THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY MAURITIUS

ARTICLE 7 UNCAC

PUBLIC SECTOR

MAURITIUS (EIGHTH MEETING)

In relation to measures concerning article 7 of the Convention and the public sector, States parties and signatories may wish to cite and summarize measures that:

Establish and strengthen systems to ensure transparency and accountability in the recruitment, hiring, retention, promotion and retirement of public officials in criminal justice institutions, including whether specific procedures exist for the recruitment and hiring of senior officials in criminal justice institutions, if they are different from other civil servants;

Measures to ensuring transparency and accountability in the recruitment, hiring, retention, promotion and retirement of public officials in criminal justice institutions are as follows:

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

Mauritius Police Force and the Mauritius Prisons Service

The Discipline Forces Services Commission is the body responsible for the recruitment in the Mauritius Police Force and the Mauritius Prisons Service. The DFSC has been established under sections 90 of the Constitution. It operates in total independence and particularly taking into account the manner and mode of appointment of the Chairperson, Commissioners and the impartiality of their operations. The Commissioner of Police is appointed under Article 91 of the Constitution.

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

Mauritius Police Force and the Mauritius Prisons Service

The Police Training School is responsible for the training of both Trainee Police Constable and serving members of the Police Force on issues related to crime and policing with a view to enhancing their knowledge and skills. The University of Mauritius in collaboration with the University of Portsmouth provided a BSc Police Studies course over a period of time which has allowed many Police Officers to enhance their knowledge/competence in the field.

Furthermore, the Mauritius Police Force has adopted an Integrity Building Programme. The programme is led by the Anti-Corruption Committee comprising high level Police Officers and chaired by a Deputy Commissioner of Police.

Awareness/sensitization sessions for Police Officers of all ranks are regularly held. Anti-Corruption is now part of the Police Training School curriculum for recruits. All promotional grades of the Mauritius Police Force have to undergo the compulsory training on corruption
prevention run by the ICAC in collaboration with the Police Training School.

The ICAC in collaboration with the Mauritius Police Force also conducts regularly focussed sessions and empowerment workshops with Police Officers of specific grades - Station Managers and Station Commanders, Police Sergeants, Police Officers of the Traffic Branch, etc.

The Prison Training School (PTS) (ISO 9001:2008 certified) on the other hand caters for the training needs of prison officers. The PTS has been working in close collaboration with the Ministry of Civil Service and Administrative Reforms and the Mauritius Standards Bureau to provide an enhanced service.

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 consists 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.
MAURITIUS (SECOND MEETING)

Article 7: Public sector

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:
   (a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
   (b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
   (c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
   (d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

1.1 Recruitment in the Public Sector
Recruitment in the Mauritian public service is well structured. The Public Service Commission and Disciplined Forces Service Commission (formerly Police Service Commission) in Mauritius have had a glorious past of nearly 49 years. The Public Service Commission and Disciplined Forces Service Commission are stewards of excellence, safeguarding the principles that underlie the professionalism and integrity of the Mauritian Public Service.

The Public Service Commission and Disciplined Forces Service Commission are not mere recruiting agencies. They are independent agencies that fulfill the vital role of ensuring that Mauritius has a professional, non-partisan and representative Public Service. The Public Service Commission is vested with executive powers under the Constitution of Mauritius.

1.2 Public Bodies Appeal Tribunal
Following the coming into operation of the Public Bodies Appeal Tribunal Act as from June 2009, any public officer may, appeal against any decision of the Public Service Commission pertaining to an appointment exercise made within the service. Such appeal should be lodged with the tribunal within 21 days of the notification of that decision.

1.3 Performance Management System
The current Government introduced a Performance Management System (PMS) across the civil service in 2008.

1.4 The Equal Opportunity Act
The Equal Opportunity Act enacted recently is another piece of legislation which further strengthens our democratic base and good governance structure. It aims at ensuring that every person has an equal opportunity to attain his objectives in various spheres of activities and that no person is placed, or finds himself, at a disadvantage. It prohibits all forms of discrimination in a direct or indirect manner.

The act provides for the setting up of an Equal Opportunities Division under the national Human Rights Commission to work towards the elimination of discrimination and the promotion of equality of opportunity and good relations between persons of different status. The Division is mandated to carry out investigations, undertake research, develop programmes, prepare appropriate guidelines and codes and where necessary refer any matter to the Director of Public prosecution.

The Act establishes an Equal Opportunities Tribunal to hear and determine complaints referred to it by the Equal Opportunities Division, issue interim orders and determine whether the complaint was justified. The act also provides for a right of appeal to the Supreme Court of against orders of the Tribunal.

1.5 Integrity Programme for New Recruits
The ICAC has developed an “Integrity Programme for New Recruits”. This programme consists of workshops seminars and talks targeting all new recruits in the civil service during the year. The objectives are to empower them to decode acts of corruption and foster a culture of integrity in them.

1.6 Training of Public Officers
The Ministry of Civil Service and Administrative Reforms has been vested with the responsibility for training of public officers in Mauritius. One of the basic tenets of training in the Civil Service is to equip newly recruited/promoted officers with the necessary knowledge and skills in the execution of their jobs. Training of public officers has up to now been conducted at different levels of the hierarchy by way of:-
· in-house training (Induction/Foundation and Refresher courses).
· sponsorship for various award courses conducted locally and by distance learning mode
· sponsorship scheme for post-graduate courses
· scholarships under bilateral, technical assistance and other schemes.

1.7 Remuneration and equitable pay scales
The Pay Research Bureau (PRB) was set up in 1977 as a permanent and independent institution to keep under continuous review the pay and grading structures and conditions.
of service in the public sector. The exercise is conducted on a five-year basis, the last being in 2008.

1.8 Code of Ethics for Public Officers
There is a Code of Ethics for Public Officers which sets out the standards of correct conduct expected of Public Officers. It emphasizes the importance of a responsible, responsive, and caring Civil Service and is intended to promote effective administration and responsible behavior in the public sector. It complements existing legislation and rules and its guiding principles are designed to maintain and enhance values that inspire trust and confidence in the integrity of Public Officers.

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

2.1 Elections to Public Office
The Constitution of Mauritius sets out the management structure for the organisation and conduct of elections. The Representation of the People Act, the Rodrigues Regional Assembly Act, the Local Government Act and Regulations governing the National Assembly, Rodrigues Regional Assembly, Local Government Council Elections are, inter alia, the principal instruments governing the organisation and conduct of elections. The Representation of the People Act prescribes the criteria concerning candidature for and election to public office.

The Electoral Commissioner's Office is headed by the Electoral Commissioner, whose office is a public one and who is appointed by the Judicial and Legal Service Commission.

2.2 Code of Conduct for National Assembly Elections 2010
A code of conduct was developed by the Electoral Supervisory Commission and was rendered mandatory for the general election held 2010. The code applied to all participants to the election, including political parties or political party alliances, candidates, their agents, sub agents, employees, supporters and backers.

The code aims at complementing the legal provisions in force regarding the holding and conduct of elections in Mauritius, more specially those provisions regarding bribery, treating, undue influence, illegal practice, irregularity as well as those regulations governing election expenses which have to be strictly and scrupulously complied with. Its objective is to ensure the integrity of the electoral process and to enable the election to take place freely and fairly, in an atmosphere of tolerance, conducive to free campaigning, unrestricted but responsible public debate so that the electorate may make an informed choice.