter 69:01 Part IV, Section 24 (1).

THE JUDICIARY:

FORMAL PROVISIONS

- (a) Have the courts the jurisdiction to review the actions of the executive (i.e. Presidency, the Prime Minister's or other Minister's and their officials)?**

- (b) Are judges/investigative magistrates independent? i.e. Are appointments required to be based on merit? Are appointees protected from removal without relevant justification?**

- (c) Are recruitment and career development based on merit?**

- (d) Have there been instances of successful prosecutions of corrupt senior officials in the past three years?**

- (e) Does the education system pay attention to integrity issues and corruption/bribery? Is it expected to?**

Yes.
The Constitution, Chapter 35, Section 36 and 38. The Judicial Review Act of 2000 – Constitutional Motions to the High Court.

Yes.
The Constitution, Chapter 7 - The Judicature, Part I - Appointment of Judges, Section 104, Section 105 - Qualification of Judges, Section 106 - Tenure of Office and Chapter 9 Part I Section 126 - General Provisions on Service Commissions.
Part 4: Investigative/watchdog agencies (e.g. Anti-Corruption Bureau)

Yes

No history in past 3 years

Yes.
In recent years at the Law School. Also, it is expected to grow given the global pressure for good governance.

THE CIVIL SERVICE:

- (a) Are there laws establishing criminal and administrative sanctions for bribery?**

- (b) Are there rules requiring political independence of the civil service?**

- (c) Are recruitment/career development rules based on merit?**

- (d) Are there specific rules to prevent nepotism? Cronyism? (note: rules discriminating positively in favour of marginalised or minority groups are not included in this description)**

- (e) Are there rules (including registries) concerning acceptance of gifts and hospitality?**

FORMAL PROVISIONS

- Yes.**
The Integrity in Public Life Act, 2000, The Civil Service Act, Chapter 23:01 Regulations Chapter XI - Code of Conduct, Fire Service (Terms and Conditions of Employment) Regulations, 1998, Police Service Regulations, Prison Rules and Education Act (Teaching Service) Regulations.

- Yes.**
The Civil Service Act 23:01 #10 and Fire Service (Terms and Conditions of Employment) Regulations, 1998.

- Yes.**
The Civil Service Act, Chapter 23:01 - Regulations made under Section 28 Chapter 111, Nos. 11-12, The Preamble to the Constitutions, Public Service Commission Regulations/Police Service Commission Regulations and Teaching Service Commission Regulations.

- Yes.**
Public Service Commission.

- Yes.**
Civil Service Act #23.01. Section 28, Civil Service Amendment Regulations, 1996 Chapter XI, Code of Conduct Clause 144 and The Integrity in Public Life Act 2000.

QUESTIONNAIRE

- (f) If so, are these registers kept up to date? By whom? **No.**
1. Have they legal powers to enforce disclosure? **No.**
 2. Have they staff to investigate allegations? **Yes:
The Permanent Secretary or Head of Department-The
Judicial Review Act.**
 3. What powers of sanction are in place against
Parliamentarians? **Yes.
The Judicial Review Act.**
 4. Have they ever been invoked? **No.**
- (g) Are there restrictions on post public service employment? **No.**
- (h) Are procedures and criteria for administrative decisions
published (e.g. for granting permits, licenses, bank loans,
building plots, tax assessments, etc)? **No.**
- (i) Are there complaint mechanisms for public servants and
_whistleblower protection measures? **Yes. Judicial Review Act, 2000; Freedom of Information,
1999; the Ombudsman Act and Constitution of Trinidad and
Tobago, Act 4 of 1976 - Chapter 1:01, Clause 79 - Complaints
Mechanism
No Whistleblower Protection Laws in place**
- (j) Are there means for complaints by members of the
public? **Yes.
The Ombudsman, Service Commission, each Ministry and
The Police Complaints Authority (in case of the Police).**

POLICE AND PROSECUTORS

FORMAL PROVISIONS

(a) Is the commissioner of police independent?

**Yes.
The Police Service Commission Section 122.**

1. Are appointments required to be based on merit?

**Yes.
Police Service Commission Regulations Section 129.**

2. Is the appointee protected from removal without relevant justification?

**Yes.
Police Service Commission Regulations Section 129.**

(b) Are public prosecutors independent?

**Yes.
The Constitution of Trinidad and Tobago Section 90,
Subsection (2) and (6).**

(c) Are there special units for investigating and prosecuting corruption crimes?

**Yes.
Fraud Squad. Criminal Investigation Department.**

(d) Is there an Independent mechanism to handle complaints for corruption against police?

**Yes.
Act 17 of 1993 and Act 10 of 2000, Part II, Sections 4 and 5.**

(e) Does civil Society have a role in such a mechanism?

**Yes.
Act 17 of 1993, Part III, Section 21, Subsections (1) – (4).**

POLICE AND PROSECUTORS

FORMAL PROVISIONS

- (f) **In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)?**
- (g) **Are there any cases of corruption within the prosecuting agencies?**
- (h) **Which legislative instruments can be used by the police and public prosecutors for the investigation and prosecution of cases of corruption/bribery?**
1. **Is private to private corruption punishable by law?**
- (i) **Is the law applied?**
- (j) **How many cases of prosecution have been undertaken in the past years?**
1. **How many have been successful?**
2. **If the number is low, are there other effective measures or other good reasons why the number is low?**

Yes:

**Yes.
The Laws of Trinidad and Tobago Interpretation Act, Section 57, The Laws of Trinidad and Tobago Evidence Act 7:02, Section 19 Subsection (1), (2) and The Laws of Trinidad and Tobago Evidence Act 7:02, Section 21 and 22.**

Yes. Larceny Act Section 44.

Yes. Larceny Act Section 42

One Hundred and Forty-nine in last 6 years. Statistical Register of Modus Operandi.

Twenty-four

Yes.

PUBLIC PROCUREMENT.

- (a) Do rules for public procurement require competitive bidding for all major procurement with limited exceptions?**
- (b) Are the rules laid down in documents publicly accessible?**
- (c) Are there strict formal requirements that limit the extent of sole sourcing?**
- (d) Are all major public procurements widely advertised to the Private Sector?**
- (e) Are procurement decisions made public?**
- (f) Is there a procedure to request review of procurement decisions?**
- (g) Can an unfavourable decision be reviewed in a Court of law?**

FORMAL PROVISIONS

- Yes.**
The Central Tenders Board Ordinance No 22 of 1961, Subsection 24 (1). Legal Notice #88 of 1995 and Central Tenders Board Amendment #117 of 1996
- No.**
Reprints not available.
- Yes.**
The Central Tenders Board Ordinance, The WASA Act of 1980, Chapter 54:40 and The T&TEC Act, Chapter 54:70
- No. Except for those procured.**
- No. Only in the Gazette.**
- No.**
- Yes.**
The WASA Act, Chapter 50:40, Second Schedule Compulsory Purchase Order, Section 7 and The Judicial Reviews.

QUESTIONNAIRE

(h) Are there provisions for blacklisting of companies proved to have bribed in a procurement process?

No.

(i) Are there rules and procedures to prevent nepotism/conflict of interest in public procurement?

Yes.

Central Tenders Board Ordinance #22 of 1961, Section 12.3 and Ordinance #18 of 1965, Section 12 (Amended).

(j) Are assets, incomes and life styles of public procurement officers monitored?

No.

THE OMBUDSMAN

(a) Is there an Ombudsman or its equivalent (i.e. an independent body to which citizens can make complaints about maladministrations)?

(b) Is the Ombudsman independent?

1. Are appointments required to be based on merit?

2. Is the appointee protected from removal without relevant justification?

3 Has an Ombudsman been removed with relevant justification in the last five years?

(c) Can petitioners complain anonymously if they fear possible reprisals?

(d) Are reports of the Ombudsman published?

(e) Does the government act on the Ombudsman's recommendations?

FORMAL PROVISIONS

**Yes.
The Laws of Trinidad and Tobago Chapter 2:52 - Ombudsman Act.**

**Yes.
Ombudsman Annual 20th Report, pg 41.**

**No.
The Constitution Act #4 of 1976 Part 2, No. 2**

**Yes.
The Constitution of Trinidad and Tobago, Section 136, Subsections (7), (9) and (10).**

No.

**No.
The Constitution of Trinidad & Tobago, Section 96 (1), if the complaint or request is duly made, it can be investigated if the Ombudsman decides.**

Yes, in the Ombudsman's Annual Report

**Yes.
The Ombudsman 20th Report of 1997 - "Report of the Joint Select Committee of Parliament".**

INVESTIGATIVE/WATCHDOG AGENCIES (E.G. ANTI-CORRUPTION BUREAU)

FORMAL PROVISIONS

(a) Are there special investigative or watchdog agencies?

**Yes.
The Integrity Commission, The Ombudsman and The Criminal Investigative Department.**

(b) Are they independent?

**Yes.
Police Complaints Authority.**

1. Are appointment required to be based on merit?

**Yes.
The Integrity in Public Life Act #83 & 88 of 2000, Part II, Section 5 Subsection 2.**

2. Are appointments generally based on merit?

**Yes.
The Integrity in Public Life Act #83 & 88 of 2000, Part II, Section 4.**

3. Are the appointees protected from removal without relevant justification?

**Yes.
The Integrity in Public Life Act #83 & 88 of 2000, Part II, Section 8. Subsection (2) and (3).**

4. Are their reports published other than when criminal charges are pending)?

**Yes.
Ombudsman's Report and the Integrity Commission Report.**

(c) Do they report publicly to the legislature on the general scope of their work?

**Yes.
Reports are laid in Parliament under the Laws of Trinidad and Tobago - The Constitution Chapter 15:01**

(d) Can people complain to the agency without fear of recrimination?

Yes.

**The Integrity in Public Life Act #83 & 88 of 2000, Part V,
Section 32, Subsections (1) and (2).
THE MEDIA.**

FORMAL PROVISIONS

- (a) Is there a law guaranteeing freedom of speech and of the press?**
- (b) Is there a censorship of the media?**
- (c) Is there a spread of Media ownership?**
- (d) Does any publicly owned media regularly cover the views of government critics?**
- (e) Have journalist investigating cases of corruption been physically harmed in the last five years?**
- (f) Does the media carry articles on corruption?**
- (g) Do media licensing authorities use transparent, independent and competitive criteria and procedures?**
- (h) Are libel laws or other sanctions (e.g. withdrawing of State advertising) used to restrict reporting of corruption?**

Yes.
The Constitution of Trinidad and Tobago Act 4 of 1976
Volume 1-3, Chapter #4 (i) and (k).

No.

Yes.

Yes.

Yes.

Yes.

No formal Wireless Ordinance

Yes.

QUESTIONNAIRE

THE CIVIL SOCIETY:

- (a) Does the public have access to information and documents from public authorities?**
- (b) Do the public authorities generally co-operate with civil society groups?**
- (c) Are there citizen's groups or business groups campaigning against corruption?**
- (d) Are there citizen's groups monitoring the government's performance in areas of service delivery, etc?**
- (e) Do citizen's groups regularly make submission to the legislature on proposed legislation?**

FORMAL PROVISIONS

- Yes.**
The Freedom of Information Act of 1999, Section 3, Subsection (1).
- No.**
- No.**
- No.**
- Yes.**
This is effected via the Network of NGO's.
The Chambers of Commerce and the T&T Transparency Institute.

LOCAL GOVERNMENT

FORMAL PROVISION

(a) Is there a legal requirement that meetings of city/town councils be open to the press and public?

**Yes.
Municipal Corporation Act 1990, Part IV, Section 75,
Subsection (1).**

(b) Are there clear criteria restricting the circumstances in that city/town councils can exclude the press and public?

**Yes.
Municipal Corporation Act 1990, Part IV, Section 75,
Subsection (2) and Sections 69 - 73.**

PROGRESS WITH GOVERNMENT STRATEGY

FORMAL PROVISIONS

(a) Has the Government announced an anti-corruption strategy and a timetable for implementation?

**No.
The Prevention of Corruption Act #11 of 1987, Section 3 (1) and (2).**

**(b) How much of this strategy been implemented?
Is the government meeting its own timetable?**

(c) Is the government meeting its own timetable?

THE SOLICITOR GENERAL.

FORMAL PROVISIONS

(a) Which legislative instruments can be used by the Solicitor General for the investigation and prosecution of corruption/bribery?

**Yes.
The Laws of Trinidad and Tobago Summary Court Act Section 38, Subsection (1) - (4) and the Laws of Trinidad and Tobago Solicitor Act Section 75 Subsection (1).**

(b) Is private to private corruption punishable by law?

**Yes.
The Laws of Trinidad and Tobago Solicitor Act Section 75 Subsection (1) and (2).**

WHAT ACTUALLY HAPPENS

EXECUTIVE

Can citizens sue government for infringement of their civil rights?

The consensus of opinion is that normally this is done under the provision of the civil law of the country. This safeguard is further enhanced by the provisions of the Judicial review Act, 2000 and the Environmental Management Act (EMA), 2000

In the case of the EMA Act 2000, Section 85 established the personal liability of public officials on matters that impinge upon the ability of citizens to enjoy property. Secondly, the Judicial Review Act, 2000 introduces the concept of "Class action" in civil matters.

Notwithstanding these legal provisions there has been one reported case of an individual being pressured by cabinet officials not to pursue a civil suit arising from a text books for schools standardisation committee

Are there procedures for the monitoring of assets, including disclosure provision for the Chief Executive, Ministers and other high level officials?

To date the administrative procedures are yet to be established. For example staffing arrangement for the Integrity Commission to enable it to cope with its increasingly expanded role and function has not been fully addressed.

Additionally there are limits to the extent of disclosure for public officials. Specifically, public officials who fall under the Integrity in Public Life Act, are required to disclose their areas of public involvement but not share or dollar value. The underlying principle seems to be the right of public officials to some level of privacy.

Further, the amendment to the Integrity in Public Life Act 2000 may conflict with section 35 of the FOI Act 2000. In particular, section 35 may only come into effect in cases of court proceedings.

Are there conflict of interest rules?

Normally Yes. However, one opinion suggests that the 1979 amendment to the Central Tenders Board Act may provide a "loop hole" for public officials on issues of procurement. Generally, it is felt that this amendment together with the draft Laws on Procurement can act as a mechanism for by passing the checks and balances for public expenditure.

Additionally, it was felt that the legal drafting of the Integrity Commission Act creates some question as to whether or not the Commission is a constitutional body. The net effect of this concern is the possibility that the Act can be repealed. This drafting problem cannot affect the operation of the Act itself since its vitality is derived from the constitutional amendment that established the Commission.

Are there rules and registers concerning gifts and hospitality?

The maintenance of registers is handled at the Ministerial/ Departmental level by the Permanent Secretary (PS). Generally, there are no regulations pertaining to the receipt of gifts. The non-existence of regulations is directly linked to little or no guidelines or definitions concerning the receipt of gifts.

What obtains at present is the provision that gifts in excess of \$2,000.00 must be included in declarations provided by public officials to the Integrity Commission. However, the current pattern of disclosure of receipt of gifts, at the Ministerial level, is characterized by infrequent declarations. The consensus of opinion on this issue is the pattern could be stemmed if Ministries established clear regulations on this issue.

If so, are these registers kept up to date? By whom?

There is no evidence that anyone has direct responsibility for upkeep of registers.

Are members of the Executive obliged to give reasons for their decisions?

Normally No. However, the general proceedings of any Legislature help to ensure that the rationale for Ministerial decisions is provided.

Do Ministers or equivalent high level officials have and exercise the power to make the final decision in ordinary contract award and licensing cases? Is this power limited to special circumstances?

As a rule of thumb Ministers can give general policy direction on procurement matters but cannot interfere in the decision-making process. A check and balance to possibility of Ministerial abuse is judicial review. Further, the concept of “class action” which evident in the Judicial Review Act 2000 provides the avenue for citizens to challenge to decisions of public officials.

However, it seems that there are instances of breaches of laws governing contract award by Ministers and other public officials.

Are there administrative checks and balances on decisions of individual members of the executive?

Since administrative arrangements are difficult to capture in formal provisions, it can be said that no formal administrative structure exists. Informally, however, the system of Cabinet Advisory and Interministerial Committees provide some administrative mechanism to counterbalance ministerial decisions.

Furthermore, the role and function of the PS coupled with the structural arrangements of the Ministries and wider Public Service provides the requisite checks on excesses.

LEGISLATURE

Is the legislature required to approve the budget?

Yes according to the Constitution outlined in Formal Provisions.

Are there significant categories of public expenditure that do not require legislative approval? Which?

While significant public expenditure do require legislative approval, empirical evidence, as ventilated in the national media and other sources, suggests that some public expenditures have occurred outside the confines of legislative approval.

Are there conflict of interest rules for parliamentarians?

Yes: integrity in Public Life Act as laid out in Formal Provisions.

Are there rules concerning gifts and hospitality

Same as above.

If so, are these registers kept up to date? By whom?

Have they legal powers to enforce disclosure?

Yes. Integrity in Public Life Act.

Have they staff to investigate allegations?

No.

What powers of sanction are in place against parliamentarians?

Yes. Judicial Review Act.

Have they ever been invoked?

No.

If so, are there public registers for gifts and hospitality?

There are no different arrangements here; same as above.

Is there an independent Electoral Commission (if not are the arrangement for elections in the hands of agencies who are widely regarded as being non-partisan)?

The Election and Boundaries Commission is a constitutional body and derives its independence from the underlying constitutional provisions.

However, the current public outcry about the operations of the EBC suggests weaknesses in the structure of the Commission. Whether or not these pronouncements are emanating from partisan interest, the EBC must be equipped to respond to charges and counter charges.

This is a vital capability given the importance of the role of the EBC to “ good governance” .

In particular, the EBC, in very recent times, has created much controversy; as such there is a big question mark on the integrity of election registration process. Also the law has a “loophole” in the process of nominations

POLITICAL PARTY FUNDING

Are there rules on political party funding?

There are absolutely no regulations of political parties in Trinidad and Tobago.

General Comments: The consensus of opinion was that no aspect of the operations of political parties is made public in Trinidad and Tobago. This includes expenditure as well as contributions to party finances

On one hand, the control of expenditure is seen as an important beachhead to creating a level playing field for all participants to the political process. Conversely, limits on contributions to party coffers is also seen as a control on the post- election activities of political parties.

It is felt that since because there is need for greater debate and sharing of information, across cultures and jurisdictions, a public symposium can be hosted to facilitate the process of consultation and public education.

However, several civil society groups and co-mentors have been at the forefront of activism in the effort to influence the policy makers on this matter. In particular, one group, the Trinidad and Tobago Transparency Institute (TTTI) in a year 2000 document entitled "Good Governance" has proposed that consistent with the legislative framework in many countries party campaign and finance regulations must exist. It states in part, "in the law of the land procedure and penalties, acceptance of cash and the use of illegal donations or bequest and the use of hidden accounts and institutions by party officials or other persons should constitute a criminal offence under the law governing the behaviour of political parties".

Are substantial donations and their sources made public?

Unlike the legislative provision found in the US jurisdiction (e.g. Bipartisan Campaign Reform Act of 1997) which imposes reporting requirements with respect to campaign contributions, there are no formal or informal mechanisms in place to effect disclosure of campaign funding in Trinidad and Tobago.

SUPREME AUDIT INSTITUTION.

Is the national auditor general independent? i.e. is the appointment of the general auditor required to be based on professional criteria/merit? Is the appointee protected from removal without relevant justification?

Yes under the Constitution as laid out in Formal Provisions.

Are all public expenditures audited annually?

Since a large number of current public accounts remain unaudited (e.g. the accounts of the National Housing Authority are only audited up to 1988-89), it is necessary to establish mechanisms that would ensure up to date monitoring of the expenditures of public entities. The office of the Auditor General has not got sufficient resources to allow it to function either efficiently or effectively. The underlying principle in this case would be to foster a framework for efficiency in management decision making.

Is reporting up to date?

As cited in the foregoing there are incidences of protracted delays in auditing the accounts of public entities. This problem is severe staffing problems of the Auditor General Department and bureaucratic arrangements of the public service. In many cases private accounting firms are employed to audit State Enterprises Accounts.

Are reports submitted to a Public Accounts Committee and/ or debated by the legislature?

Yes, but not debated.

Are all public expenditure declared in the official budget?

No. This is starkly underscored by the widely commented upon contracts and the extent of public expenditure recently embarked upon by the state. Specifically, it is widely held that expenditure on the 1999 Ms Universe Show, the Airport Contract etc. involved the utilization of State funds without the requisite check and balances.

JUDICIARY

Have the courts the jurisdiction to review the actions of the executive (i.e. Presidency, Prime Minister's or other Minister's and their officials)?

Yes. Generally, the facilities of the constitutional motion in the High Courts enable the review process. The provisions of the Judicial Review Act 2000 further enhance this.

Are judges/ investigative magistrates independent? i.e. Are appointments required to be based on merit? Are appointees protected from removal without relevant justification?

The Judicial and Legal Service Commission depends upon the recommendations of the AG for the recruitment of senior legal officers. Implicit in this arrangement is a political input, at least at the recommendation stage.

However, judges are appointed solely via the JLSC yet in some cases appointments may occur under the advice of the AG.

On the other hand, while meritocracy is used the Chief Justice has influence with the JLSC and changes in policy position may impact upon the CJs recommendation for appointment to the bench.

Are recruitment and career development based on merit?

See the foregoing comments.

Have there been instances of successful prosecution of corrupt senior officials in the past three years?

No. There have been no charges of corrupt judicial officials in the past three years.

Does the education system pay attention to integrity issues and corruption/bribery? Is it expected to?

The Integrity in Public Life Act 2000 provides for a program of public education, however, no program has as yet been developed.

General Comments: The problem in the Judiciary is further compounded by the staffing problems. Specifically, CAT reporters are being trained by the government yet these individuals are not recruited thereby creating severe operational problems.

This funding constraint appears to be a common thread among all the Independent Commissions and other bodies such as the Office of the Ombudsman.

CIVIL SERVICE

Are there laws establishing criminal and administrative sanctions for bribery?

In fact, this is clearly spelt out in the Civil Service Act Chapter 23:01 Code of Conduct Section 146. However, while Public Servants are mandated to report instances of attempted bribery, some may not report it to the Permanent Secretary (PS). Where evidence is found the criminal law takes its course in which the matter will firstly be reported to the PS/Head of Department. Subsequently, the matter is referred to the Director of Public Prosecutions (DPP) or Police where applicable. The Public Service Commission (PSC) is, however, vested with the authority to both discipline and impose penalties on the offending officer.

While there are legal provisions governing the issue of bribery, there is a great need for an effective induction mechanism to introduce Public Officers to the Code of Conduct that govern their behaviour.

The emergence of the feature of "contract labour" in Public Service poses another dimension to the problem since the same set of standard which govern career public officers may not be applicable to contract officers. Invariably, there is a need for the same Code of Conduct to be effected for both types of officers.

Furthermore, it is evident that the responses by career public officers to issues of honesty and corruption is, to a large extent, shaped by organisational culture rather than any formal structure to effect induction/training when new officers are recruited to the Civil Service. Therefore it can be said that there is a weakness in the structure for induction of public officers.

This situation is further exacerbated by the absence of administrative arrangements, between Ministers/Departments to take on the extra responsibility for the management of ethics. For example, the Public Service Commission and the Chief Personnel Officer both may overlap on various matters that affect the Civil Service. Finally, the Police Service regulations are under review particularly with respect to its operational structure with emphasis upon new guidelines for bribery and corruption.

Are there rules requiring political independence of the civil service?

In practice, the growing number of contract officers, some of whom are political appointees, has resulted in a cadre of officers outside the ambit of the rules of the Civil Service/Code of Conduct. In some cases these individuals, because of their political affiliations, wield far more influence than the Permanent Secretary does. In other words, the PS has difficulty in managing these individuals, in effect; they are "free agents." Moreso, a strong political adviser, to the Minister, can undermine the function of the Permanent Secretary.

In effect there are no mechanisms worked out to deal with this political element in the operation of the Civil Service.

While there are formal provisions further Independence of the Civil Service; there has been continued attempts by the Political directorate over successive regimes, to interfere with this independence. In this regard, the Public Services Association (PSA) plays a vital role intervening where necessary.

Are recruitment/career development rules based on merit?

In practice, the rule of thumb used by the PSC for career development in the Civil Service is the seniority of the public officer. This is fuelled by the inadequacy of the staff reporting function in the public service. For example, the current arrangement of the use of "Staff Confidential reports" is yielding meaningless information to line managers. Thus, the Service Commission has to rely upon the seniority of officers, rather than any other criteria, to effect promotions. However, there have been efforts to strengthen the transparency dimension with respect to promotions. Specifically, the PSC has ruled that all officers, in particular police officers, have to be informed of the rationale for being by-passed for promotion. At the level of the Service Commission, career development is dealt with via a combination of meritocracy and seniority. However, seniority tends to be the main criteria for promotion.

Are there specific rules to prevent nepotism? Cronyism? (note: rules discriminating positively in favour of marginalised or minority groups are not included in this description).

No, there are not. The degree to which this can be controlled depends upon the independence of the PSC Commissioners. To the extent that they can be easily swayed by political or economic lobbying, their impartiality can be seriously compromised. For example, the decision to employ temporary clerk as "Leave Relief" via the Ministry of Labour is seen as a recipe for political interference, in the employment practices of the Public Service.

Are there rules (including registries) concerning acceptance of gifts and hospitality?

Generally the empirical evidence suggests that the transfer of gifts to Civil Servants is negligible, as the incidence of this is quite limited. In the Civil Act Chapter 23:01 Code of Conduct, Section 144 the rules and exceptions are spelt out.

If so, are these registers kept up to date? By whom?

Registers are kept by individual PS's or by any appropriate officers in the Ministry/Department to which this function is delegated.

Are there restrictions on Post Public Service employment?

The incidence of Post Public Service employment is not high; however, some restrictions exist to that type of employment. In particular, the PSA is consulted on all instances of

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respect for Post Public Service employment. Only in cases of a scarcity of skills or no one else is available can this practice be implemented.

Are procedures and criteria for administrative decisions published (e.g. for granting permits, licenses, bank loans, building plots, tax assessments, etc)/

Historically, 'No'.

The Civil Service plans to expand its public information thrust. This is currently being stymied because of the massive reorganisation of the various Ministries/Departments.

In particular, the enforcement of the Freedom of Information Act (FOIA) has been delayed with Ministries/Departments being given until June 2001 to enforce public disclosures and set up FOI units. Also, the Act is going back to the Parliament for amendment.

Are there complaint mechanisms for public servants and whistleblower protection measures?

The only mechanism available to Public Servants is the Public Services Association (PSA) and the courts of T & T.

There is no whistleblower protection.

Are there means for complaints by members of the public?

Yes. Complaint desks exist in some ministries. The other source is the Ombudsman's office.

POLICE AND PROSECUTORS

Is the Commissioner of Police (COP) independent? i.e.

The COP is "a servant of the law" and is independent, however, he/she is accountable to the Minister of National Security. Generally, appointments are based upon merit.

Are public prosecutors independent?

Yes. The role and function of public prosecutors falls within the domain of the Director of Public Prosecutions (DPP).

Are there special units for investigating and prosecuting corruption crimes?

There exists a Fraud Squad within the Police Service Commission. There is also an old Anti-corruption Act of 1987 which is being redrafted in order to return to the Parliament for discussion and passing.

Is there an independent mechanism to handle complaints of corruption against the police?

There are two administrative layers (a) the Police Complaints Authority (b) the legal process as manifested in criminal proceedings in the courts of law. However, the extent of impartiality of the Police Complaints Authority is questionable since it largely involves investigation draped by the notion of "Caesar unto Caesar". This coupled by the perception that police officers tend to "favour their own" frustrates the complaints mechanism".

Does civil society have a role in such a mechanism?

Citizen groups are free to forward complaints to various agencies including the Ombudsman, the Police Complaints Authority, the Press Complaints Authority.

In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)?

The case of Senior Supt., Ulric Sanior was cited as a most recent instance of the Police Service Commission acting upon investigations and imposing sanction on police officers for alleged wrong-doing. In this case, the Police Service Commission has recommended disciplinary action for the officer after certain investigations.

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Are there any cases of corruption within the prosecuting agencies?

No.

Which legislative instruments can be used by the police and public prosecutors for the investigation and prosecution of cases of corruption/bribery? Is private-to private corruption punishable by law?

Prevention of Corruption Act, 1987 and the Summary Courts Act.

Is the law applied?

Yes.

How many cases of prosecution have been undertaken in the past years? How many have been successful? If the number is low, are there other effective measures or other good reasons why the number is low?

Cases of Corruption (Past six (6) years)

Taken from the Statistical Register of the Department of 'Modus Operandi, Head Office, Police Administration and confirmed by Sgt. Nero

	1995	1996	1997	1998	1999
Prosecution	2	9	6	52	80
Conviction	info. not given	8	8	8	info. not given

PUBLIC PROCUREMENT

Do rules for public procurement require competitive bidding for all major procurements with limited exceptions?

Yes. There is competitive bidding in the press normally. In some cases the process of selective tendering is utilized, i.e. bidders are selected from a list of pre-qualified contractors.

Certain statutory authorities are no longer under the Central Tenders Board and have established their own Tenders Committee, with differing levels of authority. Even in these cases, normally for contract over \$250,000 the Central Tenders Board is invited to have a representative sit on their Tenders' Committee. However, in several cases some of these authorities have differing levels of authority as directed by Boards decisions.

Concern was expressed with the fact that the state owned enterprises are frequently used to perform the same functions as the Central Tenders Board. Companies and authorities such as MTS, NIPDEC, TIDCO, UNDECOTT invite tenders and award contracts for very large government contracts (police jeeps, the airport, roads, etc). The perception is one of a lack of transparency in these awards.

Are the rules laid down in documents publicly accessible?

No. Even though the public can have access to the Central Tenders Board Legislation it is seldom available at the Government Printery.

Are there strict formal requirements that limit the extent of sole sourcing?

'Sole Source' is only allowed when there is only one manufacturer of the product in use, or a sole parent, or in special cases spare parts for specialized equipment. The normal policy advice to persons wishing to acquire goods/services via a sole source (unless categorized above) is to proceed through a public procurement policy using the press.

Are all major public procurements widely advertised to the private sector?

Yes. All contracts via the Central Tenders Board are widely advertised and if IADB funded, they are also advertised in the IADB Development Business.

Are procurement decisions made public?

Decisions are only made public in the Gazette. Unsuccessful tenderers are informed but no reasons given for their being unsuccessful because the Law has a confidential clause.

Is there a procedure to request review of procurement decisions?

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No formal procedures are spelled out in the regulations. However, if people do write for explanations or ask for investigations this is done. A Complaints Review Section would be a positive addition to the Act.

Can an unfavourable decision be reviewed in a court of law?

Yes. Judicial Review is available.

Are there provisions for blacklisting of companies proved to have bribed in a procurement process?

No provision for blacklisting for any reason.

Are there rules and procedures to prevent nepotism/conflict of interest in public procurement?

Yes. Conflict of interest at Board levels, which also includes spouses and family members.

Are assets, incomes and life styles of public procurement officers monitored?

No. They do not fall under the Integrity in Public Life Act.

OMBUDSMAN

Is there an ombudsman or its equivalent (i.e. an independent body to which citizens can make complaints about maladministration)?

Yes the Ombudsman's office is in operation.

Is the ombudsman independent? i.e.

The Ombudsman is totally independent. There has never been interference in its operations. There must be relevant justification for his removal. No Ombudsman has ever been removed from office in Trinidad and Tobago.

Can petitioners complain anonymously if they fear possible reprisals?

Petitioners cannot complain anonymously. If an anonymous complaints is obtained it is never followed up.

Are reports of the Ombudsman published?

The Ombudsman's Report is published every year. It is laid in parliament and distributed thereafter widely. It is reported upon in the press.

Does the government act on the Ombudsman's recommendations?

The Government invariably acts upon the problems within the Report where it can. In cases when it does not act, it is because the laws need to be changed in order for this to happen. In other cases the problems arise with public service complaints because of poor record keeping and all data is not available to allow action.

**INVESTIGATIVE/WATCHDOG AGENCIES
(e.g. ANTI-CORRUPTION BUREAU)**

Are there special investigative or watchdog agencies?

Yes. The Integrity in Public Life Act.
The Police Complaints Authority &
The Ombudsman.

Are they independent? i.e.

Yes.

Do they report publicly to the legislature on the general scope of their work?

Yes.

Can people complain to the agency without fear of recrimination?

Yes.

MEDIA

Is there a law guaranteeing freedom of speech and of the press?

Although there is freedom of expression enshrined in the Constitution, there have been rare cases when media persons are chastised for perceptions of bias. (Express November 9th 1998). Also, although we have a Freedom of Information Act, it is not yet in operation and therefore cannot be considered a useful addition to our freedoms.

Is there censorship of the media?

Although we have Freedom of speech and a free press enshrined in the Constitution it is felt that the media self-regulates itself because of societal pressures for time to time. There have been cases when media managers will say, "we cannot deal with that". We have also had the experience of a journalist being jailed and charged with contempt in a high profile drug related case, apparently the judge instructed the media not to report on the case and one journalist was arrested for contempt of court.. This judgment is long outstanding.

Is there a spread of media ownership?

There are three daily newspapers and several weekly papers. Radio stations abound with many types of programmes including talk radio with call-in commentary; ownership includes private and public. There are three Television stations, only one being privately owned. There is no public service broadcasting.

Does any publicly owned media regularly cover the views of government critics?

Newspapers generally carry differing views including those of government critics.

Have journalists investigating cases of corruption been physically harmed in the last five years?

There have been no reports of journalists being harmed in anyway for investigating cases of corruption. There is an overall problem of very little investigative journalism being done.

Does the media carry articles on corruption?

Although there is reporting of corruption it is at the surface level generally. It sparks a lot of controversy when reported but dies within our "nine-day wonder" (a colloquial expression) period.

Do media licensing authorities use transparent, independent and competitive criteria and procedures?

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No. The procedure is informal and not transparent. A Broadcast Code is now being drafted.

Are libel laws or other sanctions (e.g. withdrawing of state advertising) used to restrict reporting of corruption?

The Libel law has invariable been used to constrain reporting of perceived corruption. We have had the experience of the Prime Minister threatening to have his supporters withdraw advertising from the Trinidad Express. We have had the experience of a weekly newspaper having a problem importing newsprint.

CIVIL SOCIETY

Does the public have access to information and documents from public authorities?

Not at this time. However, there is a Freedom of Information Act 1999. In section 3(1) the object of the act is outlined and states the following. "The object of this Act is to extend the rights of members of the public to access the information in the possession of public authorities by ---

- (a) making available to the public information about the operations of public authorities and, in particular, ensuring that the authorizations, policies rules and practices affecting members of the public in their dealings with public authorities are readily available to persons affected by those authorizations policies, rules, land practices and
- (b) creating a general right of access to information in documentary form in the possession of public authorities limited only by exception and exemptions necessary for protection of essential public interest and the private and business affairs of persons in respect of, whom information is collected and held by public authorities.

Further, in Part 3 of the Act entitled Right to Access to Information subsection 11 (1) states as follows:

"Notwithstanding any law to the contrary and subject to the provision of this Act, it shall be the right of every person to obtain access to an official document

- (2) Nothing in this Act shall prevent a public authority from
 - (a) giving access to documents or information
 - (b) amending documents

other than as required by this Act where it has the discretion to do so or where it is required to do so by any written law or order of a court".

There are many exempt documents identified under the Act - with a process for review of someone is dissatisfied.

However, this Act is not yet in force and has to revert to Parliament for amendment prior to its proclamation by the President.

Do the public authorities generally co-operate with civil society groups?

One view is, that generally the degree of co-operation is dependent upon the philosophical orientation of the Minister in the respective Ministries. For example, in the Ministry of Labour there exists a formal arrangement via the Tri-partite Committee which acts as a key consultative mechanism via which civil society groups can impact upon policy matters.

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By contrast, the Genders Affairs Division of the Ministry of Human Development displays a somewhat different posture. Evidence shows that there is no sharing of information and little collaboration there. This can be compared to the orientation of the Consumer Affairs Division which, according to one source, tends to co-operate with groups that best reflect their position.

Further the evidence suggests that among the Statutory Bodies (e.g. T&TEC, WASA) there may be a clear policy position on various issues (e.g. customer orientation) but there exists no structure to effect implementation.

Are there citizen's groups or business groups campaigning against corruption?

There are no citizen groups, other than Trinidad and Tobago Transparency Institute engaged in activism against corruption. Periodically the ethics committee of the Chamber of Commerce will make a public statement.

Are there citizen's groups monitoring the government's performance in areas of service delivery, etc?

No.

Do citizen's groups regularly make submissions to the legislature on proposed legislation?

Yes. This is effected via, for example, the Network of NGO's, which has collectively made representation a number of bills for example:

- Occupational Health and Safety
- Minimum Wages Order
- National Insurance and Social Security Act

Also this group has presented their position before the Select Committees of Parliament.

The T & T Transparency Institute has made a presentation on the FOI Act which managed to effect some changes in the final Bill.

LOCAL GOVERNMENT

Is there a legal requirement that meetings of city/town councils be open to the press and public?

Yes. In addition, schools are frequently invited to attend these statutory meetings of the council; also the Ombudsman's representative attends these meetings in the course of standard investigation of the municipality.

Are there clear criteria restricting the circumstances in that city/town councils can exclude the press and public?

Yes. The public and Press are unwelcome at Statutory Committee Meetings.

PROGRESS WITH GOVERNMENT STRATEGY

Has the government announced an anti-corruption strategy and a timetable for implementation?

A clear intent, but no explicit strategy can be discerned from the compendium of bills that includes:

- The Anti-Corruption Act of 1987
- The Judicial Review Act of 2000
- The Integrity Commission Act
- Freedom of Information Act of 1999

This can be contrasted with the dismantling of the Ministry of Public Administration and the related infrastructure that involved the establishment of an anti-corruption unit. Also the amendment of the 1987 Prevention of Corruption Bill has lapsed therefore has to be tabled again in the new parliamentary session. Overall, no clear-cut timetable has been advanced.

How much of the strategy has been implemented?

Not applicable as there is no announced strategy.

Is the government meeting its own timetable?

Not applicable as there is no announced strategy.