



**SIXTH NATIONAL ASSEMBLY**

**PARLIAMENTARY**

**DEBATES**

**(HANSARD)**

**(UNREVISED)**

**FIRST SESSION**

**FRIDAY 08 DECEMBER 2017**

**CONTENTS**

**ANNOUNCEMENT**

**QUESTION (*Oral*)**

**MOTION**

**STATEMENT BY MINISTER**

**BILLS (*Public*)**

**ADJOURNMENT**

## THE CABINET

**(Formed by Hon. Pravind Kumar Jugnauth)**

Hon. Pravind Kumar Jugnauth	Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development
Hon. Ivan Leslie Collendavelloo, GCSK, SC	Deputy Prime Minister, Minister of Energy and Public Utilities
Hon. Sir Anerood Jugnauth, GCSK, KCMG, QC	Minister Mentor, Minister of Defence, Minister for Rodrigues
Hon. Mrs Fazila Jeewa-Daureeawoo	Vice-Prime Minister, Minister of Local Government and Outer Islands
Hon. Seetanah Lutchmeenaraidoo, GCSK	Minister of Foreign Affairs, Regional Integration and International Trade
Hon. Yogida Sawmynaden	Minister of Technology, Communication and Innovation
Hon. Nandcoomar Bodha, GCSK	Minister of Public Infrastructure and Land Transport
Hon. Mrs Leela Devi Dookun-Luchoomun	Minister of Education and Human Resources, Tertiary Education and Scientific Research
Hon. Anil Kumarsingh Gayan, SC	Minister of Tourism
Dr. the Hon. Mohammad Anwar Husnoo	Minister of Health and Quality of Life
Hon. Prithvirajsing Roopun	Minister of Arts and Culture
Hon. Marie Joseph Noël Etienne Ghislain Sinatambou	Minister of Social Security, National Solidarity, and Environment and Sustainable Development
Hon. Mahen Kumar Seeruttun	Minister of Agro-Industry and Food Security
Hon. Ashit Kumar Gungah	Minister of Industry, Commerce and Consumer Protection
Hon. Maneesh Gobin	Attorney General, Minister of Justice, Human Rights and Institutional Reforms
Hon. Jean Christophe Stephan Toussaint	Minister of Youth and Sports
Hon. Soomilduth Bholah	Minister of Business, Enterprise and Cooperatives

Hon. Marie Roland Alain Wong Yen Cheong, MSK	Minister of Social Integration and Economic Empowerment
Hon. Premdut Koonjoo	Minister of Ocean Economy, Marine Resources, Fisheries and Shipping
Hon. Soodesh Satkam Callichurn	Minister of Labour, Industrial Relations, Employment and Training
Hon. Purmanund Jhugroo	Minister of Housing and Lands
Hon. Marie Cyril Eddy Boissézon	Minister of Civil Service and Administrative Reforms
Hon. Dharmendar Sesungkur	Minister of Financial Services and Good Governance
Hon. Mrs Roubina Jadoo-Jaunbocus	Minister of Gender Equality, Child Development and Family Welfare

**PRINCIPAL OFFICERS AND OFFICIALS**

Madam Speaker	Hanoomanjee, Hon. Mrs Santi Bai, GCSK
Deputy Speaker	Teeluckdharry, Hon. Kalidass
Deputy Chairperson of Committees	Jahangeer, Hon. Ahmad Bashir
Clerk of the National Assembly	Lotun, Mrs Bibi Safeena
Deputy Clerk	Ramchurn, Ms Urmeelah Devi
Clerk Assistant	Gopall, Mr Navin
Clerk Assistant	Seetul, Ms Darshinee
Hansard Editor	Jankee, Mrs Chitra
Serjeant-at-Arms	Pannoo, Mr Vinod

**MAURITIUS**

**Sixth National Assembly**

-----

**FIRST SESSION**

-----

**Debate No. 29 of 2017**

**Sitting of Friday 08 December 2017**

The Assembly met in the Assembly House, Port Louis at 3.00 p.m.

**The National Anthem was played**

*(Madam Speaker in the Chair)*

## ANNOUNCEMENT

### PUBLIC ACCOUNTS COMMITTEE & PARLIAMENTARY GENDER CAUCUS – MEMBERS – NOMINATION

**Madam Speaker:** Hon. Members, I have an announcement to make regarding the composition of the Public Accounts Committee and the Parliamentary Gender Caucus.

Two vacancies arose on the Public Accounts Committee following the resignation of hon. M. Gobin on 21 September 2017 and that of hon. K. Tarolah on 23 October 2017.

Two vacancies also arose on the Parliamentary Gender Caucus subsequent to the resignation of hon. S. Rutnah on 02 October 2017 and hon. Mrs R. Jadoo-Jaunbocus on 21 November 2017.

The Committee of Selection met on Tuesday 05 December 2017 and nominated hon. J. F. François, Parliamentary Private Secretary, and hon. S. Ramkaun Parliamentary Private Secretary, to serve the Public Accounts Committee. The Committee further nominated hon. M. S. Hurreeram, Chief Government Whip, and hon. J. N. A. Aliphon, Parliamentary Private Secretary, to serve the Parliamentary Gender Caucus.

Thank you.

## ORAL ANSWER TO QUESTION

### COMMISSION OF INQUIRY ON DRUG TRAFFICKING - REPORT, EXPENSES & HUMAN RESOURCES

**The Leader of the Opposition (Mr X. L. Duval)** (*by Private Notice*) asked the Prime Minister, Minister of Home Affairs, External Communication and National Development Unit, Minister of Finance and Economic Development whether, in regard to the Commission of Inquiry set up on 14 July 2015 to inquire and report on all aspects of Drug Trafficking in Mauritius, he will state –

- (a) if he has requested the submission of an Interim Report and, if so, when and, if not, why not, and
- (b) the total cost thereof to date, giving details of the human resources made available thereto to enable it to fulfil its objectives effectively.

**The Prime Minister:** Madam Speaker, before the General Elections in December 2014, drugs and drug trafficking had reached unprecedented heights due to inaction of the then Government.

Thousands of men and women have been suffering for many years from that scourge. Many families were being devastated and many of our youth were seriously compromising their lives, their future and even their careers.

Drugs and drug trafficking were leading to an upsurge in crimes, with young addicts stealing, sometimes even the pensions of their parents and grand-parents and resorting to more serious crimes to be able to buy drugs.

On the other hand, the drug barons and the traffickers were unscrupulously enriching themselves at the cost of miseries to the drug consumers, addicts and the rest of the population who were feeling the indirect effects.

This led Government to make a pledge to the population in the Government Programme 2015-2019 to combat drug consumption and drug trafficking. And at paragraph 131 of the Government Programme 2015-2019, it was stated, and I quote -

“A Commission of Enquiry on Drug Trafficking will be set up and Government shall pursue a relentless fight against traffickers, while ensuring that our seaport and airport are equipped with state-of-the-art equipment and technology to counter any attempt to introduce drugs in Mauritius”

Madam Speaker, consequently, a Commission of Inquiry was set up on 15 July 2015, chaired by former Judge of the Supreme Court, Mr Paul Lam Shang Leen. The Commission started its hearings on 04 November 2015.

Madam Speaker, let me now refer the hon. Leader of the Opposition to the reply made by Sir Anerood Jugnauth, the then Prime Minister, to Parliamentary Question B/17 on 29 March 2016, particularly to the last two paragraphs which, for ease of reference I am quoting because of the relevance and pertinence, I quote -

“It is apposite also to note that according to section 7(2) of the Act, the Commissioners of the Commission of Inquiry are required to submit their Report to the President of the Republic.

Given that the Commission of Inquiry has to report to the President and given that it can, under section 9 of the Commissions of Inquiry Act, regulate its own proceedings including making ‘such rules for their own guidance and the conduct and management of proceedings before them, and the hours and times and places of their sittings’, it would not be in order to request from the Commission an expected date of completion or whether they intend to issue a draft report, the more so that the President, who appointed the Commission of Inquiry, has not set a deadline for the completion of the Inquiry.”

This being so, and in regard to part (a) of the PNQ, I cannot make any request to the Commission of Inquiry as any intervention in the work of the Commission of Inquiry is not in order.

Madam Speaker, in regard to part (b) of the question, I refer the hon. Leader of the Opposition to section 16 of the Commissions of Inquiry Act, and I quote -

“Remuneration and expenses

- (1) The President may direct what remuneration, if any, shall be paid to a Commissioner, the Secretary, and to any other person engaged in the work of the Commission, and what expenses, if any, incurred in the holding of the inquiry shall be paid.
- (2) Any remuneration or expenses directed to be paid under subsection (1) shall be a charge on the Consolidated Fund.”

Notwithstanding what I have just quoted, in regard to part (b) of the question, I wish to inform the House that expenses regarding Commissions of Inquiries are met from a specific item from the vote of the Accountant-General – *“Expenses in connection with Commissions of Enquiry and Committees”*.

Since the setting up of the Commission of Inquiry on Drug Trafficking, the Accountant-General has disbursed to date a total amount of around Rs2.2 m. to meet its operational cost.

I wish to stress that any cost incurred by the Commission of Inquiry is met from public funds in accordance with established procedures and practices.

In fact, the Circular Note No. 3 of 2017 of the Ministry of Civil Service and Administrative Reforms lays down, amongst others, a set of criteria to be taken into account in determining the fees payable to the Chairperson, Members and Secretary of any Commission of Inquiry. These criteria include the following -

- (i) the scope and complexity of the exercise taking into account the terms of reference of the Commission of Inquiry;
- (ii) the profile of the Chairperson and of the Members;
- (iii) the indicative time frame for completion of the assignment, and
- (iv) the number of sessions required for the completion of the assignment.

It is clear from section 16 of the Commissions of Inquiry Act and from internal administrative guidelines and procedures that whatever remuneration and expenses to be paid to the Commissioner, the Members, the Secretary and other persons engaged in the work of the Commission shall be determined after the Commission has completed its assignment.

In regard to the human resources made available to the Commission of Inquiry to enable it to fulfil its objectives effectively, the Leader of the Opposition will appreciate that it is of utmost importance to preserve the anonymity of the persons involved in this Commission.

Madam Speaker, in the circumstances, it will not be appropriate for me to reveal the identity of the persons presently working for the Commission.

However, I wish to inform the House that the Commission of Inquiry is currently being serviced by 20 public officers on secondment including five who are serving on a part-time basis.

Madam Speaker, I wish to inform the House that for this year as at 05 December some 2156 persons have been arrested for drugs and related offences. The total value of drugs seized so far this year stands at Rs3 billion against only Rs240 m. for the whole year of 2014. This year there has been a record in the seizure of heroin for an amount of 197 kgs against only 12 kgs for the whole year of 2014.

The total value of the seizure of heroin this year amounts to Rs2.9 billion as compared to an amount of Rs183 m. in 2014.

Madam Speaker, since I became Prime Minister, I have made a solemn commitment to rid our country and society of the scourge of drugs and drug trafficking. I can reassure the House that I will continue to be relentless in that determination.

I have on many occasions, inside and outside the House, vigorously stated that this Government will be ruthless against the drug barons and we are confident that the battle against drugs and drug trafficking will be won provided we stand united and determined.

**Mr X. L. Duval:** Madam Speaker, I wish to remind the hon. Prime Minister that we were together with the *Lepep* writing the *Lepep* manifesto, the Government Programme and the Cabinet decision of 10 July 2015. Am I to understand, Madam Speaker, that no fee at all has been agreed - hourly fee, daily fee, anything like that - for payment to the Commissioners

so far, and the hon. Prime Minister is telling us that this will be agreed only at the end of the Commission of Inquiry?

**The Prime Minister:** Yes, there is no fee that has been agreed at the beginning. It is also quite normal since the extent of the work that has to be done by this Commission of Inquiry, and we all know that it would have taken some time. Therefore, it is only at the end of the Commission completes its work that then the issue of fee, of course, will be looked into. But I have stated also that there are criteria with regard to what the Civil Service has already laid down, and also taking from past Commission of Inquiries, then fees will be agreed upon.

**Mr X. L. Duval:** I understand well for the past two years, the Commissioners have been sitting, and there have been no interim payments, part payments made to them apart from the Rs2.2 m. that the hon. Prime Minister has mentioned? I just want to make that clear.

**The Prime Minister:** Well, this is the information that I have. I have given the expenses in connection with the running of the Commission of Inquiry, but not as regards any fees; no fees have been made to any member of the Commission as yet.

**Mr X. L. Duval:** Does not the hon. Prime Minister agree that it is not fair to ask the Commissioners to work for two years and not to receive anything in between at all for their efforts? How are they to live?

*(Interruptions)*

**The Prime Minister:** Can I then maybe read from that question that there is any request for any fee to be paid as an interim manner? I have not seen nor heard any such request.

**Mr X. L. Duval:** I think it is quite normal, Madam Speaker, for the people to be paid so that they can live at the end of the month. How is it that you expect the Commissioners to live after two years and their assessors without any payment at all?

*(Interruptions)*

**The Prime Minister:** That is how it is, Madam Speaker. This is what is agreed, unless there is a confusion. Madam Speaker, first of all, we have the Commissioner, we have the two assessors, and then we have the staff also. Now, the staff are being paid obviously. For the Commissioner and the two assessors, it is understood that it is only at the end of the

completion of the work that the fee will be determined and will be paid. Well, I have not received any representation so far.

**Mr X. L. Duval:** We can spend Christmas and New Year well without any payment at all for the last two years!

*(Interruptions)*

Madam Speaker, I would like to ask the hon. Prime Minister...

*(Interruptions)*

Honestly, they should be paid! Honestly! So that they can do a good work! Madam Speaker, I would like to ask the hon. Prime Minister; the Cabinet Decision of 10 July decided on the Terms of Reference, on the Commissioners, etc. It is quite clear from the Cabinet communiqué. Now, this is why since it is the Prime Minister who advised the President to set up this Commission, did it occur at all during the last two years for the Prime Minister to go back to the President and ask her, under section 2 of the Commissions of Inquiry Act, subsection 3, where the President may determine when the inquiry will be held and when the report rendered, given the time it is taken, to ask the Commissioner to submit interim reports as and when required under this section. The hon. Prime Minister quoted another section. I am going under section 2 (3) of the Commission of the Inquiry Act.

**The Prime Minister:** Madam Speaker, on such an issue as drugs and drug trafficking, I think, first of all, we should not be giving any wrong signal to the people that we are trying to interfere with the work of the Commission. I think the Commission is independent, it is doing and regulating its work independently and I do not see any reason why we have to ask for an interim or a draft report. I believe that when the work will be over, the Commissioner and his Assessors will be making recommendations and from there we will see what action Government will be taking.

**Mr X. L. Duval:** Has the Prime Minister been given any indication yet when the report is expected from the Commission?

**The Prime Minister:** Well, I have not been given any indication. I must say also for the simple reason that I have not been interfering with the work of the Commission.

**Mr X. L. Duval:** Given the very wide terms of reference, there are 14 separate items that the Commission has to report on, including rehabilitation, existing legislation, recommendations, new types of drugs etc, would the Prime Minister agree that it is likely that

the Commission is going to take very long before coming to a report because of the extremely wide terms of reference of this Commission? That is why I am asking the Prime Minister to use his good offices vis-à-vis the President under section 2(3) to get interim reports and I will say why in a moment.

**The Prime Minister:** Well, Madam Speaker, first of all, I cannot answer for the Commission. The Commission has embarked on an inquiry, has been calling a number of people, witnesses and is digging, I must say, as far as it can in order to try to get the facts correct and, obviously, to come up with a number of recommendations. So, I will allow the Commission to regulate itself in the manner that it thinks fit - this is anyway, according to the law - and the time it will require to take in order to be able to conclude its work. I do not see any reason at this stage why I should, either myself or through the President of the Republic, request for any draft report. The second issue which the hon. Leader of the Opposition raised was about ...

**Mr X. L. Duval:** Madam Speaker, the law is quite clear that the President may set a date for a report or interim report. I would like to ask the Prime Minister here - and just to say also that I think the nation, myself and the Opposition commend the Commissioner and the Assessors for the courage they are showing - given that it is taking so long and given, for instance, that so many Prison officers have been compromised in the Commission of Inquiry, can I ask the hon. Prime Minister, whilst waiting for this report, how many of these Prison officers have been interdicted, suspended etc?

**The Prime Minister:** Well, first of all, in the literal sense, yes, we have to wait for the report, but, in the practical sense, Government is acting. We are not just sitting down and waiting for a report to be communicated to us for us to act. We can see the results. I have given the figures about how much seizures have been made.

*(Interruptions)*

Yes, the hon. Leader of the Opposition has been in the past Governments for so many years. I have given figures for 2014. I can give figures for even before that, how little seizures were being done. But, now, this Government has made it a point that we are waging a relentless war against drug traffickers and the results are there for people to see. So, I cannot put any pressure whatsoever on the Commission. There is a former Judge of the Supreme Court who is presiding over it. Well, we trust his ability and, of course, the time it

will take and let us see that after the time will come, surely, when everybody would have been listened by the Commission, they will come up with a report.

**Mr X. L. Duval:** Can I take it, Madam Speaker, that despite so many allegations, even accusations being levelled against Prison Officers, very Senior Police officers and more junior Police Officers, that there has been no interdictions and nothing since the last two years that the Commission has been sitting and that these Prison officers are continuing their work in the prisons and these very Senior Police officers are continuing their work around the country, including ADSU officers? Is that what the Prime Minister is telling the nation?

**The Prime Minister:** Well, what I am telling the nation, Madam Speaker, is that I go according to the law and I have full respect for the law. Allegations are being made. Well, first of all, the Commission itself has to check on the veracity of those allegations. How can I just act when I hear that there is an allegation against Y and Z and ask the authorities here to take action, to interdict or to suspend somebody? There have been even allegations against myself. But I leave it to the Commission to analyse, to look at the evidence before it and then the Commission will look at what is, according to them, really serious, what has been verified, what has been proved and they will come with their conclusion. So, I cannot act. It is as if the hon. Leader of the Opposition is telling me there is a case before a Court, people are giving evidence and right in the middle of that case, take action. But let us wait for the judgment. I think this is trite law, in fact. To me, it is trite law, that we need to wait for the conclusion and even from that conclusion - I do not want to dwell into the legality of the conclusion of the Commission of the Inquiry - there are certain things that can happen. So, I cannot act on an allegation unless it has been shown to be true and it has been proved before that Commission. That Commission itself comes with a finding.

**Mr X. L. Duval:** I hope you will give us extra time given the importance of the question.

**Madam Speaker:** I am sorry.

**Mr X. L. Duval:** I would like to ask the Prime Minister, what happens, for instance, if these people decide to leave the country? Already we have one Mr Ramdin missing somewhere, he has disappeared, in the Kistnah case. What happens if all these people whose names had been mentioned, serious accusations made against them - I do not want to mention any name - they just decide to go, leave the country and stay like Teeren Appasamy etc, elsewhere? What would happen then? Are there, at least, objections to departure, arrest on

departure, whatever? Are these applicable to all these persons who have been listed and accused and allegations made in the Commission of Inquiry or are they all just free to go as they please?

**The Prime Minister:** Well, no one is free - people are, first of all, free, there is free movement of people in this country. As I say, we have to go according to the law. There is the inquiry which is ongoing and there is evidence before that Commission. I will repeat again and I think it is the Leader of the Opposition who does not understand how the law works in this country, how we function and how the Commission of Inquiry functions. It is just the same thing as there is a case before the Court. I must say, Madam Speaker, I do not want to give numerous examples where authorities are acting, ADSU, the Police, enquiries are being conducted, so many people have been arrested and drugs – suspected, I must say, because we cannot already condemn them - but suspected drug traffickers have been arrested, enquiries are ongoing and, eventually, cases will be brought before the Court. Well, these are things that we do and I say, according to the regulations and according to law.

**Mr X. L. Duval:** Madam Speaker, for the Commission of Inquiry on Horseracing, there is an interim report; it disappeared, I agree, but it gave an interim report and it said quite clearly this is where criminal investigations should be directed. This has not happened so far, as you are aware, from this Commission of Inquiry.

**The Prime Minister:** Well, we have acted. In fact, I have myself brought a number of amendments to the laws here. Obviously, we have requested Police to carry out inquiry. But inquiry must come to a conclusion and there must be at least a *prima facie* case against somebody, and matter will then be referred. It is not the Police that decide anyway. It is for the DPP. The case file will be sent to the DPP for the DPP to take a decision and then to recommend whether there are charges than can be proffered against anybody. This is how we function.

**Mr X. L. Duval:** Madam Speaker, *il n'y pas de plus sourd que celui qui ne veut pas entendre*. What I am saying is this. There have been cases of tampering with evidence. You want me to mention the name of Mr Gulbul!

**Madam Speaker:** Do not mention names, please!

**Mr X. L. Duval:** There have been cases of tampering of evidence; trying to pay off people, threatening people. There has been a case where the house of some sort of very secret witness was searched, apparently to intimidate him. There have been all these. There is also

the chance that evidence will be destroyed, that witnesses will be scared into not giving evidence in the future. This is why I am saying to the hon. Prime Minister to use his good offices - this is genuine what I am asking - to get an interim report so that at least he does not have to say: "you know, I don't have a final one yet." Get an interim report every three months, if necessary, so that the Police, ADSU, FIU, everyone can get on with the work and achieve what I think the whole House wants us to achieve, that is, to break the back of the mafia.

**The Prime Minister:** Let me say that the Commission of Inquiry, within its own powers, can take a number of measures, and also if the Commission of Inquiry feels that there is a need for Government to act, for the authorities to act, in a particular way, they can always send information with regard to particular cases. I must say the hon. Leader of Opposition is again saying that, but he is repeating allegations which have been made. I, as Prime Minister, and the authorities, we cannot act on allegations. We cannot act in the sense that it is as if a conclusion. What the authorities can do is to inquire into those allegations. I can assure the hon. Leader of the Opposition that there were already inquiries that have started in a number of cases and in others there are inquiries that have also started.

**Madam Speaker:** Hon. Leader of Opposition, you have got two more minutes to go.

**Mr X. L. Duval:** Okay, thank you.

Madam Speaker, I am very disturbed about all these officers, ADSU and all that, still running around loose in the country. The hon. Prime Minister just mentioned the fact that his name has been mentioned in the Commission of Inquiry. Is he still maintaining the idea of going to depone there? Is that still on? Is he still going to depone before the Commission?

**The Prime Minister:** Madam Speaker, I have officially written to the Commission of Inquiry, requesting for a right not only to depone, but to answer to those frivolous, those false allegations coming from somebody who has been sentenced 40 years to jail, a drug trafficker, and making all sorts of allegations against me! I am that kind of person who can face that kind of people.

**Mr X. L. Duval:** I am glad to hear that. Madam Speaker, is this the last question?

**Madam Speaker:** Yes.

**Mr X. L. Duval:** I just want to ask on the resources that are attached to the Commission. There is something like 10,000 Police Officers in Mauritius. I understand only

six Police Officers are attached to the Commission of Inquiry. Can the hon. Prime Minister again use his good offices to double or treble the number officers attached to this great Commission so that the Commission at least can do its work quicker and better?

**The Prime Minister:** Madam Speaker, again I must say I am surprised, because if there is a request from the Commission - this Government has set up this Commission of Inquiry. Let me remind the hon. Leader of the Opposition, he was in a Government, where repeatedly we were asking...

**Madam Speaker:** Hon. Jhugroo!

**The Prime Minister:** ... for a Commission of Inquiry to be set up. I remember, hon. Ameer Meea, when he was together with us in the Opposition ...

*(Interruptions)*

**Madam Speaker:** Hon. Jhugroo, it is not courteous, when the hon. Prime Minister is talking, to talk at the same time.

**The Prime Minister:** On so many occasions, he had requested the former Prime Minister then to set up a Commission of Inquiry because we were aware of what was happening in the country. We were aware *comment le problème de la drogue prenait de l'ampleur et tuait des familles, des jeunes*. They kept quiet! Not only did they keep quiet, the former Prime Minister then said there was no necessity!

*(Interruptions)*

There was no necessity, why? Maybe to protect certain people! But now that this Government has acted, therefore, as I say, if there is a request, we will be willing to assist and to provide the Commission with, obviously, the required human resources, and if there is a request for further or additional manpower, of course, we will look into it and consider this request.

**Madam Speaker:** Time is over!

## MOTION

### SUSPENSION OF S.O. 10(2)

**The Prime Minister:** Madam Speaker, I beg to move that all the business on today's Order Paper be exempted from the provisions of paragraph (2) of Standing Order 10.

**The Deputy Prime Minister rose and seconded.**

*Question put and agreed to.*

(3.37 p.m.)

## **STATEMENT BY MINISTER**

### **IMF - 2017 ARTICLE IV CONSULTATION**

**The Prime Minister:** Madam Speaker, an IMF mission visited Mauritius during July 31 to August 15, 2017 to conduct the 2017 Article IV Consultation.

I have been informed by the IMF that on 17 November 2017, the Executive Board of the IMF concluded the 2017 Article IV Consultation with Mauritius without any formal Board discussion.

In its report, the IMF has highlighted the current economic performance, the challenges and the proposed policy actions. According to the report -

- GDP Growth is projected at 3.9% for 2017 and at around 4.0% over the medium term.
- Economic activities are expected to remain robust, driven by the Public Sector Investment Programme and supported by continued dynamism in construction, the tourism sector and financial intermediation activities.
- Domestic demand will be sustained by recovering business and consumer confidence, and increased investment.
- And international reserve buffers have improved substantially.

In its report, the IMF notes that overall, banks are well-capitalised, liquid and profitable; that many recommendations of the 2015 Financial Sector Assessment Program have been implemented; and that financial stability surveillance and macro-prudential policies have been strengthened through empowering the Financial Stability Committee.

The IMF also welcomes the Business Facilitation Act as a step to improve Mauritius' business environment.

The report emphasises the need for a bold, coordinated, strategic vision, guided by strong and independent institutions to guide the economic transition. It sees the formation of the National Economic Development Board and the drafting of the Financial Sector Blueprint as important steps towards harmonising the policy direction and implementation across sectors.

The IMF has also identified some risks and challenges with regard to -

- the slowdown of manufacturing exports;
- signs of inflationary pressures;
- the impact of the ageing population;
- a debt sustainability outlook which is increasingly susceptible to a range of macro-fiscal shocks;
- the deficit in the current account of balance of payments;
- excess liquidity in the banking system;
- the Global Business Sector facing pressure from international anti-tax avoidance initiatives, and
- eroding cost competitiveness.

In view of the above challenges, the IMF has made the following policy recommendations –

- a tighter fiscal stance;
- further revenue mobilisation efforts and improvements in public investment management;
- improving the efficiency and impact of public investment;
- mopping-up of excess liquidity;
- shoring up financial stability, including the upgrading the macro-prudential policy framework;
- broader structural reforms in areas such as the labour market, higher education, innovation, governance and anti-corruption policies;
- better aligning post-secondary education curricula with the economy's needs, encouraging tertiary enrolment in Science, Technology, Engineering and Mathematics (STEM) subjects, and encouraging foreign skilled labour where necessary, and
- revisiting and simplifying the entire wage-setting mechanism to improve competitiveness.

Thank you, Madam Speaker.

## **PUBLIC BILLS**

### *Second Reading*

## **THE ADDITIONAL REMUNERATION AND OTHER ALLOWANCES (2018) BILL**

**(No. XXI OF 2017)**

*Order for Second Reading read.*

**The Minister of Labour, Industrial Relations, Employment and Training (Mr S. Callichurn):** Madam Speaker, I beg to move that the Additional Remuneration and Other Allowances (2018) Bill, (No XXI of 2017) be read a second time.

Madam Speaker, the presentation of an Additional Remuneration Bill to propose the quantum of cost of living adjustment in relation to the rate of inflation has been a regular ritual for every Government. However, this year we are coming up with an innovation. The Bill that I am proposing to the House has an additional component, namely the other allowance which has been linked to the traditional additional remuneration. The Bill provides for the payment of an additional remuneration to employees of the private sector and an allowance to certain categories of employees.

As in previous years, this year also the tradition has been maintained with the meetings with the trade unions, employers and representatives of the State to discuss the quantum of the additional remuneration.

*(Interruptions)*

**Madam Speaker:** Hon. Abbas Mamode, please can you go outside and pick your call?

**Mr Callichurn:** The tripartite forum has been maintained and all the parties have had the opportunity to come forward with proposals and express their views in the best democratic traditions. Social dialogue has, therefore, been maintained.

Madam Speaker, before coming to the proposals contained in the Bill, I shall explain the rationale which has guided the proposals being made and the philosophy of this Government on its socio-economic policies. We also need to consider the local and international context in which we are operating without losing sight of other pressing challenges which we have to address.

Madam Speaker, the context in which I am presenting this Bill is substantially different from that of previous years, as this year and for the very first time, besides the additional remuneration we shall also deal with the National Minimum Wage and the introduction of a special allowance. This is the challenge facing this august Assembly today as the decision that would be taken after our deliberations will have a marked impact on our economy and the society at large.

With regard to the context, Madam Speaker, the public is now aware that the National Wage Consultative Council had recently submitted recommendations on the National Minimum Wage. I shall address this issue at a later stage.

Madam Speaker, it is sheer coincidence that the Additional Remuneration and Other Allowances (2018) Bill is coinciding with the submission of the report on National Minimum Wage. It was not programmed to happen almost simultaneously. We have to bear in mind that we are dealing with two distinct issues though it is admitted that they may be connected.

Madam Speaker, with regard to additional remuneration, all the stakeholders have had their say on the quantum. I appreciate their respective stands and also the pertinence of their arguments to justify their demands. I should also place on record the meticulous way the trade unions have prepared the submissions. The business community also has as usual presented their arguments forcefully.

On the one hand the demands are for the upliftment of the living conditions of fellow workers, the vulnerable segments of the population, namely old aged pensioners, widows, orphans and the physically challenged etc. and on the other hand, the business community advocates the risks of loss of competitiveness, the additional financial burden, the need for incentives to stimulate growth and the potential dangers and barriers they have to face to stay in business.

Government is fully conscious of the issues raised during the tripartite forum and the need to adjust the cost of living to compensate for inflation and concurrently the imperative of providing the business community a conducive environment to continue to be competitive on the international market.

Madam Speaker, the decision of the Government to grant a salary compensation of Rs360 across the board has been accepted by the unions and the private sector almost unanimously. The endorsement of the proposal made by Government is clear evidence of the success of social dialogue and trust in the ability of this Government as arbitrator. The cordiality of the discussions and the frankness in the exchange of views demonstrate the level of maturity we have attained. This is, indeed, a defining moment which will serve as a model for future meetings.

Here again, Madam Speaker, the credit goes to the hon. Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of

Finance and Economic Development who went on the frontline to explain to our social partners the challenges facing our society.

Madam Speaker, the provisions of this Bill are simple and clear. As from 01 January 2018, every full time employee of the private sector shall, in addition to his accrual wage or salary earned, be paid an additional remuneration of 360 rupees.

Part time employees drawing up to Rs10,000 per month are entitled to an increase of 3.6 % and those drawing above Rs10,000 per month would be paid an additional remuneration of 360 rupees.

As regards an employee who is remunerated on a piece rate basis at rates prescribed in the Cinema (Remuneration Order) Regulations, Tea Industry Workers (Remuneration Order) Regulations and the Bank Fishermen and Frigo-Workers Remuneration Regulations, the rates will be increased by 3.6 per cent but shall not be more than 360 rupees.

The other aspect which I should inform the House is that irrespective of the existence of a collective agreement or an award, an employee would be entitled to the additional remuneration unless such increase is agreed upon by the employee, as being an increase in salary designed to compensate him for an increase in the cost of living in respect of that period. Madam Speaker, I am comforted by the stand of the private sector which has at heart the welfare of its employees.

We are aware of the challenges facing the business community which is no longer protected by preferential treaties and is facing tough competition on the international market. Logically, the private sector has to boost up productivity and this can only happen when workers are decently treated and this entails also incremental salary increases along with proper training of staff. The private sector in Mauritius is now a world class player and they understand the importance of sound industrial relations for the advancement of their business prospects.

The other aspect related to the private sector is the capacity to pay the annual salary compensation. We are all aware that long periods of growth may be followed by slumps and this may adversely affect the financial situation of private sector companies, especially those who are export-oriented. This is the ordinary reality of the business world. Government is alive to this situation and is as ever actively engaged to promote sustainable business.

Therefore, the capacity to pay without jeopardising the business community has also weighed heavily in the balance before reaching a conclusion on the quantum of the salary compensation.

Madam Speaker, the quantum of compensation has been diversely commented. Well, there has been a complete convergence of views. Much to the dismay of some people, especially those in the Opposition, the end of the year will not be marked by anger or frustration. The unions have expressed satisfaction and the private sector as well.

This being said, I would like to comment on one aspect which I consider as crucial. This is in relation to the application of the salary compensation. Generally, the majority of employers have, in good faith, always honoured their commitments. However, every year, there are small pockets of resistance and workers have to voice their grievances to my Ministry.

With regard to non-payment of additional remuneration, provision has been made in the Bill to confer on the Supervising Officer of my Ministry or any public officer authorised by him, the power to uphold the rule of law and ensure payment of additional remuneration.

I emphasise that once the law is voted, payment of additional remuneration is no longer an option. Simply it becomes mandatory. As usual, we shall ensure that the rule of law prevails.

Madam Speaker, with regard to the payment of a prescribed allowance to certain categories of workers drawing a prescribed monthly basic salary, the Bill makes provision for non-payment of Negative Income Tax Allowance to employees drawing a special allowance. This is an additional measure to bring further relief to our less fortunate compatriots.

Madam Speaker, as I mentioned earlier, I shall now intervene on the national minimum wage.

It will be recalled, Madam Speaker, that the National Wage Consultative Council was commissioned to recommend a national minimum wage for the lowest paid workers of this country, in relation to the median wage and having regard to the following –

- the need to improve the living conditions of the lowest paid workers and protect decent work and living conditions;
- the overall economic situation of the country;
- the need to increase the rate of growth and protect employment, and

- the national competitiveness.

Madam Speaker, it should be noted that the Council was given a terms of reference which include all the essential elements which should be taken into consideration in determining the national minimum wage in Mauritius. We have taken care to ensure that the recommendations would not be deficient in any manner. So, today, Madam Speaker, we have a report which is, to all intents and purposes, a comprehensive document produced after several months of intensive discussions involving the main stakeholders of our society. This report contains recommendations in line with the terms of reference.

Madam Speaker, a few weeks ago, the Chairperson of the Council submitted a report to me recommending Rs8,500 per month as the national minimum wage, that is, 63.4% of the median for calendar year ending 31 December 2017 which stands at Rs13,400 monthly, subject to staging of the recommendation as follows –

- With effect from 01 January 2018, Rs8,000 per month inclusive of additional remuneration.
- With effect from 01 January 2019, Rs8,500 plus additional remuneration, if any, for rise in the cost of living for the period January to December 2018.

The staging of the recommendations has been proposed for the following reasons –

- (a) to protect employment, sustain job creation and induce further investment for growth;
- (b) to protect low paying firms irrespective of sectors through a reasonable transition period, and lastly
- (c) to encourage firms to move away from the informal sector to the formal sector and reduce the extent of non-conformity to statutory provisions.

The House will note that the recommendations made by the Council aim at improving the standard of living of low wage earners and their families...

**Madam Speaker:** Hon. Minister, just give me one minute. The Bill, which is in front of us, relates to the Additional Remuneration and Other Allowances (2018) Bill. So, if you are enlarging the debate on the minimum wage, then you should expect that the debate on this side of the House also will be on the minimum wage. Okay!

**Mr Callichurn:** Yes, Madam Speaker.

**Madam Speaker:** Please proceed!

**Mr Callichurn:** Madam Speaker, in view of the inextricable link between the level of wages, rate of unemployment, poverty levels and the economic situation and other factors which contribute to economic growth and the impact of the recommendations on the national economy, this Government has adopted a cautious and balanced approach to the subject of the national minimum wage.

Madam Speaker, albeit that these issues have been canvassed by the Council, Government stands guided by the imperatives to implement a policy that is designed to have a measurable and concrete benefit for those who are economically and socially most vulnerable and, at the same time, contribute towards economic growth. The House would appreciate that the scope of application of a national minimum wage with exclusions being kept at a minimum has to be carefully considered.

Moreover, reconciling the needs of workers and their families and the imperatives of the economy and the trade-off between these two segments, warrant that the issue of national minimum wage transcends the frontiers of politics. We have to acknowledge that the essence of the national minimum wage policy is dictated by the need to close the wage gap to overcome poverty without causing prejudice to sectors which contribute to economic development.

Madam Speaker, consultations have been held with the partners of the tripartite forum. Certain difficulties which appeared at the end of the proceedings of the Council have been resolved to the satisfaction of all parties and as Minister of Labour, it is a singular honour for me to inform the House that as from January 2018, a national minimum wage will come into effect.

Madam Speaker, I have taken time to consider the recommendations of the Council in consultation with my Cabinet colleagues and our social partners to ensure that whatever decision is implemented stands the test of time and responds to the aspirations of the workers who are in the low-income group. In our analysis, we have not only considered the impact on the economy, but also the impact on the quality of life of the people of this country.

For too long the issue of minimum wage has been a mere rhetoric without any political commitment. This is the first time that a Government has had the guts to translate into action a commitment so dear to the trade unions and the working class, we have tried to

ensure that the national minimum wage also stands the test of the decent work philosophy characterised by fair labour standards and real increase in wages.

Madam Speaker, the prosperity of this country rests on the engagement of all the workers who are instrumental in increasing the level of productivity. In this context, the State has the responsibility to vindicate important public interest issues such as ensuring that workers are protected from any form of exploitation and benefit from a national minimum wage which should be implemented responsibly and proportionately, after a careful balancing exercise. We have done so taking into consideration the wider national interest in view.

Therefore, the recommendation made by the National Wage Consultative Council has been reviewed and the new proposals would be a combination of a national minimum wage plus a special allowance for the year 2018 as is provided by this Bill.

Madam Speaker, in the Government Programme and the Budgets presented by this Government, poverty alleviation has been a central theme. This Government, Madam Speaker, has rightly recognised that, for some people, poverty is not just about poverty of income, but it is also poverty of aspiration, of opportunity and of prospects of advancement.

In this regard, this Government has, since the start of its mandate, implemented a series of measures for an all-inclusive society and essentially to combat poverty, and ultimately consolidate the foundations of the Welfare State which, in difficult circumstances, is more than ever required. In terms of poverty alleviation, the measures contained in the Budgets presented are evidence of our commitment. Inevitably the national minimum wage certainly fall into the category of measures which will reduce the extent of social exclusion and give to the present and future generations a message of hope. We cannot join the league of high-income nations with part of our citizens still caught in the poverty trap.

Madam Speaker, more than 120,000 citizens of this country will benefit from the national minimum wage. With its introduction, this Government has written a new chapter in the history of this country. The national minimum wage marks the culmination of the struggle of decent working conditions. This is a landmark decision and without any doubt the credit goes to this Government and especially to the hon. Prime Minister who, through his consistent policies to give some comfort to our compatriots who are less fortunate, has demonstrated that he is a beacon of hope for this country, he is a person the low income group can consider as a faithful ally. Indeed, Madam Speaker, the decision taken by

the hon. Prime Minister is unprecedented in the history of this country. We mean business and we have shown how determined we are to work in the interest of the people of our beloved country and for its betterment.

Madam Speaker, with the provisions of the Bill, coupled with the national minimum wage and the Negative Income Tax, we have laid the framework that will contribute towards the enhancing the resilience of the low income group of this country. We have once more proved that this is a Government of high ideals and hard choices and we are in the process of building a country, not for the few, but for all the people.

Last, but not the least, we have to recognise that productivity and competitiveness flow from meaningful civic dialogues between the State, trade unions, employers and workers. This is the centrepiece of the strategy of this Government which has democratically determined the common good of the citizens of this country.

With these words, Madam Speaker, I now commend the Bill to the House. I thank you for your attention.

**Mr Wong Yen Cheong rose and seconded.**

**Madam Speaker:** Hon. Uteem!

(4.07 p.m.)

**Mr R. Uteem (First Member for Port Louis Maritime and Port Louis East):** Madame la présidente, j'étais venu aujourd'hui pour m'adresser sur un projet de loi *the Additional Remuneration and Other Allowances (2018) Bill (No. XXI of 2017)*, mais j'ai vu que l'honorable ministre a passé le plus clair de son temps à discuter sur le *minimum wage* alors qu'on n'a pas eu de préavis, alors que ce n'était pas dans l'agenda et ce n'est pas directement lié avec ce projet de loi.

Les principes concernant le *minimum wage* ont été débattus et on a eu l'occasion de ce côté de la Chambre de faire nos réservations parce qu'il y a eu le rapport des experts et le gouvernement n'est finalement pas venu prendre toutes les recommandations qui avaient été faites. Donc, le gouvernement est venu avec sa propre formule. Mais là, je suis très déçu parce qu'après que l'honorable ministre soit passé plus d'une demi-heure sur le salaire minimum, il a terminé sans même annoncer le montant. Donc, il fait durer la *suspense*. Je ne sais pas si c'est l'honorable Premier ministre qui aura l'honneur d'annoncer qu'est-ce qui serait le salaire minimum. On sait que le principe c'est à partir du mois de janvier, mais on ne

sait pas combien cela va être. Le journal, 'Le Mauricien', aujourd'hui a déjà annoncé le chiffre de R 9,000 auparavant le chiffre de R 8,500 avait été cité mais, jusqu'à présent, le Conseil des ministres s'est bien gardé de venir divulguer toute discussion qui pourrait avoir eu lieu entre les ministres du gouvernement. Au moment où je suis en train de commenter sur le discours de l'honorable ministre, je ne sais même pas le montant du salaire minimum.

Madame la présidente, une fois n'est pas coutume, les syndicalistes sont pour la plupart satisfaits de la compensation salariale de R 360 qui a été décidée par le chef du gouvernement le 22 novembre dernier à la suite de la traditionnelle réunion tripartite. Selon le communiqué émis par le *Cabinet Office* en date du 24 novembre, ce montant de R 360 a été calculé au taux d'inflation de 3.6 % et représente la somme de R 2.2 milliards à l'économie. Dans une conférence de presse tenue le même jour, l'honorable ministre du travail, M. Soodesh Callichurn, nous a aussi informés que la pension de vieillesse augmentera aussi de R 360. C'est bien! Parce qu'on se souviendra, Madame la présidente, que lors de l'exercice de la compensation salariale de 2015 le gouvernement avait oublié de mentionner s'il y aura un ajustement sur les pensions des veuves, des orphelins et des autrement capables. Ce n'est qu'après que l'honorable Paul Bérenger qui été alors *Leader* de l'Opposition a, dans son allocution, fait remarquer à l'ancien grand argentier qu'il n'avait pas annoncé s'il y aura une compensation pour les veuves, orphelins et autrement capables et que le gouvernement avait rectifié le tir. Donc, c'est bien qu'aujourd'hui, malgré que le ministre n'ai pas, dans cette Chambre, formellement annoncé que cette augmentation sera répercutée sur les pensions de vieillesse, veuves, orphelins et autrement capables. On peut croire que ça va être le cas et j'espère que l'honorable Premier ministre aura l'occasion d'éclaircir que ce montant de R 360 s'étend aussi pour les autres bénéficiaires de prestations sociales.

Madame la présidente, la question qui était sur la lèvre de tout le monde avant ce projet de loi, tant du côté syndical que du côté patronal, c'était par rapport au salaire minimum qui devait être annoncé et si ce salaire minimum allait tenir en compte la compensation salariale ou pas.

On sait que M. Appanah, le président du *National Wage Consultative Council*, a déjà remis son rapport au Cabinet. Comme on vient d'entendre le ministre Callichurn confirmer qu'il y aura un salaire minimum mais il n'a pas dit le montant du salaire minimum qui a été recommandé et qui a été décidé par le gouvernement. Est-ce que ce montant qui est applicable à partir de janvier 2018 prendra en compte les R 360 additionnelles ou absorbera

déjà ce montant. C'est important parce que, comme vous le constatez, il y a une divergence de vue entre le patronat et le syndicat.

Le porte-parole des employeurs du secteur privé, M. Pradeep Dursun, *Chief Operating Officer de Business Mauritius* a déclaré et je cite –

« Le paiement de la prochaine compensation salariale ne devrait pas avoir une incidence sur le salaire minimum. »

Les syndicalistes, bien entendu, ne sont pas sur la même longueur d'onde. Et on se souviendra, Madame la présidente, que ces mêmes représentants des travailleurs avaient effectué un *walk-out* et avaient publiquement rejeté le rapport du comité présidé par M. Beejay Kumar Appanah. Aujourd'hui, je ferai un appel solennel au ministre du Travail et au Premier ministre de publier ce rapport parce que le salaire minimum concerne non seulement les travailleurs qui méritent un salaire décent, mais ça concerne aussi tous les employeurs, toutes les petites et moyennes entreprises qui doivent pouvoir digérer le montant à payer. Donc, c'est très important que le gouvernement puisse publier ce rapport Appanah pour que tous les *stakeholders* puissent, à la lumière de ce rapport, tirer leurs propres conclusions.

Madame la présidente, l'autre aspect de ce projet de loi qui demande un éclaircissement, c'est l'effet de la compensation salariale sur la *Negative Income Tax*. Cela n'a pas été touché par l'honorable ministre. Il a simplement dit qu'il y aura un salaire minimum, qu'il y aura la *Negative Income Tax* et qu'il y aura les allocations spéciales, mais il n'a pipé mot sur les seuils. Est-ce que les seuils du *Negative Income Tax* seront ajustés pour prendre en considération les R 360 de la compensation salariale ?

On se souviendra, Madame la présidente, que suite à une question parlementaire que j'avais adressée au Premier ministre le 21 novembre, le mois dernier, le chef du gouvernement nous avait informé que la MRA n'avait reçu que 18 700 demandes pour la *Negative Income Tax* alors que lui-même, dans son allocution, lors des débats budgétaires, il a fait allusion à 150 000 employés qui devaient bénéficier de cette *Negative Income Tax*.

Donc, maintenant la question qui se pose : est-ce que les personnes qui touchaient moins de R 5000, sous la *Negative Income Tax*, pouvaient avoir R 1000 additionnelles ? Si ces travailleurs aujourd'hui vont toucher R 5360, est-ce qu'ils seront toujours éligibles au R1000 additionnelles ou ils vont tomber dans d'autres catégories ? De même, ceux qui touchaient R9900 avant la compensation salariale avait droit à R 100 additionnelles et

maintenant avec les R 360 ils ont plus de R 10 000 donc, il ne tombe plus sous la *Negative Income Tax*.

Là aussi, j'aurais voulu avoir des éclaircissements de l'honorable ministre si les différents seuils de la *Negative Income Tax* vont être ajustés pour prendre en considération la compensation salariale. Madame la présidente, le texte de loi est presque identique à celui de l'année dernière sauf, bien entendu, des montants à être payés pour les *full-time employees* et *part-time employees*. Sauf que cette année il y a - les honorables membres, je suis sûr, ont remarqué - une nouvelle alinéa 11, une nouvelle disposition qui n'a rien à faire avec la compensation salariale. Qu'est-ce que nous dit cette nouvelle disposition 11 ? Je cite –

- “(1) The Director General may, for every employee who –
- (a) falls under such category as may be prescribed, and
  - (b) derives, for the period 1 January 2018 to 31 December 2018, such monthly basic salary as may be prescribed, pay, as an agent of Government, to that employee, during that period, an allowance as may be prescribed.”

Donc, en d'autres mots, ce que ce texte vient de dire c'est que le directeur général de la MRA aura le pouvoir, au nom du Gouvernement, comme l'agent du gouvernement, de payer des allocations à certaines catégories d'employés. Mais ce que le texte de loi ne dit pas c'est qui seront ces heureux bénéficiaires et quels seront les montants de l'indemnisation des allocations. Tout cela va être fait par voie de *regulation* par le ministre du Travail après *concurrence* du ministre des Finances.

Donc, de ce côté de la Chambre, Madame la présidente, nous sommes bien sûr très heureux que des allocations additionnelles seront données aux employés. Mais on a le droit de savoir dans cette Chambre qui seront les bénéficiaires de ces allocations additionnelles, comment ces allocations vont être déterminées et quels seront les montants. Aujourd'hui, on nous met devant un fait accompli, on vient nous dire de voter une loi qui va donner pleins pouvoirs au ministre du Travail après consultation avec le ministre des Finances, de venir de l'avant avec des règlements pour qu'on puisse payer à des bénéficiaires des montants qu'aujourd'hui on ne sait pas.

Donc, bien sûr, a posteriori, une fois que les réglementations seront en vigueur, on pourra toujours venir avec une *Motion of Disallowance*, mais on sera déjà devant un fait accompli. Donc, je pense que malheureusement le gouvernement n'a rien appris de l'échec ou du semi succès de la *Negative Income Tax*. Si la *Negative Income Tax* a eu pour l'instant

pas l'effet estompé, parce qu'on attendait à 150 000 bénéficiaires et on s'est retrouvé avec moins de 50 000 bénéficiaires, c'est parce qu'il n'y a pas eu une bonne planification, c'est parce que les gens ne se sont pas assis et penser à toutes les conséquences avant de venir de l'avant avec un projet.

Aujourd'hui, on fait la même erreur. Ce gouvernement donne l'impression qu'il ne sait pas vraiment ce qu'il veut faire. Il a une idée, l'idée c'est donner plus d'argent à une certaine catégorie de personnes, mais il ne sait pas comment le faire. Il ne sait pas qui va bénéficier et donc, on délègue tous pouvoirs au ministre du Travail. Ce n'est pas acceptable, Madame le présidente. Nous, on aurait préféré qu'il y ait une projet de loi en bonne et due forme qui vienne devant cette Chambre, où tous les membres ont l'occasion d'intervenir, de faire un débat. Et pas que les membres de cette Assemblée, mais aussi les employés, les employeurs, ceux qui sont au bas de l'échelle, ceux qui seront bénéficiaires. Comme ça, il y a un débat national, et à la suite de ce débat, on peut venir avec le montant à payer et déterminer qui sont les bénéficiaires, quoi que nous, dans cette Chambre, on est totalement d'accord qu'il faut aider les plus démunis ; on est totalement d'accord qu'il faut réduire la différence, la disparité entre ceux qui ont et ceux qui n'ont pas. On est tout à fait d'accord, mais c'est sur la forme. On n'est pas d'accord avec la façon dont ce gouvernement veut, comme qui dirait en catimini, derrière le Parlement, venir à travers des règlementations, avec le *quantum* à payer à certains bénéficiaires qu'on ne connaît pas.

Merci, Madame la présidente.

**Madam Speaker:** Hon. Prime Minister!

(5.36 p.m.)

**The Prime Minister:** Madam Speaker, let me, first of all, congratulate the hon. Minister of Labour, Industrial Relations, Employment and Training for the Second Reading speech on the Additional Remuneration and Other Allowances (2018) Bill. This year, once again, Government has stayed faithful to its resolve, to ensure that the purchasing power of workers is well protected from inflation. And we have not only protected their purchasing power, we have, in fact, done better to improve, in real terms, the purchasing power of those who are at the lower rungs. As the hon. Minister of Labour has explained, all the workers, across the board, will be earning an additional remuneration of Rs360 as from 01 January 2018.

Madam Speaker, when I presided the second meeting after the first that was presided over by my colleague, together with the representatives of the trade unions and the different economic sectors, the employers, I must put on record, first of all, the tone, the language, the proposals - let me say more -, the requests that were made by the trade unions.

I have, as Minister of Finance, been presiding over quite a number of those tripartite meetings and, Madam Speaker, the House, the country knows that I have never faulted in my responsibility. I have always assumed my responsibility whenever there has been the requirement. Although it is not the law, it has been a tradition that the Minister of Finance would preside over the tripartite meeting with regard to salary compensation, taking into account, obviously, the rate of inflation. I have always done so, and this time again, I must say, I am very pleased that although the discussions went on for hours and hours - it was like probably a full day -, but I need to say that I really appreciate the responsible way that the trade unions made their case.

Obviously, they had to ask, they had a number of demands, not only with regard to compensating the workers with regard to the rate of inflation, but obviously the issue of minimum wage was also on the table, and other issues also were to be discussed, although the meeting was about the rate that has to be paid with regard to inflation.

I must also put on record the approach of the employers because there again, although there was a difference, as usual, there was a gap between what they were proposing and what the unions were asking, I must say that they have been very attentive and considerate and understanding. We, as Government, as Prime Minister and Minister of Finance, I had a number of consultations with both the unions and the employers. I must say that we were able to come to a consensus and, therefore, the Rs360 that will be paid as from January next year. I am happy to see that there is already a feel-good factor.

As I said, for most of these workers, the wage compensation will, in fact, more than compensate for inflation, which is estimated at 3.6% for the year 2017. Again, I say, because this is what we traditionally do with regard to basic pension for the elderly, widows and persons with disabilities, we are increasing the monthly rate by Rs360, that is, Madam Speaker, an increase of 6.6%. Thus, the pension will increase from Rs5,450 to Rs5,810 as from 01 January 2018.

*(Interruptions)*

I still remember, I can still recall when initially this Government, we took a pledge, we took the commitment from the people in the electoral campaign that we would increase the pension. I do not know what it was then, but it came from...

*(Interruptions)*

...Rs3,623 to Rs5,000. Some people were saying then that we could not afford, it is going to be an *effet d'annonce*, and that we would not be able to pay. Well, we have honoured this commitment. Again, therefore, I am very happy for this category of people where, at least, they will see that their purchasing power is being increased. Obviously, we are also increasing social aid allowances by 3.6%. This would cost Rs1.2 billion to Government annually. Rs1.2 billion! But then, I am sure that those people will appreciate and will see the consideration that this Government is giving to them.

We are confident, Madam Speaker, that we have been able to strike a right balance. We have arrived at a win-win situation for workers, employers, and for the national economy. And most importantly, we have been able to secure social coherence, which is so crucial to national development.

I should add, Madam Speaker, that a new era is unfolding for our labour market. And this year, the tripartite meetings have been held against the background of unprecedented efforts to reform the labour market as we adopt in Mauritius, for the first time ever, a minimum wage policy. The debate on minimum wage has been on for several years, but no Government in the past has been able to introduce it. I must say it has not been an easy task, it has been very complex. But the concrete efforts to set a minimum wage have come from this Government after careful and in-depth study on its implication and impact and, obviously, after, as we always do, extensive consultations, mainly with the trade unions and with the representatives of the economic sectors. Therefore, this is again another promise in our electoral programme which is being implemented. The minimum wage is, of course, a centrepiece of our policy to reduce inequality and combat poverty and it is all about social equity. I must say greater fairness also on the labour market.

Notwithstanding its benefits in terms of improving the purchasing power of low-income families, minimum wage will also be a tool that helps families across the income spectrum and this is, again, equally in line with our ambition to achieve a high-income economy status while, at the same time, ensuring that there is greater inclusiveness.

I have always said, Madam Speaker, it is very difficult to be able to achieve that, but I have always said that it is good that we are aiming at economic development, progress, prosperity for the country, that we should see to it that the indicators are improved, especially growth. We should also try to see to it that this trickles down to everybody, especially to those who are at the lower rung of the ladder. It is easier said than done because otherwise we would have looked at what obtains elsewhere and we would have applied it here also. But I must say and I say it especially when I have had a lot of discussions with people from the World Bank, from the IMF. I do not want to say what they have been saying to me, but they really appreciate the fact that we have come up with a number of measures, a number of mechanisms that are typical of Mauritius in order to try to alleviate poverty, in order to try to enhance the wages for those who are at the very lower rung of the ladder. That is why I say the minimum wage is a historical decision. I will leave it to the Minister, he will give further details about that; it will also, I hope, help to correct the gender bias in terms of income for men and women who now will be entitled to the same wage. This would, hopefully, encourage more women to enter the labour market and at a time when we need to improve women's participation rate in the economy.

Let me also stress here that there is a great potential to raise women's participation rate in our economy which now stands at around 46% in contrast to 75% for men. It is a bit of a paradox when we know we have to import foreign labour when there is so much potential to raise female participation rate.

Moreover, a minimum wage will also benefit the working youth and the positive impact of the minimum wage on the lives of those low-income families, on our youth, in employment and on women in the workforce will be significant.

Around Rs3.6 billion more of income will, therefore, flow to some 100,000 workers, improving their purchasing power and their standard of living in a way that we have not seen before and we expect also that with a higher wage, the supply of labour on the labour market will improve, especially in sectors where there is a shortage of labour, and yet, wages have been conspicuously too low.

Madam Speaker, let me also say that the minimum wage will definitely simplify the wage determination system. We know now that we have about 30 Remuneration Orders and I have no doubt that coming, therefore, with this mechanism, it will simplify a lot with regard to the different wages that were being set by the Remuneration Orders.

Many low-income earners will also be able to benefit from the allowance payable by the MRA. Let me say also - yes, there is, obviously, with regard to the Negative Income Tax - I have already replied to a question here to say that it will definitely impact on the Negative Income Tax. And that is the reason also why we have had to include section 11 in this Bill to provide for the MRA, for the Director to pay an allowance as may be prescribed. It is stated at paragraph 2 that where the allowance is payable under that section, that employee shall not be eligible to the Negative Income Tax allowance, obviously, because when it benefits from one, it cannot benefit from the other. But I can reassure the hon. Member that the Negative Income Tax will still be available. In fact, we will maintain it and I am sure, and I hope, that the number of people who are working part-time - the part-timers who satisfy the criteria, the conditions that have been laid down - will be able to benefit from the Negative Income Tax. Therefore, these, in fact, constitute another major stride in the endeavour that we have started on 11 December 2014 to combat poverty and inequality and to lift up the standard of living of the low-income families.

Let me also recall that since January 2015, this Government has increased the expenditure for social protection by some 50%, that is, from Rs21.9 billion in 2014 to Rs32.9 billion in 2017/2018 Budget. During the same period, we have increased old age pension by 50.4% and Basic Invalidity Pension by 66.8%.

I think it is good also to recall what we have done in terms of helping the poor. Government has reduced also the retail price of flour from Rs5.85 to Rs4.85 per kilogramme, that is, by 17% in this year's Budget. We have increased the exemption threshold for income tax. Government has allocated Rs1.8 billion to the construction of social and low-income housing. The National CSR Foundation has approved 231 projects for a total value of Rs204 m. and these projects are implemented, in fact, by 173 NGOs and will reach out to some 250,000 beneficiaries.

Madam Speaker, let me conclude. As I said, I will leave it, in fact, to the hon. Minister. Maybe he will give further clarification and details with regard to the minimum wage, which I was expecting him to do in the first instance. But, let me conclude by saying that we are on the right track and we have two more Budgets to present to accomplish our programme and realise our vision for a modern country and a fairer society.

Thank you, Madam Speaker.

**Madam Speaker:** I suspend the sitting for half an hour.

*At 4.40 p.m. the sitting was suspended.*

*On resuming at 5.15 p.m. with Madam Speaker in the Chair.*

**Madam Speaker:** Hon. Benydin!

**Mr T. Benydin (First Member for La Caverne & Phoenix):** Thank you Madam Speaker. Allow me, first of all, to congratulate the hon. Prime Minister, the Minister of Labour, Industrial Relations, Employment and Training as well as Ministers who represented Government during negotiations that took place with representatives of trade unions and employers on a subject of great interest regarding salary compensation to be paid to workers following loss incurred in cost of living for the last 12 months.

The object of the Additional Remuneration and Other Allowances (2018) Bill is meant to provide for the payment of an additional remuneration to employees of the private sector and an allowance to certain categories of employees. It is understood that salary compensation will also include employees of the Civil Service, Parastatal Bodies and Local Government and beneficiaries of social aid.

Madam Speaker, for the first time in the annals of the deliberations of the Tripartite Committee, discussions took place in a good climate which honours tripartism and social dialogue, and as such is a positive factor for social cohesion and social justice. It is to be underlined that under the chairmanship of the hon. Prime Minister, the spirit of tripartism prevailed with the social partners and he was successful in managing and reconciling conflicting interest into that of comprise and consensus building.

Madam Speaker, as a former trade unionist, I was conquered, like many active trade unionists now, with the way and manner the deliberations took place to the extent that I had a feeling of nostalgia, reminiscent of the days when we had to struggle hard to defend and promote working conditions and the economic and social interests of workers.

*(Interruptions)*

**Madam Speaker:** Do not interrupt!

**Mr Benydin:** Madam Speaker, with the declaration made by the hon. Prime Minister to set up anew the National Economic and Social Council (NESC - New Version), there is no doubt that social dialogue will be strengthened and revamped to build consensus and ensure a wider participation of social partners and civil society in the democratic and national

development process. Participatory democracy is a key element and factor for ensuring social peace with the active participation of socio-economic actors in economic and social fields.

Madam Speaker, recognising that labour is the most valuable resource and that the worker is at the centre of national development, Government is leaving no stone unturned to meet the sacrosanct objectives of the Decent Work Agenda in line with norms and instruments adopted by the International Labour Organisation.

In this context, it is to be stressed that Government adopted a multi-pronged approach to address the needs of workers and their families, taking into consideration that the Additional Remuneration Bill should not be viewed in isolation.

The following measures have re-instilled confidence among the workers and I would like to elaborate briefly on them being given that there is a linkage with the purchasing power of members -

- (i) by putting an end to an unfair system by uplifting the pay and working conditions of women cleaners and by bringing them under the umbrella of Landscape Facilities, thus eliminating a discriminatory practice which existed for years;
- (ii) the Equal Opportunity Act passed recently at the National Assembly to bring justice to that segment of the population which would have otherwise been penalised throughout their lives by giving a second chance to those who, in some way or another, committed a penal offence which would have denied them access to jobs and career prospects;
- (iii) the payment of the Negative Income Tax is yet another unique positive measure to help workers at the bottom of the economic ladder and to alleviate poverty.
- (iv) the introduction of a historic Minimum Wage Policy which no other Government has dared to embark and undertake. This indeed is a major breakthrough and a landmark in the world of work and industrial relations. The minimum wage is a powerful instrument in reducing wage inequality and raising the wages of low paid workers, thus establishing a wage floor against the payment of unduly low wages and a positive step to move workers out of poverty.

Madam Speaker, it is an indisputable fact that social protection is another fundamental component and a pillar of the Welfare State to permit access to essential goods and services. Above all, social security is a human right to which everyone should have access. It constitutes a powerful mechanism and a tool to alleviate poverty and inequality. In this connection, it is also very encouraging that the additional remuneration will also apply to beneficiaries of the Basic Retirement Pension and now, we have learnt also, to other social aid schemes. It is relevant in this context to refer to an ILO Declaration on Social Justice for a Fair Globalisation (2008) which is still valid and which recognises, *inter alia*, that, and I quote –

“(...) the solemn obligation to further among the nations of the world programmes which will achieve the objectives of full employment and the raising of standards of living, a minimum living wage and the extension of social security measures to provide a basic income to all in need (...).”

Madam Speaker, while taking into consideration that the world economy is still stagnating, this Government has taken bold measures to grant an additional remuneration at the rate of 3.6 per cent to all workers earning up to Rs10,000 and an additional remuneration of Rs360 to all income earners drawing over Rs10,000 to mitigate adverse effects of the inflation rate on the purchasing power of workers and their families. This decision has been acclaimed with satisfaction by trade union leaders and as such contributing, at the same time, to a feel-good factor in the country.

Therefore, together with the policy of the National Minimum Wage and the Negative Income Tax, and measures undertaken by Government, the Welfare State is being consolidated further and will, no doubt, improve quality of life and living standards of our population.

To conclude, let me, once again, Madam Speaker, thank wholeheartedly the hon. Prime Minister and the hon. Minister of Labour, Industrial Relations, Employment and Training for the bold measures taken to compensate workers against loss of purchasing power.

I thank you, Madam.

**Madam Speaker:** Hon. Ramano!

(5.23 p.m.)

**Mr K. Ramano (Third Member for Belle Rose & Quatre Bornes):** Madam Speaker, a wishful thinking with a turning advance in economic science and in the wake of the rapid pace of globalisation, there should not have been any need for passing a Bill on additional remuneration. The increase in remuneration should have come on its own through market forces of supply and demand.

As a market-oriented economy, we should ask ourselves why it has not come through tacit understanding between trade unions and employers. The rigidity of trade unions for negotiation and collective bargaining across the board, while a necessary evil against the private sector that have always cried wolf, have condemned the efficient worker and saddled the country with low performing sectors. These are at odds with the goals of successive governments and the aspirations of the youth.

At a time Mauritius faces daunting challenges in a world of stiff competition and being at crossroads with the advent of new technology, Government surely had other horses to whip. Yet parliamentarians are called upon to intervene and legislate for a meagre increase! Before analysing why we are at the junction, let me state that the Bill is comprehensive and is necessary in the context. It is equally vital to bear in mind that nobody owes us a living and we need to work out the measures that respond to our long-term aspirations.

The Bill adopts a holistic approach and covers as many relevant sectors as possible. In this respect, the hon. Minister should be congratulated. Yet, in a well-functioning market economy, the hon. Minister should not have wasted his time and our time with this Bill. However, the circumstances demand it and the hon. Minister has risen to the circumstances.

The sad thing, Madam Speaker, is that our capitalist system remains conservative with a regressive mindset and lagging years behind global trend in progressive and high income countries. Government has never spent sufficient resources in getting professional assistance to analyse the labour market. The additional remuneration should have come automatically without Government intervention. The hitch is that the private sector has always complained and has never come to award an increase in salary or wages of its own accord except for a few in the top echelon or the manager/owner of the enterprises.

Mauritius deserves much better. The workers, the main asset of the country, deserve much better. Mauritius cannot afford to live with a mindset in a capitalist system that saw the

seeds of its own destruction. It always waits for the Government to legislate, in other words, to be forced to share part of its profits with the workers.

It is true, Madam Speaker, that successive governments have had to intervene to buy social peace and harmony. It is a price our democracy has to pay and we cheerfully pay it. However, is it the best approach? Do we need to continue a system that distorts the market, misallocates resources and props up the economy through implicit subsidisation? Is this the road to a high income country? Certainly not! Because we are delaying development, creating mild conditions for marginal or peripheral firms to survive when the most efficient solution is to weed out inefficient firms.

True, the past success of Mauritius depended on safeguards. At that time, we were a shielded economy and the preferences obtained belonged to the nation. All these protections have disappeared. We need, consequently, to promote sectors that are efficient and we need to adopt a high income policy that will eliminate low value added sectors.

This Bill does everything that will allow the present system with all its weaknesses to continue unabated. We need a sort of big bang to grow and respond to our aspirations and goals. Labour market requires urgent reforms to meet global challenges. On this score, the Metro project is supposed to meet the objective of a high income sector. Time will tell!

Dual markets and segmented markets have given rise to regulated markets. Indeed, there is a dichotomy of the labour market where we have high income earners, the workers are efficient and many of them, probably, earn incomes equivalent to their counterparts in developed countries. These people with high skills are able to secure high incomes and, thus, the question of remuneration orders and regulations do not arise. Unfortunately, these sectors and salary earners are too few, but these sectors have shown us the way to formulate the most appropriate policies that will usher us in a new era of development.

The second category, by far, the most numerous is governed by remuneration orders and operate in distorted markets. Many workers in this category earn meagre income. The salaries are out of touch with market forces with years of lags because the remuneration orders take time to work out. In some cases, there could be almost a decade of lag. These workers are exploited. Many are on the periphery of poverty line. They surely deserve better treatment.

Although inflation has been modest, an additional remuneration of 3.6 per cent for those earning below Rs10,000 does not bring in major changes in their lives. It gives the

*status quo* seeking to make good the loss of purchasing power. In other words, it tries to give to the wage earner what he or she was earning two or three years ago. It does not prepare the ground for an improvement in living standards. Indeed, looking from another angle, with new technology comes new aspirations and additional expenses. New gadgets, new instruments, new items like mobile phones, create new expenses and compete with all the goods. This causes a new adjustment in the worker's expenditure equilibrium. This implies sacrificing or forgoing partial utilisation of former goods or services. The additional remuneration is so scanty that it barely enables the wage earner to attain the previous level of satisfaction or maintain the same utility. This slow impoverishment occurs because of the high level of unemployment. Government has yet to create the propitious environment to generate sufficient jobs. Mauritius has the ability to create such an environment where jobs chase workers.

Although unemployment has declined slightly, this stems more from a statistical computation given that the labour market has shrunk. The feel-good factor is still escaping the country and the private sector is not generating the jobs that the youths are looking for. This condemns this country to slow evolution in raising real income.

The need to create the enabling market in a good environment, business environment, is to generate a higher rate of jobs in the private sector. No amount of statements or legislations will create the jobs needed to generate fluidity in the labour market. To do so requires a synthesis with the private sector to generate high income sectors such as energy generation or pharmaceuticals, which then will trickle down to other sectors and create clusters of development. Nothing of this sort is emerging after three years in power.

The across-the-board additional remuneration to employees in the private sector is a short-term palliative. It does not address the long-term structural changes. There is something on productivity enhancement; it is but a populist measure to pacify the employees through an interventionist approach. Our current system is more likely to generate stickiness. Collective bargaining for standard across-the-board increases gives social peace, but prevents the most efficient firm from bringing innovation and remunerating its efficient workers with higher increases because low value product firms push the increases downwards.

In this present socio-economic context, an increase in anybody's income is always welcoming. From this perspective, the proposed legislations leave an impression of having been meticulously drafted with appropriate cross references and addressing many issues

linked with everyday practices. For instance, it takes care of part-time workers for the calculation and apportioning of the additional remuneration between different employers. A coverage is extensive; it addresses piece rate; a good initiative to avoid conflicts. It contains provisions for checks and enforcement although the sanctions appear to be on the low side and may not be effective in deterring unscrupulous employers, especially in times of high unemployment.

Madam Speaker, the mechanics have been properly worked out. The additional remuneration, though insufficient, will contribute to industrial peace. However, what the country needs is a thorough reform of the labour market in line with the goal of a high income country. It is time that a National Comprehensive Study is carried out by a professional team and will look on labour mobility, structural changes and ways of means of creating high income jobs among other things. A system of sectorial remuneration is too constraining and penalises workers to leave on the periphery of poverty because it takes too long to have a proper salary review to uplift the development of workers.

Madame la présidente, le *national minimum wage* est sensé couvrir les travailleurs tombant sous le *NRB*, le *PRB* et même ceux qui ne sont couverts ni par le *NRB*, ni par le *PRB*. Le Bureau International du Travail, la Commission Européenne, tout comme le *Decent Work Agenda*, considèrent qu'un salaire minimum va dans le droit fil de la reconnaissance des droits des travailleurs à un niveau de vie décent.

Le ministre a excellé dans son exposé, dans son art d'*opinion building*, mais on est resté quand même sur notre faim en ce qui concerne le quantum qui n'est toujours pas connu. Le *minimum wage*, il faut quand même le reconnaître, est un pas dans la bonne direction car nous sommes passés de cette approche fragmentée que représentait le *PRB*, le *NRB* et le *Annual Tripartite Committee* pour déterminer a *national minimum wage*.

Il est de plus la préoccupation de tout un chacun que la pauvreté dans le pays est loin d'être un fait divers. D'ailleurs, le *World Bank* dans son rapport, intitulé « *Mauritius : Inclusiveness of Growth and Shared Poverty* » souligne la situation préoccupante du *poverty gap*.

Madame la présidente, maintenant que le *National Minimum Wage Council* est venu de l'avant avec sa première recommandation et que le quantum du *minimum wage* sera connu incessamment, je l'espère, et il est d'après la presse de cet après-midi, donc, il est important quand même que le ministre puisse nous éclaircir sur pas mal de questions. Est-ce que le

gouvernement compte venir de l'avant avec des modalités différentes en ce qui concerne *l'Additional Remuneration* chaque année, maintenant que le *minimum wage* sera connu ? Il est considéré aussi que le salaire - comme cela a été rapporté par la presse mais rien n'a été dit par le ministre jusqu'à présent - est-ce que le salaire minimum va inclure *l'Additional Remuneration* de R 360 ? Et comme il a si bien été mentionné, quel sera l'impact de la mise en application du *Negative Income Tax*, maintenant que le salaire minimum sera connu, souhaitons-le, dans un proche avenir, dans les minutes, dans les secondes qui suivront ?

Nous avons eu droit à une première intervention du ministre. Il semble que son *summing-up* sera plus important que son *Second Reading*. Attendons voir Madame la présidente, je vous remercie.

**Madam Speaker:** Hon. Shakeel Mohamed !

(5.38 p.m.)

**Mr S. Mohamed (First Member for Port Louis Maritime & Port Louis East):**

Thank you very much. I would, Madam Speaker, just pick up where my good friend, hon. Kavy Ramano, has left off, which is the strategy that has been adopted by the hon. Minister in order to have two speeches in one debate instead of having a summing-up because, I think, it would have been fair on his part to have announced what the minimum wage is going to be because he has chosen, and, rightly so, as pointed out by you, Madam Speaker, to open up the debate by bringing in, over and above the additional remuneration, he has decided to bring in the minimum wage issue within this whole debate of today.

Now, having decided to bring in the issue of the national minimum wage, it would have been fair for him to also have mentioned the figure because it would have given, therefore, the opportunity to the Opposition to debate about that particular aspect. The strategy that has been adopted by Government - and not only by my good friend, the Minister - is for him to announce it only at the end, thereby not allowing a single Member of the Opposition to even debate on it because we do not even know what it is going to be and that is unfair. If we are, therefore, to stick to Rules of the National Assembly, a summing-up is basically going to be a summing-up of what has been said during the reading, the debate of the Bill that he has proposed. A summing-up, Madam Speaker, cannot, therefore, be introduction of new issues that have not even been brought about here. It is just like in a Court of Law. It is the re-examination and my good friend, the Minister of Labour, knows it better than a lot of us, having basically presided over matters in Courts of Law.

Obviously, in re-examination, you cannot basically raise issues that have not been raised earlier on in the process. I, therefore, expect you, Madam Speaker, at some stage, to stand up and listen to the Minister, and tell him, “No, you shall not say this because you did not bring it up earlier on.” Now, would that be brutal?

**Madam Speaker:** Hon. Shakeel Mohamed, I am sorry, I do not take instructions from anybody. I take it that you put it in a way as if I tolerated the Minister to say what he wanted to say. In fact, I drew the attention of the Minister to the fact that he is introducing a new element, and that he would expect and I would expect the Opposition also to talk about that. But let us take it very lightly.

**Mr Mohamed:** I can assure you, Madam Speaker, I was only making suggestions and never would I dare give you instructions. Oh no! I know where I will not tread, and this is not an area where I will tread.

Now, coming to the issue of the additional remuneration, I mean, day in and day out, year in and year out, we have all just seen how it works out. We have those meetings with the trade unions, the employers’ representatives and the Ministers of important Ministries, including the Minister of Labour, the Minister of Finance and the Minister of Tourism. We have been through all that. Year in and year out! Each and every time, Madam Speaker, we have had a situation where the civil society, members of the Press, intellectuals, university professors, they all come up and write about it, comment about it on social media and the Press, and they say, “Is it not time for us to have a new system, a new mechanism, where you have to calculate salary compensation?”

It is clear until today that we have not come up with a new system altogether. When I say ‘we’, I mean the previous Government and including the actual Government as well. We have not been able to come up with a new system altogether. We hear the private sector coming up and saying that there need to be another element which should be taken into consideration, and that is productivity. We hear the trade unions say, “Oh no, productivity should not be taken into consideration.” At the same time, the responsibility of Government is what? Not only to ensure that there is proper additional compensation for the salary, but we should also bear in mind the necessity of preserving jobs. Because anything we do is not only about job creation, but it is also about preserving actual jobs.

Now, true it is that the task of the hon. Minister of Labour has been indeed a very difficult task. The task of Cabinet indeed must not have been an easy one. Were they to take

up a decision to make it just a political scoring exercise or should they have had a long-term vision? This is basically the choice they had, and any Government ends up with those choices.

I was just looking at a document that dates back to September 2014. This document basically talks about 'The Minimum Wage Fixing Mechanism Challenge for Mauritius'. That was basically a document published by Professor François Eyraud of the ILO who was the consultant who was sent to Mauritius at my request. When I went to the ILO in 2013, I did request that the ILO give us this expert, in order to come up with a proper report, which would be the basis upon which we would implement the national minimum wage. When he came in to Mauritius, he had consultations with all stakeholders. He came up with that report that he gave to Government in September 2014, and it was made public sometime in September 2014 itself.

When I read that report today and what is being proposed as far as the minimum wage is concerned, I feel proud for one thing. I feel proud - very often, when you are a politician and you are a Minister - Madam Speaker and a lot of us would realise that -, when you have something in mind and you build it, and then you find that a Government also builds upon it and not simply because we are from different parties that we just basically break it down and do something else altogether. I started out with this report which was from Professor François Eyraud, got to preside over meetings between stakeholders, the unions and the representatives of employers; there were heated exchanges between unions and employers and the Ministry because they were not agreeable with the contents of the report. Finally, I am proud today to have been, at least, at the source of this whole work of bringing the national minimum wage. So, for one thing, I do commend Government and the hon. Minister of Labour for going ahead and building upon what we had started, which is, in fact, something which, I think, is important that I recognise.

However, as I said, the additional remuneration which he added to the whole debate, unfortunately, I feel a bit at odds with the situation, because back in 2015, when there was the additional compensation of around Rs600, you will recall, in those days, the inflation was approximately 3.5%, in 2015, and that was the first exercise of the actual Minister of Labour; to come in and better what was offered just after the elections. And what was being stated in those days is that it was costing Government Rs4.2 billion, back in 2015, and a few months later on, if not weeks, there was the Municipal Elections. I am not saying that it was an election bribe. I am just saying that it is a coincidence. At the same time, what is interesting

here is we are now in 2017 and, strangely enough, the inflation rate is the same, 3.5%. I expected Government to say, 'Well, if we decided to offer Rs600 back in 2015 for 3.5%, let us do the same.' Why didn't they do it? Why is it that Government, *en 2015, avec le taux d'inflation étant 3.5%, offre simplement R 4.2 milliards aux travailleurs ? Par simple coïncidence, je présume, il y avait les élections municipales. Mais maintenant, le gouvernement ne participe pas cette année-ci dans l'élection partielle, et il n'y a pas lieu alors de venir de l'avant avec ce qu'ils avaient proposé en 2015, qui est de R 600. Mais pourquoi alors?* Because I would like to hear the Minister explain that. Why is there no constant approach? Why is it, *en 2015, c'était, pour 3.5% taux inflation, R 600, et en 2017, 3.5% taux inflation*, it is not Rs600. Instead of Rs4.2 billion which was offered to workers in 2015, what is being offered this time is only 2.1%. We have more than halved it. Why is it that the workers are less important three years later than they were in 2015 for the same inflation rate? That is the question!

Now, as far as the national minimum wage is concerned, there is one or two issues that I would like to draw the attention of the hon. Minister and obviously Government. Median wage, very important terminology. When one goes through the report of Professor François Eyraud, he describes how median wage is used. One of the means of calculating national minimum wage - there are other means as well, but one of them being median wage. The median wage calculation that the hon. Minister has put forward has been calculated on basic wage. It has not been calculated by taking into account the remuneration. Let us not forget that our labour laws have evolved. We have moved from the calculation from basic wage and we have gone to remuneration; back in 2013, the law changed. But Statistics of Mauritius still continues to calculate median wage based on basic wage and not taking into account bonuses and what should be in the remuneration package. If we are to calculate it based on the remuneration package, based with bonuses taken into consideration, travel allowances taken into consideration, clearly the median wage is higher. I am of the humble view that a proper calculation of the median wage would clearly bring it to approximately almost Rs15,000 in Mauritius and not Rs13,000 or so in Mauritius.

Having said so, and using the same formula that is being proposed by the hon. Minister, that is, approximately 60 or so percent of the Median Wage, which is basically the international standard, - this is the international standard as being explained in the Report of François Erraud, the expert of the ILO - how is it calculated? That's the standard, international! So, if that is the case, it should be that same percentage of a proper calculation

of the Median Wage and a proper calculation of the Median Wage, as I have said, should bring us to approximately 15,000 and, 63% of 15,000 would give us a new figure altogether and not 8,500 - following my own meetings that I have had with members of the representative of employers, with members from the Trade Union Movement and my personal view, analysing the figures, analysing all the views of all parties, the cost of living in Mauritius, Because basically, Madam Speaker, this is what we are talking about, the cost of living, whereas at the same time, the balancing exercise preserves jobs, ensures that the minimum wage does not kill existing jobs, ensures that the minimum wage encourages the creation of new jobs. How do we do that? Hence, what we propose on this side of the House, are –

1. Recalculate the Median Wage, because what you have proposed, Sir, is not the real figure;
2. This proper figure should include the bonuses, remuneration, package and remuneration as a definition and not only based on basic wage, and
3. That will give you a higher figure, and once you have that proper higher figure, which will be the correct figure, it is then that this calculation must be made. And we will end up with a higher proposal for National Minimum Wage which is acceptable even to the private sector, which are most of the time never accepting of an increase in salary.

And we are of the view that it approaches the figure of Rs10,000. This is the calculation. This is not political manoeuvring, it is simple arithmetic. So, therefore, if we are to base ourselves on simple arithmetic, on what the ILO proposes we do when we calculate Median Wage, we are close to the figure of Rs10,000 as the National Minimum Wage, but then, people are going to be scared at the same time. As I said, the balancing exercise, how do you maintain and preserve jobs? At this side of the House, we believe, for instance - let me just use an example, VAT in a restaurant. Let's look at the simple people working as waiters, as cooks or cleaners in restaurant. VAT, at the same time imposed at a restaurant is 15%. But what we are saying is that - industries, *Petites et Moyennes Entreprises* - Government should now, in light of this new element of National Minimum Wage, come up with additional, novel, new ways of helping employers reduce their cost of production in order to be able to concentrate the money they have to pay higher wages to their workers.

You have to help industry. How? I was talking about restaurants. At one stage, Madam Speaker, the VAT was dropped and halved in France in order to encourage

employment in restaurants. It even happened in England. In Mauritius, this is something that never moved, so I am just being constructive. For example, in *Petites et Moyennes Entreprises*, one could try to see how you could help them with their electricity bill, how you could help them with their water bill; how you could help them in terms of income tax issue is concerned; how you could help with VAT, bring it down, make it less costly for them to produce and manufacture. Once you have done that, then, you are liberating capital in order to help pay higher wages to the employees.

This is what we propose on this side of the House. We want to be very constructive, we say, National Minimum Wage higher than what is proposed by the Committee, we talk about a proper figure of approximately in the region of Rs10,000, but it is urgent to come up with packages for all companies employing people. More so, the biggest employers are the *Petites et Moyennes Entreprises*, help them employ more, help them preserve the existing jobs and help them create new employment. So, we are of the view that it would be unfortunate if Government only looks at the national minimum wage separately to all other important issue. Recently, the hon. Minister in charge of *Petites et Moyennes Entreprises* came up with a Bill to create a new organisation altogether, but he is lagging behind when it comes to helping *les acteurs de l'industrie*. What is he doing? Creating an institution?

**Madam Speaker:** We are not discussing again these issues.

**Mr Mohamed:** What I am saying is that it is important, Madam Speaker, to come up with means and measures, and packages to help industry pay this national minimum wage and give workers of this country a decent living.

So, in conclusion, the Appanah Report, if I am not mistaken, did say that the salary compensation has been taken into account in the national minimum wage. So, this is already being stated. Maybe the hon. Minister can enlighten us on that. Unfortunately, I will not be able to be in this august Assembly. I do apologise that I have another issue to attend, but I will listen with pleasure to what the figure is on live now. We have the chance to do that and, most probably, we will hear Members of Government on one side being happy about it. But what I am requesting is, let's make the workers happy...

*(Interruptions)*

Let's ensure that there is, and it does not take any long time.

My good friend, the hon. Minister of Labour can easily refer to the hon. Prime Minister and Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development, and the able advisers that he has just behind him to recalculate what he has, and get the hon. Prime Minister's approval and come

up with a proper calculation of median wage, because this should be done in the interest of the workers. And if at all he is proposing something that comes close to Rs10,000, then, he will have my approval; but if he doesn't, then I will be sad for the workers of this country.

Thank you very much.

**Madam Speaker:** Hon. Rutnah!

(5.57 p.m.)

**Mr S. Rutnah (Third Member for Piton & Rivière du Rempart):** Thank you, Madam Speaker. Madam Speaker, gone are the days when workers were earning Rs1,500, Rs2,000, Rs4,000 a month. Gone are those days! Thanks to the effort of the hon. Prime Minister and thanks to the effort of my very learned friend hon. Callicurn, who is now the Minister of Labour and Industrial Relations, Employment and Training.

Madam Speaker, gone are those days when the *Parti Travailleiste/PMSD* Government were in power in 1971, including the CAM, when workers had to go on strike - I anticipate my friend hon. Shakeel Mohamed will listen to me live. So, gone are those days as well, Madam Speaker, when workers had to struggle, had to go on strike in order to get their salary compensation. At times, like on the last occasion when I was debating, at one point, bus industry workers and other workers had to go to the Supreme Court before the then hon. Judge Ramphul in order to get 12% salary compensation. So, gone are those days!

Today, what we see is that when the Government sits together with the representatives of the workers and the employers, we can easily come to an agreement in relation to the wage or salary compensation. This is not because there is a change in attitude suddenly. This is because of the vision of this Government since December 2014, especially when the hon. Minister Mentor was campaigning during the election of 2014, he was saying that to bring economic prosperity we have to bring *la paix sociale et l'harmonie sociale*. These are the words that he was using, and when he was saying this, we were not realising that he was not only speaking about the old age pensioners who would be getting an increase from Rs3,500 odds to Rs5,000. Not only that!

We were not anticipating at that time that Government will give a salary increase compensation of Rs600 per month. And, needless to say, hon. Shakeel Mohamed, who just spoke before me, I anticipate he would be listening live. While travelling I don't think he will be able to do that live, but I am sure that he will catch it up on the TV at a later stage on My.T because now we are a Government that has technologically advanced this country. So, I am sure he will catch it up on the TV later on.

When he said that the Rs600 was an electoral bribe because there was the local elections coming in, in 2015, that is a proposition that does not hold water at all. Why? It is because I have a document here; there is a nice picture of hon. Shakeel Mohamed sitting next to the current Leader of the Opposition, hon. Xavier Duval when he was Minister of Finance in 2012, and they were deciding in relation to the salary compensation for 2013 when inflation rate was 4.3%. When inflation rate was 4.3%, they quite cunningly made it a duty to actually pay salary compensation of about Rs300 to Rs700. And that was well below what was expected and I will now remind everybody what the then trade unionists were saying about the kind of salary increase that was received in 2013.

Although, the now Leader of the Opposition commented saying that: “*La situation du pays est difficile mais pas dramatique*”. Although it was difficult, but not dramatic, he refused to give the requisite percentage of salary increase. But let us look at what trade unionists were saying. Mr Ashok Subron: “*Appauvrissement généralisé des travailleurs*”. And the Mauritius Labour Congress (MLC): “*Que le gouvernement corrige cette injustice*”. Hon. Toolsyraj Benydin, then trade unionist: “*Une compensation décevante*”, Madame la présidente. Dewan Khedoo: “*Une protestation en masse à l’étude*”. Jane Rago, CTSP: “*Cette compensation ne vaudra rien en janvier*”.

So, this was the state of affairs. Hon. Mohamed was then Minister of Labour and the hon. Leader of the Opposition now was Minister of Finance. So, the Rs600 salary compensation in 2015 was, in fact, to compensate those workers who lived in poverty since 2012, 2013, 2014 and then in 2015, they were compensated for what they did not earn earlier on in order to bring that *la paix sociale et l’harmonie sociale* on which the Rt. hon. Minister Mentor was campaigning in 2014. And it was not an electoral bribe.

Today, we have gone a step further. The hon. Minister of Labour, Industrial Relations, Employment and Training, during his tenure, up to now, has presented the Additional Remuneration (2015) Bill, the Employment Rights (Amendment) Bill 2015 in relation to maternity leave, Additional Remuneration (2016) Bill, National Wage Consultative Council Bill 2016, National Employment Bill 2017. He has been one of the most efficient Ministers who have been taking care of workers in this country. And that is true! Because for the first time, there has been no need for workers to go on a strike and there has been a consensus among employers and among the trade unionists in relation to the salary compensation of Rs360 across the board. Consensus! So, we have moved quite a lot from the days when people had to struggle, go on strike.

Madam Speaker, the proposition that the proper calculation of the median wage should have included the bonuses, remuneration, and it should not be based on basic wage, is a proposition that is untenable because at the end of the day when any Government deals with salary increase, the Government has to ensure that there is economic stability. An economic stability comes in a country when the private sector and the public sector work hand in hand together in order to make the economy and the country prosperous. But if you take figures that are astronomical simply because you want to do politics with figures - the politics of figures we call it, if you do the politics of figures, then, obviously you are going to lead the population into error. You will mislead the population. But let me remind everybody what hon. Shakeel Mohamed did when he was Minister of Labour, when he amended Section 95 of the Employment Relations Act.

In June 2013, Section 95 of the Employment Relations Act was amended to specify that where a collective agreement is in force, no changes will be made to terms and conditions of employment including remuneration, even if same is more favourable through the amendment of a Remuneration Order. So, this is what he did. Even if it is more favourable, can't change. And this is what he put in law, and today he is arguing otherwise, and he is criticising us. But I am glad, at least, he had the decency to say that he is proud of this Government, that he is proud that we are doing well, that the hon. Minister of Labour, Industrial Relations, Employment and Training is doing well.

Madam Speaker, everybody is waiting as if why the hon. Minister has not announced how much is going to be the national minimum wage. Why? But there has been a National Minimum Wage Council. The Council has made recommendations. It is a public domain. Everybody knows about it. There have been speculations in newspapers. Everybody knows about the report. But wait, Christmas comes at the time of Christmas!

*(Interruptions)*

Christmas cannot be every day! Father Christmas is still far away at the moment. Wait for the right time, Father Christmas will announce it.

*(Interruptions)*

So, all those who are impatient will be able to gather at a later stage the quantum of the National Minimum Wage.

Madam Speaker, I am proud today that I stand here and I speak on this Bill because, in my Constituency, Pition/Rivière du Rempart, where the Rt. hon. Minister Mentor, as well,

is my colleague there; we have been elected in a constituency full of workers, who work equally in the private sector and the public sector. Today, they are rejoicing that *la paix sociale et l'harmonie sociale sont là* and they are leading a good life. They are leading a better life than in 2012, 2013 and the whole of 2014. Equally, those pensioners are today rejoicing because there has been an economic uplift in their lives.

We were elected on the basis that we are going to fight poverty and the fight against poverty started from day one and it is going on and now are accelerating to eradicate poverty. It is a Bill like this and more to come will, eventually, make our country become that high earning country.

On this note, I congratulate the hon. Minister for bringing this Bill to the House today.

Thank you, Madam Speaker.

**Madam Speaker:** Hon. Baboo!

(6.12 p.m.)

**Mr S. Baboo (Second Member for Vacoas & Floreal):** Madam Speaker, thank you for allowing me to intervene on this Bill today.

We are debating on an Additional Enumeration and Other Allowances (2018) Bill, which is brought to the House year in year out.

After listening well to the hon. Minister and to Members from both sides of the House, I would say that it is a good measure the Minister is proposing in order to relieve to some extent the working population, as we say, it is always better than nothing. I would, today, sticking to the Bill, centralise my intervention mostly on the disparity culture prevailing within the private sector.

Madam Speaker, we cannot turn a blind eye to the fact that Mauritius, today, is getting increasingly in a situation of income disparity where inequality is growing and which is making it more and more difficult for our people to meet both ends. The poor are getting poorer as they are not getting the boost-up required to get out of their engraved situation. We cannot say that they are not trying to step out from *la misère*, but we can see the struggle is getting tougher and tougher for them.

If we look at this Bill, Madam Speaker, this is, indeed, a very important piece of legislation to enforce the law so that the employers of the private sector pay the Rs360 or 3.6% as agreed upon the negotiation of the trade unions and agreed by the Government.

However, Madam Speaker, it is high time for this Government to come up with a plan to sensitise the basic right of the employees in the private sector.

We shall soon celebrate the 50<sup>th</sup> Anniversary of Independence of Mauritius. I am sure that both sides of the House will agree with me that most of the employees of the private sector are kept in the dark as they do not know their rights and privileges. Even the hon. Minister of Labour, Industrial Relations, Employment and Training has openly stated that most of them do not form part of any trade union.

We have seen it recently with the school cleaners who had cracked down due to their inhumane exploitation. How many of the employees are still in the dark and are still carrying silently the burden on a day-today basis as they are still unaware of their rights. The more so, Madam Speaker, I think the hon. Minister should take it as a challenge to stir the ocean of ignorance and make best use of his staff, the Village and District Councils, the media, the social media, to both sensitise and educate employees of their rights and privileges.

The private sector, Madam Speaker, plays a very important role in the Mauritian economy, but this does not mean that the employees should be squeezed and juiced out.

There have been increasing cases recently showing the injustice suffered by these employees. One of the vivid examples is what is happening at the Sofitel Hotel. The Sofitel Hotel case, you will agree, is only the tip of the iceberg. We have only to make a round and see what is happening in private firms. The hon. Minister would agree with that. Further to the number of complaints his Ministry receives on a daily basis, employees are sometimes treated like products, once used completely, they are discarded ruthlessly.

On the other side, Madam Speaker, if we look at the public sector, we can see a well-organised one where the role of each employee, from top to bottom, is well-defined and written in various manuals such as Financial Management Manual, HR Manual, just to name a few.

In the public sector, we can see a clear line of demarcation and clear scheme of service. Even the salary of each public officer is well-defined by the Pay Research Bureau Report. However, on the other hand, in the same organisation, two employees doing the same job may be deriving a different salary. Just to give a clear example, I will not name the bank here, but two tellers in that particular bank doing the same job; one has a very different salary than the other. There is a thick layer of opacity.

We cannot encourage our people to work in such an unhealthy corporate culture and environment. How can we then not expect brain drain from our young population?

**Madam Speaker:** No! Hon. Baboo, I am listening very attentively to you. Can you link whatever you are saying to the Bill because otherwise this will have nothing to do with the Bill? Please!

**Mr Baboo:** Thank you. It is still a fact today that many employees in the private sector are deprived of their 13<sup>th</sup> month's salary and year bonus.

Madam Speaker, I am, here, making a humble appeal to the Government to send a strong signal as a warning to those employers to pay not only the Rs360 increase as from 01 January 2018, but also as a gentleman, pay their bonuses from those who have toiled a whole year to, at least, be able to be duly remunerated at the end of the year and be able to share some happiness with their family.

I believe in one thing, Madam Speaker. I am telling this as from my own experience as a business person. If an employee is happy, he goes miles ahead from his employer resulting in double efficiency and production. This is the reason why, Madam Speaker, there should prevail a sound working environment and mutual respect. *C'est en donnant-donnant* that we can make progress.

I think both sides of the House will agree with me that the salaries of many employees in the private sector are not governed by the National Remuneration Board, and adding insult to injury, they are even not in any trade union. They are sacked whenever it pleases the boss to do so. I would hence make a humble request to the hon. Minister to carry out an

investigation or just open a hotline, use any modern technology to name and shame those employers.

**Madam Speaker:** Hon. Baboo, do not indulge in irrelevancy, you have to be relevant. I told the hon. Minister that he has opened the debate on minimum wage. If you talk on minimum wage this is acceptable, but do not indulge in irrelevancy, please.

**Mr Baboo:** Alright! Madam Speaker, justice should not only be done, but seen to be done! The Rs360 seem to be a cherry on the cake, but how to eat dough burnt cake!

Coming back to the Bill, Madam Speaker, in addition to that, proper mechanism should be set up to describe the duties of each and every employee. Some sort of a scheme of service, as it is the case of the public sector, should be considered. Due to fear of loss of job, many suffer in the dark and I strongly believe that the Government should come up with a law, making each and every employee be under the shade of a trade union. The employer should also be sensitised that is meant by two way traffic in order to stop the injustice from aggravating.

The Government should be proactive in an endeavour to protect the rights of employees and not merrily bring up an Additional Remuneration Bill every year. There should be more commitment towards helping those who are at the backbone towards the flourishing of our economy. We are expecting more conceptualised and structured lines of action from this Government instead of on the go social policies confirming that general elections are behind the door.

With this, I thank you, Madam Speaker.

**Madam Speaker:** Hon. Callichurn.

(6.23 p.m.)

**Mr Callichurn:** Thank you, Madam Speaker. Madam Speaker, I heartily thank all the hon. Members who have intervened on this Bill. I must say, at the very outset, Madam Speaker, three weeks ago, I was communicated with the report on the National Minimum Wage. Just to reassure hon. Utem, I will and I strong intend to make the report public. It will be made public very soon because it is only today that Cabinet has given its consent to the report and we have discussed thoroughly on the different recommendations proposed in that report.

Madam Speaker, I note with satisfaction that there is a general consensus on the amount of salary compensation to be paid for the year 2018. Again, Madam Speaker, we are making history. Not just that trade unionists, the representative of the workers, today we have been able to gather all Members - be it on this side of the House or on the other side of the House - to agree on the salary compensation to be paid for the year 2018. I thank all the hon. Members for that.

Madam Speaker, earlier I was saying that the other allowance that the Director-General of the MRA will pay is inextricably linked with the National Minimum Wage; that is why I open the debate on the National Minimum Wage. As you would see, Madam Speaker, clause 11 of the Additional Remuneration and Other Allowances (2018) Bill makes provision for the Director-General of the MRA to pay every employee an allowance which is payable under subsection (1). And this particular allowance will be paid to employees who shall not be eligible to the Negative Income Tax Allowance under Section 150A of the Income Tax Act. Again, to respond to hon. Uteem, yes, however, it is based on the principle that those eligible to the Negative Income Tax will not be worse off, they will be compensated by this special allowance.

Madam Speaker, I have earlier mentioned that I shall announce, at a later stage, the quantum which will represent the National Minimum Wage. I think the suspense has lasted enough, and it is high time for me to go about it.

*(Interruptions)*

Madam Speaker, as you note, the report of the National Minimum Wage ...

*(Interruptions)*

Let me go step by step. The report of the National Minimum Wage, which was chaired by Mr Appanah, recommended that the National Minimum Wage be paid in a phased manner, which is as follows. Mr Appanah recommended that Rs8000 including additional remuneration as from 01 January 2018 and Rs8500 plus additional remuneration as from 01 January 2019. So, those were the phases which were recommended in that report. Following these recommendations, members of the Trade Unions were not agreeable to that proposition. So, they made representations to the hon. Prime Minister and myself during the tripartite meeting which we had and ultimately the Government decided today to –

- (i) increase the figure of Rs8,000 to Rs8,140;

- (ii) provide an additional remuneration of Rs360 to bring the national minimum figure to Rs8,500;
- (iii) Madam Speaker, Government has decided, through MRA, to pay a special allowance of Rs500 to bring the minimum monthly wage of a full-time worker to Rs9,000 as from 01 January 2018.

So, basically, as from January 2018, workers of this country will be getting a minimum salary of Rs9,000.

Regarding export enterprise employees, they would receive a minimum national wage of Rs8,140 inclusive of salary compensation as from 01 January 2018. However, again, Government, through the Mauritius Revenue Authority, would provide a special allowance of Rs860 to bring the minimum monthly earning to Rs9,000. So, again, the workers who are currently working in the export-oriented enterprises will not be penalised. They will be earning the same amount, that is, Rs9,000, as all the workers of the country.

Madam Speaker, it is very important that the country, the population knows that 120,000 workers of this country will benefit from this amount as from 01 January 2018.

*(Interruptions)*

This is history, Madam Speaker! Time will tell! Time will give us reason, and I am very thankful to the hon. Prime Minister for having listened to the grievances of the workers of this country, the trade unions, and all the stakeholders.

Madam Speaker, I will not be long. I hope that, with the measures we have come forward, people will be happy and this will take workers who are at the bottom of the ladder out of the poverty trap and, henceforth, make a happy living with that amount. We will continue to work, to strive for the betterment of the working conditions and continue to increase the National Minimum Wage because in 2020, again, there will be a review of that figure, and I sincerely believe and hope that workers of this country will benefit *davantage*.

Thank you, Madam Speaker.

*Question put and agreed to.*

*Bill read a second time and committed.*

## **COMMITTEE STAGE**

*(Madam Speaker in the Chair)*

*The Additional Remuneration and Other Allowances (2018) Bill (No. XXI of 2017) was considered and agreed to.*

*On the Assembly resuming with Madam Speaker in the Chair, Madam Speaker reported accordingly.*

*Third Reading*

*On motion made and seconded, the Additional Remuneration and Other Allowances (2018) Bill (No. XXI of 2017) was read the third time and passed.*

*At this stage, the Deputy Speaker took the Chair.*

*Second Reading*

**THE DATA PROTECTION BILL**

**(No. XIX of 2017)**

*Order for Second Reading read.*

**The Minister of Technology, Communication and Innovation (Mr Y. Sawmynaden):** Mr Deputy Speaker, Sir, I move that the Data Protection Bill (No. XIX of 2017) be read a second time.

Mr Deputy Speaker, Sir, in the Budget Speech 2017-2018, Government has taken a commitment that the Data Protection Act will be amended to comply with the new EU Data Protection Regulations, which will come in force in May 2018. Accordingly, I am glad that the Bill will be debated today.

First of all, I would like to explain the philosophy behind this Bill. As we all know, rapid technological developments have brought new challenges for the protection of personal data. Technology nowadays is allowing more and more private and public entities to make use of personal data on an unprecedented scale in order to pursue their activities.

Personal data protection, therefore, plays a central role in the country's digital development. A stronger and more coherent data protection framework, backed by effective enforcement will, no doubt, go a long way towards allowing the economy to flourish while putting individuals in control of their own data.

An individual will have to give his consent, that is, a specific, informed and unambiguous indication of his wishes, either by a statement or a clear affirmative

action, when he agrees to his personal data being processed. This is a major intent of this new Bill.

Mr Deputy Speaker, Sir, a second objective of this Bill is to reinforce the legal and practical certainty for economic operators and public authorities by aligning our laws with international best practices. The existing Data Protection Act, which was enacted in 2004, therefore, needs to be overhauled with a view to aligning it with -

- (i) current technological and other advancements that have occurred since 2004, and
- (ii) relevant international standards, particularly the new European Union General Data Protection Regulations, commonly known as GDPR, and the European Convention for Protection of Individuals with regard to Automatic Processing of Personal Data, commonly known as Convention 108.

Mr Deputy Speaker, Sir, the EU enacted the GDPR to address the challenges and shortcomings of the EU Directive 95/46/EC. The GDPR is designed to address technological and societal changes that have taken place over the last 20 years by adopting a technology-neutral approach to regulation. The GDPR also caters for the protection of flows of personal data outside the EU. The GDPR views personal data protection from a human rights perspective.

In essence, the GDPR makes it possible for individuals to have full control of their data. The principal rationale behind the GDPR is to update the law to make the legislation more suitable to deal with the growth of the digital economy and the different ways in which large amounts of personal data are increasingly being collected and exchanged. Hence, the need to review our Data Protection Act 2004 to align it with the GDPR to ensure the growth of our digital economy. Such provisions shall ensure that we meet the new requirements of EU and also to establish a secure legal environment for the safe transaction of personal data locally and abroad.

Mr Deputy Speaker, the objective for amending the existing Act is to ensure that Mauritius has the adequate data protection safeguards to respond to the following -

- With the growing momentum in the outsourcing business, Mauritius needs to position itself as a destination of excellence for BPO activities. In this context, a strong and

appropriate legal framework is crucial to ensure secure transfer of personal data from Europe to Mauritius.

- Under this European legislation, personal data may only be transferred from the EU to a third country which has been recognised as having an ‘adequate’ level of data protection safeguards. Any unauthorised data transfer is considered illegal.
- The absence of a secure legislative framework is detrimental to the strategy of positioning Mauritius as a niche market for value added operations. Over the years, many contracts have been lost to the benefit of East European countries playing on the EU advantage, as international European players are requesting BPO delivery centers based in Mauritius to show compliance with the European Directive (1995) for securing contracts.

Mr Deputy Speaker, gathering personal information from individuals, known as data subjects, would impose the duty on organisations to seek their consent. Such organisations, referred to as controllers, shall bear the duty to ensure that the processing of data is carried out in accordance with data protection safeguards.

I would like to stress upon the fact that data breaches or leakages would be severely sanctioned under the new Bill. Thus, controllers would be required to perform regular compliance assessment in order to prevent such breaches. Controllers can use third parties, referred to as processors, for the processing of data and they would have to ensure that processors also implement stringent safeguards in their operations. Failure to do so by the processor would result in him being held liable under the Data Protection Act.

Mr Deputy Speaker, let me now turn to what the controllers will be allowed to do, according to this law. They will have to clearly state in their privacy notices which sections of the law they are relying upon to process data. They will have the duty to implement appropriate mechanisms to enhance the protection of personal data, by using systems that take data protection concerns right from project inception up to its full implementation. Gone are the days when data protection was an afterthought.

The new Bill also makes it mandatory for controllers to carry out data protection impact assessments when processing operations are likely to result in a high risk to the rights and freedoms of data subjects. This is a revolutionary step that ensures human rights are always protected. Where a data protection impact assessment indicates that processing operations involve high risks, the controller will have to consult the office prior to processing.

This will help the organisation to identify the most effective way to comply with data protection obligations, identify and mitigate risks to data and meet individuals' expectations of privacy.

Mr Deputy Speaker, the Government believes that it is the right moment to introduce this Bill in the National Assembly in order to be compliant with the European Union General Data Protection Regulations (GDPR). Why? It is mainly that in Mauritius, our IT industry are no more call centres. Our industry has made progress and we should be proud of it. The same industry, which was launched in 2003 by the Rt. hon. Sir Anerood Jugnauth, Minister Mentor, at that time the Opposition were saying that this is '*un éléphant blanc*', and today, this is the third pillar of our economy.

Today, a significant proportion of our ICT sector are Business Process Outsourcing (BPO) companies which, in essence, process data for European companies. And, at the same time, Mr Deputy Speaker, Sir, employing a lot of professionals.

The European Union, through the GDPR, is raising the bar for its companies outsourcing business outside Mauritius. Should they not comply with the requirements of GDPR which are coming into effect on 25 May 2018, our BPO companies will be threatened with loss of business. By adopting such a forward-looking legislation, we say loud and clear to the world, and specially to the European Union, that Mauritius is very serious about privacy and data protection.

Mr Deputy Speaker, Sir, allow me now to go in depth in the major changes being brought by the new Bill. They rest on several pillars namely, coherent rules, simplified procedures, coordinated actions, user involvement, more effective information handling and stronger enforcement powers. The major changes are as follows -

- a) modernising the existing data protection principles and key definitions such as consent and personal data;
- b) introducing new concepts such as data protection impact assessments, data breaches notifications, voluntary certification mechanisms, data protection seals and the right to object to automated individual decision-making processes;
- c) simplifying the complaints mechanism and the procedures related to hearings conducted by the Data Protection Office, and
- d) introducing additional safeguards for the transfer of personal data from Mauritius to abroad.

It is to be noted that Mauritius is the first country in the world which is enacting a legislation based on the guiding principles contained in the GDPR.

Mauritius will benefit from a first mover advantage and will trigger interest not only from European investors but also Indian, Chinese, Australian and other foreign investors as they can clearly identify the opportunity in using Mauritius as a platform to tap into business opportunities in the European Union.

Mr Deputy Speaker, Sir, consultations were held by my Ministry on the proposed new Bill with all relevant stakeholders, including local IT associations, namely Outsourcing and Telecommunications Association of Mauritius (OTAM), Mauritius IT Industry Association (MITIA) and *Chambre de Commerce et d'Industrie France-Maurice (CCIFM)*.

In addition, the views of -

- the Prime Minister's Office,
- the Ministry of Financial Services and Good Governance,
- the Ministry of Finance and Economic Development, the Board of Investment,
- the Data Protection Office,
- the Police IT Unit,
- the Bank of Mauritius (BOM),
- the Financial Services Commission (FSC),
- the Financial Intelligence Unit (FIU) and,
- the Independent Commission against Corruption (ICAC) were also sought.

Mr Deputy Speaker, Sir, an exception clause has been included to provide for the exchange of information between Ministries, Government Departments and Public Sector Agencies in the context of the Info-Highway Project, which allows around 244 e-services to be operational.

As you are aware, the transfer of data through the Info-Highway project calls for strict adherence to certain conditions for both the publisher and the subscriber. This project aims at improving the availability of updated and useful data for Government agencies for their business needs, all in a secured environment. Such transactions have greatly helped the exchange of information for business facilitation, thus improving public sector efficiency and delivery of service. It has also reduced administrative burden on citizens interacting with

Public Sector Agencies, thus adhering to the “tell-us-once” principle whereby citizens provide information only once.

Mr Deputy Speaker, Sir, the head of the Data Protection Office, known as the Data Protection Commissioner, has a number of functions, which are -

- to ensure compliance with the Act;
- to issue codes of practice and guidelines;
- to maintain a register of controllers and processors;
- to investigate complaints, and
- to cooperate with supervisory authorities of other countries.

The Commissioner is also empowered -

- to carry out periodical audits of information systems and security measures used by controllers or processors;
- to seek assistance from persons or authorities to assist the Commissioner in the performance of his/her functions, and
- to enter and search any premises with a warrant issued by a Magistrate for the purpose of discharging any functions or exercising any powers.

This Bill will increase accountability of controllers. Achieving compliance will also help organisations gain and strengthen customer trust, confidence and loyalty. The core substance of the existing data protection principles remains largely the same, though there has been a significant focus on lawful processing of personal data.

Mr Deputy Speaker, Sir, controllers will not only be responsible for adhering to these principles, but also be able to demonstrate compliance with them. For instance, controllers will have to maintain a record of processing activities under its responsibility including details on the purpose and nature of the processing, and make these available to the office upon request.

Moreover, when a data breach occurs, controllers will have to notify the Office within 72 hours. A reasonable explanation will be required when this timescale cannot be met by the controller. The controller will also have to document each incident, comprising the facts relating to the data breach, its effects and the remedial action taken.

This documentation will enable the Office to assess how controllers comply with their data breach notification obligations. If the breach is prejudicial to individuals, the controller will also have to communicate the breach to the data subjects without undue delay.

Mr Deputy Speaker, Sir, the new Bill introduces data protection certification mechanisms and data protection seals and marks which will be voluntary and available through a transparent process. Such measures will help controllers to demonstrate adherence, and also to allow data subjects to quickly assess the level of data protection of relevant products and services.

It also strengthens the safeguards around collection of personal data by requiring controllers -

- to inform data subjects about their individual rights (and specifically the possibility for them not to give consent);
- to explain the purpose of any new data processing, and
- the consequences of such processing.

The grounds for processing special categories of personal data under the new Bill broadly replicate those of the existing Act, but there are wider grounds in the area of health and healthcare management.

For instance, processing is permitted for the purpose of preventive or occupational medicine, for the assessment of the working capacity of an employee, medical diagnosis and the provision of health or social care or treatment.

Mr Deputy Speaker, Sir, children are vulnerable individuals, deserving specific protection. As a consequence, the Bill brings new provisions intended to enhance the protection of children's personal data. Parental consent must be obtained for children under the age of 16. Additionally, controllers must make "reasonable efforts" to verify that consent has been given.

This provision is another testimony of Government's action for the well-being of our children and of society at large. Our children need to be protected.

Mr Deputy Speaker, Sir, the need for implementing appropriate security and organisational measures for the prevention of unauthorised access, alterations, disclosures, accidental loss and destruction of the data has always been part of the current legislation. It is now enhanced with the introduction of new requirements such as pseudo-ny-misation and encryption.

What is pseudo-ny-misation? It is a procedure by which the most identifying fields within a data record are replaced by one or more artificial identifiers, or pseudonyms. This is to ensure the confidentiality and integrity of the data.

Where a controller is using the services of a processor, he must ensure in a written contract, that –

- the processor acts only on instructions from the controller, and
- that the processor has appropriate security and organisational measures in place that is at least equivalent to those imposed on the controller.

Mr Deputy Speaker, Sir, in some cases, controllers and processors might need to transfer data to another country. With the new legislation, this transfer of personal data may only take place if the controller has provided appropriate safeguards with respect to the protection of personal data to the Office or has complied with the conditions laid down in the provisions relating to the transfer of personal data outside the country.

Mr Deputy Speaker, Sir, at this point, allow me to state that, like in the existing Act, each and every controller and processor must, before collecting or processing personal data, register himself with the Commissioner.

However, this registration will be for a period not exceeding 3 years and on the expiry of such period, the relevant entry will be cancelled unless the registration is renewed.

Any controller who knowingly supplies false information while applying for registration will commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

The new Bill also creates new rights for data subjects and strengthens their existing rights. For instance, data subjects will have the right, where their personal data are processed, to obtain, free of charge, a copy of the data within one month following a written request.

Data subjects may also request that their personal data be erased when the data is no longer necessary for the purpose for which the data was collected or when the data subjects withdraw their consent.

In case the data has been made public, the controller must take all reasonable steps to inform third parties that the data subject has requested the erasure of any copy of that personal data or any links leading to it.

Where the controller has authorised a third party publication of personal data, the controller will be considered responsible for that publication and carry out the erasure without delay.

Besides, data subjects will have the right to object in writing, free of charge, at any time to the processing of personal data relating to them.

Likewise, data subjects will have the right not to be subject to a decision based solely on automated processing if this produces legal effects concerning them or significantly affects them.

Moreover, current exceptions and restrictions have been simplified to promote legal certainty such that no exception to the provisions set out in the Bill will be allowed except when provided by law. However, a data subject or the Office may apply for a judge's order whenever the exception is deemed illegal. Same as in the current legislation, the Commissioner must, not later than 3 months after the end of every calendar year, lay an annual report of the activities of the Office before the National Assembly.

Mr Deputy Speaker, Sir, on a concluding note, I would say that as demonstrated above, the existing Data Protection Act, which dates from 2004, no more meets modern privacy needs and concerns. Therefore, it is high time to come up with a new Act to protect individuals' privacy in the digital world we live in today.

In fact, this new Bill answers all data protection and privacy issues which some people had tried to instil in the minds of our citizens concerning the National ID Card.

It is now clear that each Mauritian citizen is the owner of his personal data and no collection, storage or processing can be done without his consent.

By enhancing accountability requirements on controllers and processors, as well as strengthening the rights of data subjects, the Bill will significantly empower Mauritian citizens. This Bill will also improve the legal landscape to effectively respond to new European Union requirements for data protection thereby encouraging foreign investment in our country.

We certainly think that such a law can be a game changer in protecting the individual rights of Mauritians concerning the personal data and making the ICT sector the main pillar of our economy in the coming years. I, therefore, Mr Deputy Speaker, Sir, commend this Bill to the House. Thank you.

**Mrs Dookun-Luchoomun rose and seconded.**

**The Deputy Speaker:** Hon. Uteem!

(7.01 p.m.)

**Mr R. Uteem (First Member for Port Louis South & Port Louis Central):** Mr Deputy Speaker, Sir, if you want to assess how important the Data Protection Act has been to our country, if you want to evaluate the impact which the Data Protection Act has had on our economy, if you want to fully appreciate how the Data Protection Act has changed the lives of thousands of people in this country then we need to travel down memory lane.

We are in 2001, Ebène is just a vast sugarcane field, and then come the Illovo deals, thousands of acres of prime land are vested in the Government in exchange for exemption on duty. A deal described by the then Prime Minister Sir Anerood Jugnauth has got sense. Then the MSM/MMM Government embarks on surely what must have been the most ambitious project in Mauritius and indeed the most successful project since this turn of the century, that of making the ICT sector a major pillar of our economy.

Let us not forget, Mr Deputy Speaker, Sir, that, at that time, there was a lot of scepticism. There are always the prophets of doom, *les oiseaux de mauvaise augure* and time has proven them so wrong, today Ebène is booming. The Ebène skyline is full of modern, high-tech sky creepers. The ICT sector contributes a steady 5% to 6% annually to our GDP and thousands of people are employed in this sector, thousands of school leavers, thousands of graduates.

Mr Deputy Speaker, Sir, none of this would have been possible was it not for the vision and hard work of the then MSM/MMM Government. But none of this would also have been possible were it not for the legal framework, the series of legislation, which was enacted to strengthen the ICT sector to bring business confidence to foreigners to use Mauritius especially for BPO, for KPO (Knowledge Process Outsourcing) and Call Centres. The then Government enacted many legislation - the Information and Communication Technologies Act, the Computer Misuse and Cybercrime Act and, of course, the Data Protection Act.

We are very happy, Mr Deputy Speaker, Sir, because the MMM has been closely connected and associated with the enactment of the Data Protection Act. Through tender exercise, the then Chambers of the hon. Deputy Prime Minister, Collendavelloo Chambers, was given the task of coming up with the first draft of the Data Protection Bill. I remember how hon. Baloomoody would work long hours with the then ICT Minister, hon. Pradeep Jeeha, to come up with a Data Protection Act.

To emphasise the importance of the Data Protection Act, it was introduced in Parliament by none other than the then Prime Minister, hon. Paul Bérenger. Now, what did

this Data Protection Act do and why was it so important? The legislation was meant to protect personal information. A Legislation that protected a person's privacy, it's ensured that whoever has control over your data, your sensitive information will not be able to misuse it, will not be able to publicise it, will not be able to distribute it freehandedly.

Why was it so important? It was so important because, let us not forget at that, at point in time, Mauritius was launching itself as an ICT. We wanted to attract people to come and use Mauritius for Business Process Outsourcing, for Knowledge Process Outsourcing. These banks, these European accounting firms, for example, would not come to Mauritius unless they were guaranteed that we have the same level of secrecy like they have in their own country. An accountant will not give a Mauritian company to do the accounts of his clients unless he was sure that the Mauritius firm will apply the same level of confidentiality dealing with his client's matters as he is under obligation to do under his law.

Similarly, a bank in Europe would not have transferred all the payment processing department in Mauritius, in Ebène, if there was no law to protect bank secrecy, to protect the data available. So, this was a very important piece of legislation which was voted in 2004. One of the main reasons why we voted this Bill in 2004 was precisely to give effect to the then European directive on the protection of natural persons with regard to the processing of personal data and on free movement of such data.

As it has rightly been pointed out by the hon. Minister of Technology, Communication and Innovation, if today we are asked to vote this Bill to replace the old Data Protection Act, it is precisely because, in the meantime, there has been a change in the regulations and directives of the European Union which has already been voted and approved last year and it will become effective as from May 2018. So, we don't have any choice, we have to now repeal our existing Data Protection Act which has helped us well for so many years and replace it with a new piece of legislation which will reflect whatever has been adopted by the European Union in what is commonly termed the GDPR.

Mr Deputy Speaker, Sir, if, initially, the aim of having a Data Protection Bill was to attract foreigners to develop our ICT sectors, we have to concede that, over the years, even Mauritians have taken conscience of their right to privacy; even Mauritians today are aware of the sensitive data and they don't want these data to be spread across. They don't want information which they have communicated in confidence to be shared with others. They do not want their information to be misused. Why? Because, today, Mr Deputy Speaker, Sir,

probably one of the most prevalent forms of crime is identity theft. People are usurping our identity to commit crime.

How many of us, Mr Deputy Speaker, Sir, have not been victims of bank fraud? How many times have our bank informed us that there have been transactions or attempts of transactions which were carried out without our authorisation. How many times we have logged in to our account only to find out that it was frozen because someone else has been trying to use our accounts. How many times, today, we receive unsolicited calls; calls from people who we don't know.

Even when our name is not in the telephone directory, even if you have a private number, we still receive unsolicited calls. It is the same thing with emails. How many unsolicited emails do we receive; how many spams? Even on our private emails, we receive those things. Surely, those people who were harassing us, bothering us must have received those information somewhere and today data is money. There are companies out there who are willing to pay fortune to be able to have access to our information, priceless information, information which has a commercial value, because it is an information which helps them market their product.

It is an information which help them target their audience, but unfortunately, it is also information that can be misused. So there is a need to protect these information. Today, we tend to share, sometimes without knowing, a lot of our information. Let us take the example of a person who is looking for a job. He will send his CV. In his CV, in his job application, he will have a lot of personal details about himself, but does he know what does the employer do with that CV? And if he doesn't get the job, does he know what is happening to all this sensitive information, his address, his telephone number.

It is the same thing when someone goes and opens a bank account, and takes a loan; so many information they are required to give to the bank. And if tomorrow we don't get the loan, what happened to all these data? What happened to all these information that we have given to the bank? When we have an accident or when we go to a doctor, to a hospital or to a private clinic, there are so many personal data: our blood group, our age, if we have any medical condition, the type of medication that we are taking. All these sensitive information about us, all these personal data, we give freely. So, there is a need to control. How does the people who receive those data, control them and process them while respecting our rights to privacy.

Mr Deputy Speaker, Sir, one of the cardinal principles enshrined in the Data Protection Act is that no one should be allowed to collect or process your personal data without your consent. And even if you have given your consent, you should be able, at any point in time, to withdraw that consent. And if someone is acting in breach of your consent, he has to be sanctioned.

Now, what happens, Mr Deputy Speaker, Sir, when you are working and your employer forces you to give your personal data, and tells you that: “if you don’t give it, I am sacking you.” Are you freely giving your data? This is what exactly happened to a lady, Miss Amanda Jones. She was an employee of Prokid Clavis International Primary School. The school decided to have a fingerprint machine to monitor attendance without any bad faith, without any second thought about trying to steal people’s identity. It was just for practical purposes that the Primary school decided to have a fingerprint attendance machine. And this lady - who is no longer with us, unfortunately - refused to give her fingerprint and her employment was terminated. She was dismissed. So, she went to the Data Protection Office and filed a complaint.

The Data Protection Office and the Data Protection Commissioner carried out an investigation and found out that the school was wrong. They were wrong because this lady had not given her consent, and it was not justifiable for them to impose on her the use of this fingerprint machine. The school acted in breach of the Data Protection Act. So, the school appealed to the ICT Appeal Tribunal, and the ICT Appeal Tribunal also upheld the decision of the Data Protection Office. And what is interesting, Mr Deputy Speaker, Sir, is what the Tribunal said. It said and I quote –

“It is difficult to understand how a reasonable man without any other choice who has been requested in a compulsory manner to provide his fingerprints would refuse, if that refusal will entail his dismissal. This is far from being a freely given consent.”

So, if you are forced to give your fingerprint, you are forced to use a fingerprint machine, and if you refuse, you know that you will be sacked, if you consent, this cannot be a free consent. This is what was held in that Tribunal. And this is the still good law because the new Date Protection Bill uses similar definition of free consent. Consent has to be given freely. But where, unfortunately, I am disappointed with this Bill is, in this case, that is, in the case of Amanda Jones, we know what happened to the employer. He has breached the Data Protection Act. There are consequences. He can be prosecuted. He can have a fine. But what

happened to the employee? What happened to the lady who lost her job because she refused to give her fingerprint? Can she be reinstated? Should she be reinstated? There is no provision in the law. If she refuses to give her fingerprint and is dismissed; is that an unfair dismissal, enabling her to sue for punitive damages? Unfortunately, although this was a live issue, and it was not the only issue, there was another issue with Alteo. It was a similar issue. Unfortunately, I was expecting in this Bill may be, to give this ability to any victim who has been sacked, to be able to be reinstated in his job.

Mr Deputy Speaker, Sir, the need to protect personal data took a new dimension with the decision of the former Government to implement the new biometric identity card as per the National Identity Card by 2013. The population at large was against the blanket power given to the Government to collect and store indefinitely biometric personal data about ourselves including our fingerprints. Several cases were entered before the Supreme Court. There was even one case entered by the Prime Minister, hon. Pravind Jugnauth. He was then just a simple backbencher in the Opposition. But there has also been the case entered by Dr. Maharajah Madhewoo who went all the way to the Privy Council, and this is something that the hon. Deputy Speaker knows very well because he appeared in that case. I have here to pose and pay tribute to all these people who have been militating against the taking and storing of fingerprints for an indefinite period.

Mr Deputy Speaker, Sir, as you are aware, the Supreme Court, in a landmark judgment which was described as an impressive judgment by none less than the Law Lords of the Privy Council held, and I quote –

“It is inconceivable that there can be such uncontrolled access to personal data in the absence of the vital safeguards afforded by judicial control. The potential for misuse or abuse of the exercise of the powers granted under the law would be significantly disproportionate to the legitimate aim which the defendants have claimed in order to justify the retention and storage of personal data under the Data Protection Act.”

The Supreme Court went on to hold that the provision of the Data Protection Act which allows the storing of personal minutiae for an indefinite period of time was against the Constitution. It was anti-constitutional. This decision was upheld by the Privy Council, Mr Deputy Speaker, Sir.

I would like to draw the House’s attention to what was said in that case before the Privy Council because this is relevant to our Bill.

“Counsel for the respondents informed the Board – that is, the Privy Council – that the encoded fingerprint minutiae were included only on the chip on the biometric identity card and not on the register, that a person’s fingerprints were destroyed after he or she was issued with the biometric card (...). This was, he said, a “holding position” to comply with the Supreme Court’s ruling.”

So, this is what was said in the Privy Council last year: “that a person’s fingerprints were destroyed after he or she was issued with the biometric card”. And this was done to comply with the judgment of the Supreme Court. And we would remember earlier this year when we passed the Finance (Miscellaneous Provisions) Bill, we amended the National Identity Card to provide, and I quote –

“The fingerprint images and fingerprint minutiae of a person, recorded in the register (...), shall be erased after the issue of the identity card to the person (...).”

So, it is very clear. The National Identity Card tells us clearly that once we have taken the fingerprint and we stored it in the register, we have to destroy that register as soon as we issue the identity card. This is very clear in the National Identity Card Act, it is not so clear in the Data Protection Bill.

If we look, Mr Deputy Speaker, Sir, at clause 27 (1) of the Bill -

**“27. Duty to destroy personal data**

- (1) Where the purpose for keeping personal data has lapsed, every controller shall –
  - (a) destroy the data as soon as is reasonably practicable;”

That is what we are doing under the Data Protection Bill - only imposing a duty to destroy the data as soon as is reasonably practicable. What is reasonably practicable?

I can fully understand a lot of these militants who have been fighting against the taking of fingerprint and storing it, when they see this provision. Why? In the case of the National Identity Card, we are told, “You have to give your fingerprints and store it on a register, and then the register will only be destroyed when I issue you with your card.” But what the National Identity Card Act does not say is what is the delay within which I should issue the identity card. We know, once the card is issued, you have to destroy it, but we do not have any guidance as to when, how long it takes to issue that identity card.

The Data Protection Bill now gives us, for the first time, an indication that it has to be reasonably practicable. So, now, you are able to keep those data on the register for a period that is reasonably practicable.

I am afraid, Mr Deputy Speaker, Sir, with such vague terms, I cannot exclude another constitutional challenge before the Supreme Court if ever any aggrieved party feels that the duration that the authorities are taking to issue the card is more than what is practicably reasonable to keep.

Mr Deputy Speaker, Sir, the last point I would like to draw your attention to - and this is a very important point, which, unfortunately, the hon. Minister has not dealt with - relates to the independence of the Data Protection Office and the independence of the Data Protection Commissioner who heads that Office.

As the law currently stands in the Data Protection Act, I agree, I concede there is no requirement that the Office should be financially, administratively independent. But the European Union Rules on Data Protection are very clear. It requires every Member State to establish a supervisory body to monitor the application of the directive acting in complete independence.

Today, in this Bill, to meet this requirement of the directive, what are we doing? We are simply inserting a clause, namely clause 4 (2), which reads as follows –

“(2) In the discharge of its functions under this Act, the Office shall act with complete independence and impartiality and shall not be subject to the control or direction of any other person or authority.”

It is very important, Mr Deputy Speaker, Sir, that the Data Protection Office and the Data Protection Commissioner should be totally independent. Why? Because they have so much power under the law. They have power to come and search; they have power to request information; they have power to summon people; they have power to start an inquiry; they have power to apply to the Court for an Order, for a Preservation Order, for an Enforcement Order.

So, a lot of power, which should not be misused; a lot of power which should be used in total independence because, unfortunately, Mr Deputy Speaker,

**D29/TAKE034/JG/3(Mr Uteem)**

Sir, all too often, we see sensitive data information being leaked to the Press. This is very unfortunate! We have seen it!

Unfortunately, the hon. Minister of Foreign Affairs, Regional Integration and International Trade, hon. Lutchmeenaraidoo, is not here today. But it is not logical that everything about his loan accounts, his personal Euro accounts, his personal banking details, his personal affairs, which are guaranteed by banking securities, should be spread in the Press. Of course, we are very happy that it came out and we found about it!

But imagine what happens if a Minister, a Senior Minister of this Government can have all his personal data, all his personal information put on display! Imagine if this authority, this Data Protection Office is under the control of a hon. KGB Minister! Can you imagine what KGB Minister can do if he has the power to control the Data Protection Office? Not only against his political opponents, not only against his oppositions, but against his own colleagues in Parliament, his own Cabinet Ministers! So, this is why it is very important, Mr Deputy Speaker, Sir, that this Office of Data Protection be totally independent.

But, unfortunately, despite all the good intention of the Minister in bringing this Bill, in my humble opinion, clause 4(2) is simply not enough. Why? Because what we are doing today is only having a public office.

We are not setting up the Data Protection Office like an authority. We are not setting up the Data Protection Office like a public body, with an independent Board, which acts independently, which controls independently the CEO. We are not having today a Data Protection Commissioner who is appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition like we have for other institutions.

We have not given any security of tenure to that Data Protection Commissioner. There is absolutely no guarantee, if tomorrow there is a change in Government, that officer will not be sacked and replaced by someone who will be more complacent for the Government of the day. Then, how could that be a truly independent body when it is administratively under a Ministry? It is an office; it is a department. Previously, it was under the Prime Minister's Office, now it is under the Ministry of ICT. So, where will it get its funding? When the Office needs to buy anything, be it furniture, stationery, they will need to have a budget. Who is going to approve their budget? Who is going to disburse the money? And he who controls the purse controls the person!

If tomorrow the Commissioner wants to travel on a business trip, wants to attend a seminar, does she have to get the consent of the Permanent Secretary of the Ministry of ICT? Does she have an independent budget or is she administratively under control? In my opinion - he is or she is. At the moment, it is a 'she', but we do not know in the future - she is under the administrative control of the Ministry.

When we compare this to what is going on in other countries, let us say, for example, France. In France, they have a similar; their equivalent to Mauritius is called "*La Commission Nationale de l'Informatique et des Libertés*". Twelve out of its 18 Members are appointed by National Assembly. They have their own budget; they can appoint their own collaborators.

In UK, the Information Commissioner reports directly to Parliament - not to a Minister - and is appointed by the Crown.

In India, the Chairperson of the Data Protection Commission should have held the position of a Judge of the Supreme Court and his appointment needs to be approved by the Chief Justice.

In Germany also, to ensure the independence, the German Federal Government nominates him and the German Bundestag elects him. So, it is the Parliament which elects. So, all these European countries have come up specific legislation, specific power, and structures to ensure that the Data Protection Office, or its equivalent, are truly independent. Unfortunately for me, this is the greatest flaw in this Bill, because just by stating in paragraph 4 (2), that –

“In the discharge of its functions under this Act, the Office shall act with complete independence and impartiality and shall not be subject to the control or direction of any other person or authority is not enough, if the department if the Data protection Office will remain as public office, as a department in Ministry.”

Thank you Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Hon. Rutnah.

(7.31 p.m.)

**Mr S. Rutnah (Third Member for Piton & Rivière du Rempart):** Thank you, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, save and except the criticism levelled against this Government by my very able friend, hon. Reza Uteem, in relation to Clause 27, Clause 4 of the Bill, and in relation to the independence, I endorse everything that he has said, and I agree completely with all he said from the beginning of his speech.

In fact, at one point in time, I thought that it was kind of a honey trap, you know, when a woman sends another woman to his boyfriend to flirt, so as to ascertain whether the boyfriend is faithful or not. It was that kind of a speech and I was taken gobsmacked and I thought what's going on, probably it's a kind of an alliance happening here. But I am glad that everything that he has said in relation to the 2004 Act and in relation to the 2017 Bill that we are presenting today, except those parts where he criticised, I endorse everything.

But what is important is the word 'consent' in relation to data protection. Why consent? Because data protection is very important. Today when I stand here, there are data circulating in this House, data circulating outside, data on our phones, on our laptops, on our tablets, everywhere, data of children, and I am glad that the hon. Minister made it a duty to include a Clause 30 in relation to the protection of children, because nowadays we live in a world where as a result of technological advancement there are certain people who use children's data for the purpose of their own perversion and all sorts of sexual activities. So, I am glad that children are firstly protected by this law.

Mr Deputy Speaker, Sir, when I first read this Bill, I thought of a case called *M.S. v. Sweden*, a case of 1997 where the European Court of Justice actually ruled on a point of privacy of a patient in relation to confidentiality relating to her disease. And in that case it was one of the land mark decisions of the time where it was found that there was a bridge of confidentiality of the patient when without her authorisation and consent, data relating to confidential information of her health were disclosed to third parties.

So, since then we, in Mauritius, have evolved and by the setting up the Ebene CyberCity where some, when in opposition at the time, were calling it *un éléphant blanc*, we evolved and we brought in our country by the then MMM/ MSM Government the 2004 Act, in order to ensure that whilst we are developing our country and our nation in digital communication and information technology that, at the same time, we bring safeguard so that those who want to invest in our countries, those who want to work in places like Ebene, those who want to trade in places like Ebene respect the protection of data, respect human rights,

respect privacy. It's in consonant with Section 9 of our Constitution in relation to the Right to Privacy and of Home and Property.

So, from then on 2004, we have evolved a bit further. In 2004, for example, we did not have the current iPad that we are using now. We were still labouring on laptops, we did not have iPhone of the kind that we have now, we did not have iPhone of the kind that Members of this House use now to communicate and send e-mail from their phones from here. I see hon. Mrs Perraud smiling. I am sure that she is familiar in using her phone and I glad that her data is being protected today. But there is also the right of privacy of Members of Parliament, anyway, and I am sure that her right is protected today by virtue of this Bill.

Mr Deputy Speaker, Sir, anyway we are now diversifying our economy; it's going to a digital economy. We have seen that the hon. Prime Minister the other day when he went abroad, he signed an agreement with the Estonian Government in order to assist us in developing our IT sector, digital sector, technological sector and so on.

So, it is important now to keep up with the pace of development to reinforce the law and to make it more powerful to deal with those who think that they can come to Mauritius and easily breach data protection laws. And this is the signal that the Government is sending to all the foreign investors, to people who work and to individuals that they can rest assured that their data will not go public, and if it does go public, then severe penalties will follow.

Now, hon. Uteem raised some criticisms regarding Clause 27 (1) (a) of the Bill. If I may refer to Clause 27 which deals with the destruction of data, as his criticisms were in respect of the words –

“destroy the data as soon as is reasonably practicable”.

This is the kind of jargon that is ordinarily used in legal language to describe that whatever is going to be happening or whatever is going to be done in relation to an Act, that Act has to be carried out within a reasonable period of time and that reasonable period of time should be practicable, and he gave lots of examples in relation to the Identity Card. But those of us who have gone to apply for identity cards, when we have given our data the officer explained to us that the data will be stored there for three minutes and as soon as the card is issued that data has to be erased, or is erased automatically. So, that is the kind of definition you can give to reasonably practicable. It is reasonably practicable within those three minutes, but what is reasonably practicable in other circumstances might differ. But what hon. Uteem failed to tell us is that when the Act was presented in the House in 2004 by

the then Prime Minister and now the Third Member of Constituency No. 19, that Act as well at section 28 used the same sentence and if I may, for the record, read it, section 28 subsection (2) –

“Any data processor who receives a notification under subsection (1) (b) shall, as soon as reasonably practicable, destroy the data specified by the data controller.”

And, at the time, we did not have the issues in relation to the Identity Card. So, we were more exposed and we did not even have the ruling of the Privy Council at the time. So, at that time, we were even more exposed to infringement of data protection rights. So, I don't think personally, and with the greatest respect that I have for my very able and learned friend, that the inclusion of the words 'reasonably practicable' in this Bill is not fatal as to when the data should be destroyed.

Now, if I may also deal with the provision of Clause 4 subsection (2) of the present Bill dealing with an independent body. Clause 4 subsection (4) of the current legislation which is being proposed states as follows –

“The Commissioner shall be assisted by such public officers as may be necessary.”

And, subsection (2) says –

“In the discharge of its functions under this Act, the Office shall act with complete independence and impartiality and shall not be subject to the control or direction of any other person or authority.”

And, if we look at the previous law, the one enacted in 2002, the same section 4, it does not even have a provision of independence. This Act does not even have a provision of independence. So, at least, now that we spell it out in the Act in relation to a provision of independence and the Commissioner who will head the Commission is not any Tom, Dick and Harry from the back street of Port Louis, he is after all a Barrister, a Member of the Bar of, at least, 5 years standing! And, we know people who are trained in law are used to use their independence. Even in very difficult circumstances, they have to use the independence and apply their mind independently to any given issue and if they feel that they cannot apply their mind independently, it is their duty and within the boundaries of ethical rules to withdraw from their position. So, as far as I am concerned, I don't think there should be any fear that there is no independence insofar as the function of the Commissioner is concerned.

Mr Deputy Speaker, Sir, I am not going to be long. Perhaps this is the first debate in my life that I am doing which is so short and...

*(Interruptions)*

...in conclusion I would say congratulation to the hon. Minister for having brought a modern piece of legislation that is going to serve the youth, the children, the young, the elders and the grandees of this country for a long number of years.

Thank you so much.

*(Interruptions)*

**The Deputy Speaker:** Hon. Hurreeram!

**Mr M. Hurreeram (First Member for Mahebourg & Plaine Magnien):** Thank you, Mr Deputy Speaker, Sir. Let me take it from where my friend, hon. Rutnah left, that is, by congratulating the Minister for bringing to this House this very important Bill that will, for sure, give another dimension to our digital economy.

Mr Deputy Speaker, Sir, whenever we join a social networking, social media, website or we are willing to book a hotel online or a flight, we hand over very vital personal information such as our name, address, credit card number, very personal details like my friend, hon. Uteem, listed earlier. I will not get into the same details. We are handing the information to a virtual entity whose physical address is not known to us. Nonetheless, we still choose to do that transaction because it is more convenient and time-saving. This is the world we are living in today, Mr Deputy Speaker, Sir.

What happens to this data? Can it fall into the wrong hands? What rights do we have regarding the personal information? These interrogations are very legitimate and vital if we wish to promote and become a digital economy. Personal data should only be gathered legally under strict conditions and used for legitimate and intended purposes only. Furthermore, persons or organisations which collect and manage personal information, must protect it from misuse and must respect certain rights of the data owners.

This Bill, Mr Deputy Speaker, Sir, aims at enhancing that guarantee and reasoning of our citizens which are increasingly becoming active, allow me un *jeu de mots* by saying instead of citizens, they are now becoming netizens! The digital future of our country can only be built on trust that each party in a transaction is acting in good faith. With solid data protection standards, we provide comfort to our citizens that they are in control of their

personal information and that they can enjoy all the services and opportunities of a technology-based country.

This Bill also sets stronger foundations to help our country develop innovative digital services. Citizens and businesses will profit from clear rules that are fit for the digital age, that give strong protection and, at the same time, create opportunities and encourage innovations. We should not see privacy and data protection as holding back economic activities. They are, in fact, an essential competitive advantage. There is a quote from the Dutch Politician, Mr Gijs de Vries –

“If you exchange information internationally, you must strengthen data protection. Those are two sides of the same coin.”

Mr Deputy Speaker, Sir, our BPO sector is attracting more and more of world leaders mainly from Europe for investment and delocalisation of the online services and processes. With the changes in the EU legislation, it is vital that we align our domestic law to provide the comfort and required framework to allow these companies to continue to operate.

Furthermore, the changes in our legislation through this Bill will attract more companies which will be looking for alternatives if their current operation base is not aligned with the EU. Mr Deputy Speaker, Sir, data protection and privacy laws have always had the dual objectives of facilitating the free flow of information while protecting individuals' interest in privacy and preventing inappropriate uses of personal data.

With more accountability requirements from businesses, the use of information about individual, there is less risk to the individuals which results in higher confidence. The changes brought in this Bill will also bring greater confidence of businesses in the Information Governance System because it manages a broader set of interests and risks, allowing businesses to aggressively leverage information to create value.

This Bill, Mr Deputy Speaker, Sir, also brings more clarity around regulator expectation for an accountable process in data holding industries. Mr Deputy Speaker, Sir, as we know, we have the ISO, more precisely the International Organisation for Standardisation, through its members, which brings together experts to share knowledge and develop voluntary consensus-based market relevant international standard that support innovation and provide solution to global changes.

The aim of this Bill is to make sure that international standards, in respect of data protection, are being included in our legislation. This Government, through this Bill, clearly

demonstrates its commitment in upholding the key data protection principles which can be summarised as follows -

- (i) Personal Information must be fairly and lawfully processed;
- (ii) Be processed for limited purposes;
- (iii) Be adequate, relevant and not excessive;
- (iv) Be accurate and up-to-date;
- (v) Not be kept for longer than necessary;
- (vi) Be processed in line with the data subject rights;
- (vii) Be secured, and last not but least
- (viii) Not be transferred to other countries without adequate protection.

With these few words, I think the hon. Members before me have said a lot and have already spoken about the legal aspect of it, I thank you for your attention.

Thank you, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Hon. Selvon!

(7.53 p.m.)

**Mrs D. Selvon (Second Member for GRNW & Port Louis West):** Merci M. le président de m'accorder la parole.

M. le président, nous parlons d'une chose très, très grave, la protection des personnes contre le piratage de leurs données. La loi de l'Union européenne que le ministre dit l'avoir inspiré n'est pas une simple loi de *Data Protection*. Elle est officiellement appelée, je cite, une loi de –

« (...) de protection des personnes physiques à l'égard du traitement des données à caractère personnel et à la libre circulation de ces données(...) »

Le ministre a raccourci le titre de la loi pour je ne sais quelle raison car le souci de la loi européenne est la protection à la fois des personnes et de la libre circulation des données dans le respect de la charte et de la convention européenne des droits humains. C'est ce que dit la législation européenne.

Voyons maintenant ce qui se passe en matière de protection des personnes contre le piratage de données biométriques par des escrocs. La radio TopFM avait rapporté le 06 décembre 2017, M. le président, je cite –

« Le Central CID est sur la piste d'un réseau d'escrocs qui utilisent des fausses cartes d'identité biométriques pour se mettre dans la peau de leur victime afin de se remplir les poches. Deux cas d'escroquerie de ce genre ont été rapportés, l'un à Plaine-Magnien et l'autre à Rose-Belle. »

Cette information a créé un immense sentiment de méfiance dans le public, bien que le 11 avril 2017 en réponse à une *Parliamentary Question* que j'avais posé, moi-même, au ministre Yogida Sawmynaden, il avait répondu ceci, je cite ici le Hansard, la réponse du ministre déposée au Parlement –

« (...)I wish also to inform the House that biometric information stored on the card is used solely for the purpose of identity verification by National Identity Card Unit. To this effect, my Ministry has issued a Press Communiqué dated 27 March 2017 to reassure members of the public of the in-built security features in the encryption of the card as well as physical security measures and quality control effected to dispel the alleged apprehensions of a handful of persons concerned with the security features of the ID cards.

With regard to part (a) of the question, with all these security measures, unauthorised use and reading of the card is simply impossible. (...) »

Impossible M. le président! Toute la presse avait rapporté en long et en large cette fameuse et solennelle déclaration.

M. le président, est ce que ce qui était impossible, selon la parole donnée par le ministre, serait devenue possible en quelques mois; la police étant aujourd'hui sur les traces d'escrocs utilisant de fausses cartes biométriques. Je demande donc au ministre de venir formellement s'expliquer sur ce sujet. Aujourd'hui le public va-t-il le croire quand il vient avec un projet de loi de protection des personnes contre le piratage de leurs données personnelles ? La question est posée, j'attends donc ses explications sur la manière donc des cartes frauduleuses peuvent avoir été fabriquées. Le ministre doit ses explications non pas seulement à cette Chambre mais aussi et surtout à la population mauricienne.

Pour ce qui est de la protection de la personne contre le vol des données, même si la nouvelle carte d'identité est encore sujette à la contrefaçon, il est quand même un peu

réconfortant qu'une telle loi vienne encadrer la protection des données appartenant aux citoyens, surtout avec de sévères amendes et peines de prison pour punir les infractions.

M. le président, ce projet de loi s'impose à l'île Maurice parce que l'Union européenne, comme Maurice, sont toutes deux impliquées dans la circulation globale des données; ce qui explique pourquoi le ministre dit qu'il s'est inspiré de la législation européenne; toute la législation mauricienne étant d'ailleurs essentiellement d'origine européenne. L'objectif du projet de loi est que le pays se conforme aux lois de l'Union européenne suivantes, qui montrent que le ministre a raison de faire savoir qu'il n'a pas inventé la roue.

Premièrement, je cite –

«Règlement (UE) 2016/679 du Parlement européen et du Conseil du 27 avril 2016 relatif à la protection des personnes physiques à l'égard du traitement des données à caractère personnel et à la libre circulation de ces données, (...)

En plus, il y a dans l'Union européenne deux autres textes qui accompagnent cette loi principale. D'abord la -

«Directive (UE) 2016/680 du Parlement européen et du Conseil du 27 avril 2016 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel par les autorités compétentes à des fins de prévention et de détection des infractions pénales, d'enquêtes et de poursuites en la matière ou d'exécution de sanctions pénales, et à la libre circulation de ces données(...)»

Il y a un troisième texte, qui est la -

« Directive (UE) 2016/681 du Parlement européen et du Conseil du 27 avril 2016 relative à l'utilisation des données des dossiers passagers (PNR) pour la prévention et la détection des infractions terroristes et des formes graves de criminalité, ainsi que pour les enquêtes et les poursuites en la matière. »

Par ailleurs, alors que les textes européens qui nous inspirent, mettent l'accent, à d'innombrables reprises, je cite, sur « le recours juridictionnel », nous avons un Article 44 qui met d'énormes pouvoirs dans les mains du Premier ministre qui peut, seul et sans aucune consultation avec qui que ce soit, même pas sous contrôle du judiciaire, décider au nom de l'intérêt public, et suspendre, d'un trait de plume l'application de la loi. Cela alors que la

Constitution réclame au Premier ministre de passer par le Parlement par exemple pour proclamer l'état d'urgence ou par des consultations, selon le cas, avec la présidence et/ou le *leader* de l'Opposition. Il aurait été facile d'ajouter à l'Article 44 quelques mots spécifiant que cet ordre du Premier ministre peut être sujet, par exemple, à une consultation ou à un appel au judiciaire dans un délai qui ne va pas faire souffrir l'intérêt public.

Ici, M. le président, tous les contre-pouvoirs constitutionnels et légaux sont *by-passed*, ils sont contournés par l'Article 44. C'est un style qui ressemble à celui de trois partis politiques qui furent au pouvoir à partir de 1969 et qui abolirent jusqu'en 1976, toutes les élections et tous les droits civiques et politiques des mauriciens.

Laissez-moi traduire ici et lire ce que dit cet Article 44 -

« Dans n'importe quelle procédure durant laquelle il est question que, au nom de la sécurité nationale, ou au nom de la défense ou au nom de la sécurité publique, aucune provision de cette loi ne devrait être appliquée, un certificat signé de la main du Premier ministre approuvant la non-application de la loi sera une preuve concluante que la loi ne sera pas appliquée. »

Cela ne veut pas dire que je ne fais pas forcément confiance au Premier ministre ou à celui qui le remplacera tôt ou tard. Mais l'intérêt public a été souvent ...

*(Interruption)*

**The Deputy Speaker :** Order !

**Mrs Selvon:** Mais l'intérêt public a été souvent cité par les gouvernements mauriciens depuis l'indépendance jusqu'aujourd'hui pour des objectifs anti-démocratiques. M. le président, Je dis cela parce que le pouvoir peut être plus difficile à exercer que de se rendre coupable d'un abus de pouvoir, et on l'a vu cela trop souvent en 50 ans d'indépendance.

Je vous remercie et je remercie la Chambre de m'avoir écoutée.

**The Deputy Speaker:** Thank you, hon. Mrs Selvon. Hon. Rampertab!

(8.04 p.m.)

**Mr R. Rampertab (Second Member for Flacq & Bon Accueil):** Mr Deputy Speaker, Sir, from the outset, let me congratulate the Minister of Technology, Communication and Innovation for bringing forward this groundbreaking Bill.

Indeed, one of the toughest challenges of the last two decades has been to catch up with the rapid pace of changes in the technological landscape. Here, the hon. Minister has once again shown this Government's determination in ensuring that our nation does not lag behind in terms of the global evolving technological and regulatory landscape. This context is particularly amplified with the upcoming enforcement as from May 2018 for the EU General Data Protection Regulation, which is known as GDPR, which is the most important change in data privacy regulation in 20 years. By aligning to the EU GDPR, the country similarly participates in the harmonisation of data privacy laws to protect and empower citizen's data privacy. While citizen's personal data has been thus far protected by numerous laws across different countries, its privacy has not been taken seriously. Now, with this updated Data Protection Regulation, firms and other types of data controllers will need to take extra care, in fact, about how they collect, get personal consent, store and use personal data.

Mr Deputy Speaker, Sir, the powerful rise in social media, new renewable devices, ever improving smart phones and growth of online transactional interaction had weighed down considerably on the previous data protection legal framework and a refreshed legislation was imperative. Mr Deputy Speaker, Sir, this legislation ensures that the procedure to renew for controllers and processors is clearer, efficient and streamlined.

Mr Deputy Speaker, Sir, a controller has the utmost responsibility for processing data of individuals in an accurate and secure manner. Hence, we need to welcome the section of this legislation which ensures that the roles, duties and guiding principles of the controllers are now clearer and more effective in making sure that controllers cannot escape from performing their legal duties properly. In fact, data should be managed in a secure, trusted and transparent manner. Hence, it is essential that every aspect of data management and security is properly catered for and handled with utmost trust and care. Data protection not only means personal data protection but also national data protection, especially against the increasing threats of cyber criminality.

Mr Deputy Speaker, Sir, this Bill does both. It ensures that our data is secured, entrusted, but also that our legislation is robust enough to enforce strict punishments for personal and national data breach perpetrators. Data is not only a tool for efficient marketing, but also a tool to provide improved service and delivery. Firms now use big data to create customised products and targeted campaigns to such an extent that data is the new gold. These updates, Mr Deputy Speaker, Sir, in regulations will actually encourage firms to consolidate personal data into a unified platform so that they are able to easily locate it,

anonymise it, if needed, and report on it. This is what is called the golden record of a 360° customer view. This presents a unique opportunity for businesses to better respond to the customers' request, engaged with them in the way they prefer and ultimately innovate. The updated legislation, Mr Deputy Speaker, Sir, will help by shifting the market and the way businesses operate into a much more data-driven model and we believe that this is the right way to go because only a data-centric approach can result in a number of key benefits for the businesses and the citizens. We see benefits in the area of data security, customer-centric, data localisation and indexing and data storage.

Mr Deputy Speaker, Sir, the rise of social media has not only introduced risk to data, but has created many opportunities for companies to engage better with their customers, but it has not enabled businesses to fully embrace customer- centricity for the benefits of the consumers. This is due to the fact that many organisations still rely on isolated technology systems across the departments making it impossible to integrate and analyse social media or unstructured data. Security in terms of tools and policies for usage is paramount when collecting, processing and managing such data.

Mr Deputy Speaker, Sir, the updated legislation allows data not only to be collected, but also analysed. Therefore, the use and analysis of such data patterns trends to predict the future, helps empower the organisations both in the private and public sectors to innovate and launch new products and services benefiting in cost efficiency gained from new methods of data storage in cloud-based systems. For data analysis to work at its true potential, the data you need is clean data, data that is up-to-date, data that is accurate and relevant. And when it comes to personal data, you need its use to be acceptable to each individual.

Mr Deputy Speaker, Sir, another laudable innovation of this legislation is to introduce a Data Protection Impact Assessment exercise. The latter is essential in ensuring that the required analysis has been conducted to assess the consequences of processing operations against the protection of personal data. This fills a gap in the legislation and brings our country on par with international standards. Digital data, Mr Deputy Speaker, Sir, have become economic assets these days. We need good legislation to stop the black market for personal data and open the debate on how each of us wants to contribute to and benefit the data economy.

The Bill here reinforces the current framework of protection with regard to personal data for individuals and organisations in accordance with the latest European Union Data

Protection Regulation. Hence, individuals will have a better access and control to the personal data. Their rights will be enhanced and those who store, manage and use the data will be more accountable.

I here again would like to congratulate and thank the hon. Minister for coming up with this legislation, and we know how important it is in the modern days.

Thank you, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Hon. Minister of Technology, Communication and Innovation!

(8.12 p.m.)

**Mr Sawmynaden:** Mr Deputy Speaker, Sir, allow me, first of all, to thank all hon. Members of this Assembly who have contributed to this very important debate regarding this Bill.

Actually, I have noted that, from this side of the House, hon. Reza Uteem has brought a lot of nostalgia regarding the MSM/MMM Government in 2001, which did bring up the Cyber City. You know, sometimes when I am sitting in my office in Ebène and will have few investors coming, when I tell them that this place was sugarcane fields and today the amount of skyscrapers, as I call it, which are already set up and are being set up now, they cannot really believe their eyes.

In 2001, that Government, with the vision of Sir Anerood Jugnauth, at that time, we decided to move on to the ICT technology as the new pillar of our economy. And at that time, the then Opposition was saying *c'était un éléphant blanc*, born to die, nothing will happen, removing all the prime land of agriculture to put concrete buildings. And, today, the same plots of land are employing more than 23,000 people and more than 750 companies there.

Today, once more, we are marking history. Mauritius is the first country in the world which is enacting a legislation based on the guiding principles contained in the GDPR. But there is one thing we should not forget. How did we reach where we are today? Who was the first Minister of ICT when we took Government in 2014? It was the then Rt. hon. Prime Minister himself. He had the vision, he wanted this country to move ahead, and he knew, at that time, that ICT was the pillar of this economy. And what we are doing today is that we are going to attract more and more investors to come to Mauritius.

In the last conference that I attended in New Delhi two weeks back, regarding the Cyber Space Conference, the main concern of all my colleagues Ministers from many

countries - we were more than 28 Ministers coming there - was when they are going to bring that law. When they asked me the question, I said I am taking it to Parliament next week, and they were so surprised. They said that we are moving ahead. We are the game changer. This is what we are going to do. This is what we are doing to this country, this is what we have done, this is what the MSM has done all this time: to change this country, to change the destiny of this country. And we are doing it once more. We are marking history under the leadership of our hon. Prime Minister, Pravind Jugnauth. This is what we are doing, and we are going to do it again.

Mr Deputy Speaker, Sir, a lot of concern has been raised regarding the ID cards. Yes, I had the chance in the past to explain the process of the ID cards, that once you give your finger *minutiae*, once the card is issued, which is in one day or two days, everything gets erased automatically. This also has happened thanks to the hon. Prime Minister, because he was the one to take the case to Court. We had to purchase a new programme only to get that done, and today it is working properly.

Today, what are we doing with this Bill? We are giving that element so that the people of this country are safe. They know that whatever data they are giving to the National ID Card will be safe. No one will be able to get it out; otherwise, they will be liable to prosecution. No one can exchange data without consent. This is what we are doing. We are protecting these people nowadays. This is what we are doing with this Bill, and we are becoming the guardian of these people. This is what this Bill is doing.

Mr Deputy Speaker, Sir, I would also like to talk on the point raised by the hon. Member regarding clause 4(2), the Data Protection Office. Mr Deputy Speaker, Sir, clause 4(2) clearly stipulates that –

“(...) the Office shall act with complete independence and impartiality and shall not be subject to the control or direction of any other person or authority.”

The Commissioner is the Head of the Data Protection Office, is a public officer appointed by the Public Service Commission, which operates in total independence, and holding a permanent office. Various models in different countries have their data protection enforcement office while others have data protections commission. In Mauritius, it has always been the Data Protection Office and the Head of the Office is the Data Protection Commissioner. I would also like point out that, in Mauritius, we need to get any action. So, we will have to comply regarding to the Bank of Mauritius, the Financial Services

Commission, all the laws that govern this institution like the Prevention of Corruption Act as well.

Mr Deputy Speaker, Sir, this Bill applies to all sectors, including the public and the private sector and the media as well. So, no data of any person can go into the media as they wish. They will need now to be very careful, especially confidential information cannot go out as they wish. As rightly pointed out by hon. Uteem - I will not mention this case again, but he has already mentioned it. It is good that he is aware of that as well - this kind of case should not be repeated again.

So, as the ICT sector, Mr Deputy Speaker, Sir, has evolved from the 5<sup>th</sup> to the 3<sup>rd</sup> pillar of the Mauritian economy, this forward-looking Bill will provide the appropriate legal framework for economic operators and public authorities to keep pace with the expansion of the ICT industry and will also bring along the following benefits -

- improve the digital legal landscape to respond to the new EU requirements for adequacy, thereby attracting foreign investors;
- increase accountability of controllers and processors to make organisations implement, control business process, resulting in the better organisational productivity and efficiency, and a higher level of security.
- give individuals greater control over the personal data;
- minimise the risk of data breach;
- reinforce the legal and practical certainty for economic operators and public authorities.

On this note, Mr Deputy Speaker, Sir, however, it is important to highlight that the right to protection of personal data is not an absolute right and has to be considered in relation to its function in society. It is also closely linked to respect the private and family life protected by our Civil Code and Constitution.

Mr Deputy Speaker, Sir, with these words, I commend this Bill to the House.

*Question put and agreed to.*

*Bill read a second time and committed.*

## **COMMITTEE STAGE**

*(The Deputy Speaker in the Chair)*

## **DATA PROTECTION BILL**

**(No. XIX of 2017)**

*Clauses 1 to 20 ordered to stand part of the Bill.*

*Clauses 21 to 34 ordered to stand part of the Bill.*

*Clause 35 (Prior authorisation and consultation)*

*Motion made and question proposed: “that the clause stands part of the Bill”*

**Mr Sawmynaden:** I move for the following amendment in clause 35 (5)–

“by deleting the words “section 24” and replacing them by the words “section 34”

*Amendment agreed to.*

*Clause 35, as amended, ordered to stand part of the Bill.*

*Clauses 36 to 40 ordered to stand part of the Bill.*

*Clause 41 (Exercise of rights)*

*Motion made and question proposed: “that the clause stands part of the Bill”*

**Mr Sawmynaden:** I move for the following amendment in clause 41(a)–

“by deleting the word “child” and replacing it by the word “minor”.

*Amendments agreed to.*

*Clause 41, as amended, ordered to stand part of the Bill.*

*Clauses 42 to 58 ordered to stand part of the Bill.*

*The Schedule ordered to stand part of the Bill.*

*The title and enacting clause were agreed to.*

*The Bill, as amended, was agreed to.*

*On the Assembly resuming with the Deputy Speaker in the Chair, the Deputy Speaker reported accordingly.*

*Third Reading*

*On motion made and seconded, the Data Protection Bill (No. XIX of 2017) was read the third time and passed.*

**ADJOURNMENT**

**The Prime Minister:** Mr Deputy Speaker, Sir, I move that the House be adjourned to Tuesday 12 of December 2017 at 11.30 a.m.

**The Vice-Prime Minister, Minister of Local Government and Outer Islands (Mrs F. Jeewa-Daureewoo) rose and seconded.**

*Question put and agreed to.*

**The Deputy Speaker:** The House stands adjourned.

*At 8.27 p.m., the Assembly was, on its rising, adjourned to Tuesday 12 December 2017 at 11.30 a.m.*