THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY MAURITIUS

ARTICLE 11 UNCAC

JUDICIAL AND PROSECUTORIAL INTEGRITY

MAURITIUS (EIGHTH MEETING)

The systems and measures adopted by Mauritius to ensure transparency and accountability in the recruitment, hiring, retention, promotion and retirement of public officials in criminal justice institutions are as follows:

Judges of the Supreme Court

As per Article 76 of the Constitution of Mauritius, the Judges of the Supreme Court are the Chief Justice, the Senior Puisne Judge and such number of Puisne Judges as may be prescribed by the National Assembly. Article 77 of the Constitution deals with the appointment of judges of the Supreme Court and stipulates that the Chief Justice shall be appointed by the President after consultation with the Prime Minister. The Senior Puisne Judge shall be appointed by the President, acting in accordance with the advice of the Chief Justice. The Puisne Judges shall be appointed by the President, acting in accordance with the advice of the Judicial and Legal Service Commission. The tenure of office of Judges of the Supreme Court are stipulated in Article 78 of the Constitution.

Magistrates and Legal Officers

Magistrates and legal officers are appointed by an independent body namely the Judicial and Legal Service Commission set up by virtue of Section 85 of the Constitution which enunciates as follows:

Judicial and Legal Service Commission

(1) There shall be a Judicial and Legal Service Commission which shall consist of the Chief Justice, who shall be the Chairman, and the following members - the Senior Puisne Judge; the Chairman of the Public Service Commission; and one other member (in this section referred to as ‘the appointed member’) appointed by the President, acting in accordance with the advice of the Chief Justice.

(2) The appointed member shall be a person who is or has been a judge of a court having unlimited jurisdiction in civil or criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court.

(3) Where the office of the appointed member is vacant or the appointed member is for any reason unable to perform the functions of his office, the President, acting in accordance with the advice of the Chief Justice, may appoint a person qualified for appointment as such a member to act as a member of the Commission and any person so appointed shall continue to act until his appointment is revoked by the President, acting in accordance with the advice of the Chief Justice.

Disciplinary Control over Judicial Officers

Section 86 (1) of the Constitution provides as follows:

(1) Power to appoint persons to hold or act in offices to which this section applies (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices
and to remove such persons from office shall vest in the Judicial and Legal Service Commission.

**Appointment of Court Staff**

The appointment of the Court Staff on the other hand is done by the Public Service Commission. Section 88 of the Constitution sets up the Public Service Commission which provides that:

(1) There shall be a Public Service Commission, which shall consist of a Chairman, 2 Deputy Chairman and 4 other Commissioners appointed by the President.’

Section 85 of the Constitution provides for Appointment of public officers and section 85 (1) provides that:

Subject to this Constitution, power to appoint persons to hold or act in any offices in the public service (including power to confirm appointments), to exercise disciplinary control over persons holding or acting such offices and to remove such persons from office shall vest in the Public Service Commission.

Section 85(3) of the Constitution specifies that section 85 shall not apply to -

· the office of Chief Justice or Senior Puisne Judge;
· any office, appointments to which are within the functions of the Judicial and Legal Service Commission

Section 118 of the Constitution of Mauritius empowers the Public Service Commission (PSC) to make its own rules to regulate and facilitate its performance and its functions. Moreover, the PSC is not subject to the direction or control of any other person or authority, except the Public Bodies Appeal Tribunal and the Supreme Court.

Any public officer aggrieved by the decision of the PSC may appeal against that decision to the Public Bodies Appeal Tribunal or to the Supreme Court.

The Public Service Commission is empowered by Regulation 13 of the PSC Regulations 1961 to exercise supervision over and approve-

a) all schemes for admission to any public office by examination, whether specified or not in the relevant schemes of service, and all schemes for the award of scholarships for training for the public service; and

b) all methods of recruitment, including the appointment and procedure of boards for the selection of candidates in the Public Sector.

Additionally, the PSC is empowered under Regulation 14 of the PSC Regulations 1961, to exercise its powers of appointment and promotion, including, promotion by selection to:

a) the maintenance of the high standard of efficiency necessary in the Public Service;

b) give due consideration to qualified officers serving the Public Service and to other Mauritian citizens provided they hold the required qualifications, and

c) in the case of officers serving in the public service, take into account qualifications, experience, merit and suitability for the office in question before seniority.
**Prosecution Services**

The Office of the Director of Public Prosecutions (ODPP) is made up of:

(a) the Director of Public Prosecutions (DPP);
(b) legal staff (Prosecution State Counsel and Prosecuting State Attorneys); and
(c) non-legal staff.

Set up under Article 72 of the Constitution, the post of DPP is a constitutionally independent one which is not “subject to the direction or control of any other person or authority”. For administrative reasons, the budget of the Office of the DPP falls under the Attorney Generals’ Office. There are specific provisions regarding the eligibility for appointment to the post of DPP, and the manner in which such appointment is to be made, both in the Constitution and the Judicial and Legal Service Commission Regulations 1967.

The DPP enjoys security of tenure inasmuch as he/she can only be removed from office by the President after the removal has been recommended by a tribunal specifically set up to consider the matter. There are only two grounds on which a DPP may be removed from office, namely: inability to discharge the functions of his/her office (whether arising from infirmity of body or mind or any other cause) and misbehaviour.

The legal staff of the Office of the DPP is appointed by the Judicial and Legal Services Commission. Even though the Commission exercises disciplinary control over the staff, clear rules are provided in the Judicial and Legal Service Commission Regulations 1967 as to the grounds on which disciplinary proceedings may be initiated and the manner in which they may be conducted.

Being law professionals, both the DPP and his/her legal staff are guided, if they are barristers, by the Code of Ethics for Barristers or, if they are attorneys, by the Code of Ethics for Attorneys. Each code sets down written standards of professional conduct to be observed by either set of law professionals.

In addition, as law professionals, unless exempted by the Chief Justice, each member of the legal staff has the obligation to undertake 12 hours of Continuous Professional Development courses, of which 2 hours has to mandatorily be Ethics courses.

The non-legal staff of the ODPP is governed by the Public Services Commission. Specific, clear and transparent provisions are set out in the Public Services Commission Regulations 1967 with regards to the appointment, promotion and discipline of those officers.

The link to the website of the ODPP is: [http://dpp.govmu.org/English/Pages/default.aspx](http://dpp.govmu.org/English/Pages/default.aspx)

Please refer to the website of the Supreme Court for further information [http://supremecourt.govmu.org](http://supremecourt.govmu.org)

**Disciplinary Control over Judicial Officers**

Section 86 (1) of the Constitution also provides as follows:

(1)Power to appoint persons to hold or act in offices to which this section applies (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in
such offices and to remove such persons from office shall vest in the Judicial and Legal Service Commission.

Implement adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption in criminal justice institutions and the rotation, where appropriate, of such individuals to other positions; and

Selection and training of individuals for public positions considered especially vulnerable to corruption in criminal justice institutions

The Institute for Judicial and Legal Studies of Mauritius was launched on the 27 July 2012. The Institute for Judicial and Legal Studies Act 2011 establishes the Institute for Judicial and Legal Studies which is entrusted with the responsibility to:

- conduct or supervise courses, seminars or workshops for the continuous training of judicial and legal officers;
- organise and conduct courses for court staff with a view to improving the administration of justice;
- promote proficiency and ensure the maintenance of standards in the Judiciary and among law practitioners and legal officers, and in the delivery of court services in general; and

The role of Judges today does not only consist of dispute resolution. Judges are now also called upon to decide on broader issues such as social values and human rights. Thus the importance of legal training which enhances the quality of judicial decisions and provides the opportunity to Judicial Officers to deepen their legal knowledge and to develop complementary skills.

Prescribe criteria concerning candidature for and election to public office for members of criminal justice institutions, if applicable, as well as measures to enhance transparency in the funding of candidatures and of contributions to political parties, where applicable.

The Constitution of Mauritius and Representations of the People's Act 1958 provides the legal framework for the holding of elections. Section 33 of the Constitution of Mauritius establishes the qualifications for membership to the Assembly as follows:

As per the provisions of section 34 of the Constitution, a person shall be qualified to be elected as a member of the Assembly if, and shall not be so qualified unless, he -

(a) is a Commonwealth citizen of not less than the age of 18 years;

(b) has resided in Mauritius for a period of, or periods amounting in the aggregate to, not less than 2 years before the date of his nomination for election;

(c) has resided in Mauritius for a period of not less than 6 months immediately before that date; and

(d) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Assembly.
Members of criminal justice institutions are by definition public officers and as such should not have any affiliation with any political party. As per Article 34 of the Constitution, no person shall be qualified to be elected as a member of the Assembly who is public officer. The public officer has to resign from his or her post to stand as a candidate.

The Government Programme 2015-2019 provides, inter-alia, that the Government will eradicate fraud, corruption, malpractices and irregularities in all aspects of public life and restore our national values. To this end, a Financing of Political Parties Act will be enacted. The Government Programme further provides that the Electoral Supervisory Commission will be given wider powers to control and sanction fraud, corruption and conflict of interests during election time and also to monitor political funding and abuse of position or power.

In this context, the Government has set up a Ministerial Committee to make recommendations on electoral reforms. The Ministerial Committee has already submitted its recommendations on the financing of political parties.

Based on the Select Committee report on the Funding of Political Parties and Electoral Campaigns in Mauritius and the recommendations of the Ministerial Committee, a Bill is currently being prepared. The objectives of the measures contained in the proposed Bill are expected to enhance accountability, transparency and integrity in the candidature for and election to public office.

In relation to article 8 of the Convention and measures to establish or promote codes of conduct by criminal justice institutions, States parties and signatories may wish to cite and summarize measures that:

Establish or improve procedures, rules and regulations for the reporting, including by members of criminal justice institutions, of acts of corruption to appropriate authorities and the mechanisms for the protection of reporting persons;

Members of the criminal justice institutions are by definitions under Section 2 of the Prevention of Corruption Act 2002 public officers, and as such falls under the purview of the Act.

The Prevention of Corruption Act 2002 as amended promotes the reporting of acts of corruption by public officials. Section 43 provides for anonymous complaints. Sections 44 and 45 of the Act makes public officials duty-bound to report acts of corruption as follows:

- **Notification of corruption offence (Section 43)**

  (1) Any person may-

  (a) without disclosing his identity; and

  (b) orally or in writing, notify the Commission or an officer of the existence or possible existence of a corruption offence.

  (2) The Commission shall take all steps that may be necessary to facilitate the notification to the Commission of the possible existence of an act of corruption.
• **Duty to Report Corruption Offences (Section 44)**

(1) Where an officer of a public body suspects that an act of corruption has been committed within or in relation to that public body, he shall forthwith make a written report to the Commission.

(2) The Commission shall issue such guidelines as it considers appropriate to ensure compliance with subsection (1).

• **Referrals to the Commission (Section 45)**

(1) Notwithstanding sections 43 and 44, where in the exercise of his functions-

   (a) a Judge or Magistrate;
   
   (b) the Ombudsman;
   
   (c) the Director of Public Prosecutions;
   
   (d) the Director of Audit; or
   
   (e) the chief executive of a public body, is of the opinion that an act of corruption may have occurred, he may refer the matter to the Commission for investigation.

(2) Where in the course of a Police enquiry -

   (a) it is suspected that an act of corruption has been committed; and

   (b) the Commissioner of Police is of the opinion that the matter ought to be investigated by the Commission, the Commissioner of Police may refer the matter to the Commission for investigation.

• **Corruption Advisory and Processing Unit (CAPU) at the ICAC**

The Independent Commission Against Corruption has set up since 2002, a Corruption Advisory and Processing Unit (CAPU) at the ICAC Headquarters to facilitate reporting of acts of corruption by the public. The Report Centre is situated on the ground floor of the ICAC’s Headquarters and is open during office hours. Communications equipment capable of receiving complaints by fax, e-mail, or toll free hotline are available on a 24-hour basis (24/7). Complaints can also be made on the website of the ICAC.

All complaints received by the Report Centre (CAPU) are recorded and processed for submission to the Board of the ICAC.

The PoCA 2002 as amended provides for protection against victimization and for those who, in good faith, report cases of corruption. It also compels ICAC officers to treat as confidential the identity and information given by the informer. The legal provisions for the protection of informers and witnesses are as follows:

• **Protection of Informers (Section 48 of PoCA 2002)**
(1) Where the Commission receives information in confidence to the effect that an act of corruption has occurred, that information and the identity of the informer shall be secret between the Commission and the informer, and all matters relating to such information shall be privileged and shall not be disclosed in any proceedings before any court, tribunal or other authority.

(2) Where any record, which is given in evidence or liable to inspection in any civil, criminal or other proceedings, contains an entry relating to the informer or the information given by the informer, the Director-General shall cause all parts relating to the informer or the information given to be concealed from view so as to protect the identity of the informer.

• **Protection of Witnesses (Section 49 of PoCA 2002)**

(1) Subject to subsection (6), where a person-

   (a) discloses to a member of the Board or an officer that a person, public official, body corporate or public body is or has been involved in an act of corruption; and

   (b) at the time he makes the disclosure, believes on reasonable grounds that the information he discloses may be true and is of such a nature as to warrant an investigation under this Act, he shall incur no civil or criminal liability as a result of such disclosure.

(2) Subject to subsection (6), where a public official-

   (a) discloses to his responsible officer or to the Director-General that an act of corruption may have occurred within the public body in which he is employed; and

   (b) believes on reasonable grounds that the information is true, he shall incur no civil or criminal liability as a result of such disclosure and no disciplinary action shall be started against him by reason only of such disclosure.

(3) A person who makes a disclosure under subsection (1) or (2) shall assist the Commission in any investigation which the Commission may make in relation to the matters disclosed by him.

(4) A person to whom a disclosure is made under subsection (1) or (2) shall not, without the consent of the person making the disclosure, divulge the identity of that person except where it is necessary to ensure that the matters to which the information relates are properly investigated.

(5) A person who commits an act of victimisation against a person who has made a disclosure under subsection (1) or (2) shall be guilty of an offence and shall, on conviction, be liable to pay a fine not exceeding 50,000 rupees and to imprisonment not exceeding one year.

(6) A person who makes a false disclosure under subsection (1) or (2) knowing it to be false shall be guilty of an offence and shall, on conviction, be liable to pay a fine not exceeding 50,000 rupees and to imprisonment not exceeding one year.

(7) In this section, "victimisation" means an act -

   (a) which causes injury, damage or loss;
(b) of intimidation or harassment;
(c) of discrimination, disadvantage or adverse treatment in relation to a person's employment; or
(d) amounting to threats of reprisals.

The President of the Republic of Mauritius is the only person who is exempted during his tenure to be prosecuted.

Establish or strengthen existing disciplinary procedures and mechanisms to enforce codes of conduct or ethics, standards of professional conduct and conflict of interest legislation; and

**Code of Ethics for the Judiciary**

The Guidelines for Judicial Conduct (G.N 2077 of 2002) hereinafter referred to as the ‘Guidelines’ intends to establish standards of ethical conduct of Judges. The ‘Judge’ includes a Magistrate or any person exercising judicial office however designated.

The principles applicable to judicial conduct have three main objectives:

- To uphold public confidence in the administration of justice
- To enhance public respect for the institution of the judiciary
- To protect the reputation of the individual Judges and of the Judiciary

The values which the Guidelines uphold and against which judicial conduct should be tested are:

- Propriety
- Independence
- Integrity
- Impartiality
- Equality
- Competence and diligence

The Guidelines provides that as Magistrates, being a constant subject of public scrutiny, should freely and willingly accept personal restrictions that might be viewed as burdensome by the ordinary citizen.

Detect and prevent possible conflicts of interest, such as systems requiring members of criminal justice institutions to make declarations to appropriate authorities regarding, *inter alia*, their outside activities, employment, investments, income, assets and substantial gifts or benefits from which a conflict of interest may result, including as they take office and regularly during the performance of their public functions.

a) **Conflict of Interests is criminalised under the Prevention of Corruption Act 2002**

The Prevention of Corruption Act 2002 as amended defines and criminalises the offence of
conflict of interests. The Code of Ethics for Public Officials urges public officers to declare in writing any conflict of interests. Most of the Corruption Prevention Reports of the ICAC recommend the setting up of a mechanism along with a declaration form to disclose any conflict of interests.

Conflict of interests is a criminal offence in Mauritius punishable under Section 13 of the Prevention of Corruption Act 2002 to penal servitude not exceeding 10 years. The offence is defined under the PoCA as follows:

1) Where-
   
   (a) a public body in which a public official is a member, director or employee proposes to deal with a company, partnership or other undertaking in which that public official or a relative or associate of him has a direct or indirect interest; and

   (b) that public official and/or his relative or associate of him hold more than 10 per cent of the total issued share capital or of the total equity participation in such company, partnership or other undertaking,

   that public official shall forthwith disclose, in writing, to that public body the nature of such interest.

2) Where a public official or a relation or associate of his has a personal interest in a decision which a public body is to take, that public official shall not vote or take part in any proceedings of that public body relating to such decision.

3) Any public official who contravenes subsection (1) or (2) shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 10 years.

b) Code of Ethics for Public Officials

The Code of Ethics for public officers which sets out the standards of correct conduct expected of Public Officers deal with the issue of conflict of interests as follows:

“Public Officers shall avoid situations in which their private interests conflict, or might reasonably be perceived to conflict, with the impartial fulfilment of their official duties and the public interest. Thus, they shall avoid having any financial or other interests or embark on any undertaking that could directly or indirectly compromise the performance of their duties.”

In many circumstances, the conflict, or potential conflict, is known only to the Public Officer. Therefore, in case a conflict of interests arises, the onus is on the Public Officer to disclose promptly, fully and appropriately any actual or potential conflict of interests, he may have in a matter that is the subject of a consideration.

“Any Public Officer who fails to disclose his direct or indirect interest in a company, partnership or other undertaking with which the public body (which employs the Public Officer) proposes to deal, shall commit an offence under the Prevention of Corruption Act 2002.”

The Code of Ethics complements existing legislations and rules and its guiding principles are designed to maintain and enhance values that inspire trust and confidence in the integrity of Public Officers. It applies to all Public Officers - permanent, part-time, casual, temporary and contractual employees of the Civil Service, the Local Government Service and the Rodrigues Regional Assembly - irrespective of gender, grade and rank.
In relation to article 11 and measures to promote the independence, integrity and impartiality of members of the judiciary and prosecution services, States parties and signatories may wish to cite and summarize measures that:

**Disseminate information and build awareness of existing national and international standards of judicial integrity, such as the Basic Principles on the Independence of the Judiciary, the Bangalore Principles on Judicial Conduct, the Guidelines on the Role of Prosecutors and the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors;**

Implement or improve existing induction and ongoing training requirements and curricula for members of the judiciary and prosecution services, particularly in terms of codes of conduct, integrity and independence;

Establish or improve existing mechanisms to evaluate performance of members of the judiciary and the prosecution services, including by promoting the transparency of evaluation reports, where appropriate;

**Disseminate Information and implement ongoing training**

- Guidelines for Judicial Conduct (G.N 2077 of 2002) which follows the principles laid down in the Bangalore Principles on Judicial Conduct are disseminated to all stakeholders concerned;
- Group discussions and training sessions are conducted regularly by the Institute for Judicial and Legal Studies on Judicial Ethics and integrity.
- Members of the Judiciary are provided with the opportunity to attend international conferences, workshops and seminars – e.g. Commonwealth Magistrates and Judges Association – wide and broad discussions on Judicial Independence -Sharing of ideas between different countries. Analysis of structure of different countries to enhance the situation in Mauritius.
- The Law Journal and newsletter issued by the Institute for Judicial and Legal Service Commission are means for sharing information and comments on existing national and international standards of judicial integrity and building awareness on judicial integrity.
- The Institute for Judicial and Legal Studies conducts CPD sessions for the legal profession. The IJLS invites members of the legal profession to propose subjects or thematic areas deemed of particular relevance and interest to them. The objective of this exercise is to enable the IJLS to devise instrumental sessions aimed at broadening and enhancing the volume of knowledge of members of the legal profession. In the same vein, it enables law practitioners and legal officers to stay up-to-date with the latest developments and trends in the law.

**Establish or Improve existing mechanisms to evaluate performance**
The actual mechanism includes the following:

(a) **Monthly Statistical Return** which is an official document setting out number of cases outstanding and number of new cases lodged before a Court and the number of cases disposed of by each individual Magistrate on a monthly basis.

(b) **Individual Return of Magistrate** submitted on a monthly basis to the Master and Registrar specifying:
   (i) No. of Judgments delivered.
   (ii) No. of Judgments outstanding.
   (iii) No. of Judgments more than 6 months old.

(c) **Annual Report of Judiciary** published showing performance of each Court + comparison with previous year.

(d) **Report of Director of Audit** – on a yearly basis of report on how expenditure conducted and whether in line with budget requirements and its objectives – whether all procedures for expenses properly followed. All expenses are approved by Office of the Master and Registrar – comprehensive revenue and expenditure + Recommendation for improvement e.g. Arrears of Revenue ← in terms of non-payment of fine.

The National Audit Office performs the following at the various courts including that performed by the Internal Control

(a) Random and selective check of records;
(b) Scrutiny over exhibits – its disposal or destruction;
(c) Checking of all inventories;
(d) Verify proper distribution of stationeries;
(e) Verification of proper use of all equipment and furniture;
(f) Verification of attendances and leaves of all officers;
(g) Complete verification at cash office of all monies collected at Court Cash Offices and their timely deposits at banks

(e) **Internal Control Unit**

Officers of the Supreme Court Division to analyse if all procedures followed at level of the Intermediate Court, Industrial Court and District Court namely:

- **Criminal Cases** - To check whether sentence has been executed – imprisonment or fine duly paid; Prohibition order waived; warrants recalled; contempt of court, if any, recovered and bail if any, refunded or recovered if estreated; exhibits destroyed, sold or disposed of; Execution of judgment followed in Appeal cases; Bill of Costs recovered; refund of securities or adjustment, if any; Monitor arrears of revenue and whether warrant for non-payments of fines and costs are issued on regular basis; to further monitor whether securities for conditional discharge are refunded as and when they become due and demandable.
• **Civil Cases** – To verify all court records as to their disposal; whether appropriate fees have been paid; warrant to levies duly issued and executed; sales issued and effected; Appropriate fees in appeal cases duly paid and costs of appeal paid to adverse parties, if any or refunded to appealing party;

• To verify cash collections and timely deposit of money to the Consolidated Fund through bank; to monitor collections of fixed penalties;

• To attend to any other cognate duties assigned by the Master and Registrar.

**Procedures governing asset declarations by judges and how they are used to prevent conflicts of interest, including in relation to the assignment of cases;**

No such procedure available in Mauritius.

**Improve transparency, accountability and efficiency in procedures for case assignment and distribution;**

**Improve transparency, accountability and efficiency in procedures for case assignment and distribution**

• No automatic or computer system of Assignment of cases.

• The Presidents of the Intermediate Court and Industrial Courts as well as the Magistrates in charge of District Courts assign cases on weekly basis – bearing in mind Magistrate on leave and cases that cannot be heard by a specific Magistrate (already inserted on cover of file) to avoid challenges.

**E-Judiciary**

• System implemented in Commercial Division of the Supreme Court.

• Not yet implemented in other Divisions of the Supreme Court.

Before the implementation of e-Judiciary Mauritius, lawyers had to spend a lot of time to be physically present in Court for case management, and documents had to be manually submitted prior to hearing. Other key challenges included:

• Lack of transparency and visibility at every stage of the case lifecycle;

• Difficulty in tracking financial costs over a period of time or within a case for taxation purposes; and

• Manual scheduling, altering and tracking of hearings sometimes led to schedule conflicts.

For legal practitioners, e-Judiciary Mauritius enables:

• E-Filing of court documents;
• Alerts for electronic exchange of pleadings based on pre-calculated end dates at any time during the case life cycle;
• Lodging of requests for the case to be heard and for Court Orders to be granted electronically without the need to attend Court – all this from any location with internet connection;
• Auto-assignment of Court Ushers to effect service of Summons, download the Summons from the system and file a return online after effecting Service;
• A more simplified workflow to fix and track the progress of cases for Hearing; and
• Registry Personnel with a bird’s eye view of the Judges’ calendars to ensure better management of their time.

Over and above the benefits listed above, the e-Judiciary system has provided the following advantages:

• **Speed**

  The many features of e-Filing, such as instant notification of Case Number and faster fixing of Court hearing dates have dramatically reduced delays. Previously, the Commercial Division was over-loaded, with some cases taking up to two years or more to get to trial. Now, the average time for an Order to be delivered is within two days for over 85% of the requests filed via e-Judiciary Mauritius.

• **Convenience**

  Physical files no longer have to be transferred and searched manually; digital storage of cases allows users to retrieve the required files from various Courts instantly.

• **Accessibility**

  E-Filing is not restricted by the operating hours of the Courts. As long as there is an internet connection, legal practitioners can file, check and update the status of a case anytime, anywhere. Likewise, Judges and Court officials can also review case details and update them anytime.

**The Protection of Persons reporting corruption cases**

Section 14 of the FIAMLA creates an obligation to raise a Suspicious Transaction Report (STR). The heading of section 14 reads as follows- “Reporting obligations of banks, financial institutions, cash dealers, controller or auditor of a credit union under the Co-operatives Act and members of relevant professions or occupations.” The provisions which followed in section 14, creates the obligations and duties to raise STR and file same with the Financial Intelligence Unit (FIU).

Thereafter, section 15 under the heading “Lodging of reports of suspicious transactions” provides for the procedure and mechanism in place to raise the STR.
Finally section 16 provides for the “Legal consequences of reporting” and at sub-section (2) (a) the following provision can be read-

(2) No proceedings shall lie against any person for having-

(a) reported in good faith under this Part any suspicion he may have had, whether or not the suspicion proves to be well founded following investigation or prosecution or any other judicial action;

Section 49 of the Prevention Against Corruption Act 2002 provides as follows:

49. Protection of witnesses

“(1) Subject to subsection (6), where a person-

(a) discloses to a Member or an officer that a person, public official, body corporate or public body is or has been involved in an act of corruption; and

(b) at the time he makes the disclosure, believes on reasonable grounds that the information he discloses may be true and is of such a nature as to warrant an investigation under this Act, he shall incur no civil or criminal liability as a result of such disclosure.

(2) Subject to subsection (6), where a public official-

(a) discloses to his responsible officer or to the Commissioner that an act of corruption may have occurred within the public body in which he is employed; and

(b) believes on reasonable grounds that the information is true,

he shall incur no civil or criminal liability as a result of such disclosure and no disciplinary action shall be started against him by reason only of such disclosure.

(3) A person who makes a disclosure under subsection (1) or (2) shall assist the Commission in any investigation which the Commission may make in relation to the matters disclosed by him.

(4) A person to whom a disclosure is made under subsection (1) or (2) shall not, without the consent of the person making the disclosure, divulge the identity of that person except where it is necessary to ensure that the matters to which the information relates are properly investigated.

(5) A person who commits an act of victimisation against a person who has made a disclosure under subsection (1) or (2) shall be guilty of an offence and shall, on conviction, be liable to pay a fine not exceeding 50,000 rupees and to imprisonment not exceeding one year.

(6) A person who makes a false disclosure under subsection (1) or (2) knowing it to be false shall be guilty of an offence and shall, on conviction, be liable to pay a fine not exceeding 50,000 rupees and to imprisonment not exceeding one year.

(7) In this section, “victimisation” means an act -
(a) which causes injury, damage or loss;
(b) of intimidation or harassment;
(c) of discrimination, disadvantage or adverse treatment in relation to a person’s employment; or
(d) amounting to threats of reprisals.”

Provide ethical guidance or advice to officials of criminal justice institutions in relation to the performance of their duties, their relationship with actors outside the judicial process, such as the media and non-governmental organizations, or with regard to their use of new technologies and social media; and

Criminal Justice Institutions regularly conducts empowerment workshops/sessions to consider emerging challenges and reminds officers on internal policies to deal with the media and other stakeholders.

Assess the risks of corruption as well as the integrity and effectiveness of the judiciary, prosecution service and court system more broadly, including by soliciting inputs from court users, other stakeholders and the general public.

It is of utmost importance for any criminal justice institution to be proactive in its management of corruption risks. Such risks should be identified and mitigated in a timely manner. Accordingly, the Mauritius Police Force and the Mauritius Prisons Service are implementing the Public Sector Anti-Corruption Framework developed by the Independent Commission Against Corruption (ICAC). The framework comprises the setting-up of an Anti-Corruption Committee, the adoption of an Anti-Corruption Policy and Corruption Risks Assessment (CRM).

The framework provides a risk-based approach to preventing corruption and other malpractices in public bodies. It recognizes the importance of detecting, preventing and combating corruption. It aims at strengthening institutional capabilities of public bodies through the establishment of appropriate mechanisms to control corruption. The objective of this initiative is to assist public bodies in the setting up of anti-corruption strategies, evaluating them independently and improving on existing measures. Corruption Risk Management is an essential component of the framework whereby corruption risks are identified, assessed and mitigated.

Furthermore, Mauritius Police Force, the Mauritius Prisons Service and the Registrar of the Supreme Court have designated Integrity Officers who have been empowered with the assistance of the UNODC to play a crucial role in enhancing integrity in their respective institutions.
1. Please outline actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

Examples of the types of challenges States parties and signatories may face include:

- Challenges in developing the proper legislative or regulatory framework for performance evaluations, the protection of persons reporting corruption cases within the criminal justice system or preventing conflicts of interest;
- Challenges in administering asset declaration and conflict of interest systems;
- Challenges in relation to specific recruitment, selection or training requirements for categories of positions considered especially vulnerable to corruption, including possible early identification of potential conflicts of interest;
- Challenges in assessing risks of corruption or evaluating effectiveness shortcomings in the criminal justice system and in developing measures to eliminate or manage them;
- Challenges in implementing adequate accountability and disciplinary procedures, investigating violations and collecting statistics and other information on such procedures;
- Challenges in providing ethical guidance or advice to officials of criminal justice institutions; and
- Communication challenges in raising awareness and disseminating information about new standards of ethics and conduct or in developing training manuals, courses, curricula or other related material, including online initiatives, used in training programmes for officials of criminal justice institutions.

2. Types of challenges State Parties may face

(a) Training

The implementation of the above measure requires the recruitment of more qualified personnel. The POCA is fairly a new field of law and there is the need for proper training. This also demands more international exposure with a view to compare the measures taken by other system so as to be in a better position to bring about changes locally.

The financial implication which the implementation of the measure requires is often a barrier. For proper implementation and awareness, Judges and Magistrates absolutely need continuous training.

(b) Case Assignment

It could prove to be eye opener if we could make a comparative study as to how the automatic allocation of cases is carried out in other jurisdictions taking into account that Mauritius has a small jurisdiction.

The actual system is working smoothly since it is based on a methodological approach. For example the President of the Intermediate Court on whom is the responsibility to allocate cases,
is aware of any specific conflict as disclosed by respective Magistrate and refrain from allocating the case before that specific Magistrate. This prevents excessive challenges in Court. The President normally tries to make an even distribution of cases bearing in mind the importance of cases, priority cases such as where the accused is on remand and old-standing cases.

(c) Customer Care Officers in Courts

There was at one point in time the setting up of a Customer Care Officer in each Court who would be dealing with public queries and complaints. This post no more exists. Complaints are now being directed to the Office of the Master and Registrar. The creation of the posts of Customer Care Officer is commendable. But this implies the recruitment of more staffs and proper training being given.

(d) Revamping of the Digital Court Recording System

The Digital Court Recording System has been installed in all Courts of the Judiciary, be it at District Courts, Intermediate Courts, Industrial Court, Master’s Court or any division of the Supreme Court. But this system is extensively been made used of at the Supreme Court, Intermediate Courts and Industrial Court. On rare occasions district courts will resort to digital court recording.

This system has proved to be very helpful and convenient for years. However, transcribers have time and again complained as to the quality of recordings and hence inaudible remarks are found in transcriptions. As such, there are plans to revamp the whole system.

(e) The E-Judiciary

Already functional in the Commercial Division of the Supreme Court, the e-judiciary could be extended to other Divisions of the Supreme Court and subsequently to lower courts.
MAURITIUS (FOURTH MEETING)

1. Has your country adopted and implemented article 11 of the UNCAC?
   - The Constitution and our domestic laws already provide for procedures and offences to sanction cases of misbehaviour or corruption by members of the Judiciary, be it by removal from Office or by public prosecution or by disciplinary action being envisaged against them as the case may be. Our laws have until now proved to be effective deterrents, and our judiciary has also set up its own internal control and audit systems to monitor Judicial performance. Domestic laws also provide for efficient appellate and review processes to ensure adequate supervision over the whole judicial process.

   - Detailed monthly and quarterly returns of judicial decisions are submitted to central Judicial administration and all Judgments are posted on the official and free public Supreme Court Website.

   - Members of the legal profession and the public in general can file written complaints at the Supreme Court against Judicial Officers and internal enquiries are conducted and explanations sought whenever required under the supervision of the Office of the Chief Justice.

   - Guidelines for Judicial Conduct based on the Bangalore Principles have been published and circulated to all members of the Judiciary under the recommendation of the Chief Justice. These Guidelines are currently being discussed at Supreme Court level in order to consider recent developments in the area since new principles for conducting public life are emerging.

   - All the above measures help to maintain public confidence in the judiciary.

   - Our Judiciary acknowledges that it is only by maintaining high standards of conduct that its Officers can continue to upkeep public confidence in the Institution and discharge their judicial duties serenely and independently.

   - Members of the Judiciary are also conscious that Mauritius media operate freely and independently within our democracy and that judicial misconduct can be easily and publicly exposed.

2. Please cite, summarise and, if possible, provide copies of the applicable policy(ies) or measure(a):
Chapter VIII of the Constitution of Mauritius provides for an independent judicial and Legal Service Commission chaired by the Chief Justice and responsible for the appointment of all judicial Officers, together with the power to exercise disciplinary control over persons holding such Offices (Sections 85 & 86). Chapter VII of the Constitution makes provision for security of tenure of Office of Supreme Court judges and for their removal from Office after referral to the Judicial Committee of the Privy Council (Section 78).

Part II of the Prevention of Corruption Act makes provision for offences related to corruption of "public officials", judges come under the definition of "public official" under the said enactment.

Sub-Part II of the Courts Act provides that every Magistrate shalt for administrative purposes, be subject to the direction and control of the Chief Justice, who may, where he thinks fit to do so, require any Magistrate to furnish him in such form as he may direct, a report on any case, civil or criminal, brought before the Magistrate and may call for the record of any such case.

The Criminal Code also contains provisions relating to offences by public officers and applicable to judicial Officers.

Our Judiciary has undergone major reforms in its case-management system and Court procedures. Laws relating to procedure have been reviewed and simplified to give faster and better access to justice and all Courts are now fully computerised. In April 2013, the first phase of the eludary filing scheme was launched, thereby creating a more efficient case-assignment system within the judiciary.

All Court records and judgments are public documents and all Court decisions are accessible on the free Supreme Court Website,

All Court proceedings are held in public, save and except where it is considered necessary or expedient in circumstances where publicity would prejudice the interests of justice or of public morality, or in order to protect the privacy of persons concerned in the proceedings (Section 161(A) Courts’ Act). All media therefore have access to Court proceedings and report freely on litigation.

3. Please provide examples of the successful implementation of domestic measures adopted to comply with article 1.1 of the Convention:

In the light of all the information supplied above, including appellate and review procedures, cases of breach of judicial conduct calling for disciplinary measures are extremely rare. Judicial Officers undergo frequent training sessions at the Institute for Judicial and Legal Studies of Mauritius. They are called in by the Head of the Judiciary for explanations whenever minor cases of alleged misbehaviour arise and they are given the opportunity to adopt corrective measures for self-improvement.

All reported cases of alleged misbehaviour are subject to internal enquiries conducted by an Internal Control Unit and no acts of corruption by Judicial Officers in Mauritius have been reported in recent years.
The recent launch of Phase 1 of the e-judiciary filing system and the creation of Specialised Divisions at the Supreme Court provide for more effective and specialised case allocation and have enabled substantial reduction in waiting times for the hearing of cases at the Family, Commercial, Mediation and Criminal Divisions of the Supreme Court.

With the enactment of the Institute for Judicial and Legal Studies Act 2011, the new Institute has been given the function of conducting and supervising Initial and Continuing Education for all Judicial Officers, as approved by the Judicial and Legal Service Commission. Since its official launch in 2012 the Institute for Judicial and Legal Studies has successfully conducted a number of training sessions for all Judicial Officers.

4. Have you ever assessed the effectiveness of the measures adopted to implement article 11? Please outline (or, if available, attach) the result of such an assessment Including methods, tools and resources utilised.

No dedicated survey on the effectiveness of the above measures with regard to the implementation of article 11 has been conducted by the judiciary until now. Nonetheless, all the means of control and supervision highlighted above have resulted in the margin for corrupt practices by Judicial Officers remaining extremely narrow.

The judiciary acknowledges the need to keep abreast of international best practices in order to ensure effective implementation of article 11. In that respect, the Institute for Judicial and Legal Studies of Mauritius is currently engaged in conducting Training Needs Analyses and research in the latest developments in that area so as to ensure that our Judiciary is in line with international standards. Questionnaires and survey forms have been circulated among members of the legal profession in order to compile initial data in relation to the performance and effectiveness of the Judiciary in maintaining high standards and to avoid undermining public confidence in the Institution.

5. Which challenges and issues are you facing in (fully) implementing article 11 of the Convention?

The Judiciary recognises that classic performance appraisal methods may be outdated and need review. In line with Government Policy, new assessment processes and benchmarks are being identified and tailor-made to meet the needs and challenges facing the Judiciary.

The Mauritius Supreme Court Website and the Institute for Judicial and Legal Studies are effective communication tools to promote new policies and practices within the Institution and also assist in promoting improved transparency.
6. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require?

- Our judiciary requires skilled resource persons to provide assistance in relation to updated Rules and Guidelines for Judicial Conduct, and for the setting up of improved methods of supervision and monitoring of judicial behaviour.