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1. How do you deal with corruption in your country? Do you have a policy to combat corruption (specific fields and specific categories)?

To date, Mauritius has subscribed to the following international instruments to curb corruption:

- *United Nations Convention Against Corruption (UNCAC) – signed 9 December 2003 and ratified on 15 December 2004;*
- *African Union Convention on Preventing and Combating Corruption – signed 6 July 2004; and*
- *SADC Protocol Against Corruption – signed 14 August 2001, ratified on 14 January 2002.*

Moreover, the Prevention of Corruption Act (PoCA) 2002, as subsequently amended, has been enacted by the National Assembly to provide for the criminalisation of corruption and for the establishment of the Independent Commission Against Corruption (ICAC). The Commission adopts a three-pronged approach to combat corruption: investigation, prevention and education.

The PoCA (2002), as amended, describes the various corruption offences under Sections 4 to 17, as indicated below:

- S4 *Bribery by public official*
- S5 *Bribery of public official*
- S6 *Taking gratification to screen offender from punishment*
- S7 *Public official using his office for gratification*
- S8 *Bribery of or by public official to influence the decision of a public body*
- S9 *Influencing public official*
- S10 *Trafic d'Influence*
- S11 *Public official taking gratification*
- S12 *Bribery for procuring contracts*
- S13 *Conflict of interests*
- S14 *Treating of public official*
- S15 *Receiving gift for a corrupt purpose*
- S16 *Corruption of agent*
- S17 *Corruption to provoke a serious offence*

*An extract of the PoCA (2002) is annexed.*

The PoCA (2002) criminalises corruption in both the public and private sector.

**Note:** *Mauritius has been subject to review in respect of Chapters III and IV of the UNCAC by the Implementation Review Mechanism of the UNODC and the executive summary has already been published on the UNODC website.*

2. a) Is there an anti-corruption agency in your country? If so, does it address the negative impacts of corruption on human rights in its work? Can you cite some examples to this effect?

Yes. The **INDEPENDENT COMMISSION AGAINST CORRUPTION (ICAC)** was established as a body corporate by virtue of Section 19 of Prevention of Corruption Act (POCA) 2002 to lead, implement and administer prevention, education and enforcement elements of the national strategy to fight corruption within established legal parameters.

The main activities of the ICAC are to:

- (i) educate the public on the dangers of corruption;
- (ii) enhance systems and procedures of public bodies through corruption prevention reviews;
- (iii) investigate into allegations of corruption and money laundering cases; and

As per Section 20 of the PoCA (2002), the functions of the ICAC are to:

- (a) educate the public against corruption;
- (b) enlist and foster public support in combating corruption;
- (c) receive and consider any allegation that a corruption offence has been committed;
- (d) detect or investigate any act of corruption;
- (e) investigate the conduct of any public official which, in its opinion, is connected with or conducive to, corruption;
- (f) monitor, in such manner as it considers appropriate, the implementation of any contract awarded by a public body, with a view to ensuring that no irregularity or impropriety is involved therein;
- (g) examine the practices and procedures of any public body in order to facilitate the discovery of acts of corruption and to secure the revision of methods of work or procedures which, in its opinion, may be conducive to corruption;
- (h) advise and assist any public body on ways and means in which acts of corruption may be eliminated;
- (i) undertake and assist in research projects in order to identify the causes of corruption and its consequences on, *inter alia*, the social and economic structure of Mauritius;
- (j) cooperate with all other statutory corporations which have as object the betterment of the social and economic life of Mauritius;
- (k) draft model codes of conduct and advise public bodies as to the adoption of such code of conduct as may be suited to such bodies;
- (l) co-operate and collaborate with international institutions, agencies or organisations in the fight against money laundering and corruption;
- (m) monitor current legislative and administrative practices;

- (n) advise the Parliamentary Committee on such legislative reform as it considers necessary to foster the elimination of acts of corruption;
- (o) detect and investigate any matter that may involve the laundering of money or suspicious transaction that is referred to it by the Financial Intelligence Unit (FIU);
- (p) execute any request for assistance referred to it by the FIU;
- (q) take such measures as may be necessary to counteract money-laundering in consultation with the FIU;
- (r) co-operate and collaborate with the FIU in fulfilling common objectives.

However, instilling a culture of integrity in the population and institutions is a long-term endeavour that requires perseverance and patience. Anti-corruption efforts need to be sustained. The strategy (preventive and investigative) adopted in the fight against corruption over the years has evolved in the light of the changing environment in order to meet public expectations as well as to create greater impact. Our aim presently is to:

- reinforce preventive measures through enhancement of systems in public bodies;
- focus on improving effectiveness and impact of our anti-corruption activities;
- reinforce the fight against corruption through effective use of media and mass communications;
- ensure successful court-oriented investigations;
- implement anti-corruption framework in public bodies in a proactive manner; and
- enhance systems integrity and people integrity.

The public at large is empowered to **Recognize, Resist, Reject and Report** corruption while integrity of people and of systems are continuously **Reinforced**. An inclusive approach is also adopted where no section of the population is left out. The overall aim is to secure full public engagement in the national fight against corruption.

Corruption in all its forms denies the individual of his or her rights. In line with the above, various initiatives have been undertaken to address the above. Some of them include:

- **The Equal Employment Opportunity Policy for ICAC.** The ICAC is committed to building an organization that makes full use of talents, skills, experience, competence, desire and willingness to work, and different cultural perspectives available, in a multi-racial, multiethnic, multi-cultural and multi-lingual society, where people feel they are respected and valued and where they can achieve their potential regardless of their status, that is, their age, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation.

The existing provisions under the PoCA (2002) illustrate the commitment of the ICAC to an equal opportunity Policy. Section 24 of the Act, already requires the ICAC to advertise openly opportunities for employment. The contents of the Policy should be read in conjunction with the provisions of the Equal Opportunities Act 2008. The present policy forms part of the Code of Conduct and applies to all employees.

- **Conduct of empowerment sessions** where the population is sensitised about the dire consequences of corruption highlighting how the latter brings about a denial of their basic rights, hence breeding a culture of intolerance towards corruption. Trade unions are key stakeholders in our campaign. To reinforce the above, anti-corruption materials addressing corruption and its negative impact on society are produced and widely distributed.
- **Conduct of empowerment sessions for law enforcement officers.** Empowerment sessions on corruption and integrity issues are regularly conducted for law enforcement officers such as officers of the Mauritius Police Force, Mauritius Revenue Authority and others. Anti-corruption and integrity themes form an integral part of their inductions and training.
- **Investigation without fear or favour.** On the investigation front, a dedicated approach is being adopted at the very outset to ensure that corruption, wherever it is identified, is targeted independently, investigated thoroughly, efficiently and impartially, and dealt with effectively according to law. Our focus is on the conduct of investigations without fear or favour into all alleged cases of corruption and money laundering.
- **Reporting acts of corruption.** Through our campaigns, the general public is also being urged to report all acts of corruption to the ICAC. Much effort has been geared towards consolidating public's trust in reporting thereby making the act of "reporting acts of corruption" simple, sure (trustworthy) and protected.
- **Enhancement of systems in public bodies.** As per the Prevention of Corruption Act 2002, as amended, the ICAC is mandated to exercise vigilance and superintendence over the Integrity systems and practices in public bodies with a view to eliminating opportunities for corruption. Corruption prevention reviews are undertaken to examine systems and procedures in public bodies and to recommend actions to eliminate corruption opportunities. The reviews aim at enhancing integrity in public bodies through prevention to ensure transparency, accountability, integrity and fairness.

During the conduct of prevention works, the adequacy of the applicable legislations in addressing corruption is also analysed. In fact, ICAC has come up with recommendations for legislative reforms to eliminate the risks of corruptions in a number of sectors. It is encouraging to note that some of the proposed reforms have been implemented through appropriate amendments in legislations.

Moreover, public bodies are encouraged to develop and communicate their customer charters where the standard of service (including the required time span) is clearly spelt out.

- **The Public Sector Anti-Corruption Framework (PSACF).** Another important Initiative of the ICAC launched in December 2009, has been the development of the PSACF. This Framework promotes a holistic and proactive approach to detect, prevent and combat corruption hence

Improving the institutional capabilities of public bodies. The project empowers public sector organisations to take corruption prevention in their own hands. It advocates the setting up of anti-corruption committees, the adoption of an anti-corruption policy and the conduct of corruption risk management. The PSACF forms part of the Government Programme 2012-2015. To date, 42 Ministries /Government Departments have already embarked on the implementation phase of the public sector anti-corruption framework where:

- o 42 have set up an Anti-Corruption Committee (ACC);
- o 21 have developed and adopted an Anti-Corruption Policy; and
- o 17 have embarked on the Corruption Risk Management (CRM) stage

- **Development of anti-corruption tools.** In order to optimise resources, the focus of our prevention and education works shifted from individual organisations to groups of organizations. More emphasis is now being laid on the development and implementation of corruption prevention tools like best practice guides, model codes, and so on, that would assist public bodies in enhancing the level of integrity in their organisations. These materials provide easy checklist for public bodies to follow in order to assess their own vulnerabilities to corruption and to take appropriate corrective measures to prevent corrupt opportunities.

Anti-corruption tools are strong means of empowering employees and consolidating the fight against corruption. In this context, numerous anti-corruption tools and codes of ethics/conduct have been developed in collaboration with organisations concerned during the past ten years. Codes of conduct serve as a guide to employees so that they are aware of the standard of behaviour expected of them so as not to compromise human rights.

Some of the anti-corruption tools are:

- Best Practice Guide – Inspection Works In Public Bodies
- Best Practice Guide – Recruitment and Selection In Parastatal Bodies
- Building Integrity: A Best Practice Guide for NGO's
- Code of Conduct for Councillors
- Code of Conduct for Civil Status Officers
- Code of Conduct for Prison Officers
- Code of Conduct for Board Members of MASA
- Code of Ethics and Conduct for NGOs
- Model Code of Conduct for Employees of Parastatal Bodies
- Model Code of Conduct for Procurement Officials
- Code of Ethics for Stakeholders of the Sports Community
- An Ethical Guideline for Office Bearers of National Sports Federations
- Managing Conflict of Interests handbook
- Do-It-Yourself – Internal Audit Charter
- Newsletters (where articles on the impact of corruption are published). For example, an article on **'Corruption; A severe handicap to human rights'** was written by a tertiary education student in Finance and Law in a newsletter entitled *'YEP LINK (issue 3)'*;

- The organisation of an online discussion forum on various aspects of corruption (including its linkage with human rights) in the context of the Law Day 2013 commemorated on 04 March. The ICAC enlisted the participation of law students and other individuals for live discussion on ICAC's facebook page;
- The collaboration of the ICAC was solicited by the Middlesex University Law Society Mauritius in the second Human Rights Conference on Wednesday 05 June 2013. The Chief Legal Adviser of the Commission delivered a speech focused on the following theme: "*The Limits of the Mauritian Legal System in Criminal Trials*". Emphasis was laid on the 'right to a fair trial' outlined in The Universal Declaration of Human Rights and the pre-trial procedures in criminal cases;
- Inclusion of corruption and human rights related themes in Anti-Corruption Competitions such as Public Speaking Competition, Debate Competition, Sketch Competition and Project Competition; and
- The organisation of a Workshop targeting youth leaders in the context of International Day for the Eradication of Poverty in collaboration with the National Empowerment Foundation (falling under the aegis of the Ministry of Social Integration and Economic Empowerment) on 23 October 2009. The aim of the project was to trigger reflection on corruption and its linkage with poverty.

b) Are there national human rights institutions in your country? If so, are they mandated to deal with corruption?

Yes, the Human Rights Commission and some other NGOs. No, they are not mandated to deal with corruption. Only the ICAC is mandated to do so by virtue of the PoCA 2002. By virtue of the PoCA (2002), the Human Rights Commission refer all complaints of corruption to the ICAC for investigation.

Hereunder are some national institutions/NGOs addressing issues related to human rights:

- **The National Human Rights Commission (NHRC)**. The functions of the Commission are provided for in the Protection of Human Rights Act 1998. It enquires into *written complaints* made by:
  - i. any person who feels that any of the *human rights* enshrined in Chapter II of the Constitution has been violated or is likely to be *violated*
  - ii. the *act or omission* of a *public officer* or *employee* of a *public body*
  - iii. any person against an act or omission of a member of the police.

The NHRC visits police stations, prisons and other places of detention. It organises and participates in educational and awareness campaigns for the protection and promotion of human rights. It also reviews the safeguards provided by various laws for the protection of human rights as well as review the factors or difficulties that inhibit the enjoyment of such rights.

The NHRC deals with the following human rights guaranteed by the Constitution of Mauritius:

- (i) the right to life;
- (ii) the right to personal liberty;
- (iii) the right to protection from slavery and forced labour;
- (iv) the right to protection from inhuman treatment;
- (v) the right to protection from deprivation of property;
- (vi) the right to privacy of home and other property;
- (vii) the right to secure protection of the law;
- (viii) the right to freedom of conscience;
- (ix) the right to freedom of expression;
- (x) the right to freedom of assembly and association;
- (xi) the right to freedom to establish schools;
- (xii) the right to freedom of movement;
- (xiii) the right to protection from discrimination.

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- **The Equal Opportunities Commission (EOC)**. The Commission is a corporate body, set up under the Equal Opportunities Act 2008. As per Section 27(3) of the Equal Opportunities Act 2008, the duties of the Commission are as follows:

- i. work towards the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status;
- ii. keep under review the working of the Equal Opportunities Act and any relevant law and submit to the Attorney-General proposals for amending them, if required;
- iii. of its own motion or following a complaint, carry out an investigation;
- iv. attempt to reconcile the parties to whom and against whom a complaint relates;
- v. conduct and foster research and educational and other programmes for the purpose of eliminating discrimination and promoting equality of opportunity and good relations between persons of different status; and
- vi. prepare appropriate guidelines and codes for the avoidance of discrimination and take all necessary measures to ensure that the guidelines and codes are brought to the attention of employers and the public at large.

- **Public Bodies Appeal Tribunal (PBAT)**. The tribunal was set up to deal with Public Officers who want to make an appeal against a decision of the Public Service Commission or Local Government Service Commission pertaining to an appointment exercise or to a disciplinary action taken against an officer.

PBAT is operational since June 2009 and is governed by the Public Bodies Appeal Tribunal Act 2008 following an amendment and insertion of Section 91A of the Constitution relating to the setting up of the Tribunal.

- **The Ombudsman's Office**. The role of the Ombudsman is to investigate into complaints against government institutions and seek redress to injustice if any, sustained in consequence of any alleged maladministration that may have been committed by any public officer or authority in the exercise of administrative functions.
- **Amnesty International Mauritius**. Over the years Amnesty international has championed the cause to stop human rights abuses. Amnesty International Mauritius has its standards set by the Amnesty International and uses the same strategy to mobilise the public in its favour, such as applying pressure on governments, armed political groups, companies and intergovernmental bodies through methods such as publication and promotion of research findings, public demonstrations, human rights education, awareness-raising concerts and community activities amongst others. Mauritius is amongst one of the eighty countries around the world which has an established Amnesty Branch.

#### **Legislations**

- ✓ Section 91 of the Constitution Amendment Act 2008
- ✓ Public Bodies Appeal Tribunal Act 2008



- **The Ombudsperson for Children's Office (OCO).** The Office was set up under Act No. 21 of 2003. Its objectives are to promote the rights and interests of children and to ensure that their rights, needs and interests are given full consideration by public bodies, private authorities, individuals and associations of individuals.
- c) **Do your anti-corruption agency and national human rights institutions cooperate in tackling corruption? If so, what mechanisms exist to promote cooperation between the respective institutions?**

Yes. Though, there is no formally established cooperation between the HRC and the ICAC, the ICAC collaborates with some NGOs on different activities and projects to raise awareness on the negative impact of corruption on the rights of individuals.

Since 2003, the ICAC has established sustainable anti-corruption structures to actively engage our stakeholders in the fight against corruption. The objective behind this strategy is to transfer ownership of anti-corruption initiatives and enhance vigilance in society regarding corruption and its related issues via a collaborative approach. Networking and the development of effective partnerships with organizations in both the public and private sectors have been strengthened to tackle the negative effects of corruption on the protection of human rights and on development.

3. **Which measures have been adopted in your country that take into account the negative impact of corruption on the enjoyment of human rights? What are the best practices and what are the challenges in this respect?**

- The enactment of relevant legislations that ensures the upholding of citizens' rights such as the PoCA 2002, Public Procurement Act 2006, Financial Intelligence and Anti-Money Laundering Act 2002, Equal Opportunities Act 2008, amongst others;
- The setting up of complaints and appeal channels such as the Police Complaints' Bureau, Public Bodies Appeal Tribunal and Independent Review Panel to ensure the protection of human rights;
- The development and implementation of a national campaign/strategy against corruption; and
- Signing and ratification of the international and regional protocols/conventions as mentioned in answer to question 1.

Best practices:

- The appeal channels have proved to be effective means to provide redress in a transparent and fair manner.
- All organisations employing more than ten persons are mandated by law to develop and implement an Equal Opportunity Policy.

Challenges:

- buy-in of all stakeholders and the private sector

- amendment/strengthening of the legislation
  - sustained collaboration with local and international authorities
  - inter-agency cooperation and the capacity of law enforcement agencies to investigate and prosecute cases concerned.
4. **In your country, which are the human rights that are most affected by corruption? What specific negative impact can corruption have on the enjoyment of human rights by vulnerable groups such as women, children, elderly, persons with disabilities, indigenous people and others?**

Corruption, which affects most countries and the vulnerable groups, is undeniably an obstacle to the promotion of development and the rights of people.

Generally, corruption affects the economic, social, cultural and civil rights of citizens.

Although there are various bodies engaged in the process of developing and implementing a rights-based approach, it is very difficult to measure and gauge the impact of corruption on the enjoyment of human rights in Mauritius since no relevant study nor has survey been undertaken yet. However, an analysis of complaints received at the ICAC revealed that most types of allegations relate to cases of favouritism and abuse of office resulting in unfairness.

Corruption, if left unchecked, can lead to unfair treatment such as unequal access to services provided by the government.

5. **What measures can be taken by the Human Rights Council and its subsidiary bodies or by States to combat corruption with specific consideration regarding the negative impact of corruption on the enjoyment of human rights?**

Countering corruption is vital to ensure upholding of human rights and concerted efforts are necessary to educate the public and raise awareness on the negative impact of corruption on the enjoyment of human rights; and, in promoting good governance principles.

Measures that could be taken:

- Increase synergy between anti-corruption agencies and national human rights institutions.
- Emphasis need to be placed on coordinating actions of domestic agencies and in the implementation of international agreements regulating human rights and good governance;
- Engage all parties concerned in the review of existing legislations and in the enactment of new legislations;
- Develop and showcase a human rights-based approach in tackling corruption;
- Holding of international workshops / forums to discuss pertinent human rights issues in relation to the negative impact of corruption on the enjoyment of human rights; and
- Conduct studies on emerging factors relating to the impact of corruption on human rights.

6. How can the United Nations human rights mechanisms be utilized for anti-corruption efforts? What other institutional mechanisms could be used to integrate a human rights-based approach in combating corruption or vice-versa at both, the international and national level?

- Identify ways in which human rights mechanisms could adopt a human rights-based approach to the fight against corruption.
- Emphasise the links between anti-corruption efforts and human rights.
- Encourage parties concerned to:
  - ✓ implement or reinforce measures to protect the victims of corruption, persons reporting crimes of corruption, and experts dealing with such crimes; and

Other institutional mechanisms:

- National human rights agencies, which are not mandated to tackle corruption, could be empowered to direct complaints regarding corruption to the national anti-corruption agency.
- Treaty bodies monitoring the progress of anti-corruption agencies worldwide could be called upon to share and publish anti-corruption initiatives that have been successfully implemented.
- UNCAC review mechanism to take on board the human-rights aspect in prevention of corruption.

7. Are there any other observations or suggestions you wish to provide regarding the topic?

Anti-corruption efforts and human rights are closely and deeply linked. A concerted effort should be nationally and internationally established to forge and formalise the link between them.

All anti-corruption initiatives are geared towards building a clean and fair Mauritius. Being a small-island state, Mauritius fares quite well on the African continent on indicators such as the Mo Ibrahim Index and the Corruption Perceptions Index (CPI).

The upholding of human rights remains a core element in our national strategies against corruption.