



**SIXTH NATIONAL ASSEMBLY**

**PARLIAMENTARY**

**DEBATES**

**(HANSARD)**

**(UNREVISED)**

**FIRST SESSION**

**FRIDAY 25 MAY 2018**

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(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
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Hon. Yogida Sawmynaden	Minister of Technology, Communication and Innovation
Hon. Nandcoomar Bodha, GCSK	Minister of Public Infrastructure and Land Transport
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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

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Hon. Premdut Koonjoo	Minister of Ocean Economy, Marine Resources, Fisheries and Shipping
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Hon. Mrs Roubina Jadoo-Jaunbocus	Minister of Gender Equality, Child Development and Family Welfare

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**MAURITIUS**

**Sixth National Assembly**

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**FIRST SESSION**

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**Debate No. 09 of 2018**

**Sitting of Friday 25 May 2018**

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

**The National Anthem was played**

*(Madam Speaker in the Chair)*

## ORAL ANSWER TO QUESTION

### MADAGASCAR - JEAN BRIAN DILAN ELÉONORE - DEATH

**The Leader of the Opposition (Mr X. L. Duval)** (*by Private Notice*) asked the Attorney General, Minister of Justice, Human Rights and Institutional Reforms whether, in regard to the violent death of Jean Brian Dilan Eléonore, in the Republic of Madagascar, on 25 November last year, he will state -

- (a) when he met the father of the deceased, Mr Elvis Eléonore;
- (b) where matters stand as to the inquiry initiated by the Mauritian Police;
- (c) if he has requested for mutual legal assistance from the Malagasy judicial authorities and, if so, where matters stand;
- (d) if he has requested for the appointment of a Rogatory Commission by the Malagasy judicial authorities and, if so, where matters stand, and
- (e) if consideration will be given for the introduction of legislation to allow for the extraterritorial jurisdiction of the Republic of Mauritius in respect of homicide cases in which the victims are Mauritian citizens.

**The Attorney General, Minister of Justice, Human Rights and Institutional Reforms (Mr M. Gobin):** Madam Speaker, Mr Jean Brian Dilan Eléonore is a Mauritian citizen. He was born on 10 January 1995. He was working on board of a cruise ship and he was in Mauritius in November 2017, I understand on vacation. He left Mauritius on 23 November 2017 for Madagascar and I understand that he proceeded to Madagascar to pay a visit to his mother who was working at Aquarelle in the region of Antsirabe.

On or about 25 November 2017, following certain incidents, the exact nature of which are still under investigation, the said Jean Brian Dilan Eléonore passed away in Antsirabe. The death was registered in the *Registre de l'État Civil de la Commune Urbaine, d'Antsirabe* on 25 November 2017 and the time of death was registered as at, I quote – “2 h 45.” The body of Brian was repatriated to Mauritius on 26 November 2017 and inhumation was done on 27 November 2017 at St Pierre cemetery.

Madam Speaker, a *certificat de cause du décès* dated 25 November 2017 issued by le *Bureau Municipal d'hygiène de la Commune Urbaine d'Antsirabe* stated as cause of death, I quote -

« Maladie non transmissible 959.8 selon la classification internationale des maladies version 9. »

The said *Bureau Municipal d'hygiène de la Commune Urbaine d'Antsirabe* also issued a *permis d'inhumer* dated 25 November 2017. The body of Brian was repatriated on 26 and inhumation took place in Mauritius on 27 November 2017.

Madam Speaker, with regard to part (a) of the question, my attention was drawn to the disturbing factors of this case by my colleague Ministers during the month of December 2017. On 08 December 2017, I was specifically referred to some disturbing features by the Deputy Prime Minister, in the light of which I met with the father of Brian on the same day of 08 December 2017.

Since the matter has come to the House today, I will have, for the benefit of the House, to say what was the discussion about. During our meeting of 08 December, a specific issue of exhumation was raised by the father. I had the painful duty, Madam Speaker, to explain to him that the Attorney General was in no way empowered whether under Statute or otherwise to order exhumation of a dead body. I ventured to advise him to apply to the District Magistrate of the District where the body is inhumed for an order to that effect.

With regard to part (b) of the question, I am informed by the Commissioner of Police that on Friday 01 December 2017, the father of Jean Brian Dilan Eléonore, that is, Mr Elvis Eléonore made a declaration at the Central CID (Reference OB No. 1190/2017) in relation to the death of his son. He stated that he suspected foul play. The CCID initiated an inquiry and the inquiry is still ongoing.

The father of late Jean Brian Dilan Eléonore made an application before the District Court of Moka whereby an order authorising the exhumation of the corpse of Late Jean Brian Dilan Eléonore was sought. The Director of Public Prosecutions, the Commissioner of Police and the Ministry of Health and Quality of Life were parties to the case.

On 04 January 2018, the Senior District Magistrate of the District Court of Moka ordered the exhumation of the corpse of Jean Brian Dilan Eléonore. The exhumation was done on 30 January 2018 at St Pierre cemetery and the autopsy was carried out by Dr. Satish Boolell in the presence of Dr. Sudesh Kumar Gungadin, Chief Police Medical Officer, Dr. Prem Chamane, Police Medical Officer and Inspector Taujoo from the central C.I.D. The autopsy was performed at Dr. Jeetoo Hospital, Port Louis. The cause of death was certified as being traumatic sub-arachnoid haemorrhage following a fracture dislocation of the cervical

spine and the autopsy report also remarked that there were multiple injuries present on the upper limbs and a sutured laceration on the scalp.

The conclusion of the autopsy report was that, I quote –

“To conclude there is no element of any non-communicable disease as per the Madagascar death certificate but consequential evidence of a serious aggravated physical assault. The traumatic sub-arachnoid haemorrhage has followed a hard blow to the head causing the 10 cm long laceration on the parietal scalp and the fracture dislocation involving the first and second cervical vertebrae resulting in the sub-arachnoid haemorrhage and eventual brain stem compression and death.”

I have to add, Madam Speaker, that samples from the body of late Jean Brian Dilan Eleonore were secured and sent to the Forensic Science Laboratory (FSL) for examination.

Madam Speaker, I am further informed by the Commissioner of Police that on 02 December 2017, INTERPOL Antananarivo was approached by INTERPOL Port Louis for a request for assistance and co-operation from the Malagasy Authorities with a view to obtaining all relevant information regarding the circumstances of the death of Jean Brian Dilan Eleonore. Subsequently, on 02 January 2018 of this year, the INTERPOL Madagascar replied that after verification with the local authorities at Antsirabe, it was found that Jean Brian Dilan Eleonore died in an accident on 24 November 2017. The exact words used by INTERPOL Madagascar are, Madam Speaker, I quote –

*“Décédé lors d’un accident.”*

I am informed that the Commissioner of Police is in constant contact with his counterpart in Madagascar, and our mission in Madagascar is also assisting in the matter. The inquiry is still ongoing.

With regard to parts (c) and (d) of the question, I wish to inform the House that neither mutual legal assistance nor Rogatory Commission have been requested at this stage. However, the Mauritian Authorities and the Malagasy Authorities are continuing their collaboration through INTERPOL and diplomatic channels. I am informed by my colleague, the hon. Minister of Foreign Affairs, Regional Integration and International Trade, that a *note verbale* dated 21 March this year, requesting for information and assistance in the said case was sent to the Malagasy Authorities.

I am further informed that our Ambassador in Madagascar met the *ministre de la Sécurité publique*, Mr Jean-Jacques Andrianisa on 23 March of this year. The Minister

assured our Ambassador that he would send a special team of *police judiciaire* to Antsirabe for an in-depth inquiry. Our mission in Madagascar followed up the matter on 09 April and Mr Jean Bruno Andrianirina, who is *Directeur de la Police Judiciaire*, confirmed that a special team was being sent to Antsirabe for investigation.

Madam Speaker, I can confirm that Mauritius is being fully informed of developments in this case, including the recording of witness statements in Madagascar. The House will, however, appreciate that since the matter is under inquiry, I will not be in a position to give the names of the witnesses who have been interviewed or to divulge the contents of the statements in order not to jeopardise the Police inquiry.

I, however, wish to reassure the House, Madam Speaker, and the deceased's family that I will take a decision on mutual legal assistance or Rogatory Commission in the light of evidence gathered at the appropriate stage, and this based on evidence gathered. Suffice it to say that it is, at this stage, premature to send any mutual legal assistance request or initiate procedures for a Rogatory Commission.

Madam Speaker, with regard to part (e) of the question, the question of introduction of legislation to allow for the extraterritorial jurisdiction of the Republic of Mauritius in respect of homicide cases in which victims are Mauritian citizens, the question simply does not arise.

Our law sufficiently caters for extraterritoriality in specific circumstances for the trial of offenders in Mauritius where there is a nexus with Mauritius. Our law, furthermore, sufficiently caters for mutual legal assistance in criminal and related matters. In this specific case, the inquiry has, so far, revealed that the only nexus with Mauritius is that the victim is a Mauritian. The accused parties have not been identified and it is, therefore, premature to reach a decision as to whether there is a sufficient nexus with Mauritius for our Courts to assume jurisdiction.

Madam Speaker, I wish to reassure the House that Government is leaving no stone unturned to unravel the truth in this matter. I also wish to reassure the House that this matter has received and is still receiving the attention of Government at the highest level. As a matter of fact, no else than seven Ministers, including the hon. Vice-Prime Minister, the hon. Deputy Prime Minister, and the hon. Prime Minister himself have personally met Mr Elvis Eléonore, the father of the deceased so as to be brief on the case. Government fully supports the efforts put in by Mr Elvis Eléonore for his search for the truth.

Thank you, Madam Speaker.

**Mr X. L. Duval:** Madam Speaker, *le certificat de cause de décès* refers to *maladie non transmissible*, Code 959.8. Can the hon. Minister tell us what is this Code 959.8?

**Mr Gobin:** Madam Speaker, this is a matter specifically being investigated by the Police and I do not wish to venture, at this stage, to give any pronouncement as to this.

**Mr X. L. Duval:** Madam Speaker, Code 959.8 is a public matter. The hon. Minister is not aware; has not even bothered to check. It is, Madam Speaker, death from multiple injuries. So, my question relates to the protocol in Mauritius, receiving a body and nobody, it seems, has verified that this was not a natural death. This was, obviously, some unnatural death from multiple injuries. Nobody – it is not his Ministry, it is the Ministry of Health and Quality of Life – at the airport bothered to find out what was this 959.8. It was a *ti dimoune* who had died. Nobody cares!

**Madam Speaker:** No, do not make statements, hon. Leader of the Opposition!

*(Interruptions)*

Ask your question! Don't make statements!

**Mr X. L. Duval:** Madam Speaker, I will show clearly...

*(Interruptions)*

**Madam Speaker:** Order!

**Mr X. L. Duval:** Don't rush! Madam Speaker, I will ask the hon. Minister whether he will use his 'good offices' to have the protocol change at the airport for the future so that when a body arrives under suspicious circumstances, it is not just left alone and the authorities are not acting properly?

**Mr Gobin:** If the hon. Leader of the Opposition wants to cause any prejudice to the Police inquiry, I will leave that up to him. The matter is being looked at. The matter is, indeed, turning around how this certificate was issued in Madagascar. This is precisely one of the elements. I don't want to cause any prejudice to the inquiry. The question of the protocol of the Ministry of Health and Quality of Life is another matter, Madam Speaker. If the hon. Leader of the Opposition wants to come with a specific question, I can come to it.

**Mr X. L. Duval:** This is a specific matter, that is, where the issue started. The body was received and was allowed to be buried by the Civil Status Office without checking because nobody verified what the certificate of death said. Nobody even bothered!

Now, Madam Speaker, since the hon. Minister has told us that he has received the person - he did indeed receive the person upon intervention of the hon. Deputy Prime Minister - can he tell us where he received the person, whether he received the person in his office or whether he received the person in a condescending manner in the corridor? Madam Speaker, I will table a copy of the letter from the father of the deceased person, telling how shamefully he was received by the Attorney General.

**Mr Gobin:** There is nothing to be ashamed of, Madam Speaker. Since the hon. Leader of Opposition wants to have the details, 08 December was a day when the Assembly was sitting. My presence was required here. I went to my office to see Mr Eléonore. I know Mr Elvis Eléonore is listening to me. I met him in my office, but told him: "I have to walk back. If you care to walk back with me, we will talk on the way." And this is what we did. We both walked back up to the point where I had to come back to the Assembly, inside the Chamber. There is nothing to be ashamed of, and this is where he exchanged with me about...

*(Interruptions)*

This is up to the hon. Member!

**Madam Speaker:** Order!

**Mr Gobin:** I will leave it to the appreciation of the people of Mauritius!

*(Interruptions)*

**Madam Speaker:** Order!

*(Interruptions)*

Order on this side, please!

**Mr X. L. Duval:** He did not just tell us that firstly he has refused to receive the person. It was only upon intervention of the hon. Deputy Prime Minister - and hand it to him - that he accepted to receive the father of this poor deceased boy.

Madam Speaker, on the second occasion, on 22 March, he gave, this time, an official appointment to the father of the deceased, and again, would you believe, Madam Speaker, he was in a rush, and again he received the father of this person in his corridor, never in the

office, and I will table a copy of the letter from the father, who is here listening to us today. Isn't that, Madam Speaker, a shameful way of treating the parents of a child who died, only because he is a *ti dimoune* and it does not matter?

**Mr Gobin:** I will leave it to the appreciation of the people of this country to decide whether this is shameful or whether I have done my duty to hear him and to advise him what to do. And the people will decide whether this Government is committed to helping the *ti dimoune* the Leader of Opposition is referring to.

*(Interruptions)*

My reply contains all the details of what we have done, and this gives an idea of what we will do to support Mr Elvis Eléonore in his efforts to uncover the truth.

**Mr X. L. Duval:** Madam Speaker, the death was in November, we are now in May, and the public will judge for themselves, Madam Speaker.

Madam Speaker, all along, the hon. Attorney General has refused to offer any assistance at all, not even to the point of designating one of his officers in his Ministry to help this poor family who is living in tremendous state of stress and hell.

Madam Speaker, let us say now that we know he has been callous. But for future cases, will he not have a liaising officer in his Ministry, from now on, so that he does not need to meet them? He is a busy man. But he can get his officers at least to help people in this dire situation.

**Mr Gobin:** I do not know from where the hon. Leader of the Opposition gets these ideas that the State Law Office is the adviser on cases which are under Police inquiry. The State Law Office is the adviser of Government. The role of the State Law Office is prescribed in section 69 of the Constitution. I think the hon. Leader of the Opposition has to go back to the Constitution and read.

**Mr X. L. Duval:** Madam Speaker, the Police have been inquiring ever since 01 December when there was the first declaration by Mr Elvis Eléonore, the father. They have been inquiring so much that nothing has been done up to now.

Is the hon. Attorney General aware that it was yesterday - I do not know if they heard of the PNQ - that Inspector Rokaya - I don't know if he is here - phoned the undertaker - yesterday - to ask for a report on this case? Is he aware of the lax manner in which the Police are treating the death of a young Mauritian in Madagascar?

**Mr Gobin:** This inquiry, Madam Speaker, is proceeding, insofar as I am concerned, to my satisfaction. We are being kept informed of whatever is happening in Madagascar, and we are also being kept informed as to whatever is happening here. This is a case of violent death, and I was the first one to say so, way back in February, in the course of a Press conference. If my memory serves me right, it was on 03 February. I termed it a violent death. They were not even aware of what was happening then. This is not an accounting exercise, where you just balance the books. It is an inquiry which will proceed and which takes time.

*(Interruptions)*

**Madam Speaker:** Hon. Leader of the Opposition!

**Mr Gobin:** I know what happened yesterday, and I know other things. I know other reports which happened yesterday.

*(Interruptions)*

*En tant que responsable*, I do not want to cause any prejudice to the Police inquiry, unlike them.

**Mr X. L. Duval:** Shame on the Minister, Madam Speaker. Shame on the Minister! It is exactly why we are saying that the Human Tissue (Removal, Preservation and Transplant) Bill should not be passed as it is.

Madam Speaker, as the hon. Minister is happy sitting in his office, receiving people in the corridor, the trail is getting cold. It's been what? Seven, eight months since the death? What is the hon. Minister going to do tomorrow, tonight, now, so that the inquiry can be at least taken seriously by the Mauritian Police?

**Mr Gobin:** Madam Speaker, I am satisfied that the inquiry is being taken seriously.

**Mr X. L. Duval:** Madam Speaker, what is the reason why, since the death was in November, he has not still now, as the central authority, the competent authority, not asked for mutual legal assistance from his counterparts in Madagascar? The rest has been done; written here and there. It is not legal; it is not the law. The law provides for the Attorney General to contact the judicial authorities there. Why hasn't he done so up till now?

**Mr Gobin:** I have not done so because it is premature. I need evidence to back my request, and I will do so at the appropriate stage, on evidence received and on request, either from State of Mauritius to Madagascar, or from State of Madagascar to Mauritius. Maybe the hon. Leader of the Opposition should go back and read the law.

**Mr X. L. Duval:** Obviously, the hon. Minister is too busy to even have read the *certificat de décès*. He would have found out that it was, in fact, a violent death, not as he had presumed.

Madam Speaker, in the previous cases, our Police Inspectors – that is worth – have travelled to Seychelles for inquiry. In this case, there are three Mauritian witnesses to this violent death. *Raison de plus* why our Police Officers should have been despatched rapidly, Madam Speaker, to Madagascar...

**Madam Speaker:** Ask your question!

**Mr X. L. Duval:** ...to at least interview these three Mauritian witnesses in this case.

**Mr Gobin:** I can assure the House that the witnesses have already been interviewed.

*(Interruptions)*

If the hon. Leader of the Opposition cares to listen, he will hear.

**Mr X. L. Duval:** I missed the answer, Madam Speaker. Is he aware that...

*(Interruptions)*

**Madam Speaker:** Hon. Adrien Duval!

*(Interruptions)*

**Mr X. L. Duval:** *Kuma to koné ti coq?*

*(Interruptions)*

**Madam Speaker:** This is no laughing matter. I am sorry!

*(Interruptions)*

**Mr X. L. Duval:** *Kuma to koné ti coq?*

**Madam Speaker:** Please! Order!

**Mr X. L. Duval:** Madam Speaker, let me just...

*(Interruptions)*

This is not a funny...

*(Interruptions)*

**Madam Speaker:** Hon. Thierry Henry! Please, this is no laughing matter. It is a serious matter which is being debated.

*(Interruptions)*

Please, no provocations on your side also! Hon. Leader of Opposition, please proceed!

**Mr X. L. Duval:** Madam Speaker, I want to ask when will Mauritian Police Officers be despatched to Antsirabe and elsewhere to talk to the Mauritian witnesses who are there. When will that happen?

**Mr Gobin:** The hon. Leader of Opposition wants me to give the date so that those witnesses can disappear over there, knowing that the Police Officers are coming. If they care to take some time to think before asking questions, they will have the answers themselves.

**Mr X. L. Duval:** Madam Speaker, the hon. Minister is just running away from the questions and from his responsibility, and it is the same arrogance that he is showing today in the House that he is showing to the parents of the deceased, and the public will be judge of that.

*(Interruptions)*

Madam Speaker, the same arrogance...

*(Interruptions)*

...same callous attitude...

*(Interruptions)*

**Madam Speaker:** Please! Order!

*(Interruptions)*

**Mr X. L. Duval:** Poor, defenceless people who are watching him today, Madam Speaker.

Madam Speaker, in the matter of extra...

*(Interruptions)*

I want to ask one thing. There is evidence from the report of Dr. Satish Boolell that this person, this young boy, Madam Speaker, died, as I said, I am quoting: "There is evidence of serious aggravated physical assault." I will lay a copy of this on the Table of the House: "serious aggravated physical assault". But there is worse than that! Dr. Boolell, again, says

here, that there is evidence *que le crime a été maquillé*, that the injuries were sutured, that, therefore, the body was prepared and sent to Mauritius. This is again a reason, Madam Speaker, because he was not just beaten up, but also the body was prepared and sent to Mauritius *maquillé*.

**Madam Speaker:** Put your question!

**Mr X. L. Duval:** This is why I am asking the hon. Attorney General when will these Police officers go, so that at least we can also talk to the people in a *commission rogatoire*, to the hospitals, etc. and the doctors who may have done this *maquillage* there.

**Mr Gobin:** Yes, it is indeed on the basis of the autopsy report of Dr. Satish Boolell that the authorities in Mauritius drew the conclusion that it was a case of violent death. The autopsy report was very revealing, of course. However, as I stated, the enquiry is progressing, the relevant witnesses are being interviewed. I say it again, I don't want to give the names of the witnesses. I also don't want to give the statements that they have given. Suffice it to say that I have it, but I don't want to reveal it here, in public. It will inevitably prejudice the Police enquiry.

**Mr X. L. Duval:** Can the hon. Attorney General give the reason why it was only yesterday that Inspector Rokaya phoned Elie & Sons to get a report - the first thing he should have done - on how the body arrived in Mauritius? Why only yesterday?

**Mr Gobin:** There were events which have happened in February, March, April. Many things have happened. Of course, some events also happened yesterday. There is nothing sinister there, Madam Speaker, except for those who ...

*(Interruptions)*

Exactly!

*(Interruptions)*

**Madam Speaker:** No provocations!

*(Interruptions)*

**Mr Gobin:** ... who have an agenda of their own!

*(Interruptions)*

**Madam Speaker:** No provocations!

**Mr X. L. Duval:** Madam Speaker, the Police has been sleeping on this matter and there has been no pressure at all from his Office, from anybody else in Government regarding this ‘*ti-dimoune*’ who has died. Madam Speaker, on the last point of extraterritorial jurisdiction...

*(Interruptions)*

Of course, if it was a bigwig everybody would have been on the case! Nobody cares! This is why I had to take it up and I am happy I took it up.

Madam Speaker, the question of extraterritorial jurisdiction, it exists as the hon. Attorney General said, in a number of cases. But this is a case of murder of a Mauritian national, a young boy. There are Mauritian witnesses. Possibly, the guys may know more than they are saying. Possibly, they are involved in the crime ...

**Madam Speaker:** Hon. Leader of the Opposition...

**Mr X. L. Duval:** ...so this is why I am saying...

**Madam Speaker:** Hon. Leader of the Opposition, is that your last question?

**Mr X. L. Duval:** Yes, it will be.

**Madam Speaker:** Hon. Baloomoody has a question; I will ask him and then the hon. Leader of the Opposition can ask his last question.

**Mr Baloomoody:** Thank you, Madam Speaker. Madam Speaker, it is not the first time that when a death occurs outside Mauritius, when post-mortem is carried out in Mauritius we have contrary results to the certificate issued by the foreign country. We had an example in Seychelles recently, and now in Madagascar. Can I ask the hon. Attorney General whether he intends to amend Section 48 of the Civil Status Act so as to make it compulsory when there is a death outside Mauritius, that a post-mortem be carried out in Mauritius before a Certificate of Burial is issued, because many people don't have the means? This one was done privately, they had to pay; they have the means. So, can I ask the hon. Attorney General whether he is prepared to amend that Section 48, so that when a death occurs outside Mauritius, before a Certificate of Burial is issued, there should be a post-mortem carried out in Mauritius by the Police Medical Officer?

**Mr Gobin:** I will look into the matter, Madam Speaker. It is a valuable suggestion.

**Madam Speaker:** Before your last question, hon. Leader of the Opposition, you have just laid on the Table of the Assembly a letter from Mr Elvis Eléonore. Could you kindly request him to sign that letter, then we will...

*(Interruptions)*

If the hon. Leader of the Opposition has a signed copy, please send over the signed copy. We will give him back this one and then we can accept the document.

**Mr X. L. Duval:** Madam Speaker, I am tabling a signed copy if you return the other one. Thank you, Madam Speaker. Madam Speaker, the letter confirms everything that I am saying here. It was given to me this morning. I was doubting whether someone would doubt my words, this is why I have it all in writing.

**Mr Gobin:** I agree.

**Mr X. L. Duval:** Thank you. Madam Speaker, this question of extraterritorial jurisdiction would have allowed a judicial inquiry in Mauritius. Now, it appears that the DPP and the Magistrates are not able to have a judicial inquiry because they don't have jurisdiction. This is why I am asking again the hon. Attorney General - Budget is coming up, lots of laws will be changed - this is the occasion to do justice to any Mauritian in the future who meets with a violent death anywhere in the world.

**Mr Gobin:** I don't know who has advised the hon. Leader of the Opposition that a judicial inquiry is not possible at this stage. I have said it is premature. We need a nexus with Mauritius for the Courts to assume jurisdiction. The inquiry will reveal whether there is sufficient nexus or not. It is the duty of this Government, and we are living up to our duty to assure that every citizen in this country gets justice. We have not been beating a drum and saying to everyone what we are doing in this case, because it is a sensitive case where, I say it again, the accused parties have yet to be traced and arrested. This is why we need to keep confidentiality. Well, now the hon. Leader of the Opposition has chosen to bring everything public, he will take his responsibility. I assure the House, once again, that Government is committed at its highest level, including the hon. Prime Minister himself who is personally being briefed on the case regularly, both as to what is happening here and what is happening in Madagascar. I do not want to venture to say anything more now because I do not want to cause prejudice to the inquiry. But I wish to reassure more especially the family, it is not a question of whether I met them on the way to Assembly, which says the extent of our commitment ...

*(Interruptions)*

...look at what we are doing and look at the results at the end of the inquiry. This is my message not only to the hon. Leader of the Opposition, but to every citizen of this country. Thank you, Madam Speaker.

**Madam Speaker:** Time is over!

### **MOTION**

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

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

**Mr Hurreeram rose and seconded.**

*Question put and agreed to.*

(3.36 p.m.)

### **STATEMENT BY MINISTER**

#### **ALBION – AVENUE DES WATERLILY & BUS SHELTERS – WORKS IMPLEMENTATION**

**The Prime Minister:** Madam Speaker, at the sitting of 22 May 2018, following my reply to Parliamentary Question B/421, hon. Lepoigneur sought clarifications with regard to -

- (i) exercising of Quality Control during implementation of projects, taking as an example the upgrading of Avenue des Waterlily, and
- (ii) the fact that two different amounts had appeared for the construction of a bus shelter at Albion in the list tabled in reply to PQ B/195 of 17 April 2018.

I wish, therefore, to bring the following clarifications. I am informed by the National Development Unit that it has put in place a system of Quality Control to ensure that works are carried out as per scope of works and specifications in the contract. For each project, works are supervised by qualified engineers throughout the execution of the work and the quality of materials used is subject to various tests carried out at the Material Testing Laboratory of the RDA.

For the project, upgrading of Avenue des Waterlily at Albion, the scope of works comprised the resurfacing of about 4,950 square meter of road, with reshaping works when required. The asphalt work was carried out on 13 January 2016. After completion of the project, payment to the contractor was effected after ensuring that all test reports confirmed that the materials incorporated in the works conformed to specifications. Also, the road was in good condition before handing over to the District Council of Black River for maintenance.

With a view to ascertaining that the road at Avenue des Waterlily was in good state, a site visit was affected by officers of the NDU and the District Council of Black River on 22 May 2018. These officers have reported that the road was in good condition, except that there were localised damages at a few locations. I am informed that these damages were the result of works carried out by the Central Water Authority and vehicular movement on the road infrastructure which was undermined by infiltration of stagnated water following the recent heavy rainfall.

Madam Speaker, the District Council of Black River will soon undertake remedial action.

With regard to the project for the construction of a bus shelter at Albion, I am informed that there is only one project that has been implemented by the District Council of Black River from funds made available by the NDU. The estimated cost of this project was Rs860,000, inclusive of VAT, and at completion the total amount paid to the contractor was Rs798,934.90, inclusive of VAT.

Unfortunately, due to an oversight this project appeared twice, one with figures of the estimated cost and the other with the exact amount paid on the list which was tabled in reply to PQ B/195. The officers of the NDU have been cautioned to be diligent while submitting information.

I would like to stress that this project does not comprise only the construction of a bus shelter, but the scope of works also included the construction of an absorption drain, construction of 162 sq km tarmac, supply and fixing of benches, excavation and other associated works. The bus shelter is made up of timber structure as well as zinc aluminium profiled sheets.

Thank you very much, Madam Speaker.

**PUBLIC BILL***Second Reading***THE HUMAN TISSUE (REMOVAL, PRESERVATION AND TRANSPLANT) BILL****(NO. V OF 2018)**

*Order read for resuming adjourned debate on the Human Tissue (Removal, Preservation and Transplant) Bill (No. V of 2018).*

*Question again proposed.*

(3.41 p.m.)

**Dr. R. Sorefan (Fourth Member for La Caverne & Phoenix):** Thank you, Madam Speaker, for giving me the opportunity to contribute my views on this passionate debate.

Before I start, Madam Speaker, allow me to thank all those who were very concerned of my health lately in this House, all Members of Parliament, all staff, Police Officers and staff of Dr. A. G. Jeetoo Hospital, without forgetting my family and the public at large. Thank you again.

Madam Speaker, let me come to the Human Tissue (Removal, Preservation and Transplant) Bill. Madam Speaker, I read the Bill of 2006 and my reading of this 2006 Bill was that it was very cumbersome. It is not as we usually draft a Bill. It is too enumerative and not easy to put in practice. That is why probably it was not proclaimed except for a few exceptions. Anyway, Madam Speaker, everything has a proper time. Probably the 2006 Bill was not appropriate to be brought in the House at that particular time. People and their representatives were not well versed and canvassed for tissue transplant at that time.

Madam Speaker, now it is the proper time to come with this Bill. I congratulate the hon. Minister of Health and Quality of Life to present this Bill to the House and without forgetting the ex-Minister of Finance, hon. Gayan, who canvassed tissue transplant to many organisations.

*(Interruptions)*

**Madam Speaker:** When was he Minister of Finance?

**Dr. Sorefan:** What did I say? Hon. Gayan, ex-Minister of Health.

**Madam Speaker:** Yes, not Finance!

**Dr. Sorefan:** Sorry.

Without forgetting the ex-Minister of Health, hon. Gayan, who canvassed tissue transplant to many organisations and the public. And I happened to be present at the last meeting and the outcome was excellent; everybody was convinced about organ transplant and now is the proper time to present this Bill to this House, Madam Speaker.

Madam Speaker, in the 2006 Bill, section 12(2), it was stipulated that –

“No person, other than an authorised medical practitioner, shall perform a transplant.”

A medical practitioner, not a specialist! Definition as per section 2, that is, the section of Interpretation –

““medical practitioner” means a person registered as general practitioner or specialist under the Medical Council Act;”

This section 12(2) is enough to devalue the Bill 2006. How can an Act allow a medical practitioner to perform oral transplant?

In the amendment brought in 2013, 7 years later, section 2 of the principal Act ‘authorised consultant’ was replaced by ‘authorised specialist’, having at least 5 years’ experience in transplant surgery, etc. But no amendment to section 12 was brought. How could a responsible Government of today proclaim such an Act of 2006 with the 2013 amendment so as to start transplant in Mauritius earlier as a few Members in the Opposition are claiming that we have lost a lot of time? I am convinced, Madam Speaker, that this is the right time to pass the Bill.

Madam Speaker, let me come to this Bill of 2018. To elaborate some issues, Madam Speaker, this Bill is the first legal ingredient on which tissue and organ transplant can be performed. It may be slow but I believe, as the proverb says, “slowly but surely”. This Bill is the foundation stone for successful transplant. This Bill will hopefully bring more donors. This Bill will undoubtedly save life and improve the quality of life. That is what the appellation of the Ministry concerned is, that is, Ministry of Health and Quality of Life.

This Bill, Madam Speaker, will, in the long run, change the attitude of Mauritians towards donating and accepting tissue and organ. This Bill will initiate educative material to children, young ones and adults. This Bill, Madam Speaker, will teach us to adapt to change or perish. This Bill, Madam Speaker, makes room for amendment to be brought in the future if the need arises. And, finally, this Bill has been well canvassed, documented and accepted

by the majority of the Mauritians. Let us be positive and look forward and move forward. Negativity to this Bill will not create the sense of happiness.

Madam Speaker, let me know come on the benefit of kidney transplant versus dialysis. Why I have chosen kidney? Because it is the most common transplant done today, and most successful. Madam Speaker, when someone's kidneys fail, one needs one of the two treatments to stay alive: a kidney transplant or renal dialysis.

Madam Speaker, when patients attend dialysis departments of hospitals, be it local or international, they attend with the myth that they can live forever on dialysis, but this is simply not the case. Why? Dialysis is a lifesaving treatment; it performs only about 10% to 15% of the work of a functioning kidney.

The impact is tremendous. It can cause many other serious health problems and complications, that is, anaemia, bone disease, high blood pressure, heart disease, nerve damage and infection. On average, Madam Speaker, the life expectancy of a patient on dialysis is generally five years.

Madam Speaker, on the other hand, patients who receive a kidney transplant live longer than those who stay on dialyse. Madam Speaker, a living donor kidney functions on average 12 to 20 years and a deceased donor kidney from 8 to 12 years. Madam Speaker, the one who gets a kidney transplant before dialysis lives an average of 10 to 15 years longer than if he stays on dialysis. Younger adult patients benefit the most from kidney transplant, but even adults as old as 75 years old can live an average of four more years. Madam Speaker, even though kidney transplant is a major surgery with a phase recovery period, it can, in comparison to dialysis, offer one the opportunity for a longer more satisfying life, having more energy, a less restricted diet and fewer complications with a transplant than if he has to stay on dialysis.

Madam Speaker, I have a saying of my own which goes to say: "As we grow older, we walk slower." You know why, Madam Speaker, because we do not want to reach our final destination.

Madam Speaker, renal transplant through this Bill will definitely make the final destination some years far away for many recipients. Madam Speaker, the success of prolonged life that I have mentioned above is only positive and after years of research, the one and only one scientific requirement is the high compatibility of organs between donors and recipients.

If the degree of compatibility is below the required percentage, then the recipient will undoubtedly be on immunosuppressive agent with less quality of life and more complications. In the beginning of renal transplant, ABO compatibility test was performed. It was about 40 years ago. Madam Speaker, at that time, I was a student at the London Hospital Medical College and that was an internationally world-renowned research centre in ABO compatibility test. Madam Speaker, I must share what was revealed at that time. A father needed a kidney transplant and his 20-year old daughter agreed to be a donor. Do you know what the outcome of the ABO test revealed after the compatibility test, Madam Speaker? Our professor found that the daughter was not the biological daughter of the father. The kidney was not compatible.

*(Interruptions)*

What her mum did 21 years ago? I don't know.

*(Interruptions)*

What happened to the family? I don't know, Madam Speaker.

Now, Madam Speaker, we have sophisticated tests like focusing on the best possible histocompatible HLA match between donor and recipient. Madam Speaker, let us forget the kidney transplant for a while. Let us see some views of religious bodies that will promote this Tissue and Organ Bill. I will only quote from an Islamic point of view. I dare not venture on other religious beliefs, Madam Speaker.

Madam Speaker, the majority of the Indo/Pakistan scholars are of the view that organ transplant is not permissible. While many Arabs scholars and some scholars of the Indian subcontinent give permission under certain conditions, no one has given a general and conditional permission for transplantation of organs. Madam Speaker, I have gone through the reading of the views of impermissibility versus the view of permissibility. I am personally convinced of the view of permissibility of organ transplant. Madam Speaker, the current procedure of organ transplantation is not considered dishonouring a human body. The surgery is performed in the most respectable way and it is not considered to be disrespectful, same like we perform cardiac surgery, general surgery, caesarean to bring a child to life and many other types of surgery.

Let me, Madam Speaker, mention a case that we have heard of. For example, a pregnant woman dies and the child is still alive in the womb. If we believe that we must save the life then without hesitation surgery caesarean will follow to save the life of the child

because this child is a human being. Madam Speaker, if one is confronted with two evils, one should choose the lesser of the two. Madam Speaker, if an individual is drowning or is in the midst of a burning flame, it is totally permissible to go and save him and put yourself in danger. Similarly, it is permissible to donate your organ in order to save the life of a fellow human being. Madam Speaker, the content of this Bill makes provision of surgery to be done in recognised institutions and by specialists with five years of experience. This is to show that the human body is treated for surgical purpose with utmost care and respect. Madam Speaker, major scholars from around the globe have extensively researched and came with the following verdicts. Madam Speaker, allow me to enumerate all the resolutions that they concluded. I am talking from Islamic scholars. It is very important...

*(Interruptions)*

**Madam Speaker:** I am sorry to interrupt hon. Dr. Sorefan. I have said several times that all mobile phones should be switched off.

**Dr. Sorefan:** Madam Speaker, allow me to enumerate all the resolutions that came from the Islamic scholars and that they concluded. It is very important if we want this Bill to be functional. It is slightly lengthy, but very important. Please allow me, Madam Speaker, to read those rulings that they have come and concluded. Actually, we call that in the Islamic laws, Sharia rulings -

- (i) it is permitted to transplant or graft an organ from one place of a person body to another, so long as one is careful to ascertain that the benefit of this operation outweighs any harm that may result from it and on the condition that this is done to replace something that has been lost or to restore its appearance or regular function or to correct some form of disfigurement which is causing physical or psychological distress;
- (ii) it is permitted to transplant an organ from one person body to another if it is an organ that can regenerate itself such as skin and blood, provided that the donor is mature and fully understand what he is doing and that all the other relevant Sharia conditions are met;
- (iii) it is permitted to use part of an organ that has been removed from the body because of illness to benefit another person such as using the cornea of an eye removed because of illness;

- (iv) it is unlawful to transplant or use an organ on which life depends such as taking a heart from a living person to transplant into another person;
- (v) It is unlawful to take an organ from a living person when doing so could impair an essential vital function, even though his life itself may not be under threat, such as removing the corneas of both eyes. However, removing organs which will lead to only partial impairment is a matter which is still under scholarly discussion.
- (vi) It is permitted to transplant an organ - very important this one as per our Bill - from a dead person to a living person whose life depends on receiving that organ, or whose vital functions are otherwise impaired, on the condition that permission is given either by the person before his death or by his heirs, or by the leader of the Muslims in cases where the dead person's identity is unknown or he has no heirs.
- (vii) Care should be taken to ensure that in all of the above situation where transplantation is permitted, no buying or selling of organ is involved. It is not permitted to trade in human organs under any circumstances. However, the question of whether the beneficiary may spend money to obtain an organ he needs, or to show his appreciation, is a matter which is still under the research of the scholars.
- (viii) Anything other than the scenario described above is still subject to scholarly debate, and requires further detailed research in the light of medical research and Shar'i rulings.

Madam Speaker, I had to say it from the Islamic point of view because in Mauritius we have multiracial people living and I want to give the views of some Muslim scholars. Madam Speaker, many Arab and Muslim countries are for organ donation, like Egypt, Malaysia, Algeria, Saudi Arabia, Kuwait, Turkey, Jordan, UK Muslim Council, Indonesia and some others. Madam Speaker, this Bill, through its regulations, in case of diseased donors, after donation the body will always be returned to the family in the same way as any death in a hospital where donation has not taken place.

Madam Speaker, I had to mention the above to minimise apprehensions from the Islamic point of view, but without forgetting that this Bill, through regulations, will respect

the view of persons contrary to the above views. The family has the final words which will be respected.

Madam Speaker, commercialisation of organs must not and should not be entertained in Mauritius. Our legal framework in this Bill is very explicit. Sections 21 and 22 of this Bill, Madam Speaker, are meant to prevent the illegal trading of organs and limit how and by whom donation can be made. This Bill, with stringent regulations, will further safeguard Mauritians from trading organs in Mauritius. The word 'payment' in section 22 was proposed - and I see amendment brought today, but I have prepared that last night - to be replaced by 'reward'. But 'payment' is a synonym among other synonyms of 'reward'. So, we can't take all the definition of 'reward' and put it in this Bill, it will create havoc for interpretation, but I see 'gratification' is being used to replace 'payment'.

Madam Speaker, as regards the issue of setting up the Board that hon. Members of the Opposition are crying out, they only said that the President of the Republic should consider selection of the Board members for independent sake. Madam Speaker, how many Bills have gone through this House with the same formula where the need arises for the setting up of a Board? It is quite normal for a Minister to set up a Board from within officers of high rank from his Ministry to sit on the Board because, firstly, they know and have a good experience of their Ministry's functional affairs. Secondly, there will be a good follow-up.

Madam Speaker, if we have members from the private sector solely to sit on a Board, they will have to learn from scratch. Madam Speaker, it will be excellent to set up a Board if we had research clinical professors in the field of transplant from medical teaching hospitals, but, Madam Speaker, we don't have such institutions in Mauritius. In foreign countries, they have Scientific Advisory Board made of eminent research professors in the field of transplant.

Madam Speaker, it has been said in this House that we need to set up adequate infrastructure before we embark in organ transplant. Madam Speaker, I have learnt and appraised that we do have the required infrastructure now at the Cardiac Centre at Candos. All we need is to recruit a surgeon to start transplant within weeks or months. How come we did some renal transplants in the past? How were cardiac surgery, open-heart surgery done in the days when Professor Hassan Raffa came to Mauritius to do the first open-heart surgery? There were the infrastructure a long time ago, about 25 to 30 years ago.

Madam Speaker, we have the required infrastructure to contemplate organ transplant with the proclamation of this Bill. Madam Speaker, we must have constructive arguments and trust from hon. Members of Parliament for the implementation of this Bill for suffering Mauritians. Madam Speaker, do you know how some people were dead against performing the first open surgery by a Mauritian team headed by Abdool Sorefan, the Cardiac Surgeon and Dr. Mustafa Sorefan, the cardiologist trained by Prof. Hassan Raffa in Saudi Arabia? The reason was an element of mistrust. Some Mauritians don't believe in our doctors' competence and they still don't. Mauritius has produced experienced doctors and surgeons regarding the first open heart surgery by the Mauritian team. I, myself, amongst others, talked to high ranked officers of the Ministry of Health and Quality of Life and the green light was given. Surgery was performed on a lady who was unfit to travel abroad for surgery, and the result was successful. The lady is still alive and has got children afterwards. Madam Speaker, why I relate this event? It is just to tell all Mauritians to have confidence and trust in our doctors and surgeons.

Madam Speaker, the last two issues that I must elaborate briefly are confidentiality and prevention. Confidentiality, Madam Speaker, surgery can be successful 100%, but if confidentiality is not a golden rule among staff of the surgical team in hospital, there will be a 100% psychological failure. Why I say so? It is because the recipient knowing where the donated organ come from, they may not like it and that create psychological stress for the end of their life. Too often, Madam Speaker, the hospital staff gets the pleasure of mentioning so and so, had such and such treatment done, which I witnessed recently myself, and I am sure some Members will agree with me.

Madam Speaker, through this Bill, I am sure regulation will stress confidentiality clauses so that the recipients do not know where the organ comes from.

The last one, Madam Speaker, is prevention. Madam Speaker, this Bill, as I said, is the foundation stone of legal framework of tissue and organ transplant. Today, we have many diseased patients that need transplant, and this will go far for many years. In these long future years, we must vigorously stress the importance of prevention of disease that causes failure of organ. In one field, that we have succeeded is replacement of cardiac valve. When I came back from my studies from London, in early 80's, rheumatic heart fever was highly prevalent and was causing valve disease; that was why Prof. Hassan Raffa came to set up cardiac surgery, valves were repaired and transplanted by mechanical valves.

Today, rheumatic heart disease is hardly heard of, and less cardiac valve replacement. What has gone prevalently high is ischemic heart disease now, due to coronary disease that need instant and bypasses because of our high sugar and cholesterol food. My dream, Madam, Speaker, is in the next 20 and 30 years - I am sure I won't be here to witness - that there will be less and less organ transplant, for example, kidney and others, hoping there will be many donors and a very handful of recipients, because our prevention should take over disease.

To sum up, Madam Speaker, this Bill is a fruitful foundation stone that I call an excellent idea. It will do the planning through the regulation. It will be financed to build more infrastructure so as to achieve success which is lifesaving and better quality of life.

Madam Speaker, I would like to invite Members of Parliament and the public to have a look at the structures that I have designed, created and offered to the NDU at the 10<sup>th</sup> Floor, Citadel Mall. These reflect idea, plan, finance and success. I name that structure: 'Rotational Systemic Thinking'.

On this, Madam Speaker, I thank you. God bless all in this month of Ramadan!

Thank you very much.

**Madam Speaker:** Hon. Baboo!

(4.12 p.m.)

**Mr S. Baboo (Second Member for Vacoas & Floreal):** Thank you, Madam Speaker.

Madam Speaker, we are here, today, in this House, about to end the Debate of a Bill, which is of prime importance for the country and in alleviating its ailing population.

We, Members, on this side of the House, all agree that this law is being brought at the right time though we are lagging behind in the field of transplant. I think we could commend the Minister's bold decision in bringing this Bill to the House. Human tissue transplant which is a very sensitive subject, which is beyond race, creed and religion, impacts on health and prolonging life to less gifted people. Human tissue transplant saves, improves and gives a new lease of life to all those receiving the organs. The organ transplantation is a very complex issue, especially for our multi-racial society, all religious views should be respected, and transplant cannot be taken lightly as recycling of a waste product and making use of good

purposes. I believe we should give due credit to the Minister for his laudable initiative in coming up with such a Bill.

The 2006 Act which needed to be brought up-to-date, to be in synchronisation with the change in the health issues, demand and concurrent advances in medical science. I have had the opportunity to discuss with some people from the medical community about the Bill. All are of common view that Mauritius lacks the education and awareness of organ donation and transplant, that we are lagging behind from the rest of the world on the transplant pathology.

Another recurrent issue raised by these professionals, Madam Speaker, was if we had the required trained health care personnel, be it medical and paramedical staffs for these transplantation services to occur. Those who shall be directly involved in the change from donation to the transplantation or disposal of an organ to those whose duties directly affect the quality and safety of an organ. Do we have those competent, suitably qualified or trained personal? We don't Madam Speaker. And, this is the problem which may have a domino effect on the transplantation services, if not tackled properly and professionally as soon as possible.

Madam Speaker, when we hear all the cases of *négligence médicale* for simple health issues, unfortunately, due to a few name ducks affecting our public health, care service, I would urge the Minister to ensure that those who fail to perform their duties in the norm, should be made accountable for it, in order to ensure that health care personnel understand their duties towards patients whom on their side, can feel in safe hands and trust our health services. There should be no room for incompetency, with treatments as important and life changing as transplant surgery which is for sure no trivial matter.

If we come to the Bill itself, Madam Speaker, at a glance, the Bill defines segregates, the rights of donors and so on. But, if we took a look at the core of it, unfortunately, even with all the good intentions of the Minister and the few amendments made, it stays a law will all the powers resting in the hands of the Minister.

Madam Speaker, we cannot have such an important Board with the appointment of most Members under the prerogative of the Minister. Such a Board should, in fact, have the most experienced Members from medical professionals, consultants, quality management to quality assurance experts. If we take into account the accelerating rate of the cancer related diseases and the number in deaths, there is a high need for a cancer specialist to sit on that

Board. We require specialist who can understand these diverse pathologies like blood cancer or any such disorders where blood stem cell or bone marrow transplant are required. Being paid out of public funds, we should ensure that we have the best people sitting on that Board, for best services and to ensure the finest care for donors and optimal patient treatment.

Madam Speaker, the powers being laid in the hands of the Minister is worrying, and may affect the whole process of Board decisions to the end user result. Many orators before me have expressed their concern on this specific issue. There will be a waiting list register for donors. Good enough! But can we have the certainty that the list will be strictly followed and that, too, in full confidentiality? There are numerous setbacks which may occur. Even though there are compatibility issues of donors and recipients to be respected, there may be cases of line jumping. In such situations, we cannot afford putting people's lives on hold, making people live in a state of limbo, waiting for a suitable transplant or having people dying while being on the waiting list or transplant register.

That is the reason why, on this side of the House, we insist for an independent compliant Board operating in full transparency and with no political interference. I would here quote what is stated in the Sixty-third World Health Assembly of the World Health Organisation, Madam Speaker, and which urges Member States, and I quote –

“(4) to promote a system of transparent, equitable allocation of organs, cells and tissues, guided by clinical criteria and ethical norms, as well as equitable access to transplantation services in accordance with national capacities, which provides the foundation for public support of voluntary donation;

(5) to improve the safety and efficacy of donation and transplantation by promoting international best practices;”

We have also noted from the National Audit Report 2017 that serious issues have been raised on wastage of public funds in the Ministry; mismanagement of the Pharmaceutical Department, blatant case of conflict of interest and lack of segregation of duties, impacting on the public health service. We, therefore, need to have a Board which will deliver appropriately and independently and not a non-performing Board managed by some fortune hunters, adding up to more cacophony in our health services, Madam Speaker.

*(Interruptions)*

Coming back to the Bill, clause 9 (a) recommends that medical certificates from two specialists are to be provided. It is for sure that it may be difficult for a donor to attend to

such donation pre-requirement as it would be challenging for a patient to get a specialist to sign such type of certificate. The hon. Minister, being a doctor himself, I am sure, will understand how difficult a situation it can be where we can have patients shopping around for some time in order to get a doctor to provide them with such a certificate. Maybe a team of specialists should be set up by the Ministry, which can facilitate these procedures in the prescribed norms.

As for the donation of tissue by living minors, here, Madam Speaker, it is important that one of the two specialists who are to provide a certificate for the Board application should be a paediatric specialist to ensure that the tissue removal is safe for the living minor's life. We should also have a child psychologist to make sure that the child understands all the implications, for mental and emotional support.

Coming now to clause 11 of the Bill, Donation of tissue by deceased person, although the hon. Minister has reviewed the conflictual clause, Madam Speaker, there should be a proper setup on the way the request for donation will be handled by the health services. We all know how hard it is for any parent to make a decision about organ donation at a terrible time, after a tragic incident. This is an emotional process, and organ donation cannot be taken lightly. Therefore, it is important to have especially trained professionals to approach the family at such extremely difficult moment to discuss the possibility of organ donation.

Another shortfall of the Bill is failing to impose delimitations, boundaries for private clinics. Since all their services are provided against payment, how will the Ministry monitor to ensure that transplant of tissues does not become a high yielding business on their side? I would, therefore, request the hon. Minister to set up an indicative price range for a particular type of organ transplant so that people will have at least an idea about the cost of such operations. If there will be any abuses in the prices, the Board will be able to ensure that there is no abuse by some of those who treat healthcare mainly as a profit-driven enterprise and that the recipients are not suck dried by them.

Getting now to clause 24 on offences and jurisdiction, there is a need for clarity here, Madam Speaker, on who is going to decide whether there have indeed been cases of violations or offences in organ transplant. Will it be doctors assessing their colleague doctors? We all know the fraternity prevailing in the medical community! The hon. Minister should ensure that a pool of experts, with medical and legal backgrounds, is the core assessor in such cases.

Madam Speaker, we have heard hon. Members on this side of the House on this issue and we are not here doing politics with this Bill. We believe that it will be nearly impossible for donors, recipients or families to fight for their rights in such circumstances for clause 27 completely indemnifies the Minister and the whole medical community with good faith factor. Why this absolute immunity, Madam Speaker? What if a Board member takes the decision in giving or not allowing donation of an organ to a recipient and due to the decision taken, the recipient dies? Who will then be accountable?

Clause 28, Regulations, subsections 1 and (2) (c) and (d) state, and I quote –

“(1) (...) the Minister may, on the advice of the Board, make such regulations as he thinks fit for the purposes of this Act.

(2) (c) the designation of health institutions for carrying out the removal, preservation and transplant of tissue;

(d) the designation of health institutions or educational, research or scientific establishments for the purposes of scientific, educational or research;”

Madam Speaker, we are here talking about human beings, health, prolongment of life, our future generation, we cannot, therefore, give leeway to cronies and conflicts of interest to resurface and putting at stake the health of our population. Such designation of health institutions, especially private ones, should be done in full transparency and to the benefit of our people.

Before ending, Madam Speaker, I would repeat myself on the importance of proper legal framework for this delicate and complex issue of tissue transplant. Today, we have a Minister who is from the medical community, who understands and is receptive to the medical environment. We, therefore, need to have proper legal framework to ensure that there is no possibility for *maldonne* by his successors.

We should have a closed door policy for transplantation surgeries on non-citizens of Mauritius, at least at this initial stage, to counteract any risks of organ trafficking and for our sick to have privilege to tissue transplant. Provision should also be catered for proper care and follow-up by the health care services for the donors and recipients to counteract any case of complications and rejections, since these types of surgeries may require the patient to occupy the intensive care unit for some time, or nursed in high dependency wards. Therefore, adequate space should be provided to guarantee that the recipients' health is not at risk for lack of adequate treatment or due to high risk of infections.

Also, Madam Speaker, as I mentioned before, it is very important to have psychologists at the service of the donors, recipients and families, as psycho-social issues like patients' fear, anxiety about the future are present before, during and after transplantation. It is essential that patients recognise and obtain the necessary support because accompanying psychological characteristics such as anxiety and depression are associated with poor health practices throughout the transplant process and may result in impair post-transplant health outcomes.

I would end by saying that there should be an ongoing education for the population on the importance of life saving donations in order to build public confidence in organ transplants. We, Members of the House, the Ministry, educational institutions, social and religious bodies have to share the responsibility of sensitising the population for the relief of the ailing ones.

With this, I thank you, Madam Speaker.

**Madam Speaker:** Hon. Mrs Dookun-Luchoomun!

(6.39 p.m.)

**The Minister of Education and Human Resources, Tertiary Education and Scientific Research (Mrs L. D. Dookun-Luchoomun):** Madame la présidente, il est clair que le *Human Tissue (Removal, Preservation and Transplant) Bill* a obtenu le soutien des membres des deux côtés de la Chambre. C'est un projet de loi, qui, sans aucun doute, va au-delà du clivage politique et partisan. S'il est vrai que certains ont exprimé des réserves sur certains aspects de la législation, il est évident qu'il y a consensus, et j'imagine que c'est tout-à-fait normale car ce projet de loi, madame la présidente, est porteur d'espoir puisqu'il donne la possibilité à quelqu'un de prolonger la vie de quelqu'un d'autre ; c'est un don de la vie. *This Bill, Madam Speaker, is about compassion and generosity.*

Ce projet de loi apporte de l'espoir à des milliers de personnes qui sont en attente d'un don d'organe. Il paraît, Madame la présidente, qu'à chaque minute, il y a un nouveau nom qui s'ajoute à la liste d'attente et on estime qu'aujourd'hui on n'arrive qu'à satisfaire moins de 10% de la demande globale d'organes.

At a time, when transplant therapy has evolved tremendously, we cannot afford to allow people to lose their lives through lack of access to organs. It is also important to note that 70% of total global organ transplants concern kidney transplants.

Madame la présidente, nous le savons déjà, comme l'a si bien indiqué le ministre de la Santé, l'honorable Dr. Husnoo, que nous avons aujourd'hui plus de 1,330 patients sous dialyse, et selon les statistiques, plus de 50% de ces personnes nécessiteront probablement une transplantation de rein. Et cela, sans oublier qu'environ 10% des mauriciens souffrent de maladie rénale chronique et qu'il y a aussi une haute prévalence de diabète et de l'hypertension ; tous deux des facteurs qui peuvent être à la base des complications rénales. Bien sûr, cela nous donne à réfléchir.

Madam Speaker, no one can deny that it was high time for us to come with this piece of legislation so that we may put in place a well-monitored mechanism for human tissue donation, preservation and transplant, which, Madam Speaker, is indeed a tall call. Many of the Members from the other side of the House, and even on our side, have expressed the importance of having the infrastructure, the capacity building. Obviously, it is a gradual process, things will get implemented in due time.

Que propose la nouvelle législation, Madame la présidente ? Premièrement, la possibilité de faire un don d'organe à un être qui n'est pas nécessairement un proche, qui n'est pas nécessairement de sa famille. Vous conviendrez, Madame la présidente, que cela peut, de manière intéressante, permettre une vie meilleure à peu importe quel individu en attente d'un don d'organe. Et on ne devra plus compter uniquement sur la générosité de nos proches, comme c'était le cas dans l'ancienne loi. Ce projet de loi permet aussi à ce qu'une personne puisse explicitement déclarer son vœu de faire un don d'organe durant sa vie, et même après son décès. Et s'il le veut, il peut même déclarer une intention contraire, c'est-à-dire, *opt-out if he so wishes*. Et si jamais une personne meurt sans avoir exprimé une quelconque intention de faire un don d'organe ou d'exprimer une objection à cela, le *Board* ne pourra autoriser un prélèvement d'organes qu'avec l'aval obtenue des parents et des proches. Voilà ce que cette loi prévoit. Un membre de l'Opposition s'était interrogé sur le comment, le où aller faire l'application comme donneur, ou exprimer une objection, ou même revenir sur une décision préalablement faite. Mais c'est claire, Madame la présidente, que le *Board* a la responsabilité, comme le démontre *Clause 5(g)* –

***“5. Functions and powers of Board***

*The Board shall –*

- (j) *keep such registers as it may determine for the purpose of recording such information as may be necessary;”*

And this information, Madam Speaker, refers to the list of applicants for donation, the list of people who would opt-out, the list of recipients and so on and so forth. Obviously, there are structures that are being put in place for that.

Madam Speaker, we should shed our apprehensions, if ever we harbour them. We should perhaps take a leaf off the book of Spain, whose model has resulted in making it a world leader in organ donation since 1992. At a Press conference early this year, the Spanish Minister of Health and Social Services, and Equality, highlighted that: ‘For the first time, in 2017, 5,259 organ transplants were carried out in Spain. This has raised the transplant rate to 113 per million population.’ Just for that year, Madam Speaker, on a daily count, 6 persons donated their organs and 14 transplants were performed daily. To her, Madam Speaker, each transplant demonstrates that the Spanish National Health System guarantees quality, universality, fairness, cohesion and equality to all Spaniards in face of illness. These are precisely the qualities we should fight for when reaching the pain and suffering of our fellow citizens. It would be good to note that when this started in 1989 in Spain, there were only 14 donors per million population. In 1998, the number rose to 31 donors per million population before reaching the figure of 113 in 2017. This is what we should aim at: growing, growing slowly, steadily but surely.

Madame la présidente, depuis l’introduction de ce projet de loi au Parlement, j’ai été très attentive aux interventions de mes collègues parlementaires. Je tiens à rétablir certains faits suite à des réserves émises par certains membres de l’Opposition. L’honorable Leader de l’Opposition avait exprimé ses craintes. *Fears that Mauritius gets transformed into a haven for transplant tourism, he said.* Premièrement, les risques qu’il y ait exploitation des personnes vulnérables, c’est clair que la législation ne permet pas la possibilité de monnayer un don d’organes. Ce projet de loi prévoit des sanctions très sévères pour celui qui essaie de monnayer un don.

*Clause 21, (1) (a) states it clearly.*

***“21. Commercial dealings in tissue***

*(1) Subject to subsection (2), no person shall –*

*(a) make or receive any payment for the supply of, or for an offer to supply, any tissue;”*

It goes as far as saying that you are not even permitted to advertise any wish to donate, but the Minister who has shown that he has an ear, that *il est à l’écoute*, he came with a further

amendment that he will present at Committee Stage where he has gone a step further saying that ‘not only make or receive any payment’, but he went also to add the word ‘gratifications’ so as to make sure that there is no way someone could urge a vulnerable person to donate an organ for a reward of some sort or the other.

Madam Speaker, when we go through clause 21, we see that there are lots of safeguards, lots of measures that will be taken in order to ensure that no such things happen in Mauritius. According to the World Health Organisation Guiding Principles on Human Organ Transplantation, member States have to take measures to protect the poorest and vulnerable groups from transplant tourism and the sale of tissues and organs. That is precisely what we are setting out to do with this Bill. Section 21, as we have seen, comes strongly against the instrumentalisation of human beings for financial gains or other gains.

Madam Speaker, many have suggested that we may, at an initial stage, start by allowing organ transplants only for Mauritians. Now, such safeguards could be included at any time while preparing the regulations. I am sure that the Minister will really go through all the different aspects related to organ transplant and donation and appropriate regulations will be brought. So, there is no need for us to start screaming: ‘This can happen’; ‘that can happen.’ We have to allay our fears and apprehensions.

Let me come to the other point raised with respect to the nomination and composition of the Board. Different countries across the world have set up agencies and bodies that regulate the whole issue of human tissue removal, preservation and transplant. In the UK, it is called the Human Tissue Authority and it is empowered to oversee living organ donation and transplantation. In Spain, it is the Spanish National Transplant Organisation, whereas in Portugal it is the Institute of Blood and Transplant. The point is that there is a need for a regulatory and monitoring mechanism in order to add to the credibility and fairness of the whole process.

The Tissue Donation, Removal and Transplant Board is the ultimate authority in Mauritius to decide on matters related to the subject and the buck stops there. There should not be any problem as to the appointments on the Board being made by the Minister or any person for that matter. What does matter is the professionalism that will be reflected. Again, in the Bill section 4(2) recognises that the Board may not always be self-sufficing, quite the contrary. Although, it will have representatives from the medical professional, from the civil

society and the Attorney General's Office, they is still provision made for expert views of the medical profession to be sought as and when the need is felt.

*Madame la présidente, aujourd'hui, venir dire que le ministre décidera qui sera récipiendaire d'un organe, c'est vraiment démontrer une incompréhension totale des procédures pour une transplantation.* Tissue typing, tissue matching, histocompatibility tests have to be carried out before any transplant is made and so stating that a Minister can favour one patient and thus deprive another more deserving one is just demagogical. I hope that we are here discussing serious matters, *pas de démagogie, s'il vous plaît.* I can hope that much from hon. Members.

*(Interruptions)*

I am very serious for that matter.

*(Interruptions)*

**Madam Speaker:** No crosstalking!

**Mrs Dookun-Luchoomun:** Madam Speaker, we must ensure that a proper and effective monitoring mechanism is put in place so as to allay apprehensions that hon. Members may have on the other side of the House.

Madam Speaker, there is another dimension that we must keep in view when actioning the Human Tissue (Removal, Preservation and Transplant) Bill. The legislation is but the first step. We must now develop the required infrastructure and capacity, and, this, we have seen from examples across the world; it is a gradual process. We have said that we need to proceed cautiously and to ensure that we put in place the right type of mechanism and I am sure that the Minister of Health and Quality of Life will see to it that this is done.

We will obviously need well trained and competent professionals and technicians. Transplant, it is indicated in the Bill, will take place only in designated health institutions. It will thus become important to develop the infrastructure there, but also to station there, permanent teams of specialists who will concentrate primarily on this activity. These dedicated teams will have to act promptly and with great efficiency, and capacity building, therefore, Madam Speaker, becomes imperative.

The transplant teams have to be trained to use the most up-to-date methods and equipment and with expertise in surgical techniques of transplantation as well as that of histocompatibility.

Madam Speaker, appropriate training capacity will have to be the norm. Proper infrastructure will have to be developed in the designated health institutions so as to ensure the success of transplant surgery. We will need to set up tissue and organ banks and trained technicians for proper tissue removal and preservation. We will need to come up with hi-tech histocompatibility labs and all these happen in steps, Madam Speaker.

It will be good here to mention that Spain has currently 139 coordinating teams, one in each hospital, authorised to develop organ donation and transplantation processes.

Madam Speaker, if an organ donation is a means to show one's generosity and solidarity towards another person, it also forms part of the nation-building process. The dissemination of correct information regarding organ donation is a key factor to the success of this project. It will be of prime importance to ensure that people do get information and do get the right information so that they can take informed decisions. Education of people is important. Proper mass information must take place for lack of information should not be allowed to become a deterrence factor.

It is true, as stated by hon. Uteem, that I did make a plea in 2013 for the review of the curriculum and I did make reference to places like Ohio in the States and Ontario in Canada where a review of curriculum of health courses were made to lay stress on the importance of organ donation, its impact on quality of life and procedures of procurement.

The hon. Member queried whether during the past three years of my tenure of office, I had done anything as far as curriculum is concerned to sensitise people from the young tender age to the need of organ donation, to the advantages of life saving methods and to be altruistic.

Let me inform the House that we have already come up with the curriculum reform and that we have also set up at the level of my Ministry the Health and Wellness Directorate, all this with a view to sensitising the youth on the importance of a healthy lifestyle.

Further, we have introduced in the curriculum life skills which include *le sens des valeurs, l'éducation à la sexualité, une bonne hygiène de vie, et, bien sûr, quand on parle de sens des valeurs, cela comprend aussi l'entre-aide, le soutien apporté aux personnes dans le besoin et, ceci dit, Madame la présidente, ce serait bien de souligner qu'un curriculum évolue avec les besoins de la société. Ce projet de loi évidemment vient souligner la nécessité de sensibiliser les jeunes par rapport aux dons d'organes et de la transplantation, et on fera le nécessaire.*

I fully agree that our schools have a key role to play in explaining the positives behind gifting a life. We must realise, however, that continuous sustained dissemination of information is called for.

Les jeunes d'aujourd'hui sont désormais appelés à comprendre l'enjeu et à apporter leur contribution dans le contexte de cette démarche nationale. Bien sûr, il nous faudra aussi nous engager à mener une campagne nationale d'explication pour mieux informer la population. Permettez-moi, Madame la présidente, d'attirer ici même l'attention sur le fait qu'un donneur peut sauver la vie de huit personnes.

It has been established, Madam Speaker, that one organ donor can save up to 8 lives and allow the recipients to return to normal lifestyle. One person, one donor up to 8 organs! It could be the lungs. It could be the liver. It could be the pancreas. It could be the heart, the kidneys, the bone marrow and so on and so forth. I would like here to give the assurance that my Ministry and institutions falling under its aegis and, in particular, the Pamplemousses Polytechnics will be all too ready to respond to the capacity building needs related to tissue donation, preservation and transplant.

Pamplemousses Polytechnics is responsible for the training of the health sector technicians and is currently engaged in the development of the curriculum in partnership with the Mauritius Institute of Health and other foreign institutions.

I would like now, Madam Speaker, to congratulate the hon. Minister of Health and Quality of Life, Dr. Husnoo, for coming up with this legislation and for having kept an open mind and with the right attitude, has taken time to meet various organisations; to listen to them; to answer to their queries and to take on board their contributions and to bring amendments, as he had proposed, at Committee Stage.

Madame la présidente, pour conclure, qu'avions nous promis dans notre manifeste électoral? La chance égale pour tous; une meilleure qualité de vie; une société moderne et avant-gardiste. Ce projet de loi, Madame la présidente, va dans ce même sens car avec cette nouvelle législation nous donnons une nouvelle chance à la vie, à nos citoyens. Il serait du devoir de nous tous de réaliser ici, au sein de cette auguste Assemblée, l'impératif de franchir cette étape de notre histoire, celle de l'adoption de ce projet loi. Et maintenant j'imagine, Madame la présidente qu'il est de notre devoir en tant que citoyens responsables d'œuvrer ensemble pour la réussite de ce projet qui relève d'une vision commune et sincère envers

notre société. On viendra ainsi, Madame la présidente, renforcer la solidarité humaine dans petite île.

Merci, Madame la présidente.

**Madam Speaker:** Hon. Adrien Duval!

(4.51 p.m.)

**Mr A. Duval (First Member for Curepipe & Midlands):** Thank you, Madam Speaker.

Madam Speaker, there is, on both sides of the House, a consensus that this Bill is a positive step forward. It is definitely a step forward as organ transplantation is no doubt one of the greatest medical advancements of our civilisation. It extends life. It improves life, and it gives remedy to those who would, otherwise today, have no other solution.

The Bill is, Madam Speaker, well intentioned, and I think the hon. Minister is well intentioned in bringing this Bill to the House. There is scope for improvement however, and the Opposition has proposed amendments to the legislation. But before going to the amendments, I would like to say that the intention in bringing this Bill is to improve the already existing human transplant. It is already carried out in our hospitals for kidneys, and the present situation, Madam Speaker, is that, unfortunately, success rate is quite low. There are many organ rejections. It is quite complicated for kidneys and there is a high-risk of infection. More troubling than that, Madam Speaker, is the fact that our hospitals are not properly equipped and there is a lack of specialised doctors. If I am not mistaken there is only one doctor in Mauritius in the Civil Service who can perform an organ transplant, a kidney transplant.

There is a need for equipment; for the maintenance of the equipment. Time and again, there have been questions in the House with regard to the CT Scans in many hospitals that are broken. These CT Scans, tomorrow with the application of this Bill, will be required for the removal, the survey of the organs, and also post-surgery to monitor the patient's recovery. This legislation provides for a framework as the hon. Minister said and it provides for Mauritius to progress in the direction that all these great countries in the world today have set high standards for us to follow. It is a pity that we haven't followed the principles that are established whether it is by the World Health Organisation with regard to transparency, accountability; with regard to the merit of the receiver; with regard to the Declaration of Istanbul again that states the need to have transparency. And it says in the principle of the

Declaration of Istanbul that designated authorities in each country should oversee and be accountable for the organ donation and that the allocation and transplantation practices need to ensure standardisation, traceability, transparency, safety, and above all, public trust, and that all residents of the country should have equitable access to transplant services. These are the words that I would like to stress in my intervention today, Madam Speaker, 'equitable access', 'public trust'.

It is no secret that public trust is eroding in our present health care system. It is no secret, and I am sure the hon. Minister will agree, that there are practices of corruption *qui gangrènent le secteur de la santé publique*. For example, Madam Speaker, it is not uncommon when a patient is treated at the public hospital for the doctor to incite that patient in exchange for payment to put that patient on a priority list. It is no secret that there exist two lists in the hospitals: the official waiting list and the blacklisted priority list. Some medical practitioners use and abuse the system in reward for money and those who wait, who require urgent medical attention, but unfortunately do not have the means, have to see others with means always one step ahead.

It is a fact as well that there is the perception of two classes of citizens in Mauritius: the privileged class and the rest, and that the privileged class will always find means and ways again to be one-step ahead. As rightly pointed out by the hon. Leader of the Opposition, by the former Leader of the Opposition, by hon. Dr. Boolell and by all the interventions on both sides of the House, we need to ensure, in this important legislation, that there is a system of meritocracy. There is the need to ensure that there are no abuses; the need to ensure that there is no corruption, and the need to ensure that those at the bottom of the ladder have a fair chance of receiving an organ and being treated equally.

We have heard, Madam Speaker, this afternoon, the Private Notice Question on the treatment of this poor victim in Madagascar. This does not need to rise for the organ donation. We have seen so many examples at the Cardiac Centre - I am sure the hon. Minister will agree - of the abuses, *les passe-droits* that there have been. It is a pity, Madam Speaker, that through the amendments that have been circulated, the hon. Minister did not take into consideration the excellent points that were pointed out on this side of the House. It is a pity. The hon. Minister says, he invites for proposals, yet he does not entertain them.

Madam Speaker, our qualms with this Bill are threefold.

Firstly, we strongly object to the power that the hon. Minister gave himself to a point to interfere, to decide in complete opacity, as to who should survive and who should not survive. And that we believe is not up to him, Madam Speaker, that we believe we are sure, is not denied, not at all, with the general principles and guidelines of all international institutions, whether the World Health Organisation or otherwise.

Secondly, the lack of transparency and the lack of accountability open the door wide open for abuses, favouritism and corruption.

Thirdly, Madam Speaker, again we believe that given the problems encountered by many countries, developing countries and middle income countries in the world with regard to organ trafficking and tourism transplant, there should be a transitional period.

Before coming to the amendments of the Opposition, I would like to comment briefly on the one circulated by the Minister. First of all, the definition of authorised specialist has been cleared, it is welcomed; there has been a proviso that it requires at least five years' experience in the field of surgery. Secondly, it is welcomed that the hon. Minister has formally put in the amendment that we are shifting from the opt-out system like to the regional proposition of the opt-in. This has been sufficiently canvassed and I would not go into it.

Lastly, Madam Speaker, an important amendment that has been brought by the hon. Minister today is to change from 'clinically dead' to 'brain dead'. And rightly so, there is a huge difference, Madam Speaker. 'Clinically dead' is someone whose brain is not receiving oxygen and blood, but who can still be reversible, can still make it out of that coma and 'brain dead' is when there is no possible recovery. So, it is welcomed by the hon. Minister to have changed that. However, I invite the hon. Minister to consider strongly the Opposition's amendments. We have put in writing the various interventions of the hon. Members of the Opposition. We have put in writing, we have not only raised criticisms, but we have brought solutions to this Bill. I would like the hon. Minister to consider, first of all, with regard to the appointment of a specialist at part 2, section 4 (2). We believe that it is not up to the Minister again in the name of transparency, in the name of accountability and in the name of avoiding interferences and abuses, that it should be the Director-General, Health Services to appoint.

**Madam Speaker:** An amendment has been circulated just now raising that point that the hon. Member is raising.

**Mr A. Duval:** Yes, this is our amendment.

**Madam Speaker:** An amendment has just been circulated.

**Mr A. Duval:** Yes. This is the Opposition's proposed amendment?

**Madam Speaker:** It has been circulated already.

**Mr A. Duval:** It has just been circulated. I hope that you have all received a copy and we apologise for the delay.

**Madam Speaker:** What I wish to say is that at Committee Stage also, if the hon. Member so wishes, he may raise that point.

**Mr A. Duval:** I would like just to give the reasons why we believe these amendments are necessary. So again, we do not believe it is for the Minister to appoint the specialist. We believe that there should be total independence, independence from the Minister, independence from Government, and that the Board, the Director-General himself being a specialist, himself being a medical practitioner, should in his judgment appoint the specialist whenever it is necessary.

We believe, furthermore, that we should remove that feeling of being subservient to the Minister or to Government from the Board members. We believe that Board members should not be re-eligible for appointment. We believe that they may be appointment for two years and then after two years we look for other Board members because, Madam Speaker, practice has shown that when you are eligible for the appointment you tend to submit yourself to the whims of Government and of the Minister.

Furthermore, Madam Speaker, with regard to the composition of the Board, the quorum, we believe that three members do not constitute an appropriate quorum given that there are nine members of the Board and that it should follow the rule of the 50% plus one. Therefore, it should be changed to five members of the quorum. I am making reference to section 6 (3), with regard to the quorum, we have added that in the case of an emergency, then three members may be required for a quorum, but for general sittings, again five members.

Madam Speaker, we have gone as far as to propose a Parliamentary Committee as the one for the Independent Commission against Corruption, that would sit with Members of the Opposition and Government on the same principles as the one of the ICAC and that would provide for Parliamentary oversight on the general operations of the Board, on the donations and on the transplants, Madam Speaker. And we believe that unless and until we have full

transparency and full accountability, this positive step ahead can become quickly steps backwards, because we know, Madam Speaker, again, practice has shown that some people are more privileged than others and I believe, as representative of the people, that both Members of the Opposition and Government to hold the Board to account.

Furthermore, Madam Speaker, we have provided in our proposed amendments to remove that power of the Minister to give such directions, as he thinks fit, and we believe that we should look up to modern countries like Australia and adopt the same principles that the Minister may only give directions in a general nature and in writing for accountability purposes, and that he may not just, as he thinks fit, decide who will receive a transplant or who will have priority.

Furthermore, Madam Speaker, we do not see why the Minister has a limitation of liability in this Act especially if, according to the general principles and according to the example of more advanced countries, the Minister is only to give directions of a general nature and in writing, then we do not believe why there should be a limitation of the liability of the Minister. Therefore, we propose to remove the Minister from that limitation.

Madam Speaker, we have also, again, with the risk that transplant tourism entails, provided for transitional provision in the amendment. We believe, as pointed out by the hon. Leader of the Opposition, that there should be a period of three years before we open up Mauritius to the rest of the world and before we give non-citizens, tourists, foreigners not living in Mauritius, the opportunity to come and receive organs of Mauritian citizens and Mauritian residents.

Therefore, Madam Speaker, I wish that the hon. Minister considers the amendments. I wish that he finds, as we do, the overriding principle that perception and trust should be restored in the public system, that we put behind us - we try to, at least - the principle that there are two classes of citizens in this country, and unless and until he adopts these amendments, perception will be here and the possibility will remain that the system is abused.

Madam Speaker, I wish the hon. Minister good luck in the implementation of this Act. I wish him success, but I hope that these amendments again be considered.

Thank you.

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

*At 5.13 p.m., the sitting was suspended.*

*On resuming at 6.33 p.m. with Madam Speaker in the Chair.*

**Madam Speaker:** Hon. Dr. Husnoo!

**The Minister of Health and Quality of Life (Dr. A. Husnoo):** Madam Speaker, let me start by presenting my apologies to all the hon. Members of this House for my absence during the debate on this proposed legislation on Tuesday 22 May 2018.

At that time, I had to attend the World Health Assembly in Geneva. We had a few important issues to discuss. For example, there was a High-Level Committee to address the problem of non-communicable disease; to discuss with the International Atomic Energy Agency about cancer management, and also I had to co-host with Fiji a meeting to discuss the problems faced by SIDS countries in the area of health following climate changes. In fact, we asked for a special fund to be created under WHO to help the SIDS countries to cope with health problems caused by global warming. That is why I was not here in the Assembly on the 22<sup>nd</sup>. However, let me reassure all Members who contributed to the debate that I took stock of their contributions, their recommendations and their comments.

Madam Speaker, after taking cognizance of all the views, opinions, apprehensions and recommendations, and even reservations of the different speakers, I must say that it is now obvious that there is consensus in this House that we are all for the introduction of this piece of legislation. It is true that there is need for some fine-tuning but, at least, I think that this is a very good start.

Madam Speaker, before going into the depth of the different points raised by each speaker, I would like to express my thanks to all the Members who contributed to the debate. I would also wish to thank the Attorney General and his officers for their guidance, the officers of my Ministry as well as the representatives of the civil society for their views.

Madam Speaker, I shall go into details on the comments made by the hon. Members of the Opposition and the other Members of Parliament, but at the very outset, I wish to propose two further amendments to the proposed legislation: Firstly, at clause 15 (2) (c), I propose to substitute the words 'clinically dead' with 'brain dead'.

Madam Speaker, this is the beauty of having a debate where Members put aside their political belonging and contribute critically and positively. Indeed, any person has to be declared brain dead by two specialists before that person can be considered as a donor. Let me now explain the difference between brain dead and clinically dead.

A clinical death is not synonymous to brain death. A clinical death can be treated as a medical emergency and with cardiopulmonary resuscitation and all other treatments within the appropriate time frame, and that person can be resuscitated; that is a clinical death. A person can be clinically dead, but the vital organs can still be maintained with the help of artificial life support. His brain and organs are still functioning.

Brain death, however, occurs four to six minutes after clinical death, if no resuscitation techniques are successful. This is due to the fact that the heart is, as we know, the main blood pumping machine of the body and without the blood coming from the heart, the brain will gradually cease to function until it achieves irreversible damage. This is when the doctor will formally or legally declare that the person is dead as the neurological damage to the person is irreversible.

As such, Madam Speaker, I propose to amend clause 15 (2) (c) by deleting the word ‘clinically’ and replace it with the word ‘brain’ as the intention here is that the person has to be declared brain dead. Hence the reason why the Schedule exists at the end of the proposed legislation.

Madam Speaker, I have heard the short and concise intervention of hon. Mohamed as well. I agree with him that the word ‘payment’ at clause 21 tends to imply a monetary transaction only and does not cater for gifts, donations, favours, recompense, etc. As such, at clause 21, I propose to add, after the word ‘payment’, the following words: ‘or gratification’.

Of course, Madam Speaker, our intention goes in line with the WHO standards, that is, a donation should not be the subject matter of any commercial dealing, be it of a monetary value or any other kind. This, Madam Speaker, thus covers for any non-monetary, intangible rewards or recompense that a donor might contemplate or expect.

Madam Speaker, I will now address the apprehensions raised by some Members. I have grouped them into six categories –

1. The issue of consent

I have noticed, Madam Speaker, that some Members have been making use of words like ‘opt-in’, ‘opt-out’, ‘soft opt-out’, ‘hard opt-out’, but during my Second Reading, I have intentionally decided not to use these terms, which can create confusion, especially in the mind of the public.

I have said it in my opening address and I will repeat it again. Consent is the key for the proper functioning of this legislation, be it consent of the

donor himself, consent of the legal guardian or consent of the family members in the case of a deceased person.

This legislation can only be effective with the proper consent of the donor himself and that the consent should not have been revoked, or with the necessary consent of the family members in the case where a person dies and has never expressed his will to donate or not to donate an organ.

An amendment to section 11 of the Bill was circulated to all Members. With your permission, Madam Speaker, once again, I would like to explain the provisions of this section to the hon. Members, and to the population, in order for them to understand the intention of the Government.

Section 11(1)(a) deals with a person, who, during his living, consents to making a donation to the Board of any of his tissue, but for that donation to be effective after his death.

Section 11(1)(b) and 11(1)(c) deal with the scenario where a person dies, and during his lifetime, he has never expressed his will to donate or not to donate his tissue. In this instance, Madam Speaker, the family members, be it the spouse, the children, or the legal guardian in case of a minor, or the living parents may apply to the Board for the donation of any tissue from the deceased body.

In the original version of the Bill circulated, section 11(3) provided for a deceased person to be presumed to be a donor, if that person has never expressed his will to donate or not to donate, and the Board could automatically authorise the removal of an organ from the deceased without consent. That was how it used to be when the Bill was first circulated, but this has changed now with the amendment that has been circulated, by providing for section 11(3)(c). Based on the amendment proposed, this is the scenario where a person dies, and during his lifetime, he never expressed his will to donate or not to donate, and after his death, his family members do not apply to the Board for a donation. We have made sure that the consent of the family members is obtained before the deceased is presumed to be a donor. Not only this, we have added an additional safeguard. If there is any objection by any family member after the Board has contacted them, then the deceased will not be considered as a donor.

Madam Speaker, as the circulated version stands, it is already an obligation on the Board to consult the family members. Madam Speaker, the onus, I repeat it, is on the Board

to get the consent of the family members in this instance. And this is very, very important. This is about the donation.

This leads me, Madam Speaker to the second point I wish to clarify, the Function of the Board. Here, I must say, this Bill, Madam Speaker, is just a beginning. A lot of work will need to be done by the Board. I want to get that clear from now. The Board will have the delicate task of keeping records of organ recipients or a sort of waiting list.

Madam Speaker, I wish to emphasise on one point here. The intention of this legislation is to encourage organ donations and transplants. If a living person, during his living, wishes to donate his organ to a specific person, let us say, Mr X, then the donor can specify in his application to the Board that he wishes to donate his organ to Mr X only, irrespective of whether Mr X is on the waiting list or irrespective of Mr X's ranking on the waiting list because he is made a definite intention. This type of donation where there is a specified recipient has to be encouraged. It will be the task of the Board obviously to ensure that all procedures are being rightly followed and that there is no commercial dealing involved.

The Consent Form will be prescribed and the Board will have the task of making sure that the consent of the person has been properly obtained, and has never been revoked before the process of donation takes place.

There will also be another category of recipients, which are often named as 'unspecified recipients'. The question which arises here, and this apprehension has been raised by a few Members in the House, it is how to determine who will benefit from the organ. Madam, Speaker, clear criteria and priorities will be determined by the Board for the donation of organs. One of the important criteria will be the compatibility test, - tissue compatibility - but there will be other clinical and medical conditions as well.

Madam Speaker, this Board will have to deal with very difficult questions. Some of the cases that are going to be presented in front of the Board, suppose you got one organ and you got two recipients, how do you decide. It is going to be very difficult. I do not pretend it is going to be easy. It is not easy because there are different circumstances, different scenarios that would arise where you are going to face very difficult situations, but that is where the Board would come in. It is for them to determine who is going to get that kidney and they will determine on the compatibility tissue firstly, and on the condition of the recipient. This is very important.

*(Interruptions)*

I am sorry; we cannot put that in the law. It depends actually on that particular hour what is the situation and they have to make the decision. It is very difficult; I am not saying it is going to be easy. This would be one of the major things.

Madam Speaker, a series of medical tests have to be carried out on the person to determine whether he/she can be eligible or to benefit from the organ transplant. These tests or criteria are according to the WHO (World Health Organisation) standards and recognised worldwide. Madam Speaker, *on ne réinvente pas la roue* when we say that most likely the most compatible recipient might not be on top of the waiting list of recipients. However, again I say, it is the Board's duty to act as a watchdog to ensure that all procedures are rightly followed.

Madam Speaker, a couple of weeks ago, Cardinal Piat communicated to me by way of a letter, his apprehension about how recipients on the waiting list will be selected. These points were also raised during my meeting with the different representatives of the *Conseil des Religions*. I have spoken to them personally and I have re-assured them, and I shall do so again in this House today. The process of selection amongst unspecified recipients will be done according to the widely accepted WHO guidelines.

Madam Speaker, I know there are a lot of questions which hon. Members have raised in the House, but these kinds of things you cannot put in the Bill. It is for the people who are going to be on the Board who have to decide for each and every case that comes to them, and they will have to take the decision. Believe me, I know what I am saying, it is not an easy decision sometime, but they will have to, there and then, at that particular time, at one, two, four o'clock in the morning, they will have to make that decision.

The next point is the readiness to implement this legislation. Many Members said that we are not ready to start transplantation. But it must be said that this was done here in Mauritius in the past. It was being done at Jawaharlal Nehru Hospital, by Mauritian doctors as well. So, it is not true to say that we are not ready. Okay, we have a lot of things to do; we have to look at the whole process again, which we are going to do.

Madam Speaker, as rightly pointed out by hon. Gayan in his speech, this is just the beginning. Passing the Bill is just the beginning; this is not the end. We still have a long way to go, Madam Speaker, but we needed to start somewhere, and we start it by having the relevant legislation framework. I know there is a lot of apprehension on the part of Members,

but can we let ourselves be paralysed by this apprehension so that we do not do anything. Can we do that? No, we cannot do that because there are so many people waiting to have a transplant. We are here to help them. There are a lot of problems, I agree, but we have to start somewhere. We cannot just keep on discussing, we do not do anything. It would not help the people outside who are waiting for a transplant.

Some hon. Members have raised concern about a lack of infrastructure, lack of trained doctors or personnel or even a lack of existing regulations. One hon. Member has even said that we have raised expectations so much as if organ transplant can be done the next day after the Bill has been voted in the Parliament. No, Madam Speaker! I never said we can start doing all types of transplant in Mauritius as from tomorrow. I have never said so. I have repeated so many times. I said it last time and I am going to say it again, there is a lot of work that needs to be done. Again, I repeat it. I am repeating myself I think for the third time. This is just the beginning. The Bill is just the beginning. A lot of work would have to be done by the Board, Madam Speaker.

But let me tell the hon. Members of this House that we have the infrastructure and the trained nurses ready for renal transplant to be undertaken tomorrow. What we do not have at the moment is a well-qualified, well experienced renal transplant team to undertake the surgery.

At the level of my Ministry, we are working on the different avenues. Firstly, we are looking into launching of an Expression of Interest for employment on contract of a transplant surgeon, be it from the local market or from overseas.

We are also having MoUs signed with different foreign institutions in different countries, and we can certainly benefit by inviting their specialised team to Mauritius to perform transplant surgery.

To start with, the priority of all priorities will be renal transplant before eventually, in the long term, considering other types of transplant.

As you may be aware, we are also already undertaking cornea transplant in Mauritius and we have the team and the doctors who can do it now and they are doing it very well.

In parallel, my Ministry is also focusing on encouraging and sending doctors/specialists who wish to sub specialise in this field. We are planning to send them abroad for training.

Officers from my Ministry are also currently working on the different regulations, and we are envisaging to call for overseas experts to help us finalise these regulations.

Of course, Madam Speaker, the suggestion of having a centralised centre for the purpose of donation, transplant and preservation is mostly welcomed. However, this is more of a long-term project, which will obviously take time to materialise.

However, let me reassure hon. Bérenger that *la volonté politique* is very well present. This Government has at heart the health and well-being of the population, and I shall personally make sure that this Board be set up as quickly as possible, and all regulations are in place, together with the infrastructural set up and equipment.

Madam Speaker, coming to the point No. 4: Sensitisation Campaign, again, a lot of hon. Members mentioned about this. I completely agree with the different hon. Members of this House when they say that we need to educate and sensitise the population about the provisions of this Bill. Completely agree!

One of the very first tasks of the Board will be to launch a sensitisation campaign across the island. I wish to re-assure the House that my Ministry will provide all support required to the Board in order to sensitise the population. Different means of sensitisation campaigns are being envisaged, namely distribution of leaflets, and campaign on national television, radios and newspapers. I believe it is important to do so in order to inform the public about who can donate; the procedures to follow for a donation, and, most importantly, inform the public about the risks involved.

However, Madam Speaker, we, as politicians, have an important role to play as well. I hope that each hon. Member of this House will take the time to explain the provisions of this Bill to their mandates as well.

That leads me to point number 5, Madam Speaker: the Approved Health Institutions. In the Bill, under interpretation clause, 'approved health institution' means such health institution as may be prescribed to carry out the removal, preservation and transplant of tissue.

Health institutions normally encompass public as well as private health institutions. However, for the purpose of this Bill, and for the purpose of transplant, to start with, I intend to convey to the Board that only public health institutions should be allowed to perform removal and transplant of organs at the beginning. It should be only the public health institutions.

I do not believe that it will be wise to open same for private health institutions at the beginning. We shall definitely be encountering teething problems at the beginning, we want to take time to identify all the loopholes available in the system, we want to ensure that the fear of organ trafficking is reduced to the strict minimum. If needs be, we will consider bringing further amendments to the law in the future as required.

Only after identifying all the problems, loopholes and after finding the appropriate solutions and safeguards, only then I believe we will be able to allow private health institutions to carry out removal, preservation and transplant of tissue. That, Madam Speaker, will take the time it takes.

This leads me, Madam Speaker, to the 6<sup>th</sup> point that I wish to raise: Can foreigners be considered as donors? There is nothing in the provisions of this legislation which restricts donors to be Mauritian citizens only. However, in an attempt to reduce the risk or the fear of organ trafficking, except for cornea transplant, I shall convey to the Board to consider only Mauritian donors at the very start.

This does not nullify the risk of organ trafficking however. Stringent provisions have been made to ensure that each donation is being done in good faith and is not the subject matter of a commercial dealing.

Madam Speaker, before I conclude, I wish to reassure the House that I will leave no stone unturned to ensure that organ transplants become a reality in Mauritius. I admit that same will not be possible overnight. However, we must start somewhere.

We need to have the appropriate legal and regulatory framework in order to start. This legislation aims at doing so. It might not be the perfect end product. I am sure with time several amendments will have to be brought to the law in order to improve the system.

I also agree that we need to invest massively on infrastructure, on the human personnel and on qualified doctors. We have started doing so at the level of my Ministry and we endeavour to explore all the means available, in order to invest in our health care system, and to provide a better service to our nation.

I can only add that this Government has the willpower, *la volonté politique*, to make organ donation a reality in Mauritius. This is only the beginning; the beginning of a long journey that we have embarked upon in order to provide a better service to our citizens; the beginning of a major change in our Health Care System; the beginning of a ray of hope to so many of our countrymen who are waiting eagerly to benefit from an organ donation.

As I said last time, Madam Speaker, we should not fail them. It is not because we have there so many issues involved, that we are paralysed by fear. No! We should not let ourselves be paralysed by fear. There will be problems. We have to solve the problems as we go along. Step by step we will solve them. If need be, we will have to amend the law, but we will have to start somewhere. And I think that is the best way to do it.

With these words, Madam Speaker, I commend this Bill to the House.

Thank you.

*Question put and agreed to.*

*Bill read a second time and committed.*

### COMMITTEE STAGE

*(Madam Speaker in the Chair)*

#### THE HUMAN TISSUE (REMOVAL, PRESERVATION AND TRANSPLANT) BILL

#### (NO. V OF 2018)

*Clause 1 ordered to stand part of the Bill.*

*Clause 2 (Interpretation)*

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

**Dr. Husnoo:** Madam Chairperson, I move for the following amendment in clause 2 -

“By deleting the definition of “authorised specialist” and replacing it by the following definition –

“authorised specialist” means a specialist in surgery having –

- (a) at least 5 years’ experience in the field of surgery; or
- (b) obtained an additional specialist qualification in the field of transplant surgery,

and who is authorised by the Board to –

- (i) issue certificates under this Act; or
- (ii) effect, or assist in effecting, the removal or transplant of tissue;”

*Amendment agreed to.*

*Clause 2, as amended, ordered to stand part of the Bill.*

*Clause 3 ordered to stand part of the Bill.*

*Clause 4 (Tissue Donation, Removal and Transplant Board)*

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

**Mr X. L. Duval:** Madam Chairperson, I have circulated an amendment to remove the power of the Minister to appoint Members, a specialist Member, because I believe that a minimal political intervention is necessary in this Bill. I move for the following amendments in clause 4 -

“In clause 4 -

- (i) in subclause (2), by deleting the word “Minister” and replacing it by the words “The Director-General Health Services”;
- (ii) in subclause (3), by deleting paragraph (b) and replacing it by the following paragraph —
  - (b) hold office for a period of 2 years and shall not be eligible for reappointment, save and except that in the case of the Chairperson who is the Director-General Health Services.”

*On question put, amendments defeated.*

*Clause 4 ordered to stand part of the Bill.*

*Clause 5 ordered to stand part of the Bill.*

*Clause 6 (Meetings of Board)*

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

**Mr X. L. Duval:** Madam Chairperson, I have circulated an amendment to clause 6, so that the quorum be five Members and only where there is an emergency should the quorum be three, because again I do not believe that for all the matters which are none and urgent, the quorum is sufficient. I move for the following amendment in clause 6 -

“in clause 6, by deleting subclause (3) and replacing it by the following subclause -

- (3) At any meeting of the Board, 5 members shall constitute a quorum, of whom one shall be a specialist, save and except in case of an emergency, then 3 members of whom one shall be a specialist, shall constitute a quorum.”

*On question put, amendment defeated.*

**The Chairperson:** You have an amendment as well?

**Dr. Husnoo:** Madam Chairperson, in section 6 (4), I move for the following amendment -

“in clause 6(4) –

(i) by numbering the existing provision as paragraph (a);

(ii) by adding the following new paragraph –

(b) In case of an equality of votes, the Chairperson or person chairing the meeting shall have a casting vote.”

*Amendment agreed to.*

*Clause 6, as amended, ordered to stand part of the Bill.*

*Clauses 7 to 9 ordered to stand part of the Bill.*

*Clause 10 (Donation of tissue by living minor)*

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

**Mr Ramano:** En vertu de la section 59 de *Standing Order*, je souhaite avoir un éclaircissement de l’honorable ministre, avec votre permission. Je souhaite faire un commentaire en attirant l’attention du ministre sur la section 11 du *Bill*, concernant *donation of tissue*.

**The Chairperson:** We are still on clause 10, hon. Member.

**Mr Ramano:** Excusez-moi. C’est bien la section 10 - *Donation of tissue by living minor*. Madame la présidente, je suis préoccupé par le fait que toute la procédure prévue pour la donation des organes régénératifs ne fait aucune mention du consentement du mineur. On parle des personnes exerçant l’autorité parentale, l’intervention du juge en chambre, mais aucune mention en ce qui concerne le consentement du mineur. Je souhaite aussi attirer l’attention de l’honorable ministre que le *Bill* de 2006 fait expressément mention du fait que le consentement du mineur est quelque chose d’important.

**The Chairperson:** You will provide clarification?

**Dr. Husnoo:** That’s why I have the legal guardian and the parents as well to sign for the children.

**Mr Ramano:** Est-ce que M. le ministre peut-être plus...

**Dr. Husnoo:** As a consent? Minor cannot consent, they need the legal guardian or the parent to consent for them.

**Mr Ramano:** Moi, je parle du consentement du mineur.

**Dr. Husnoo:** Legally, it is not.

*(Interruptions)*

**Dr. Boolell:** The point canvassed by my hon. friend is a valid point. When we talk of a minor, a minor can be up to the age of 18, so he can decide for himself, and, in fact, it's fair that consent is sought from the minor, he can express himself. He has the mental capacity to express himself. There should be no cohesive process. I tend to agree with the point canvassed by my friend.

**Dr. Husnoo:** Yes.

**Mr Ramano:** M. la présidente, je souhaite aussi attirer l'attention du ministre. Ce n'est pas vrai de dire que l'autorité parentale prime dans tous les cas de figures. Même dans les procédures de divorce, on demande aussi le consentement du mineur en ce qui concerne la garde des enfants. Donc, je...

*(Interruptions)*

Non, il faut voir les choses d'une façon dépassionnée. Ce n'est pas une question politique. J'attire l'attention du ministre parce que nous connaissons très bien le risque de trafic d'organe, les pressions financières qui sont exercées sur les parents, et je souhaite la protection du mineur ; que le consentement du mineur du mineur soit une réalité.

**The Chairperson:** Hon. Uteem! We will wait for hon. Uteem also, then you will reply to all the points made. Please!

**Mr Uteem:** Yes, I fully support the motion made by hon. Ramano. I think we should not be bogged down in the legal definition of consent, and whether a minor who is below 18 is not legally able to consent. What we want here is, provision in the Bill that the wish - even not his consent, but, at least, the wish - of the child, the minor he be consulted and be told, and be explained the consequences, because maybe the parents may not be able to judge the consequences. A child, who is a minor under 18, may for himself decide that – you know I

don't want in all *état de cause* to do it. So, I support the motion that there should be luggage that, at least, the wish of the minor should be taken into consideration.

**Mr Mohamed:** There is also the issue which I would like to bring to the hon. Minister's attention, once again to support what the hon. Member has just put forward. It is even as our country we have ourselves ratified Conventions of United Nations for the protection of the rights of minor/children. There are amongst ourselves Ministers who have been to United Nations and who have helped to ratify these conventions, and this something which is of utmost importance. One should not be dogmatic about this whole process, but realise that minors, children who until the age of 18 have rights that need to be protected and it's not for nothing that we have ratified United Nations Conventions.

**Dr. Husnoo:** Madam Chairperson...

**The Chairperson:** The hon. Deputy Prime Minister will intervene first.

**The Deputy Prime Minister:** To just follow on what hon. Mohamed has just said. We should not be dogmatic about it, we need to be pragmatic. What is hon. Ramano asking us to do? It is to say that the minor should sign a piece of paper to say 'I consent' or express his consent verbally to the Board. That's what hon. Ramano is saying. Before he comes to the hospital to remove his kidney, he will be interviewed like any other person. What this law is saying is that over and above the fact that the minor goes to hospital, which is his consent of course, his agreement to that. Not only this is required, you also need the parental authority. Not because the minor is legally incapable, because the minor is capable of expressing his consent; how will he express his consent, by telling the doctor: 'yes, I want to give my kidney to my little sister'. That is not enough; you need over and above this, the covering approval of the parental authority. So, there is no need to spell out in the law, in very humble opinion, that we need to have the consent of the minor express in a formal way.

**The Chairperson:** Yes, hon. Minister!

**Dr. Husnoo:** Madam Chairperson, I think as far as the wish, as mentioned by the hon. Member, of the minor is concerned I am sure we have the Board. As far as the wish is concerned, I am sure the Board will take that into consideration. But, one thing to remember is as far as for the minors are concerned, it is only regenerative tissue that they are entitled to give like bone marrow. But, the wish if he tells me it is fairly 16 or 17, the Board, I am sure, would take that into account. But, officially...

*(Interruptions)*

No, but it is going to be in the regulation!

**The Chairperson:** Do not interrupt the hon. Minister!

**Dr. Husnoo:** But, legally it is the parents who have the right to consent. But, I take the point of the hon. Member and I am sure the Board would take that into consideration.

**Mr Mohamed:** May I for the purpose of this whole argument, I have just been reading a document which – we have to learn from other countries where this has been done, tried and tested. As I have listened to the hon. Minister, he himself said we are at something or we are beginning to do something. Now, there are the countries that have done it. They have tried it and they have tested it.

There is a document that has been written and it is entitled “Living Organ Donation: Consent Challenges”. And, this is a document which was prepared for the Canadian Council for Donation and Transplantation. In that particular document that dates to 2006, one of the paragraphs talks about the legal approach of minors giving their consent which is the one just referred to by the hon. Deputy Prime Minister which is totally irrelevant by the way. This has nothing to do with legal consent, minors, whether they have right or not to give consent or is it their parents’ responsibility.

In this particular aspect, the law also in Canada is that the age of consent starts at 18 but with regard to transplantation, with regard to the donation of organs, minors, for example, in Ontario, are asked their consent because there is the concept of informed consent. This is what we are talking about, informed consent. So, this once again brings us back to the whole very simple issue which is: we have ratified conventions, those conventions say we have to show respect to the rights of a minor. That is a simple thing. We have to be in line with the practice of countries where this has been done in the past and Canada, everyone knows that they have this entrenched respect for rights of everyone, including minors.

**Dr. Husnoo:** If I understand what the hon. Member has said, I have explained that we have a Board there and on this Board we have responsible people. They are going to take the wish of the minors into consideration. It is not in the law but I am sure that is going to be discussed at the level of the Board to take that into consideration. So, we maintain what we have.

**Mr Ramano:** Madame la présidente, je respecte la décision du ministre mais je souhaite quand même attirer l’attention du ministre que dans le *Bill* de 2006 à la section 6 (2) c’est mentionné expressément –

*“(2) Notwithstanding subsection (1), a donation by the minor or adult, or a removal as specified in that subsection, may be effected if -”*

A la sous-section –

*“(e) no opposition to the removal has been signified by the minor or adult donor;”*

qui est incapable. C’est mentionné expressément dans l’Acte lui-même. Je pense que cette section a sa raison d’être et je souhaite tout simplement attirer l’attention du ministre...

*(Interruptions)*

**The Chairperson:** Order!

**Mr Ramano :** ...qu’on n’est pas en train d’inventer la roue. C’est une section qui existe déjà dans le *Bill* de 2006.

**Dr. Husnoo:** I have already explained, Madam, the wish of the child or the minor would be taken on board by the Board. So, we stick to that. Thank you.

*Clause 10 ordered to stand part of the Bill.*

*Clause 11 (Donation of tissue by deceased person)*

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

**Dr. Husnoo:** Madam Speaker, I move for the following amendments in clause 11 –

“(i) in subclause (1) –

(A) by deleting paragraph (a) and replacing it by the following paragraph –

(a) A person, other than a minor, may –

(i) make an application to the Board for a donation, effective after his death, of any tissue from his body under this Part;

(ii) during his lifetime, express, in writing, to the Board his will not to donate any tissue from his body after his death.

- (B) in paragraph (b), by deleting the words “paragraph (a)” and “in such form as the Board may prescribe” and replacing them by the words “paragraph (a)(i)” and “under paragraph (a)(ii)”, respectively;
- (ii) by deleting subclause (3) and replacing it by the following subclause –
- (3) Where –
- (a) a person, other than a minor, dies without having made an application for a donation under subsection (1)(a)(i) and without, during his lifetime, having expressed his will not to donate any tissue from his body after his death under subsection (1)(a)(ii);
  - (b) no application is made for a donation under subsection (1)(b); and
  - (c) any of the persons specified in subsection (1)(b)(i) to (iii) have, on being consulted by the Board, not expressed any objection in writing,
- the deceased person shall be presumed to be a donor and the Board may –
- (i) determine the purpose for, or the institution or recipient to, which the donation shall be made; and
  - (ii) authorise a removal under this Act.”

**Mr Uteem:** Madam Chairperson, we had a chance to speak to the hon. Minister and we were under the impression on this side of the House, in the Opposition, that there would have been further amendment to clause 11 subsection (3) that had already been circulated last week. Unfortunately, in the most recent amendments circulated to us we see that there has not been any amendment. The point here, Madam Speaker, is that under clause 11 subsection (3)(c) –

“any of the persons specified in subsection (1)(b)(i) to (iii) have, on being consulted by the Board, not expressed any objection in writing,(...)”

So, our interpretation is that, as the word is currently drafted, there is no obligation on the Board to consult. But, it is only on being consulted that a relative can object. But, this clause does not impose any positive duty on Board members to consult. This is very important, Madam Chairperson, because you may have a death in a road accident at 1 o'clock or 2 o'clock in the morning and you may have no Board members. And, as the hon. Minister knows, there is a time limit during which you can remove the organ. So, what happens if no Board members were notified? What happens if the Board members were not able to contact any family member within this time as well?

This is why we had requested the hon. Minister to make it clear that there is a positive obligation on the Board in case any person dies without having said if he is a donor or if he is not a donor. There is a positive obligation on the Board to consult the family members.

**Mr Mohamed:** Madam Chairperson, on the same particular issue, we have and I concur with the hon. Minister that it is very helpful to have debates, as he said earlier on, where we put aside our political differences and put our heads together to try to find a solution and this is what we have been trying to do. What we tried to do, in fact, and what we are trying to get at on this side and many other hon. Members on the other side as well, is to ensure that the words used particularly in clause 11 (3)(c), one has to be very clear about it. Does this particular clause mean and I read –

“any of the persons specified in subsection (1)(b)(i) to (iii) have, on being consulted by the Board, not expressed any objection in writing,”

Now, all of us in this Assembly know very well that for example, the word ‘shall’ denotes something which is an obligation. It makes it mandatory. Whenever we see the word ‘shall’ in a piece of legislation that is proposed or in a law, it means *c'est obligatoire*. Therefore, it would mean if there was the word ‘shall’ there it would have been mandatory upon the Board to consult and then this would have reassured people, in whatever scenario, that it was mandatory upon the Board to consult and once having consulted, those consulted not having expressed any objection in writing. But, here, the construction of this particular clause includes and has not got this mandatory element therein.

The hon. Minister maybe is of the view and I have no reason to doubt his word for it, he is of the view that there is an obligation on the Board - his reading - that the Board has and is obliged and mandatorily has to consult the family. But, what we are asking is that since we are not convinced that the proper construction here means it is mandatory, what we are asking

here for all of us to have consensus on this matter is to precisely bring in the word 'shall' in order to have everyone on board, that you will be reassuring all of us. I have spoken to the hon. Minister and I am convinced because he is under the impression that this means *c'est obligatoire* to consult. But, the legal construction does not, in my humble view and in the view of many here, mean it is obligatory. So, what my request is: please bring the simple amendment which we discussed in order to make it compulsory. We will all be on the same page and you have the buy-in of everyone on this particular issue.

**Dr. Husnoo:** Madam Chairperson, I have listened to the hon. Member. I have talked to him earlier as well. But from what I have been told, there is obligation on the Board to contact the relatives, whoever it is.

*(Interruptions)*

It is there. I have said that the onus is on the Board. It is not for the relatives to come towards the Board. No! It is for the Board to come towards the relatives. I have explained that in my second reading. I have it in the summing-up as well; the onus is on the Board to contact the relatives. It is not the reverse, and that is the way I read it. Thank you.

**Dr. Boolell:** Madam Chairperson, the onus is on the Board, but the doubt will linger. We are in Mauritius, a multi-racial, multi-ethnic country. I make a plea through you, Madam Chairperson, to the Minister, doubt should not be allowed to linger. That is why my friend has made a plea to reinforce Section 11(3).

**Dr. Husnoo:** Madam Chairperson, as far as we are concerned, there is doubt. We have explained it so many times, before and now. Personally in my mind, I do not have any doubt about what could happen.

**Mr Mohamed:** One simple observation, Madam Chairperson, and it is the following; I have heard, we have all heard the hon. Minister. As I have said, I am convinced that the Minister also agrees that there needs to be an obligation and it should, in his mind, and in our mind, be mandatory upon the Board to consult. Therefore, we are all on the same page. Now, if we are all on the same page, what I am asking and what we are all asking is to ensure that in Courts later on, for interpretation's sake, that we are not questioned as an Assembly, and asked: why is it that you refused when requested to bring in the word 'shall'. Let this not be a possibility that would lead to problems for family members and bereaved families in difficult times.

**The Chairperson:** You maintain your decision?

**Mr Mohamed:** And if you could stop listening to the Deputy Prime Minister, that would help.

*Amendments agreed to.*

*Clause 11, as amended, ordered to stand part of the Bill.*

*Clauses 12 to 14 ordered to stand part of the Bill.*

*Clause 15 (Removal of tissue)*

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

**Dr. Husnoo:** Madam Chairperson, I move for the following amendment –

“in clause 15(2)(c), by deleting the word “clinically” and replacing it by the word “brain”;

*Amendment agreed to.*

*Clause 15, as amended, ordered to stand part of the Bill.*

*Clauses 16 to 20 ordered to stand part of the Bill.*

**Dr. Boolell:** Clause 20, Madam Chairperson.

**The Chairperson:** No, we have already gone through it now. It is too late.

*Clause 21 (Commercial dealings in tissue)*

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

**Dr. Husnoo:** Madam Chairperson, I move for the following amendments -

“in clause 21 –

- (i) by inserting, after the word “payment” wherever it appears, the words “or gratification”;
- (ii) by adding the following new subclause –
  - (3) In this section –
    - “gratification” means a gift, reward, discount, premium or other advantage.”

*Amendments agreed to.*

*Clause 21, as amended, ordered to stand part of the Bill.*

*Clauses 22 to 24 ordered to stand part of the Bill.*

*New PART VIA - PARLIAMENTARY COMMITTEE*

*Motion made and question proposed: “that the New PART VIA stand part of the Bill”.*

**Mr X. L. Duval:** Madam Chairperson, I move for the following amendment –

“by inserting after clause 24 the following new part -

**Part VIA – PARLIAMENTARY COMMITTEE**

**24A. Parliamentary Committee**

- (1) There shall, for the purposes of this Act, be a Parliamentary Committee for the monitoring of the Tissue Donation Removal and Transplant Board.
- (2) The Parliamentary Committee shall be composed of 9 members, 5 of whom shall be designated by the Prime Minister and 4 of whom shall be designated by the Leader of the Opposition.
- (3) The Prime Minister shall designate one of the members to be Chairperson of the Parliamentary Committee.
- (4) A member of the Parliamentary Committee may, at any time, be removed as member of the committee –
  - (a) By the Prime Minister, in the case of a member designated by him;
  - (b) By the Leader of the Opposition, in the case of a member designated by him.
- (5) The Clerk of the Assembly shall be the Secretary of the Parliamentary Committee.
- (6) The Chairperson and members of the Board shall, if so requested, attend every meeting of the Parliamentary Committee.

**24B. Proceedings of the Parliamentary Committee**

- (1) The Parliamentary Committee shall meet at least once every month and on such other date as the Chairperson of the Parliamentary Committee may determine.

- (2) Subject to subsection (3), the proceedings of the Parliamentary Committee shall be governed by the Standing Orders and Rules of the Assembly relating to Select Committees of the Assembly and by such other Orders as the Speaker may make.
- (3) (a) Five members shall constitute the quorum of the Parliamentary Committee.
- (b) Everything authorised or required to be done by the Parliamentary Committee shall be decided by a simple majority of the members present and voting and in the event of an equality of vote, the Chairperson shall have a casting vote.”

Madam Chairperson, I have circulated the amendment to have a Parliamentary Committee to supervise the workings of this new provision in our medical life. As we have heard just now, there are lots apprehensions on every side of the House, I presume, but more specifically on this side of the House, as to the operations of this new transplant, and this is why I have suggested that there be a Parliamentary Committee so that it may overlook the whole operation of this law.

**Dr. Husnoo:** As I have mentioned earlier, we are going to have a Board with responsible people, hence, they are going to do the job. So, I do not think we need a Parliamentary Committee, Madam Chairperson. Thank you.

*On question put, amendment defeated.*

*Clause 25 ordered to stand part of the Bill.*

*Clause 26 (Powers of Minister)*

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

**Mr X. L. Duval:** Madam Chairperson, I move for the following amendment in clause 26 –

“(d) in clause 26 by deleting the words “such directions” and replacing them by the words “directions of a general nature and in writing”.

Madam Chairperson, I think it is bad governance for Ministers to give verbal instructions to the Board. I think it is very bad governance. Therefore, I am proposing that such directions, as may be given by the Minister, should be in writing, firstly, so that there is a record of what has been said and what instructions have been given, and that the directions

will be of a general nature, that is, of policy, not give this organ to this person, give that organ to that person; not a specific direction, as the law provides, a general provision, and in writing.

**Mr Mohamed:** We are in the age more and more; this information age of accountability meaning really accountability. I am sure that the Minister would not disagree that giving any sort of directions in writing would not go against the work Government wants to achieve. Far from it, on the contrary, it will confirm to the people that there is this interest, on the part of Government, of showing that not only can they direct, they are accountable, but there is evidence of all directions that are given in writing, simply for the sake of accountability and transparency. I am sure that the hon. Minister would not find that part difficult to agree, if he is to take the decision on his own.

**The Chairperson:** Do you want to reply, hon. Minister?

**Dr. Husnoo:** Well, I think I will just leave the question.

**The Chairperson:** The question is that new clause 26 be read a second time.

*On question put, amendment defeated.*

*Clause 26 ordered to stand part of the Bill.*

*Clause 27 (Protection from liability)*

*Motion made and question proposed: "that the clause stand part of the Bill".*

**Mr X. L. Duval:** Madam Chairperson, I move for the following amendment in clause 27 –

“(e) in clause 27(1) by deleting the word “the Minister,”

Madam Speaker, especially since he has assumed so much power without even in writing, saying things, I think, Madam Chairperson, giving him immunity is wrong and this is why I have suggested amendment to Clause 27(1).

**Mr Uteem:** Madam Chairperson, I had extensively referred to that during my speech as well. And I fully support the Motion of the hon. Leader of the Opposition. The Minister is a politician, he is accountable to this House; he should not get any immunity whatsoever when acting under the provisions of this Bill.

**Mr Mohamed:** Madam Chairperson, from our conversations here, we have seen that there have been in matters, health issues, for example, blood transfusion. In France, three

Ministers have been taken to task pertaining to any wrongdoing they maybe have done in the whole issue about blood transfusion. They did not have a law there that said they were protected or they were immune, etc. It is so important that we try to evolve, and then try to show that there is some progress there, that ministers, when we say anything, we really mean what we say, but we also take the responsibility for anything that goes wrong, not simply *pas mwa sa li sa*. So, it is just very important to go down, for posterity, to show that it will be the first Minister who is doing something like that, to show his courage. I am sure he is courageous.

*(Interruptions)*

Am I wrong?

*(Interruptions)*

**The Chairperson:** Order! Okay, you have made your points.

**Mr X. L. Duval:** Madam Chairperson, just one thing. Right now, he is not even answerable. He is not even answering to our concerns. He should be answerable to the Court for anything that he does and he must not have immunity.

**Dr. Husnoo:** Madam Chairperson, I have done something in good faith and I am not worried.

*On question put, amendment defeated.*

*Clause 27 ordered to stand part of the Bill.*

*Clause 28 (Regulations)*

*Motion made and question proposed: ‘that the clause stand part of the Bill’.*

**Dr. Husnoo:** Madam Chairperson, I move for the following amendment –

“in clause 28(2)(d), by adding, after the words “for the purposes of scientific, educational or research” , the word “purposes.”

*Amendment agreed to.*

*Clause 28, as amended, ordered to stand part of the Bill.*

*Clause 29 ordered to stand part of the Bill.*

*New clause 30 (Transitional provision)*

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

**Mr X. L. Duval:** Madam Chairperson, after clause 29, I move that there be a new clause as clause 30, and that the existing clause 30 be renumbered as clause 31.

**“30. Transitional provision**

(1) This Act shall apply only to residents of Mauritius, and donations shall for the first 3 years of the coming into operation of this Act be limited to donations from and to the residents of Mauritius.

(2) The Minister may, after 3 years of the coming into operation of this Act and on the advice of the Board, make such regulations to include the application of the provisions of this Act to non-residents of Mauritius.”

I circulated a provision, Madam Chairperson, for there not to be transplant tourism in Mauritius and that we should provide for the first three years, so that this only be between Mauritian donors and recipients. I have not understood what on earth the hon. Minister talked about in his summing-up. He said that no foreigner can be a donor. We are not talking about the foreigner being a donor. That is not the real problem. It is the Mauritian. He should read what he said earlier. He said that he is going to instruct the Board so that there is no foreigner as a donor. That is not the real problem. The problem is Mauritians donating their organs to foreigners who have come. This is what he said. Madam Chairperson, I maintain that we should have the transitional provision for the three years, so that there be, in law, no transplant tourism. I have not understood at all the summing- up of the hon. Minister.

**Dr. Boolell:** Madam Chairperson, I support the proposal of the hon. Leader of the Opposition. In fact, we have to subscribe to the Istanbul Declaration in respect of the protocol established. This view was also canvassed by hon. Anil Gayan in his intervention. So - I expect - since there are Members on both sides of the House ...

*(Interruptions)*

**The Chairperson:** Order, please!

**Dr. Boolell:** ... who are for this proposal, I am sure that the proposal made by the hon. Leader of the Opposition in respect of amendment to be brought will be supported.

*(Interruptions)*

**The Chairperson:** Hon. Thierry Henry, no comments!

**Dr. Husnoo:** Madam Chairperson, in my speech, I said that foreigners cannot come here to donate organs. I said that. I stand by what I said because I do not want anybody from

other islands in our surrounding area to come and sell their kidney here. I said it. If he does not understand, he does not understand. Okay!

*(Interruptions)*

**The Chairperson:** Order, please!

*(Interruptions)*

**Dr. Husnoo:** I have said it ‘as well’, but I want to say ‘and to receive as well’ - maybe I did not say to receive. They are not going to receive it as well.

**Mr X. L. Duval:** He was so stupid! He said only foreigners who come to donate.

*(Interruptions)*

He was so stupid!

**The Chairperson:** We are nearly finishing - withdraw!

*(Interruptions)*

**Mr X. L. Duval:** Shut up and listen!

**The Chairperson:** No! Hon. Leader of the Opposition...

*(Interruptions)*

**Dr. Husnoo:** He does not have the right to speak to me like this.

**The Chairperson:** Hon. Minister, you cannot point a finger. Do not point a finger!

*(Interruptions)*

Hon. Leader of the Opposition, we have almost reached the end of that Bill. Could you just please withdraw that word ‘stupid’?

*(Interruptions)*

I am saying that you should withdraw that word ‘stupid.’

*(Interruptions)*

**Mr X. L. Duval:** He is silly.

*(Interruptions)*

**The Chairperson:** No, it is not appropriate. Either ‘stupid’ or ‘silly’ is not...

**Mr X. L. Duval:** Okay, I remove it. No problem. Let us go home early. Madam Chairperson, I do not know what to say. It seems I misunderstood the whole point. What he said, in fact, is that no foreigner can come to Mauritius to donate. At the end of the day, we are happy if they come to donate to a Mauritian. What he ought to have said is that no Mauritian should donate to a foreigner. Now, I understand that he has corrected it. So, do not get upset, hon. Minister. You made a mistake and you have corrected it now. What is the issue...

*(Interruptions)*

Listen carefully. What is the issue is this: that no Mauritian - can the hon. Minister get that? - should donate their organs to a foreigner. This is what is called transplant tourism. If the hon. Minister can give us that assurance, then everything will be fine. He has to give that directive to the Board because he is not going to accept, I presume, my provision.

**Dr. Husnoo:** I completely agree with the hon. Leader of the Opposition. No Mauritian is going to sell his or her kidney to anybody. But I stand to what I have said earlier. Nobody else ...

*(Interruptions)*

The hon. Member can be laughing! I stand to what I said earlier; that nobody from overseas can come and sell their organs in Mauritius. I do not want that either. I said it and I stand by it.

**Mr X. L. Duval:** Madam Chairperson, the provision is clear. He could have voted for that and we would have finished.

*On question put, amendment defeated.*

*(Interruptions)*

**The Chairperson:** Order, please!

*Clause 30 ordered to stand part of the Bill.*

*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 Madam Speaker in the Chair, Madam Speaker reported accordingly.*

*Third Reading*

*On motion made and seconded, the Human Tissue (Removal, Preservation and Transplant) Bill (No. V of 2018) was read a third time and passed.*

(7.40 p.m.)

**ADJOURNMENT**

**The Deputy Prime Minister:** Madam Speaker, I beg to move that this Assembly do now adjourn to Thursday 14 June 2018 at 3.00 p.m.

*(Interruptions)*

**Madam Speaker:** Order, please!

*(Interruptions)*

Order!

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

*Question put and agreed to.*

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

*(Interruptions)*

Hon. Members, I am sorry, I have a very urgent business to attend to and I apologise. I have already put the question; nobody listened. They said ‘aye’. That’s it!

*(Interruptions)*

I will ask the Deputy Speaker, exceptionally, to take the Chair for Adjournment Matters.

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

**MATTERS RAISED**

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

*(Interruptions)*

Hon. Members!

*(Interruptions)*

Hon. Members!

*(Interruptions)*

Hon. Members, we have a long list of Members on the list of interventions. Hon. Rutnah!

*(Interruptions)*

(7.41 p.m.)

### **PITON - STATE SECONDARY SCHOOL - PLAYGROUND**

**Mr S. Rutnah (Third Member for Piton & Rivière du Rempart):** Thank you, Mr Deputy Speaker, Sir. My concern today is in relation to my Constituency and it is addressed to the hon. Minister of Education and Human Resources, Tertiary Education and Scientific Research.

Mr Deputy Speaker, Sir, at Piton, there is a State Secondary School and there is a playground there, a stadium as well which not only the students of the college use to practise sports, but adults as well in the evening. For the past four months, it could not be used because the grass has grown up to 2 feet, 3 feet long. They have made several requests for the grass to be trimmed so that the playground could be used. That has not been done for the last 4 months. I make an appeal to the hon. Minister to try to resolve this problem so that people can use the playground.

Thank you.

**The Minister of Education and Human Resources, Tertiary Education and Scientific Research (Mrs L. D. Dookun-Luchoomun):** I will refer the matter to the Zone Directorate and I will make sure that they do the necessary.

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

### **MINISTRY OF SOCIAL SECURITY AND NATIONAL SOLIDARITY - CARER'S ALLOWANCE**

**Mr R. Uteem (First Member for Port Louis South & Port Louis Central):** Thank you, Mr Deputy Speaker, Sir. I would like to raise an issue which concerns the Ministry of Social Security, National Solidarity, and Environment and Sustainable Development - if he could only care to listen to me for one second. Thank you.

It relates to the carer's allowance. As the hon. Minister is aware, beneficiaries of Basic Invalidation Pension who need the constant care of another person gets a carer's allowance of Rs2,500 a month, and beneficiaries of Basic Retirement Pension who are disabled to an extent of 60% get a carer's allowance of Rs3,000 per month.

Unfortunately, one of the consequences of introducing the Minimum Wage Bill in this Assembly is that now carers also are entitled to a minimum wage, more especially those who go to the homes of disabled persons every day to look after them. So, I would make a humble appeal to the hon. Minister, and through him, to the hon. Prime Minister, that in the upcoming Budget, if consideration could be given to increase the carer's allowance, now that the patients have to pay an increase in the amount paid to the carers.

Thank you.

**The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou):** Thank you, Mr Deputy Speaker, Sir. As a matter of fact, this is one of the concerns of the hon. Prime Minister, Minister of Finance and Economic Development.

However, one must also bear in mind the heavy weight of the social security in the National Budget. We are already more than Rs20 billion and the most expensive Ministry for Government. So, yes, I must say that the hon. Prime Minister is considering this matter, but what I do not know and what we cannot know yet, is whether we are in a position to increase or not increase.

Thank you, Mr Deputy Speaker, Sir.

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

(7.45 p.m.)

### **CITÉ MICHAEL LEAL, PAILLES – FOOTBALL GROUND**

**Mr V. Baloomoody (Third Member for GRNW & Port Louis West):** Thank you, Mr Deputy Speaker, Sir. It is with regard to the Municipality of Port Louis. I get the impression that the Municipality of Port Louis is not aware that Pailles is part of Port Louis now. They collect the rates, but they are not doing any work there. Today, I will raise a specific football ground situated at Cité Michael Leal at Pailles.

*(Interruptions)*

That football ground is not maintained. You may have gone there every day, but the work is not being done there! Is he aware that nothing has been done there for the last three months?

*(Interruptions)*

There is no fencing; there is no light. There is not even a watchman. The gate is opened all day. Everybody is going there to do whatever they want. Some are doing even illegal things on the football ground. There is no management. As I said, there is no light. The hon. Minister may have gone there every day, but nothing is being done. So, I am appealing to him to make sure ...

*(Interruptions)*

I do not know for what the hon. Minister goes there, but the ground is not maintained. The ground is abandoned. There is no *gardien*. People are going there at night because there is no light, doing illegal and illicit things. So, I am appealing to the hon. Vice-Prime Minister and Minister of Local Government to ensure that the Municipality of Port Louis do treat the inhabitants of Pailles as their people because they do now contribute to rates. They are paying rates. The roads are not being attended. There is no light in many places and now the football ground has been abandoned. Thank you.

**The Vice-Prime Minister, Minister of Local Government and Outer Islands (Mrs F. Jeewa-Daureeawoo):** I will look at it.

**The Deputy Speaker:** Hon. Osman Mahomed!

*(Interruptions)*

**Mr Ameer Meea:** Mr Deputy Speaker, Sir, you skipped my name.

**The Deputy Speaker:** Hon. Ameer Meea!

**ROUTE DES PAMPLEMOUSSES, MILITARY ROAD & LA CROISÉE  
VALLÉE DES PRÊTRES STREET – TRAFFIC JAM**

**Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East):** Thank you, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, since there will be no Parliament for the next 20 days, I am raising a....

*(Interruptions)*

Since there will be no Parliament in the next 20 days, I am raising a very important issue...

*(Interruptions)*

I am raising a very important issue which was addressed to the Rt. hon. Minister Mentor who is responsible for the Police Force, but I will redirect it to the hon. Minister of Public Infrastructure and Land Transport who is one way or the other related to this issue. It is the issue of traffic jam at Route des Pamplémousses and Military Road and La Croisée Vallée des Prêtres Street.

Mr Deputy Speaker, Sir, I have raised this issue so many times in this House down the years. Even in the previous mandate till now the problem has not been resolved. With the increase of the population in Vallée des Prêtres, St Croix, La Cure and the surrounding regions, this road has become very jammed. Unfortunately, this is the only access road to the regions that I have just mentioned, especially Vallée des Prêtres. I will say that there is no miracle solution. The only solution presently is there must be Police officers in the morning and in the afternoon. At times there are Police officers, but they only come for 30 minutes and when they leave, it is chaos, drivers overtake on Military Road on right; on Route des Pamplémousses, on the left, and this goes on for hours. People are being penalised. It is creating so much havoc and distress for all those who are taking this road, Mr Deputy Speaker, Sir. And I will say with no ambiguity that the Police Force is not doing their work. As I said, I have raised it through Adjournment Time, through PQs, not only me but other hon. Members as well.

So, I urge on the hon. Minister if he can really see to it that Police Officers are posted every day - not one day you have them and the other day, you don't have them - on this road so that we find a solution to this problem.

Thank you, Mr Deputy Speaker, Sir.

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

**The Minister of Public Infrastructure and Land Transport (Mr N. Bodha):** Mr Deputy Speaker, Sir, the hon. Member had raised this matter in a Parliamentary Question and I had said that it is a very complex issue. It is one of the very rare, very congested junctions, and I had said that the only solution was the presence of the Police. I would impress on the Commissioner of Police that we have to have Police presence at peak time. I am going to talk to the Rt. hon. Minister Mentor, Sir Anerood Jugnauth and also to the Commissioner of Police.

**The Deputy Speaker:** Hon. Osman Mahomed!

(7.50 p.m.)

**MR MOONEEL KHAN, BANGLADESHI WORKER – HIT & RUN ACCIDENT**

**Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central):** Thank you, Mr Deputy Speaker, Sir.

My first issue this evening is addressed to the hon. Minister of Labour, Industrial Relations, Employment and Training and it concerns the story of a Bangladeshi worker, Mr Mooneel Khan, 30 years old, subject of a Press article who is the victim of a hit and run in Ste. Croix two months ago and who is now abandoned in Dr. A. G. Jeetoo Hospital for the last two months and he is fully handicapped. He is stuck here and he has at home waiting for him a handicapped old father, a mother and a sister who depend on him for livelihood. Now, this situation can happen to any worker, it can happen to an Indian worker, to a local Mauritian worker, to a Chinese worker or to a Sri Lankan worker. But the fact that he is not covered with any insurance, given that it was occurred outside the place of work, he has to depend on charity today to do things, which is a very sad story in fact. So, my request to the hon. Minister is as follows –

- (i) to find out from the Police where the enquiry is, because there must have been some cameras or some witnesses and what not;
- (ii) to ask for his employer to make arrangement for him to return back home as soon as possible, as per the conditions of the contract. I know it is four years, but this is a *force majeure*;
- (iii) I think foreign workers contribute to NPF as well so that money from the NPF be arranged so that as a compensation, he gets some money when he goes back home, and he can assure the livelihood of his family members, siblings. But my request is as a policy measure, there must be a measure at the Ministry to cater for this situation for the image of our country.

**MONTAGNE DES SIGNAUX – HEALTH TRACK**

The second issue I would like to raise this evening is addressed to the hon. Minister of Environment. It concerns the *Parcours de Santé* at Montagne des Signaux. For quite some time, the parking - I think there are some 20 to 40 cars that can be parked there - is closed because we are given to understand that there are falling rocks from the mountain.

So, my request to the hon. Minister is to see whether this is still the case, and, if not, to reopen it up, because not only people from Port Louis go there for exercise, but people who work in Port Louis also go there. They have a lot of difficulties to park their cars and sometimes they park along Labourdonnais Street which was subject of a PQ of mine some time ago, it is in a very dangerous situation.

I thank both Ministers for their attention and prompt action.

**The Deputy Speaker:** Hon. Minister of Labour, Industrial Relations, Employment and Training!

**The Minister of Labour, Industrial Relations, Employment and Training (Mr S. Callichurn):** Mr Deputy Speaker, Sir, indeed this is a very sad story. I have been closely monitoring the situation since the accident happened and we were with the hope that the worker recovers. Unfortunately, as we stand now, the poor worker is bedridden, he is paralysed and the repatriation cost is coming to around Rs350,000 to Rs400,000. Only this morning, I raised the matter in Cabinet so that we get consensus as to how to proceed, because the amount is quite consequential, and the employer is agreeable to contribute only up to Rs100,000. I am given to understand that there is a fund at the FSC which is called the Hit & Run Fund, and we have already applied for fund to be released. They were awaiting for the Police report; we got the Police report and we have transmitted it already to the FSC. We will be getting the medical report on Monday and then we will submit it to the FSC. Hopefully, by next week, we will know the course of action.

Thank you.

**The Deputy Speaker:** Hon. Minister of Social Security, National Solidarity, and Environment and Sustainable Development.

**The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou):** Thank you, Mr Deputy Speaker, Sir.

As a matter of fact, Sir, the PPS for that region has raised this matter with me. Indeed, Montagne des Signaux and the health track over there actually have a risk of rockfall. This has been confirmed by the officer-in-charge of the National Disaster Risk Reduction and Management Centre and has been communicated to the PPS there. This is why the car park has been closed and you have indications now over there that there are risks of rockfall. There is no intention at this stage to reopen the parking because of that risk.

**The Deputy Speaker:** Hon. Abbas Mamode!

### **PORT LOUIS MARITIME & PORT LOUIS EAST – STREET LIGHTING**

**Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East):** My issue is addressed to the hon. Vice-Prime Minister, Minister of Local Government and Outer Islands. Since Parliament will resume on the eve of Eid, this is the only occasion I have to raise an issue concerning by constituency – Constituency No. 3 - where we are today the 9<sup>th</sup> of Ramadan and still works are going on concerning street lighting. The Minister assured me some time back that there is a Task Force which is chaired by the Prime Minister himself, but, unfortunately, up to now, installation of street lanterns and fog lights are unprocessed, and we are already one third of Ramadan. So, please treat as urgent.

**The Deputy Speaker:** Hon. Vice-Prime Minister!

**The Vice-Prime Minister, Minister of Local Government and Outer Islands (Mrs F. Jeewa-Daureeawoo):** Okay, I will look into it.

**The Deputy Speaker:** Hon. Adrien Duval.

### **CITÉ ATLEE – GAMEHOUSE PROJECT**

**Mr A. Duval (First Member for Curepipe & Midlands):** Thank you, Mr Deputy Speaker.

In the absence of the Prime Minister, I move directly to the Deputy Prime Minister, it concerns the GRA. We had a meeting last Friday where all the MPs of Constituency No. 17 together with the Mayor, and they most strongly rejected the project of opening of a gamehouse opposite the monument of Cité Atlee, and we were astonished to be frank, Mr Deputy Speaker, Sir, that contrary to the *soi-disant la fin de la nation zougadere*, now *on délocalise les maisons de jeux*. They are serious and they are strongly rejecting this project.

I call upon the Deputy Prime Minister to take it up with the Prime Minister so that he takes it up with the GRA. A petition and a letter have already been sent to the GRA, as it has been sent to the Prime Minister, and therefore, to take note of the *contestations des habitants* and to please take it up with the GRA so that they take note.

**The Deputy Speaker:** Hon. Deputy Prime Minister!

**The Deputy Prime Minister:** Thank you. Hon. Toussaint has whispered to me in a loud voice that the Prime Minister had taken note of this since he had spoken to the Prime

Minister, he seems to share your concern and the Prime Minister still according to what I have been told, has taken note of the matter and will look into the issue.

**The Deputy Speaker:** Hon. Ms Sewocksingh!

### **CUREPIPE & MIDLANDS – NDU PROJECTS**

**Ms M. Sewocksingh (Third Member for Curepipe & Midlands):** Thank you, Mr Deputy Speaker, Sir.

The matter is addressed to the hon. Prime Minister. In regard to a Parliamentary Question which I brought on 27 March 2018 concerning projects implemented by the NDU in Constituency No. 17 Curepipe and Midlands, till now the reply has not been laid at the Library. May I request the hon. Minister to kindly do needful so that a follow-up may be done as soon as possible?

Thank you.

**The Deputy Speaker:** Hon. Deputy Prime Minister!

**The Deputy Prime Minister:** I will look into it.

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

### **(1) BEAU BASSIN & PETITE RIVIERE – NDU PROJECTS**

### **(2) ALBION – BUS SHELTER - COST**

**Mr G. Lepoigneur (Fifth Member for Beau Bassin & Petite Rivière):** Merci, M. le président. Ma requête s'adresse au Premier ministre, donc au *DPM*, concernant la déclaration que le ministre a faite sur la question B/421 que j'avais posée la semaine dernière.

Au fait, ma question était basée sur tous les projets qui ont été initiés dans la circonscription numéro 20 d'après le papier déposé par le *Deputy Prime Minister* le 17 avril. Donc, le ministre avait promis de déposer les réponses à la Librairie de l'Assemblée nationale. J'espère que j'aurai toutes les réponses à ma question incessamment et je sais que c'est l'abribus...

*(Interruptions)*

...concernant la question numéro B/421 que j'avais posée sur tous les projets de la circonscription numéro 20, j'attends les réponses. Mais je sais que c'est l'abribus qui a fait la

une ces derniers temps. Je maintiens que R 790,000 pour l'abribus que j'ai été visité avec des experts est chèrement payée.

**The Deputy Speaker:** Hon. Deputy Prime Minister!

**The Deputy Prime Minister, Minister of Energy and Public Utilities (Mr I. Collendavelloo):** Allons voir les deux aspects. Premièrement il y a l'aspect du manque de réponses à tous les points soulevés dans le papier. L'honorable membre devrait prendre un petit peu de patience ; je suis sûr que le Premier ministre aura le temps, malgré ses occupations, de faire le nécessaire.

Sur l'affaire d'Albion, j'ai eu l'occasion de discuter avec le Premier ministre parce que j'ai lu des articles extraordinaires dans la presse. L'abribus premièrement n'a jamais coûté R 1.6 m. seulement c'est vrai qu'il y avait une erreur dans le papier qui fut préparé par la NDU. D'abord le *cost estimate* avait été de R 800,000 mais le *contract value* était de R 700,000 et quelque, laissons les sous. Les deux ont été ajoutés dans le papier c'est une erreur qui a été corrigée ce matin par le Premier ministre. Maintenant vous me dites que vos experts vous disent que c'est cher payé peut-être que vos experts ont raison ça je ne sais pas. Mais les experts du Premier ministre ont dit et il a expliqué tous les travaux qui ont été faits comme l'asphaltage, tous les drains, tout ce qui a été et non pas comme l'honorable membre avait suggéré une feuille en tôle avec quatre colonnes en béton. Il y a beaucoup plus que ça, soyons *fair* dans cette histoire-là.

Je vous remercie d'avoir soulevé le point parce que cela permet d'éclairer toute la population, comme dit l'honorable Bhagwan, cette Chambre, *the people and the nation*. Cela permet d'éclairer tout le monde sur la véritable question. Donc, j'espère que le débat est clos à partir de maintenant. Mais pour les autres j'enjoindrai le Premier ministre de considérer votre intervention.

*At 8.03 p.m., the Assembly was, on its rising, adjourned to Thursday 14 June 2018 at 3.00 p.m.*