

Human Rights Council Resolution 41/9 – The Negative Impact of Corruption on the Enjoyment of Human Rights

1.0 Introduction

Corruption impacts negatively on human rights. The poor and marginalised suffer the most with corruption. Several other factors such as good governance, the rule of law, the right to information, the right to take part in the conduct of public affairs, the right to a fair trial, the creation of a safe environment anti-corruption activities and whistleblowing, the need for independent media, an independent and impartial judiciary, integrity of the judicial system, and protection against any adverse impact arising from acts of corruption involving non-state actors are all essential to prevent and fight corruption and provides for protection of human rights.

2.0 Challenges

- New techniques being used to engage in corruption, money laundering and drugs smuggling. There is an increasing use of advanced technology and sophisticated schemes by unscrupulous persons to beat the authority and its surveillance;
- There is lack of cooperation between law enforcement agencies to share information on corrupt practices or corrupt public officials due to confidentiality clause in respective acts;
- Budgetary constraints for implementation of planned modernisation projects;
- Resistance to change impacting on institutional flexibility which is a pre-requisite for continuous improvement in efficiency;
- Protection of witnesses/informers and security of witnesses/informers. Although protection of informers and witnesses is provided under the Prevention of Corruption Act (PoCA) 2002, it remains a challenge, given the smallness of the country. Informers may not feel secure with the actual provisions of the law. Thus, the need to revamp the existing legislation to provide appropriate safeguards;
- Ensuring confidentiality on preliminary investigations on alleged cases or suspects is another issue of concern for citizens. Maintaining complete confidentiality is difficult, given that third parties such as defence lawyers may release sensitive information to the media, thus impacting on the reputation of suspects and even the organisation;
- The challenge in securing a statement from a suspect (duration of interrogation, types of questions, and the right to silence) and his right as an individual;
- The law allows anonymous complaints. However, investigation following anonymous complaints may cause prejudice to the rights of individuals especially, in the case of abuse of the process and false or frivolous allegations;
- Possible human right violations and prejudice caused by frequent postponement of court cases, long proceedings and undue delays in securing a verdict;

3.0 Legal and Institutional Framework in place

Mauritius has come up with a comprehensive anti-corruption and anti-money laundering legal framework comprising the Prevention of Corruption Act 2002, the Financial Intelligence and Anti-Money Laundering Act 2002, the Prevention of Terrorism Act 2002, the Financial Reporting Act 2004 and the Mutual Assistance in Criminal and Related Matters Act 2003. It has also set up a number of enforcement and regulatory bodies, namely the Independent Commission Against Corruption (ICAC), the Financial Intelligence Unit, the Financial Services Commission, the Integrity Reporting Services Agency, the Financial Reporting Council and the Asset Recovery Investigation Division under the FIU.

The Asset Recovery Act 2011 aims at disrupting crime and to make the country a hostile environment for criminals by recovering their illicit proceeds. As part of the civil law, the Good Governance and Integrity Reporting Act has been passed in 2015 and the Integrity Reporting Services Agency set up to investigate into illicit enrichment/ unexplained wealth.

The Independent Commission against Corruption (ICAC), is given very limited power to deprive a person's right to liberty. Under section 53(1) of the Prevention of Corruption Act 2002 (POCA), the ICAC has the power to arrest only upon being satisfied that a person who may assist in its investigation –

- Is about to leave Mauritius;
- Has interfered with a potential witness; or
- Intends to destroy documentary evidence which is in his possession and which he has refused to give to ICAC.

4.0 Best Practices at the (Independent Commission Against Corruption) ICAC

- Prevention and Education Activities
Preventing corruption and educating against corruption helps in sustaining human rights. Bearing in mind that the nature of corruption is changing at an unprecedented pace and becoming increasingly sophisticated, complex and challenging, the ICAC has adopted a multi-stakeholder and inclusive preventive strategy in the fight against corruption comprising public education against corruption and systems enhancement in public bodies. Thus, it targets all sectors of the Mauritian society including the public sector, private sector, the civil society, the education sector and the youth.

5.0 Best Practices at Police level

- Sensitization and Participation
Victims of corruption are empowered through sensitization and participation. Citizen participation empowers vulnerable groups to demand and exercise their rights. Corruption reproduces itself when elites are able to perpetuate their privileges while disadvantaged

groups have no means to defend their interests. Citizen participation breaks that circle and in the long run can help to redistribute power and resources while reducing opportunities for corruption. Citizen empowerment is therefore valuable in itself but also a vital component of effective anti-corruption strategies. It can help to prevent abuse of power, detect and denounce corruption at all points of decision-making.

6.0 Best Practices at the Mauritius Revenue Authority (MRA)

- Investigation of Malpractice

The Internal Affairs Division investigates all allegations of malpractice or other complaints against an employee of the MRA. At the end of an investigation, a report is made and presented to the Board with recommendations for disciplinary measures or improvement of systems/procedures. After investigation the Division refers integrity violation of criminal nature to Police and violation of the Prevention of Corruption Act (PoCA) and Financial Intelligence and Anti Money Laundering Act to the Independent Commission against Corruption (ICAC). In cases of integrity breaches against the Disciplinary Code, disciplinary action is initiated in line with the Employment Rights Act and the Code.

- Processing and verifying declaration of assets

There is a requirement for all employees of the MRA to file on a regular basis a Declaration of Assets (DOA) that is subject to verification on a risk basis, this acts as a strong deterrent for officers to engage in corrupt activities given that any illicit enrichment can be uncovered in the process.

- MRA Code of conduct and ethics

The MRA has clearly defined values which are enshrined in the Code of Conduct and Ethics. The Code of Conduct and Ethics is preventive in nature and is expected to avoid corruption and administrative misconduct before they occur. The purpose of the Code is to establish expected standards of conduct and ethics for employees of the MRA and to provide guidance on the fulfilment of employees' professional and ethical obligations irrespective of grades and gender.

- MRA Disciplinary Code

A Disciplinary Code has been published with a view to encouraging officers to conform to acceptable and reasonable standards of behaviour at the workplace, and for promoting fairness and flexibility in dealing with disciplinary matters. Penalties for non-compliance is articulated in the code, calibrated to correspond to the seriousness of the violation and supported by appropriate administrative and legislative provisions.

- Centralised online complaint management system

A centralised and online complaint management system is also available to the general public to facilitate complainants to file complaints. The process is clear and straightforward

for stakeholders to report any malpractice and act of corruption. The complainant is informed of the status and outcome of his or her complaint.

- Whistle-Blowing Policy

The MRA encourages its staff and the public to report any dishonest or unethical behaviour that would affect taxpayers, service users, stakeholders, the public and the integrity of the Authority. All reports are treated in the strictest confidence. The identity of the whistleblower bringing such knowledge to the Director General or the Director, Internal Affairs Division is kept confidential. MRA will ensure that there is no retaliation on the reporting person who report in good faith.

- Vigilance activities

With a view to enhance integrity management, the Internal Affairs and Internal Audit Divisions carry out surveillance and vigilance activities to detect irregularities/malpractices through surprise visits/inspections/checks/reviews in high risk areas as well as areas targeted by stakeholders' complaints/allegations.

- Circular on management of conflict of interest

MRA issued a circular on conflict of interests reiterating the importance of understanding the conditions laid down in its Code of Conduct and Ethics in connection with conflict of interests at work. All staff members have been warned from making or being part of decision making process in any matter which involve private or personal interests. Staff members have also been reminded of disclosing to their superiors any conflict of interests pertaining to assignments entrusted to them.

- Circular on gift and other benefits

The circular reminds employees of the MRA's '*no gift acceptance policy*'. The circular also explains the ground for possible departure which include gifts of nominal value received as protocol or for cultural reason or for reason of courtesy. It also guides employees with regard to the proper course of action in case they receive gifts not considered of nominal value.

- Integrity checks

Once an employee is recruited there is a systematic integrity check. An integrity check is also carried out on officers selected for promotion with a view to ensuring that the highest standards of integrity screening on these employees and it includes, inter alia, background checks from different Governmental organisations, processing of their Declaration of Assets, counter verification of their character from previous employers and referees. In case of a negative integrity report, the job contract of the officer is terminated.

- Corruption risk mapping

Since 2015, the MRA has embarked on Corruption Risk Mapping (CRM) which is a new tool developed by World Customs Organisation (WCO) to tackle corruption in

revenue/customs administrative effectively. CRM is a key corruption resistance tool based on a proactive approach to corruption prevention. The objective of CRM in the MRA is to develop targeted and preventive measures against corruption to ensure that the image of MRA is improved and that it enjoys the trust and confidence of its staff, stakeholders and the entire community by acting with integrity.

- Organising and monitoring integrity perception survey

The MRA conducts regular surveys (through an Independent Consultant) among its stakeholders and the general public. The purpose is to assess the perception of integrity in the revenue collection departments by all stakeholders of the MRA and provide MRA with information to enable it to better plan, design and manage strategies to promote integrity within its services.

- Website and online/hotline/customer service

In so far as transparency and predictability are concerned, the MRA has a user friendly website where the public can access all the relevant laws, regulations, procedures and guidelines and the appeal system in case of dissatisfaction. The ease of getting in touch with the MRA for any information or service is further facilitated through our dedicated online, hotline and Customer Service.

- Standard Operating Procedures (SOP)

The MRA aims at continually improving the quality of service being provided. Everyone at the MRA is committed to operating continuously to the set standards. Furthermore, the MRA aims at achieving the highest level of customer satisfaction in line with its vision to become a world class revenue authority respected for its professionalism, efficiency, fairness, integrity and its contribution to the socio-economic development of Mauritius. In this context, processes of every department and division of the MRA have been revised and documented.

- Rotation Policy

Removing opportunities for employees to hold vulnerable positions for long periods of time is an important integrity measure. To ensure employees do not develop close and inappropriate relationships with clients, roster rotation or mobility schemes are in place. Employees that have remained in a post for a long period of time or have held positions that are more vulnerable to corruption are moved to another position or location (within a specified period of time).

- Policy on discretionary powers

The basis upon which discretionary powers can be exercised is clearly defined. When discretionary powers have been exercised, the grounds upon which the decision is made is clearly documented and retained for later review.

- CCTV Camera/Scanner/Drones Surveillance

The MRA has installed CCTV cameras and scanners in all sensitive areas of operations which are monitored through a Central Control Room. The MRA is also making use of drones for aerial surveillance of port and surroundings.

- Taxpayers Charter

The MRA has issued a Taxpayers Charter where taxpayers can expect from the MRA to:

- Quality and efficient service
- Be fair and just
- Raising standards and being accountable
- Assist and communicate fairly

- Automation

MRA has also invested massively on its IT infrastructure to minimise human intervention in our processes and remove opportunities for corruption to occur. Almost all of the systems and processes in daily operations at the level of the MRA are fully automated to minimise human intervention in processes such as e-filing, tax payer portal, e-payment, e-customs, e-declarations, e-auction, e-objection service, e-recruitment, e-procurement and Automation of Customs Clearing & Customs' SMS service.

- Reforms and Modernisation

Reforms and Modernisation at MRA Customs have been based on best international practices namely:

- Revised Kyoto Convention (RKC)
- World Trade Organisation (WTO) Trade Facilitation Agreement (TFA)
- WCO SAFE Framework of Standards
- COMESA Customs Management Regulation (CMR)

The revised Kyoto Convention (RKC) is the main trade facilitation Customs convention. The RKC aims at facilitating trade by harmonising and simplifying Customs procedures and practices. To this end, the Convention provides standards and recommended practices for modern Customs procedures and techniques such as maximum use of information technology.

- Integrity Training

In terms of education and training, the MRA has up to now laid a lot of emphasis on training its staff on integrity. The on-going ethics training is part of our culture. Our staffs in their duties are expected to adopt behaviours that are consistent with both the letter and the spirit of the Code of Conduct and Ethics. For the newly recruited employees, integrity is part of their training syllabus.

- Integrity Workshops

Since its first year of operation, the MRA has been organising workshops on a yearly basis. The main aims of these workshops were to sensitise the top management, employees,

stakeholders and students on the importance MRA attached to integrity. There are also regular sessions with associations of economic operators such as Mauritius Export Association (MEXA), Mauritius Employers' Federation (MEF) and Small and Medium Enterprises Development Authority (SMEDA), Customs Brokers to inform them about the laws, Regulations, procedures and administrative guidelines of the MRA.

- Integrity Policy Statement

The MRA has an approved Integrity Policy Statement. The main philosophy behind this statement is to our stakeholders the ethical and moral standards expected from them. Through this statement, we want that each stakeholder recognises their moral and ethical responsibilities when dealing with the MRA.

- The Tender Committee

The Tender Committee is made up of a Central Tender Committee (CTC) and a Departmental Tender Committee (DTC). Any procurement above Rs 1 million and up to Rs 5 million is approved by the DTC and for procurement in excess of Rs 5 million, the approval of the CTC is sought.

- Integrity Advisory Committee

The Integrity Advisory Committee is a platform where representatives from the business and trade community and the public at large discuss freely and provide guidance on training, ethics and anti-corruption strategies among others. The committee is of an advisory nature and reports to the MRA Board on initiatives MRA need to adopt to promote integrity, transparency and accountability.

7.0 Anti-corruption Committees in Ministries/Department

Anti-corruption Committees have been set up in Ministries and Departments with the help of the ICAC, training has been provided to Integrity Officers to enable them to better understand inherent corruption risks and how to prevent occurrence of corruption.

8.0 Conclusion

Human rights organisations act as watchdogs to breaches of human rights by the investigative agency. The ICAC and the human rights organisations have interests in working together and sharing methods, standards and tools that will make their work more effective and mutually reinforcing.