

Ad Hoc Experts Group Meeting on Deepening Judiciary's Effectiveness in Combating Corruption

*Addis Ababa, Ethiopia
19-21 November 2007*

The Mauritian experience in activities towards combating corruption

In Mauritius corruption has become a major issue in recent years. Important initiatives have had to be taken to fight against that scourge. Strategies have thus been designed and are being implemented in order to keep corruption under control. New Anti Corruption laws have been enacted and institutions have been set up to raise awareness and to explain the consequences of corrupt practices in every sphere of the society. The judiciary is also playing an active role in the fight against corruption.

Although the Criminal Code made provision for the offence of bribery, The Prevention of Corruption Act of 2002 (POCA) was enacted to provide for the prevention and punishment of corruption and fraud. The POCA constitutes a landmark in the fight against corruption and is a comprehensive piece of legislation.

The POCA has set up the Independent Commission Against Corruption (ICAC) whose functions amongst others are to educate the public against corruption, to detect or investigate any act of corruption.

To strengthen the fight against corruption, the POCA was followed by other laws such as the Financial and Anti-Money Laundering Act (FIAMLA), the Banking Act 2004 which provides that the ICAC Commissioner may apply to a Judge in Chambers for the disclosure of information and the Public Procurement Act 2006 providing for a modern procurement system and procedures offering more transparency and accountability.

Mauritius has ratified the UN Convention Against Corruption in 2004, the SADC Protocol Against Corruption in 2002 as well as the UN Convention Against Transnational Organized Crime in 2003 and has also signed the African Union Convention on Preventing and Combating Corruption in 2004.

An independent, incorruptible and fearless judiciary is vital in a democracy. In Mauritius there exists the legal and institutional framework for an independent and impartial judiciary as well as for combating corruption.

Judicial officers (judges and magistrates) are under the obligation to abide by the Guidelines for Judicial Conduct. Judicial officers have to sit in courts which are open to the public and are bound by law to give reasons for their decisions. The decisions are published on the website of the Supreme Court and are subject to appeal and judicial review. The public may also have access to those decisions. Judicial officers are under the scrutiny of the public and the media and can face disciplinary measures. They are also to some extent accountable to their peers. Judicial officers are therefore accountable and such accountability helps to have an efficient judiciary free from corrupt practices.

However, in Mauritius as in many other countries, there exists a perception of corruption. We have to bear in mind that perception is not reality. We have a vigilant and dynamic press enjoying freedom of expression, a fearless legal profession, a Human Rights Commission, an Ombudsman and as mentioned earlier, the ICAC. Any member of the public may report corrupt practices and to my knowledge there has not been any investigation against any Judicial officer for corrupt practices.

Since the establishment of the ICAC a few people have been prosecuted and convicted by the Intermediate Court. 21 cases are pending before the Intermediate Court. Last year an Assistant Commissioner of Police was prosecuted and I found him guilty for the offence of Bribery by a public official and he was sentenced accordingly. He appealed against conviction and his appeal has been dismissed. He made an application for leave to appeal before the Judicial Committee of the Privy Council but before the hearing he decided to withdraw the application. He is presently in jail.

The conclusion is that in Mauritius the government is committed to systems and institutions that are accountable and transparent. The judiciary as the custodian of the rule of law is conscious that an incorrupt judiciary is vital for the good governance and development of the country and is also committed to discharge its duties in a fearless, independent and impartial manner free from any pressure or interference.

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