



**SIXTH NATIONAL ASSEMBLY**

**PARLIAMENTARY**

**DEBATES**

**(HANSARD)**

**(UNREVISED)**

**FIRST SESSION**

**TUESDAY 16 APRIL 2019**

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## THE CABINET

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

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

Hon. Soomilduth Bholah	Minister of Business, Enterprise and Cooperatives
Hon. Marie Roland Alain Wong Yen Cheong, MSK	Minister of Social Integration and Economic Empowerment
Hon. Premdut Koonjoo	Minister of Ocean Economy, Marine Resources, Fisheries and Shipping
Hon. Soodesh Satkam Callichurn	Minister of Labour, Industrial Relations, Employment and Training
Hon. Purmanund Jhugroo	Minister of Housing and Lands
Hon. Marie Cyril Eddy Boissézon	Minister of Civil Service and Administrative Reforms
Hon. Dharmendar Sesungkur	Minister of Financial Services and Good Governance

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Deputy Speaker	Lesjongard, Georges Pierre
Deputy Chairperson of Committees	Jahangeer, Hon. Ahmad Bashir
Clerk of the National Assembly	Lotun, Mrs Bibi Safeena
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**MAURITIUS**

**Sixth National Assembly**

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**FIRST SESSION**

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**Debate No. 03 of 2019**

**Sitting of 16 April 2019**

The Assembly met in the Assembly House, Port Louis at 11.30 a.m.

**The National Anthem was played**

*(Madam Speaker in the Chair)*

**PAPERS LAID**

**The Prime Minister:** Madam Speaker, the Papers have been laid on the Table.

**A. Office of the President**

The Annual Report of the National Human Rights Commission for the year 2018.  
(In Original)

**B. Prime Minister's Office**

(a) Certificate of Urgency in respect of the following Bills (In Original):

- (i) The Immigration (Amendment) Bill (No. III of 2019);
- (ii) The Mauritius Research and Innovation Council Bill (No. IV of 2019);
- (iii) The Road Traffic (Amendment) Bill (No. V of 2019)

(b) The Financial Statements and Audited Reports of the Prime Minister's Cyclone Relief Fund for the year ended 30 June 2018. (In Original)

(c) The Financing Agreement dated 05 April 2019 between the SIC Development Co. Ltd and Government of Mauritius. (In Original)

**C. Ministry of Local Government and Outer Islands, Ministry of Gender Equality, Child Development and Family Welfare**

The District Council of Black River (other Public Place Naming) Regulations 2019.  
(Government Notice No. 62 of 2019)

**D. Ministry of Education and Human Resources, Tertiary Education and Scientific Research**

The Annual Report 2016-2017 of the Mauritius Institute of Education.

**E. Ministry of Health and Quality of Life**

The Dental Council (Registration of Dental Surgeons and Dental Specialists) (Amendment) Regulations 2019. (Government Notice No. 61 of 2019)

**F. Ministry of Industry, Commerce and Consumer Protection**

(a) The Annual Report of the State Trading Corporation for the year 2017.

(b) The Consumer Protection (Control of Imports) (Amendment) Regulations 2019.  
(Government Notice No. 56 of 2019)

**G. Attorney General's Office, Ministry of Justice, Human Rights and Institutional Reforms**

- (a) The Courts (Amendment of Schedule) Rules 2019. (Government Notice No. 57 of 2019)
- (b) The Legal Aid and Legal Assistance (Fees) Rules 2019. (Government Notice No. 58 of 2019)
- (c) The Intermediate Court (Mediation) Rules. (Government Notice No. 59 of 2019)
- (d) The Courts (Review of Master's Decision) Rules 2019. (Government Notice No.60 of 2019)
- (e) International Covenant on Economic, Social and Cultural Rights (ICESCR) – Concluding observations on the fifth periodic report of Mauritius dated 05 April 2019. (In Original)
- (f) International Convention on the Elimination of All Forms of Racial Discrimination (CERD) – Concluding observations on the combined twentieth to twenty-third periodic reports of Mauritius dated 19 September 2018. (In Original)
- (g) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) - Concluding observations on the eighth periodic report of Mauritius dated 14 November 2018. (In Original)

**H. Ministry of Business, Enterprise and Cooperatives**

The Financial Statements of the Cooperative Development Fund for the year ended 30 June 2017. (In Original)

**I. Ministry of Ministry of Labour, Industrial Relations, Employment and Training**

The Non-Citizens (Employment Restriction) Exemptions (Amendment No. 2) Regulations 2019. (Government Notice No. 55 of 2019)

**J. Ministry of Labour, Industrial Relations, Employment and Training**

- (a) The Non-Citizens (Employment Restriction) Exemptions (Amendment No. 3) Regulations 2019. (Government Notice No. 68 of 2019)
- (b) The Non-Citizens (Employment Restriction) Exemptions (Work Permit) (Amendment) Regulations 2019. (Government Notice No. 69 of 2019)



**ORAL ANSWERS TO QUESTIONS****FOND DU SAC - FLOODING**

**The Leader of the Opposition (Mr X. L. Duval)** (*by Private Notice*) asked the Minister of Social Security, National Solidarity, and Environment and Sustainable Development whether, in regard to the recent cases of flooding at Fond du Sac Village, he will –

- (a) state if an expert study has been conducted as to remedial works required and, if so, table copy thereof;
- (b) give details of lands already acquired, including date of acquisition, and of lands remaining to be acquired;
- (c) give an estimated timeframe for implementation of works, and
- (d) state if financial compensation is being paid and, if so, indicate the eligibility criteria therefor and number of beneficiaries thereof.

**Mr Sinatambou:** I would like to thank the hon. Leader of the Opposition for coming with this question. I think the first thing we should do, on both sides of the House, is to express our sympathy for all those household owners and people who have been sinistred with the bad weather which has been happening not only in Fond du Sac but elsewhere on the island.

Madam Speaker, as the House is aware, it is a known and accepted fact that climate change has increased the frequency, intensity and severity of disasters, particularly for small and vulnerable Small Island Developing States like Mauritius.

According to the last report of the Intergovernmental Panel on Climate Change published last year in October, there is now a higher prevalence of extreme weather events such as flash floods, rainfall variability and intense tropical cyclones.

Government policy is to act on three major areas to address the problem of flash floods, namely –

- (i) to invest in the appropriate infrastructure so as to minimise the impact of flash floods;
- (ii) to try and be prepared to deal with such events, and
- (iii) to give appropriate support and assistance to the victims of flash floods.

Madam Speaker, with regard to part (a) of the question, I wish to highlight that Fond du Sac has, unfortunately, been regularly affected by flooding due to the local topography of the village which has poor drainage capability and the fact that major run-off is generated from sugarcane fields located at higher grounds. In view of the complexity and extensiveness of the problem, it was decided, during the first quarter of 2016, to appoint a consultant in order to identify the best option for long-term remedial measures.

Following procurement procedures, a consultancy contract was awarded to Mega Design Ltd in September 2016 for a total amount of Rs6,385,950. The scope of services included the following –

- the review of existing information and collection of data from site observations, local inhabitants and other relevant sources;
- topographical surveys for determination of affected locations and establishment of catchment project area, and
- to study the project area, compile and make an inventory of the existing drainage and associated infrastructure, among others.

The study started on 21 September 2016, revised preliminary design report was submitted on 03 March 2017 and was finalised in June 2017 following consultations effected with major stakeholders.

A consultation meeting with concerned landowners was held on 03 October 2017 to explain the importance of the project and the need to acquire land for implementing the works. The detailed design report was submitted in December 2017 and I am tabling, Madam Speaker, a copy thereof.

As regards part (b) of the question, Madam Speaker, I am informed that there were 92 plots of land which needed to be acquired over a total area of around 21 *arpents* for the construction of drains at Fond du Sac. As we are aware, the land acquisition process is a fairly lengthy exercise. It involves the survey of land, the definition of land acquisition limits after consultation with various stakeholders, namely the National Development Unit, the consultant himself, the Planning Division of the Ministry of Housing and Lands, the District Council concerned and the Water Resources Unit to sort out issues and constraints prior to finalisation of the drain alignment, access to landlocked sites, and the width of drains and the reserves.

In the case of Fond du Sac, the main hurdles were the identification of the landowners and fairly lengthy searches had to be carried out, after which a thorough survey was started in May 2017 and completed in December 2018. The survey plan and notices under section 8 of the Land Acquisition Act was prepared and finalised and approved on 21 February 2019. The transcription with respect to 86 plots of land is being completed with urgency and those lands will normally be vested with the National Development Unit of the Prime Minister's Office this month.

Regarding the remaining six plots, the addresses of the owners have been traced this month and notices under section 6 have been issued this very month. For these plots, section 8 for Compulsory Land Acquisition will be issued by the end of April after the legal time frame of 14 days under section 6 of the Land Acquisition Act. The six plots will then be transcribed after 21 days as provided by law, that is, just after mid-May. Madam Speaker, I am tabling the list of landowners and the details of the plots of land.

With regard to part (c) of the question, I am informed that the consultant, Mega Design Ltd, had since December 2018 already submitted draft bidding documents for the appointment of a contractor to execute works at Fond du Sac. Those works included, among others –

- the construction of a 2-metre high flood wall over a distance of some 700 metres;
- the construction and upgrading of a naturally line cut-off drain 3 metres deep and 18 metres wide over a length of not less than 1.3 kms;
- the construction of masonry line drain over about 300 metres;
- the construction of a detention flood retardation basin of capacity of 83,000 cubic metres upstream of the cut-off drain with a flow regulation structure at its outlet;
- the construction of culverts over the cut-off drain across Forbach Road and Fond du Sac main road;
- upgrading of drain along Fond du Sac main road;
- secondary drains and re-profiling of roads,
- and finally, the relocation of services.

Normal procurement procedures would have required about four months for the appointment of a contractor for the execution of the abovementioned works. However, in

view of the urgency of the situation, Madam Speaker, the decision has been taken to implement the project of construction of flood mitigation measures at Fond du Sac under the emergency procurement procedure. Indeed, section 21 of the Public Procurement Act of 2006 provides that a public Body may purchase goods, other services or works from a single supplier without competition in cases of extreme urgency, in particular in a situation in which the country is either seriously threatened by or is actually confronted with a disaster or catastrophe and life may be seriously compromised.

Following approval to undertake the project under emergency procurement, it is expected that a contractor will be appointed by the first week of May and works would start by mid-May 2019. The duration of the works is expected to last for about 18 months, Madam Speaker.

With regard to part (d) of the question, in accordance with the First Schedule of the Social Aid Regulations of 1984, flood victims are paid a daily flood allowance of Rs182 per member of a family per day for a maximum of three days if –

- (i) their premises have been flooded, and
- (ii) their foodstuffs have been damaged.

The payment is released subject to a Police memo certifying that the foodstuff has actually been damaged. The amount of flood allowance paid to the victims of the torrential rain of 09 April 2019 at Fond du Sac, as at yesterday 1600 hrs, stood at Rs63,518, covering 111 households, consisting of 349 individuals.

In addition, Madam Speaker, a financial compensation is being paid to those 111 households affected in Fond du Sac as decided by the Prime Minister's Relief Fund Board. Rs6,000 are being paid to each adult while every child under 18 years will receive Rs3,000 in each household.

The modalities of payment of the compensation are as follows: the affected head of household must register himself or herself at the Police Station of the locality, following which the Police will make a site visit. If the Police is satisfied that there is damage to the belonging of the applicant, then it will issue a memo to the latter and, on receipt of the memo, the applicant will call at the Social Security office of his region with the Police memo to register for the flood allowance. The total compensation payable from the Prime Minister's

Relief Fund to the victims of Fond du Sac as at date will amount to Rs1,779,000. Payment has already started and is currently ongoing, Madam Speaker.

**Mr X. L. Duval:** Madam Speaker, unlike the hon. Minister, I had the occasion to offer my sympathy directly yesterday at Fond du Sac, on site. May I ask the hon. Minister whether it is not incorrect to describe the flooding at Fond du Sac as a flash flood? It is now a recurrent event and I do not think it should be classified as a flash flood but rather more serious than that.

**Mr Sinatambou:** My answer to that question would be in the negative, Madam Speaker. The topography of Fond du Sac is such that any serious, any substantive rainfall is likely to have a result, a negative impact on the region for the simple reason that, as the word itself explains, Fond du Sac is like *une cuvette* and, therefore, we do not need a flash flood for Fond du Sac to be affected. Any substantial amount of rainfall will actually have a negative impact on Fond du Sac although one must say that a flash flood is likely to have a quicker negative impact.

**Mr X. L. Duval:** Madam Speaker, the hon. Minister has just contradicted himself. Thank you. Hon. Gungah, who had the unfortunate experience of being chased out of Fond du Sac, said that the cost of the works will be Rs300 m. Now, remember at the time, it was Rs49 m., it has become six times more expensive. Can the hon. Minister confirm that the estimated cost is what hon. Gungah has said on TV and everywhere, Rs300 m., and why the increase is flash increase?

**Mr Sinatambou:** Well, first of all, I would like to highlight that I do not see any contradiction in what I have said up to now. But coming down to the Rs49 m. to which the hon. Leader of the Opposition is actually referring to, I must say that it is true that there is actually a document, which I have been provided, concerning construction of drains at Fond du Sac, where out of...

*(Interruptions)*

**Madam Speaker:** Hon. Leader of the Opposition, please do not be impatient! Allow the hon. Minister to reply, please!

**Mr Sinatambou:** Madam Speaker, the figure of Rs49 m. is just being thrown like this before this House. We must know where it comes from. I have been provided with a

document, yes, of an amount of Rs49 m. where for the construction of drains, Rs27 m. is just for excavation. So, it is obvious to me that such scope of works was certainly, to say the least, very limited.

Now, let alone this scope of works did not only originate from the then Ministry of Public Infrastructure, National Development Unit and Land Transport and Shipping, but after having come up with a scope of works of Rs49 m., the very same scope of works was cancelled. So, it certainly indicates that it was not the right figure. And to finish on that note ...

*(Interruptions)*

I am not giving way.

*(Interruptions)*

**Mr X. L. Duval:** Madam Speaker, can I take a point of order?

*(Interruptions)*

**Mr Sinatambou:** I am not giving way.

*(Interruptions)*

**Madam Speaker:** Please, I understand that the hon. Minister does not want to give way. But is that a point of order?

**Mr X. L. Duval:** You have repeatedly asked me to keep my question short. My question here is whether the cost has escalated to Rs300 m., and we are given 10 minutes of *bla bla bla*. You must be fair, I would like you to be fair and restrict them as me.

*(Interruptions)*

**Madam Speaker:** Order, please! What I would ask is that both the Leader of the Opposition be concise in his question and that the hon. Minister also be concise in his reply, please!

**Mr Sinatambou:** How much he gives the lie because the word 'lie' is unparliamentary. But to actually show to you that the *bla bla bla* is not on this side, let me give you, Madam Speaker, the explanation for the Rs49 m.

*(Interruptions)*

**Madam Speaker:** Order!

**Mr Sinatambou:** Let me give you the explanation for the Rs49 m.

*(Interruptions)*

**Madam Speaker:** Order! Allow the Minister to reply, please!

**Mr Sinatambou:** Let me say, Madam Speaker, that following the torrential rains of February 2013, Luxconsult was appointed to survey and prepare designs and scope of work at Fond du Sac, and they proposed a drain project estimated then at Rs303 m...

*(Interruptions)*

**Madam Speaker:** Order!

**Mr Sinatambou:** ...which was then refuted and split into two phases. The first phase would comprise construction of culvert over the length of more than 2,000 metres up to Forbach Road. The second phase would then follow to cover another length of nearly 1,500 metres up on the motorway of Vale. Now, the works order was issued to Best Construct for the first phase for an amount of about Rs49 m. and the figure for now is not Rs300 m. I understand the figure for Rs300 m. includes the acquisition of land. That is correct.

**Mr X. L. Duval:** Madam Speaker, I am not going to play politics when the lives of people are at risk. I wanted to know...

*(Interruptions)*

I wanted to know why Rs300 m. He has replied! Fair enough!

*(Interruptions)*

**Madam Speaker:** Order, please!

**Mr X. L. Duval:** He has replied. Now, let us get on with it because people are listening in Fond du Sac and in Cottage also. Let me tell you, Madam Speaker...

*(Interruptions)*

**Madam Speaker:** Order, please!

**Mr X. L. Duval:** The hon. Prime Minister said there were 77 plots. Now it has gone to 92. Okay, there was confusion. We have 92 plots of land. Notices have been sent. Can I ask

hon. Minister whether any of the owners have challenged the legality in Court or whether now we are going to proceed with acquisition of land and start of work?

**Mr Sinatambou:** May I first start by insisting that Government is not playing politics on the disasters of people. However, I would like to tell the House that the answer to the question put by the hon. Leader of the Opposition is in the negative.

**Mr X. L. Duval:** Madam Speaker, Luxconsult had already done the work, *bla bla bla*, six years ago. Government is nearly five years in office. I would like to ask the hon. Minister why did he take until December 2018, until last month for compulsory acquisition notices to be sent? And he is to know that everywhere in Fond du Sac, etc., people are saying that Metro Express went quickly and this one was not a priority of Government. So, can he tell us why it was not a priority of Government since 2014 to end of 2018 and 2019, four years for this to happen? Why was it not a priority of Government? That is my question.

**Mr Sinatambou:** Let me first say...

*(Interruptions)*

**Madam Speaker:** Hon. Jhugroo!

**Mr Sinatambou:** Let me first say...

*(Interruptions)*

They are so used to mediocrity that anything is better for them.

May I first start by stating that, as I said earlier, it is a priority of this Government to deal with flooding, landslides and disaster reduction and management. Now, it is for this reason...

*(Interruptions)*

Yes, next mandate of this Government.

**Madam Speaker:** Let me once again remind everybody that remarks from a sitting position are not allowed!

**Mr Sinatambou:** that when the hon. Leader of the Opposition states that nothing has been done, on this side of this House, we insist that it is, has been and will be a priority of this Government to deal with disaster management and risk reduction. From 2015, after the hon. Leader of the Opposition has been in Government for nearly nine years, we had, this side of



the House had to review the National Disaster Scheme so that the right protocols be triggered before, during and after such disasters.

Secondly, this is why in 2016 - they did nothing during nine years - this Government passed the National Disaster Risk Reduction and Management Act. They did nothing. This Government passed the Land Drainage Authority Act, which actually oversees all the floodings, coordinates all the works concerning the floodings. So, that they have the audacity to come and say that we did nothing, we believe that this is really nonsense. To finish with, Madam Speaker, let me go back to the major processes involved in land acquisition. It is quite clear that it is tedious and lengthy; it is taking the time that it takes. I must also hasten to add that before...

*(Interruptions)*

**Madam Speaker:** Hon. Shakeel Mohamed! I just said that from a sitting position, you should not make remarks.

*(Interruptions)*

**Mr Sinatambou:** *Pa gagne droit fer tapaz.*

I must hasten to add that if one really cares to know the number of measures taken regarding Fond du Sac, one will see that we have cared and that we do care. And finally, to end, Madam Speaker, there was objection before. We have managed now to get away with all the objections to the acquisition of land.

**Mr X. L. Duval:** Madam Speaker, I say it quite sincerely, *mille fois* Bachoo. What they have done, I say it quite sincerely.

*(Interruptions)*

Very, very sincerely, in front of the cameras, I say it.

*(Interruptions)*

**Madam Speaker:** Order, please! Order!

*(Interruptions)*

Can we have some order in the House, please? I cannot even hear what the hon. Leader of the Opposition is saying! Hon. Jhugroo!

**Mr X. L. Duval:** *Taler nu pu pren to cas la.*

Madam Speaker, cosmetic half-baked measures for five years, this is what the Government has done. And, Madam Speaker, I do not understand. Dramatic flooding in 2013. Okay, Mr Bachoo issued, did not issue. This Government starts, let us say, in January 2015. Why did it take two years to appoint Mega Design to do the design?

*(Interruptions)*

**Mr Sinatambou:** Everyone knows what procurement procedures are; we all know that. Now, let me say, in the meantime - Now he says '*mille fois* Bachoo'...

*(Interruptions)*

**Madam Speaker:** Now, this is the last time that I am drawing the attention of hon. Members that remarks from a sitting position is not in order and I say it, it is the last time. We have got only 10 minutes left for Question Time. So, allow the hon. Minister to reply and the hon. Leader of the Opposition to ask his questions!

**Mr Sinatambou:** He prefers a Minister who goes on a dam which leaks. I have never heard that. Leaking dams whose cost increased by two billion. He prefers motorways which, before inauguration, actually just collapsed. That is what he likes. That is what we are now going for. They will do anything to get just a few more votes. I pity them. Frankly, that is what they like. But let me say, Madam Speaker, that one should also be aware of the time it has taken for the consultancy, the emergency procedure. We have now completed the process for the acquisition of the land to do the work, but I think one should also know the number of other measures taken in the meantime. One is not aware, for example, that...

**Mr X. L. Duval:** Madam Speaker, time is running out. What are we going to do? Are you going to give some extra time? This is not fair, Madam Speaker!

**Madam Speaker:** I concede that time is running out. I will give eight more minutes, but be brief in your questions and be brief in your answers, please!

**Mr Sinatambou:** He is making out. The hon. Leader...

*(Interruptions)*

**Madam Speaker:** Hon. Bhagwan, you are losing time now! You are biting in the time of ...

*(Interruptions)*

Hon. Bhagwan, you will not have time to ask your questions, because you are biting in the time of...

*(Interruptions)*

Now, please!

*(Interruptions)*

Please!

*(Interruptions)*

Now, let me say...

*(Interruptions)*

Hon. Bhagwan, I will have to take action. Order, please!

*(Interruptions)*

Order! But you will not have time!

*(Interruptions)*

Last time, hon. Bhagwan!

*(Interruptions)*

Hon. Bhagwan, I am addressing myself to you, and this is the last time I do so, otherwise I will have to take sanction!

**Mr X. L. Duval:** Madam Speaker, I would like to ask a question about compensation...

*(Interruptions)*

The Speaker asked me to ask my question. What is wrong with the hon. Member?

*(Interruptions)*

**Madam Speaker:** Can I know who has made provocative remarks on this side?

*(Interruptions)*

Hon. Hurreeram, please do not make provocative remarks. I am drawing your attention.

**Mr X. L. Duval:** Madam Speaker, compensation from the Prime Minister's Relief Fund has been paid - peanuts - to the people of Fond du Sac. My first question to the hon.

Minister is: why the people of Cité La Cure, who have got Rs182, have got zero cent from the Prime Minister's Relief Fund? Why Cité La Cure has been discriminated?

*(Interruptions)*

**Madam Speaker:** No! Hon. Leader of the Opposition, here, I have to draw your attention that the question relates...

*(Interruptions)*

Hon. Leader of the Opposition!

*(Interruptions)*

I will have to suspend the sitting if that continues. I am sorry, hon. Leader of the Opposition, you have only four minutes left. Do not bring in extraneous matters. The question relates to Fond du Sac, you cannot talk about Cité La Cure.

*(Interruptions)*

**Mr X. L. Duval:** May I ask another question?

**Madam Speaker:** No, the hon. Minister has not finished. Nobody allows him to finish his reply.

**Mr Sinatambou:** Madam Speaker, I would like to explain the process - just briefly - through which one uses in order to get compensation. Now, all victims of floods actually have to go through a process, and that process is very simple. My Ministry carries out the surveys and they then transmit the results thereof and their recommendations to the Prime Minister's Relief Fund. Therefore, any citizen of this country will be treated on the same footing, and I just...

*(Interruptions)*

**Madam Speaker:** Hon. Mrs Perraud!

*(Interruptions)*

Hon. Mrs Perraud !

*(Interruptions)*

Hon. Mrs Perraud, I will order you out! Your place will be outside and not inside if you continue to cause interruption in the House.

**Mr Sinatambou:** Madam Speaker, I must say openly to the nation that I consider it to be extremely vicious and improper to try and come before this House and make allegations of this type, because it is simply a fallacy to come and make such allegations.

**Mr X. L. Duval:** I will be nice to the hon. Minister...

*(Interruptions)*

**Madam Speaker:** Hon. Mrs Perraud, will you continue? Last time, otherwise your place will not be in the House! I have said your place will be outside.

**Mr X. L. Duval:** Okay, she will not do anything.

*(Interruptions)*

I will invite the hon. Minister tonight to come with me to Fond du Sac to meet the people there, to see that the compensation is highly inadequate, given that they are not allowed to insure their house. No one will insure their house in Fond du Sac; they are counting only on the peanuts from the Government. I will also invite, at the same time, the hon. Minister to accompany me to Cité La Cure where we will see the horrible discrimination that is taking place in this country today...

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

*(Interruptions)*

Hon. Leader of the Opposition, I give you two more minutes, that's all.

**Mr Sinatambou:** Madam Speaker, I am prepared to go anywhere with the hon. Leader of the Opposition, if ever...

*(Interruptions)*

But I believe that it is totally improper to try and make out that different treatments are being actually given to different people regarding this matter of flood.

Madam Speaker, I believe that this is this type of jargon, this type of comments which are highly disruptive of our nation-building process.

**Mr X. L. Duval:** That is why I say *mille fois Bachoo!*

**Madam Speaker:** Hon. Leader of the Opposition, last question!

**Mr X. L. Duval:** Madam Speaker, I want to ask the hon. Minister a factual question. Beginning of the year, there have been flash floods in many Places such as Trou-aux-Biches, Poudre d'Or, etc. As Minister of Environment - he has a very big Ministry, he is a very busy man - following the floods, how many places - a factual question - has he visited? Please give me the dates that he has visited.

*(Interruptions)*

**Mr Sinatambou:** What does the hon. Member mean? How does he know? Does he follow me? *Eta alé do ta!* I have gone to many...

*(Interruptions)*

**Madam Speaker:** Do you want him to reply? Then, be silent!

**Mr Sinatambou:** I have gone to many, and I believe that it is totally improper...

*(Interruptions)*

How do they know? It is totally improper...

*(Interruptions)*

Do they sleep in my bed?

*(Interruptions)*

I believe it is totally improper for those nonsensical remarks.

*(Interruptions)*

By the way, let me finish. Madam Speaker, since the issue was Fond du Sac, let me finish on what has been done. They are talking a lot about Fond du Sac, Cottage and other regions. When they were in office, what did they do? Nothing! Nothing, and I will come back to the question.

*(Interruptions)*

Shut your mouth!

*(Interruptions)*

*Kott mo per twa, alé do ta! Ki pu per ar twa!*

*(Interruptions)*

**Madam Speaker:** Hon. Adrien Duval, this word is not parliamentary. Please, withdraw this word!

**Mr A. Duval:** I withdraw it, Madam.

**Mr Sinatambou:** Since we are talking about Fond du Sac, let me finish, Madam Speaker. First of all, because the work was actually in the process, we have had to start. What do we do in the meantime? There is already a Flood Contingency Plan for Fond du Sac; there is a Community Disaster Response Team which is over there to actually help. There are simulation exercises...

*(Interruptions)*

**Madam Speaker:** Now you start again, hon. Bhagwan!

*(Interruptions)*

Hon. Bhagwan, you cannot say that.

**Mr Sinatambou:** Madam Speaker, he just said I am lying. He cannot say I am lying. I insist that he withdraws it.

*(Interruptions)*

**Madam Speaker:** Time is over!

Hon. Members, the Table has been advised that PQ B/149 in regard to the construction of the new Albion Bridge will be replied by the hon. Minister of Public Infrastructure and Land Transport, Minister of Foreign Affairs, Regional Integration and International Trade. PQ B/150 in regard to the toxicity of the industrial Cannabis Sativa L. will be replied by the hon. Minister of Health and Quality of Life. PQ B/154 in regard to the total cost involved for the dismantling of the BAI Group...

*(Interruptions)*

Hon. Leader of the Opposition, when the Speaker is addressing the House, it is most inappropriate for you to have crosstalking talks!

PQ B/154 in regard to the total cost involved for the dismantling of the BAI Group will be replied by the hon. Minister of Financial Services and Good Governance. PQ B/202 in regard to the implementation of the Deep Ocean Water Application Project will be replied by the hon. Prime Minister, time permitting.

Hon. Osman Mahomed!

**SERGE BARDOTIER FOOTBALL PITCH, TRANQUEBAR – CONSTRUCTION  
WORKS – DELAY**

(No. B/144) **Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central)** asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the Serge Bardotier football pitch, in Tranquebar, he will state the reasons for the delay in the completion of the lighting works and the construction of the changing rooms and stepped terraces thereat by the National Development Unit scheduled for mid-January 2018, indicating the new expected completion dates thereof.

**The Prime Minister:** Madam Speaker, this project was started since 2013 and has been considerably delayed for a number of reasons, mainly for the poor performance of the Contractor. Subsequently, when hon. Mrs Roubina Jadoo-Jaunbocus, the then Parliamentary Private Secretary took office, she personally initiated action to review the project.

In October 2017, the National Development Unit had initiated a bidding exercise for the appointment of a Contractor for lighting works at Serge Bardotier football pitch. The construction of the changing room and graded seats were planned to be executed after the completion of the lighting works.

As the bids received for the lighting works were non responsive, no contract could be awarded.

In January 2018, hon. Oree, Parliamentary Private Secretary of the constituency, requested the City Council of Port Louis to consider the implementation of the three components of the project, namely the lighting works, construction of changing room and graded seats. This proposal was made to ensure that the three components be implemented together.

Following surveys carried out by the Council and submission of cost estimates, financial clearance was granted by the NDU to the City Council of Port Louis in May 2018 for the lighting works, construction of changing room and graded seats.

Madam Speaker, I am informed that the City Council of Port Louis awarded a contract for the lighting works on 24 December 2018 for a total amount of Rs1,891,750 inclusive of VAT. Works are in progress and are expected to be completed by 21 April 2019.



As regards the construction of changing room and graded seats, the City Council of Port Louis has awarded a contract on 11 April 2019 for a total amount of Rs7,974,100 inclusive of VAT. The design and construction works will last over a period of six months.

**Mr Osman Mahomed:** Thank you, Madam Speaker. There was an issue with the bids which were not responsive. Why was it taken from the NDU and the project sent to the Municipal Council of Port Louis, thereby incurring one and a half year delay in the project? What is the rationale in transferring the project from the NDU to the Municipal Council of Port Louis?

**The Prime Minister:** I must try to get the answer, but from what I understand, there was a bidding process that was carried on. There was evaluation of the bids. The exercise had to be cancelled on 20 February 2018, as I am told that the bids were non-responsive. Now, I do not know why, but I would get the details as to why they were not responsive.

**Mr Osman Mahomed:** Is it a general practice to transfer projects from the NDU to local authorities? Because all these lead to a lot of delay in the project. Is it because the NDU is concentrating on certain projects?

**The Prime Minister:** Madam Speaker, first of all, it is not a general practice, but it does happen depending on the situation. In this case, the NDU initiated the process. It had to cancel it because the bids were non-responsive. I have stated that hon. Oree intervened as PPS and, in order to expedite matters, we thought that it would be better, since they would be carrying out work on the graded seats and the changing rooms and also include the lighting so that the process is quicker. That is why, and I hope it is also in the interest of the people in the constituency to have this sporting infrastructure as soon as possible.

**Mr Osman Mahomed:** I note the commencement date. Can we have the completion dates for these projects, for the *vestiaires*, *lampadaires* and changing room?

**The Prime Minister:** Well, I have already replied. The contract has been awarded on 24 December for the lighting works, and works are currently in progress and will be completed by 21 April this year.

With regard to the changing room and the graded seats, the contract has been awarded on 11 April 2019, and I understand it will take about six months for completion of these infrastructural works.

**Madam Speaker:** Next question, hon. Bhagwan!

**AIRPORTS OF MAURITIUS LTD - CHAIRPERSON - OVERSEAS  
MISSIONS**

(No. B/145) **Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière)** asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the Chairperson of Airports of Mauritius Limited, he will, for the benefit of the House, obtain therefrom, information as to the number of overseas missions undertaken since December 2018 to date, indicating in each case the -

- (a) purpose thereof, and
- (b) expenditure incurred in terms of *per diem* and other allowances.

**The Prime Minister:** Madam Speaker, I am informed by the Officer in Charge of the Airports of Mauritius Ltd. that the Chairperson has not proceeded on any overseas mission for the period December 2018 to date.

**Mr Bhagwan:** Since the hon. Prime Minister has mentioned the Officer in Charge, can we know what is the position with regard to the job of CEO? You have an Officer in Charge. What is the position with regard to the filling of vacancy for the post of CEO?

**Madam Speaker:** Hon. Bhagwan, this question is not relevant to the main question. The main question relates to the Chairperson, please.

**Mr Bhagwan:** I have another question; I hope the hon. Prime Minister can reply. Is the hon. Prime Minister aware *qu'il y a un climat de terreur...*

*(Interruptions)*

*Reste tranquille quand mo causer do mo camarade ! Ou Premier ministre ou ?*

*(Interruptions)*

**Madam Speaker:** Please!

**Mr Bhagwan:** *Zamin ou pou vinn ministre ou!*

**Madam Speaker:** Hon. Bhagwan, please! Who is making those provocative remarks? Let me just remind hon. Members that provocative remarks do not heighten in any way the dignity of the House!

**Mr Bhagwan:** Yes, Madam Speaker. Can I rephrase my question?

**Madam Speaker:** Yes.

**Mr Bhagwan:** My question is also with regard to the Chairperson. *Il y a un climat de terreur qui prévaut au sein d'Airports of Mauritius. Même le président du syndicat a été suspendu et a dû aller à la Cour suprême.* Can the hon. Prime Minister inform the House whether his name is being used, nearly on a daily basis, by his advisor, Mr Ken Arian, *pour semer la terreur au niveau d'Airports of Mauritius?*

**The Prime Minister:** Madam Speaker, first of all, this is not true. But the hon. Member has been in this House for I do not know how many years now; one of the oldest Members. He comes up with a question with regard to overseas missions and now he is raising questions as to what is the atmosphere, what is the mood that prevails over there. He must come with a specific question. But let me again say that there is no *climat de terreur*. Obviously, the Chairperson assumes his responsibility as Chair and all the officers there also have to assume their responsibility. Whenever anything is being done which is not according to their duties, obviously, it has to be pointed out to them.

**Mr Bhagwan:** One last...

*(Interruptions)*

*Hey, reste tranquille do gopia!*

**Madam Speaker:** Hon. Jhugroo, I am once more drawing your attention!

**Mr Bhagwan:** Following the reply given by the hon. Prime Minister, he once replied to the House that clear instruction has been given to part-time Chairperson not to indulge into day-to-day matters of the Corporation where they are at the head. Can the hon. Prime Minister at least make sure that this instruction is being followed?

**Madam Speaker:** But this question does not relate to day-to-day matters! No! Hon. Bhagwan, you know fairly well. The question relates to overseas missions. Next question, hon. Bhagwan!

#### **AIRPORT OF RODRIGUES LTD - CHAIRPERSON - APPOINTMENT**

**(No. B/146) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière)** asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the Airport of Rodrigues Ltd., he will, for the benefit of the House, obtain therefrom, information as to the name of the Chairperson thereof, indicating the –

- (a) date and terms and conditions of appointment thereof and

(b) total monthly amount of fees and other allowances drawn.

**The Prime Minister:** Madam Speaker, Airport of Rodrigues Ltd. is responsible for the management and operation of Plaine Corail Airport.

As regards part (a) of the question, Mr Ken Arian is the Chairperson of the Airport of Rodrigues Ltd and he has been appointed on 23 March 2018 when Airport of Rodrigues Ltd became a wholly-owned subsidiary of Airports of Mauritius Ltd.

This restructuring was necessary mainly because the Airport of Rodrigues Ltd on its own is not in a position to raise the necessary funds for the implementation of the New Runway Project at Plaine Corail Airport, at an estimated cost of Rs3.9 billion. Furthermore, Airport of Rodrigues Ltd does not have the technical resources and adequate experience for developing and managing large airport infrastructure projects, which AML has.

As regards part (b) of the question, the Chairperson draws an all-inclusive allowance of Rs52,000 a month.

**Mr Bhagwan:** Can I know from the hon. Prime Minister the composition of the Board of Airport of Rodrigues Ltd, if he has it?

**The Prime Minister:** The composition of the Board of Airport of Rodrigues Ltd. Mr Ken Arian is the Chairperson; Mr Chellapermal, a Director, representative of SIC; Mrs Madhub Maheswaree Naraini, a Director, representative of Ministry of External Communications; Mr Gunpath Meda, Director, representative of Ministry for Rodrigues; Mr Chellen Dewananda, Director, representative of AML and Mr Hee Hong Wye Jacques Davis Po Hoo Tung, Director, representative of MOFED.

**Mr Bhagwan:** I have one last question. Can I know from the hon. Prime Minister whether he has received representation from the Rodrigues Regional Assembly to have more members or at least one on the Board?

**The Prime Minister:** Not that I can recall of but, of course, I can check and furnish this information to the House later.

*(Interruptions)*

Sorry, I have received the answer. No, we have not received this representation.

**Mr Bhagwan:** Does not the hon. Prime Minister consider it urgent, at least, to have a representative of the Rodrigues Regional Assembly?

*(Interruptions)*

*To pas pou vine Ministre meme prochain kou!*

*(Interruptions)*

**Madam Speaker:** I have said several times, why do you have to intervene?

*(Interruptions)*

Hon. Jhugroo!

**Mr Bhagwan:** Can I appeal to the hon. Prime Minister to at least have Members of the Rodrigues Regional Assembly represented on the Board?

**The Prime Minister:** Of course, if need be, we will consider this suggestion.

**Madam Speaker:** Next question, hon. Ameer Meea!

#### **FREEDOM OF INFORMATION BILL - INTRODUCTION**

**(No. B/147) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East)** asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the proposed introduction of the Freedom of Information Bill, he will state where matters stand.

**The Prime Minister:** Madam Speaker, as I have already stated previously in this House, the draft Freedom of Information Bill, submitted by the Attorney General's Office, is being examined at the level of my Office.

In my statements, I also highlighted the complexity of this exercise, given the numerous and far-reaching implications of this piece of legislation, ranging from constitutional to public interest issues, impact on the working procedures of the public service, preservation of sensitive commercial information, cost implications, amongst others. I also mentioned the need to draw inspirations from the best practices in other jurisdictions so as to avoid any pitfalls or negative unintended consequences. But at the end of the day, the law has to be home-grown and adapted to our local context, taking into account our local realities, including the required resources and its impact on public service delivery. Hence, the need to proceed with great care and caution.

Madam Speaker, this exercise of internal examinations of the Bill is ongoing and, once completed, all stakeholders will most certainly be consulted prior to its introduction into the National Assembly.

**Madam Speaker:** Hon. Ameer Meea!

**Mr Ameer Meea:** Madam Speaker, we agree on the complexity and far-reaching implications of the Bill, but at the same time the House will recall that answering a PQ in 2016, the then hon. Prime Minister informed the House that a first working draft Bill has been circulated in-house. So, it has been almost three years now that a first draft Bill has been circulated. Therefore, can I ask the hon. Prime Minister why is it taking that long, three years, and also what is the time frame for it to be finally circulated publicly?

**The Prime Minister:** Well, Madam Speaker, let me, first of all, express my satisfaction that we agree that it is a very complex piece of legislation. Very complex, so much so that in 2000, replying to a question from the Opposition, because we were in Government, MMM/MSM at that time, the then Acting Prime Minister said, and I quote -

“I can assure the House, Mr Deputy Speaker, that we mean business. Legislation to provide the necessary framework for better access to information will be introduced at the opportune time and, in that context, I have been informed that a Bill had already been prepared and had been submitted to the former Government, but there had been no action taken on that piece of information.”

I do not want to quote other parts of the answer. That was on 31 October 2000. Now, the previous Government of which I was a Member did not come up eventually with a Freedom of Information Bill because, as we rightly say so, the issue is very complex and it has to be looked into very carefully, especially in the light of what has happened in other countries. I am talking about countries like India, UK and others where even after having passed such a legislation, we have seen the consequences, the implications of that legislation, and there have even been comments made by Prime Ministers with regard to that legislation. We must be very careful. It will take the time it takes, but let us be very cautious about this.

**Madam Speaker:** Hon. Ameer Meea!

**Mr Ameer Meea:** Madam Speaker, this issue has been debated in the House for more than 20 years, and I have even checked it in Hansard. Today, there is an urgency. The urgency is because there are State-owned enterprises, which are funded by public funds, where information is not available. Therefore, can I ask the hon. Prime Minister if he will

agree with me that there is an utter need to come quickly with such legislation in the name of transparency and accountability?

**The Prime Minister:** Madam Speaker, I think it has been urgent to bring this kind of legislation for 20 years and, for 20 years, there have been so many Governments. I am happy that we all have been in Government, both MSM/MMM, Labour/PMSD, everybody. And everybody has been addressing this issue. I do not want to take the time of the House to mention, for example, what the former Prime Minister, Dr. Navin Ramgoolam, also stated in this very House. In fact, what happened was that it was in the Labour Party's Programme at one time, but it was removed because the then Prime Minister stated to this very House that it is so complex that they had preferred to remove it from the Government Programme, and this shows how difficult and how complex this piece of legislation is.

**Madam Speaker:** Hon. Ganoo!

**Mr Ganoo:** Madam Speaker, since the answer which the hon. Prime Minister has given to the PQ resembles a lot the answers he has given in the past on questions asked on this subject, may I, therefore, ask him - in view of the fact that we are at the end of the mandate, a few months are left - in all honesty, to give a pledge and a commitment to the nation that before the end of the mandate of this Government, the Freedom of Information Act will be introduced in this House? Because we talk of India, and even a country like Trinidad and Tobago has a freedom of information which is working properly in this country.

**The Prime Minister:** First of all, let me say, Madam Speaker, that in everything that I do, I am as honest as I can be. Secondly, the hon. Member himself has been a Member of past Governments and has also been dealing with this issue himself. I did not want to mention all these, but it is pertinent that I quote what the World Bank Report has highlighted with regard to implementation of freedom of information. I am talking about World Bank Report; I am not talking about our opinion or that of anybody else. World Bank Report mentions 'the unintended negative consequences'. As the hon. Member is talking about India, I shall mention about India. In India, the legislation had led to greater public mistrust of Government and has damaged democracy. The American democracy has become dysfunctional, partly because of excess in transparency; too much openness has undermined the effectiveness and legitimacy of Government. And in UK, Madam Speaker, which is normally a model when we talk about transparency and so on, former Prime Minister Tony Blair, who introduced the Freedom of Information Act in the year 2000, has, himself, admitted that he regrets the Act.

He described the Act as dangerous and utterly undermining of sensible Government. And for his part, the former Prime Minister, David Cameron, stated, and I quote -

“We spend, or the system seems to spend, an age dealing with freedom of information requests which are all about processes and actually what the public or the country wants to know is how much money you are spending, is that money being spent well and what are the results.”

I think this summarises the very difficulty that we have in view of the complexity of the matter. And as I say, because once we come up with legislation, we have to be very, very cautious about what are the exact consequences of that kind of legislation.

**Madam Speaker:** Next question, hon. Uteem!

### **YOUTH UNEMPLOYMENT, GDP & FDI**

**(No. B/148) Mr R. Uteem (First Member for Port Louis South & Port Louis Central)** asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the period January 2018 to date, he will state the rate of the following economic indicators –

- (a) youth unemployment;
- (b) Gross Domestic Product growth, and
- (c) Foreign Direct Investments.

**The Prime Minister:** Madam Speaker, the unemployment rate is now at its lowest since 2001, that is, since the past 17 years. Moreover, it has been on a clear declining trend for the past three years. In fact, the unemployment rate fell to 6.9% in 2018, from 7.1% in 2017 and 7.3% in 2016. Due to effective economic policies to spur growth, to create jobs and to improve employability, the number of persons employed in the economy has grown from 559,200 in 2014 to 573,100 in 2018. The increase in employment means that the growth potential of the economy is also expanding.

As regards part (a) of the question, the youth unemployment rate stood at 25.1% in 2018. This includes young people who are enrolled in part-time courses at the Open University, tertiary institutions and other training establishments but who are still looking for a job. Moreover, statistics show that 88% of the unemployed youths do find a job within one



year. It is also pertinent to note that 52% of the unemployed youths find employment in less than five months.

According to these statistics, there is practically no long-term unemployment among our youths. In fact, in almost all countries around the world, the unemployment rate among young people is higher than the overall unemployment rate.

*(Interruptions)*

**Madam Speaker:** He better goes out and leaves his phone out. Ask him to leave his phone when he comes in. Leave his phone outside.

*(Interruptions)*

**The Prime Minister:** Madam Speaker, in regard to part (b) of the question, it must be noted that the growth path of the economy has declined since 2009 with GDP growth reaching as low as 3.4% in 2013. However, for the past three years, including 2018, the growth rates have been higher at 3.8%. Moreover, Statistics Mauritius is forecasting a growth rate of 3.9% in 2019. The IMF is forecasting a growth rate of 3.9% for both 2019 and 2020 and 4% in the medium term. Moody's is of the view that Government's proactive approach via a wide range of projects and measures will support GDP growth of around 4% in 2019 and 2020. It is clear that the growth rate is firmly on a rising trend.

As regards part (c) of the question, FDI inflows for the year 2018 are estimated by the Bank of Mauritius at Rs17.4 billion. It should be highlighted that in 2017, FDI inflows reached the highest level ever recorded, that is, Rs21.2 billion. These figures testify to the growing confidence of foreign investors in our economy.

It should also be noted that the estimates for these three indicators, namely youth unemployment, GDP growth and FDI for the first quarter of 2019 will be published by end of June this year by Statistics Mauritius and the Bank of Mauritius.

**Madam Speaker:** Hon. Uteem!

**Mr Uteem:** Thank you, Madam Speaker. Part (a) of the question was very specific to youth unemployment. I have just checked, and in the latest report of Statistics Mauritius published in March, last month, unemployment rate actually is the highest. Almost 50% of unemployed today are aged less than 24. There is also an increase in unemployment rate compared to last year. This is what Statistics Mauritius is saying. So, does he find it normal

that even as at today, there are 17,900 unemployed people of less than 25 years old in this country?

**The Prime Minister:** Well, I have quoted my figures from statistics. If the hon. Member can table his statistics to the House, because I have been quoting from official figures of statistics. I say again, in 2018, the unemployment rate has been on the decrease. From the figures that I have, it is in fact, one of the lowest since 17 years; 2018, it is 6.9. I maintain that figure but, of course, I shall double check on this. With regard to unemployed youth, I have stated that the rate is 25.1%, and it is not something which is abnormal when we compare. Let us compare it to previous years also and let us compare it to the years when the hon. Member's Party was in Government. In 2004, the rate was 24.8% and in 2005, 26.1%. So, it is roughly around that figure. But what is important and revealing is not the figure in itself. It is how long does it take for a young person to be able to get employment. This is what is important and this is what I have just said. Most of them are employed within a period of one year. In fact, when we say most of them, it is 88%. But then, I do agree that there are a few cases where some of our youngsters are not able to get an employment within a period of one year, but the majority, bigger majority is able to get an employment.

**Madam Speaker:** Hon. Uteem!

**Mr Uteem:** I will table a copy of Statistics Mauritius where it is clearly stated at page 4 –

“The youth unemployment rate increased from 24.9% to 25.2% in the third quarter of 2018 as compared to the corresponding quarter one year earlier.”

It has increased! I am referring to the latest figures published by the Bank of Mauritius, which is public. I do not know what figures he has. They published one on 18 January 2019 – Gross Direct Investment Flows: First Three Quarters of 2017 and 2018. 2017: Rs15.5 billion, 2018: Rs11.5 billion. So, according to the figures that are officially on the website of the Bank of Mauritius, and I will table that as well, there is actually a net decrease in Foreign Direct Investment.

**The Prime Minister:** Madam Speaker, now I have heard clearly what the hon. Member has said with regard to youth unemployment. From one quarter to the other, he said 24.9% to 25.1%; it has increased! My God! 24.9% to 25.1%! Yes, it has increased, but I do not think he should make a big fuss about that. As I say, we have been in Government. He

was not in Government, but his Party was in Government. I do not want to repeat those figures again.

Coming to FDI, yes, from 2017 to 2018, it has decreased from Rs21,242,000,000, which is a record for 2017. Never have we reached such a level of FDI. I would wish that in the coming years we do better, but if we do not do better, I do not think it is dramatic. But I do not want to compare again - we have been in Government in 2005 - what was the level of FDI and also what was the level of FDI previously under other governments.

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

**Dr. Boolell:** Madam Speaker, can I ask the hon. Prime Minister to give the exact figures and not to rely on deceptive statistics? The problem is we have an ageing population and a shrinking workforce and when we look at figures, there is an increase in unemployment rate amongst the youth, and this is the fact, notwithstanding what hon. Uteem has said with respect to the decline in Foreign Direct Investment.

**Madam Speaker:** What is your question, hon. Dr. Boolell?

**The Prime Minister:** Madam Speaker, I do not know whether I have to - if English is not being understood properly, may I ask permission to speak, maybe in Creole, to explain myself? First of all,...

*(Interruptions)*

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

**The Prime Minister:** Let me say, it is a shame, hon. Dr. Boolell, for you to speak about deceptive statistics. You are attacking the institution...

*(Interruptions)*

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

*(Interruptions)*

Hon. Dr. Boolell!

*(Interruptions)*

Hon. Dr. Boolell, this is the last time I am drawing your attention. From a sitting position, you cannot make remarks! You have asked a question, the hon. Prime Minister has the right

to answer, and you have to listen to his reply. Time is already over, but I have allowed you that question, and I allow a last question to hon. Uteem.

**Mr X. L. Duval:** Madam Speaker, I have a question also on this.

**The Prime Minister:** Madam Speaker, first of all, on a point of order...

**Madam Speaker:** Then, I will not be able to give the hon. Leader of the Opposition...

**The Prime Minister:** Madam Speaker, on a point of order. The hon. Member has to withdraw what he just said, that I am manipulating figures. This is imputing a very, very serious and bad motive on my part in that I am manipulating figures.

**Madam Speaker:** Hon. Dr. Boolell, please withdraw that word, kindly, so that we may finish with Prime Minister's Question Time. Please!

**Dr. Boolell:** Madam Speaker, I have stated that right from the outset, right from his mandate, Government has been manipulating figures.

**Madam Speaker:** No! I am not interested to know what you said right from the outset. What I am interested to know is whether you are withdrawing that word 'manipulating' or not. Please!

**Dr. Boolell:** If the hon. Prime Minister feels aggrieved, I withdraw.

**Madam Speaker:** You are withdrawing unreservedly.

**Dr. Boolell:** If the hon. Prime Minister feels aggrieved, I withdraw.

**Madam Speaker:** You are withdrawing.

**Dr. Boolell:** I do not want him to be aggrieved.

**The Prime Minister:** Yes, thank you. I was also replying to the question that was asked, and I repeat again, when I look at the figures, Madam Speaker - I have requested all the figures for all the years since 2004 up to date, because the only year when we started having statistics on youth unemployment is as from 2004 - the percentage has been roughly about the same all these years. So, how can he criticise and say that now it is the highest, as if never before it has not been so? It is handwritten on this document; I will table the document that has been provided to me by Statistics.

Secondly, the hon. Member talked about FDI, the same question. Again, Madam Speaker, I believe we had a record level of FDI in 2017.

*(Interruptions)*

**The Prime Minister:** Okay! So, in...

**Madam Speaker:** Hon. Jhugroo, you know better than the hon. Prime Minister? Hon. Jhugroo, do you want to reply in the place of the hon. Prime Minister?

**The Prime Minister:** Okay, true it is that the level has decreased for 2018, but again, I mean, in previous Government also it has varied, depending on what has happened in a particular year and the other year. But what is important is that we should maintain a certain level that will, in fact, be a boost to economic development.

**Madam Speaker:** Last question!

**Mr X. L. Duval:** Let me ask a question. Madam Speaker, I would like to ask the hon. Prime Minister concerning the forecast growth rate for this year, which Government forecast at 3.9%, MCB, I think 3.8%, others 3.7%. My question is quite specific. In the light of the crisis in the tourism sector, three months of negative growth, can the hon. Prime Minister tell us whether Government is now going to downgrade the growth rate for this year? Because, as you know, tourism is nearly 24% of GDP. So, if there is a crisis in tourism, it is bound, amongst other sectors, to affect the GDP growth rate.

**The Prime Minister:** Madam Speaker, if I say what is Government forecast, the hon. Leader of the Opposition will say, yes, this is biased, because obviously, as Minister of Finance, I want to maybe paint a very nice picture of the situation. Let me then, again, quote the IMF forecast...

*(Interruptions)*

But the hon. Leader of the Opposition is talking about growth!

**Madam Speaker:** Hon. Leader of the Opposition, you do not want the hon. Prime Minister to reply! He has the right to reply to your question.

**The Prime Minister:** The hon. Leader of the Opposition is talking about growth generally. So, the IMF is forecasting a growth of 3.9% for both 2019 and 2020, and 4%, Madam Speaker, in the medium-term. I would invite the hon. Leader of the Opposition to have a look - I know he likes inviting. So, I invite him - and we can together have a perusal of that document, Moody's last report.

**ALBION BRIDGE (NEW) - COST**

**(No. B/149) Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière)** asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the construction of the new Albion Bridge by the National Development Unit, he will state the –

- (a) name of the contractor;
- (b) total project cost;
- (c) start and completion dates, and
- (d) measures taken to ensure normal vehicular traffic flow thereat, especially, in respect of Morcellements Raffray and Beerjeeraz.

*(Withdrawn)*

**Madam Speaker:** Time is over!

Hon. Members, the Table has been advised that PQ B/184, in regard to Mahebourg Regeneration Project, will be replied by the hon. Minister of Tourism. PQ B/159 has been withdrawn. PQ B/196, in regard to the cleaning of the river at Anse Jonction, Pailles, will be replied by the hon. Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare.

Hon. Rughoobur!

**ÉCOLE HÔTELIÈRE SIR GAËTAN DUVAL – STUDENTS INTAKE, DIRECTOR & VACANCIES**

**(No. B/156) Mr S. Rughoobur (Second Member for Grand’Baie & Poudre d’Or)** asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the *École Hôtelière*, he will, for the benefit of the House, obtain therefrom, information as to the –

- (a) total intake of students in 2016, 2017 and 2018, respectively;
- (b) name and qualifications of the Director thereof, and
- (c) list of existing vacancies thereat, indicating the impact thereof on the smooth running of courses thereat.

**Mrs Dookun-Luchoomun:** Madam Speaker, the *École Hôtelière* Sir Gaëtan Duval dispenses courses in Tourism, Hospitality and Leisure Trades at national certificate, diploma and higher national diploma levels on full-time, part-time and as well as apprenticeship modes.

With regard to part (a) of the question, the enrolment of trainees in the courses run by the hotel school for years 2016, 2017 and 2018 were 2,075, 2,474 and 2,092 respectively.

Further, with the implementation of the National Apprenticeship Programme as announced in Budget 2018/2019 to enhance prospects of youth employability, there were 881 apprentices enrolled at the *École Hôtelière*.

With regard to part (b) of the question, I am informed that the centre is presently headed by an acting Training Centre Manager. The vacant post for the Training Centre Manager was advertised in November 2018 and the selection exercise is underway. The Scheme of Service for the post provides for the following qualifications –

- A Cambridge Higher School Certificate or passes in at least two subjects obtained on one certificate at the General Certificate of Education, Advance Level, and
- A Degree in Hotel Management, Tourism, Hospitality, Physicals and Science Engineering, Computer Science or Design.

Regarding part (c) of the question, there are three other funded vacancies at the *École Hôtelière* Sir Gaëtan Duval, namely two Coordinators and one Training Officer in Tourism Management. Necessary arrangements have been made by the MITD for the smooth running of the activities at the centre. Two Training Officers have been assigned the duties of coordinators to ensure that there is no impediment in the operations of the Centre. As for the Training Officer, recruitment is under process. Scheme of Service for the coordinators is presently being reviewed. The Centre also has recourse to several part-time resource persons from the hospitality and tourism industry for specialised modules.

**Mr Rughoobur:** Madam Speaker, I had a similar PQ in 2017. At the level of the pass rate for full time students in May 2017, it was more or less 50%. I would like to know from the hon. Minister whether during these two years, there has been any improvement at the level of this pass rate.

**Mrs Dookun-Luchoomun:** Madam Speaker, the pass rate is more than 80% with a high possibility of employability. In fact, if we go down and look at all the various fields of study, some of them reach 100% as well. But if I can limit myself to a number of the courses, at the level of the National Certificate Level 3, it is around 93.4%, for the National Certificate level 4 – 88.9%, the Diploma and High National Diploma, the pass rate ranges from 88.9% to 93.4%.

**Mr Rughoobur:** Madam Speaker, we today talking about this Tourism 3.0, may I know from the hon. Minister whether she contemplates, along with this Hotel School to ensure that the courses, curriculum of the Hotel School, the courses that are being offered are more technology driven?

**Mrs Dookun-Luchoomun:** Madam Speaker, in fact the MITD normally prepares and designs its courses along with the industry people. I am told that it has reviewed 47 out of the 72 curricular and this includes 14 curricular for the Hospitality and Tourism Sector in the fields of Food Production, Front Office, House Keeping and a number of others.

Moreover, the MITD is working in partnership with the IT Education Services of Singapore and the *Académie de La Réunion* for implementation of capacity building programmes to review its curricular.

I must also add that in the same area Polytechnics Mauritius are also offering courses and this is being done in line with the trends in the sector with the help of HTMI from Switzerland. I must also mention that technology is being included in all the courses. In fact, in the New International Higher Diploma in Hospitality Management awarded by the Peace and Education Limited, a module on digital marketing has been incorporated. In all hospitality courses, the trainees are trained on specialised hotel management software. In the Travel and Tourism Diploma, Front Office students are trained in the use of specialised software like the Amadians and technology is being included in all the courses.

**Madam Speaker:** Hon. Jhuboo!

**Mr Jhuboo:** Thank you, Madam Speaker. The *Comité de Gestion* of the Ecole Hôtelière Sir Gaetan Duval, the decision making body of the institution has not sit since almost a year now, when the former Chairman, Mr Jean Marc Lagesse, resigned. So, how can such an institution operate without regular meetings?

**Mrs Dookun-Luchoomun:** Madam Speaker, I must mention that as far as the Management Committee is concerned, in spite of the fact that the Chairman has given his



resignation, we have tried to remain in contact with the hotel sector and continuously people from the different groups, even from AHRIM and other individual hotels do come and deal with the Hotel School regularly.

**Mr Rughoobur:** Thank you, Madam Speaker. I have a last supplementary. Well, the Ministry of Tourism has issued a Strategy Document 2018-2031. May I know from the hon. Minister whether the school is ensuring the Director that would be appointed shortly is fully in line with this Strategy Document, which is important for the sector?

**Mrs Dookun-Luchoomun:** Madam Speaker, I have gone through the Strategic Paper from the Ministry of Tourism and, in fact, we are working in collaboration, we have regular meetings. The new Director who will be appointed will, obviously, be briefed on all these policies.

**Madam Speaker:** I suspend the sitting for one and a half hours.

*At 12.59 p.m., the sitting was suspended.*

*On resuming at 2.32 p.m. with Madam Speaker in the Chair.*

#### **EXPATRIATES – WORK & OCCUPATION PERMITS**

**(No. B/157) Mr S. Rughoobur (Second Member for Grand’Baie & Poudre d’Or)** asked the Minister of Tourism whether, in regard to the hotel industry, he will state the total number of expatriates employed therein in 2017, 2018 and since January 2019 to date, respectively, indicating the –

- (a) number thereof holding occupation permits, and
- (b) measures taken by his Ministry to ensure a transfer of knowledge and expertise therefrom to the locals.

**Mr Gayan:** Madam Speaker, before I reply to this PQ, please allow me to express to the French people our deep sadness over the damage caused by the fire which engulfed the Notre Dame Cathedral, an 850 year old medieval edifice in the heart of Paris, which is also the place in the world most visited by tourists. We also wish to reassure the French Government and the French people our complete solidarity during these difficult times, but we are also comforted by the determination of the French Government to restore Notre Dame to its majesty as it was originally. This is, in fact, Madam Speaker, a shining symbol of the resilience of global tourism.

Madam Speaker, to come to the PQ, expatriates employed in the hotel industry are issued with a work permit by the Ministry of Labour, Industrial Relations, Employment and Training, or an occupation permit as professional by the Economic Development Board.

I am informed by the EDB and the Ministry of Labour, Industrial Relations, Employment and Training that as at 12 April 2019, the number of expatriates employed in the tourism sector was 1,220, out of which 496 are working in the hotel sector.

The total number of work and occupation permits issued with regard to the tourism industry for the period referred to is as follows –

- (i) 2017 – 810 out of which 198 occupation permits were for the hotel sector;
- (ii) 2018 – 712 out of which 170 occupation permits were for the hotel sector, and
- (iii) as at 12 April 2019 - 128 out of which 42 occupation permits are for the hotel sector.

It is to be noted, Madam Speaker, that the duration for which occupation permits are issued vary from short term ones, valid for a period not exceeding 9 months and up to 3 years.

As regards part (b) of the question, a scarcity list of areas with skill shortages has been established for the consideration of requests for occupation permits in the hotel sector. I wish to point out, Madam Speaker, that back in July 2015, the list of occupations with skill shortages had been reduced from 21 to 12 with a view to restricting employment of expatriates and encourage recruitment of local citizens in senior positions. This has been further reduced to 11 with effect from January 2016.

For cases of occupation permits, my Ministry usually recommends that a local counterpart be trained for the effective transfer of skills and knowledge and for Mauritians to be given the opportunity to take over the positions held by expatriates. The figures actually show a decreasing trend in the number of permits issued both for occupation permits and work permits.

**Madam Speaker:** Hon. Rughoobur!

**Mr Rughoobur:** Madam Speaker, I know that in the last part of his reply, the hon. Minister referred to the progress. This is what was stated in my PQ in 2017 on the same subject and I quote –

“The renewal of occupation permits for professional not falling within the skill scarcity areas are approved for a limited period subject to training of local counterparts”

May I know from the hon. Minister whether there are concrete statistics or a mechanism in place to make a follow-up on the progress achieved at least?

**Mr Gayan:** Madam Speaker, in fact, we do not have statistics for that purpose available but we have consultations with the industry regularly in order to identify the best ways to enable our local employees to be upgraded and to be able to fill the jobs presently occupied by expatriates.

**Mr Rughoobur:** Thank you, Madam Speaker. May I know from the hon. Minister, following the question I had on hotel school this morning, whether there is a problem of mismatch between what is currently being offered - HR being generated by hotel schools and the demand at senior position levels in hotels?

**Mr Gayan:** Madam Speaker, in fact, it must be acknowledged that at senior positions in the hotel industry there is, in fact, a mismatch between demand and supply. When we look at the curricular of the hotel schools in Mauritius, apart from the *École Hôtelière*, it would appear that the training is more focussed for academic purposes rather than at operational level. But in the tourism sector, for somebody to be able to occupy a senior position, he must have been exposed to all the levels of employment in the hotel industry, right from the kitchen level up to management. This is why sometimes you find it difficult to recruit the right Mauritian for the top positions in the hotel industry and this is why some expatriates happen to become inevitable for the good running of the hotels.

**Mr Rughoobur:** A last supplementary, Madam Speaker. The fact that there is this problem of mismatch and we have a shortage, as rightly pointed out by the hon. Minister, may I know whether there is at the level of the Ministry a retention strategy at lower level to prevent brain drain?

**Mr Gayan:** Madam Speaker, the tourism industry is a global industry and people with the skills and knowledge and experience are in demand all over the world. But we are trying, at the level of L'AREIM and the hotels to try to retain the best brains in Mauritius not only for our own purposes but also to be able to train other Mauritians to reach that level. But Mauritius is a free country, even if we have very trained Mauritians and they want to go and work overseas, there is nothing we can do about it. The industry is global and they are free to

move anywhere they want, but as far as possible, we try to retain as many Mauritians as possible.

**Madam Speaker:** Next question, hon. Rughoobur!

**MTPA – CHINESE MARKET – DESTINATION PROMOTION**

**(No. B/158) Mr S. Rughoobur (Second Member for Grand’Baie & Poudre d’Or)** asked the Minister of Tourism whether, in regard to the Mauritius Tourism Promotion Authority, he will, for the benefit of the House, obtain therefrom, information as to the quantum of funds spent in the current financial year to attract Chinese tourists to mainland Mauritius and Rodrigues.

**Mr Gayan:** Madam Speaker, I have been informed by the Mauritius Tourism Promotion Authority that an amount of Rs39 m. has been earmarked for destination promotion in the Chinese market in the current financial year, out of which Rs22.09 m. has been spent so far on key marketing activities, including social media campaigns, media trips, the development of the MTPA Chinese website and road shows in China.

Madam Speaker, I wish to highlight that over the years, funds allocated to destination promotion in the Chinese market have decreased gradually due to the following factors –

- (i) The withdrawal of China Southern Airlines from Mauritius in November 2015, following a policy decision of the then former Deputy Prime Minister and Minister of Tourism for the MTPA to stop providing marketing support to the airline. This resulted in a drop in airlift to the destination by 25,000 seats per year. Consequently, tourist arrivals from China dropped by 11.4% from 89,584 in 2015 to 79,374 in 2016. Had the marketing support not been withdrawn to China Southern Airlines, the target of 100,000 Chinese tourists would have long been attained taking into account that the Chinese carrier brought some 22,788 tourists to our destination during its period of operation.
- (ii) Air Asia ceased its operations on Mauritius in March 2017 leading to a loss of some 4,900 Chinese passengers carried by the airline during period November 2016 to March 2017.
- (iii) The withdrawal of Air Mauritius flights from Beijing since October 2017 caused a reduction of around 8% in tourist arrivals from China, from 79,374 in 2016 to 72,951 in 2017.

- (iv) The rationalisation policy of Air Mauritius in April 2018 on the Chinese route due to economic reasons, resulting in the stoppage of flights to Guangzhou, Chengdu and Wuhan, led to a further drop in Chinese tourist arrivals by 9.9%, from 72,951 in 2017 to 65,736 in 2018.

On the basis of existing airlift capacity of the Chinese route, this year the forecast is that tourist arrivals from China would further drop to around 47,593.

Madam Speaker, I consider that Mauritius must not lose interest in the potential of China, which is the fastest growing outbound tourism market in the world.

However, I must state that –

- (i) the strategy crafted for the Chinese market by the previous Government mainly targeted the low end tourists who were very price sensitive when, in fact, Mauritius should have been positioned as an upmarket destination;
- (ii) the flight schedule rationalisation of Air Mauritius, which is the sole operator on the China route, has adversely affected the reputation of the destination and the trade has lost trust in selling Mauritius to the advantage of other direct competitors like Sri Lanka and the Maldives.

Madam Speaker, Government is conscious that we cannot afford to ignore China.

My Ministry and the MTPA have been having consultations with all stakeholders, including our national carrier, hoteliers and Destination Management Companies, to work out a roadmap for China with clear milestones to revamp that market.

In this context, not later than Wednesday last, with a view to developing a more realistic and pragmatic approach to the Chinese market, a high-level workshop with the participation of the MTPA, including its Public Relations representative based in China, top management of Air Mauritius and captains of the hotel industry, was held under the Chair of Mr Arnaud Martin, who is a Board member of the MTPA and a Consultant to Air Mauritius, to brainstorm on the challenges and to devise a coherent strategy to continue to tap the Chinese market.

**Madam Speaker:** Hon. Minister, are you nearly finishing, please? Because the question is very brief and concise and I think it would be better if you have additional information either to circulate or to come with a statement later.

**Mr Gayan:** I have just one last sentence.

Madam Speaker, air connectivity is central to this strategy.

**Madam Speaker:** Hon. Rughoobur!

**Mr Rughoobur:** Yes, thank you, Madam Speaker. What are the strategic drives in your strategic plan devised by the Ministry's accessibility? The plans speak about attracting Chinese national carrier. May I know from the hon. Minister whether there has been any incentive, initiative undertaken at this level?

**Mr Gayan:** Madam Speaker, since the time when China Southern stopped operating to Mauritius, I have, myself, when I took over as Tourism Minister, been trying to talk to the Chinese carriers, and I am also talking to Chinese Authorities to see if they can help us to get a Chinese carrier to Mauritius. We have approached, with help of the MTPA and also Air Mauritius, some of the carriers, but I must say that they are asking for conditions like subsidies and also fifth freedom traffic to Africa. So, we are looking into the matter.

**Madam Speaker:** Hon. Rughoobur!

**Mr Rughoobur:** Thank you, Madam Speaker. One is the issue of quantity and the other issue is one of the spending. Now, the recent report of PwC in tourism in South Africa mentions about this drastic fall from \$1,364 to \$1,300 spending per head in 2016. May I know during the recent years, since 2017, 2018, what has been the trend?

**Mr Gayan:** Madam Speaker, the figures mentioned by the hon. Member relate to 2016. At present, that is, for 2018, the total tourism earnings for Mauritius increased from 60 billion in 2017 to 64 billion in 2018, representing an increase of 6%, and the average amount spent by the Chinese tourists is in MUR 55,000, which is the equivalent to USD 1,833.

**Madam Speaker:** Hon. Jhuboo!

**Mr Jhuboo:** It was stated the following: "*Le ministre Gayan est 'd  cu' par le march   chinois et critique Air Mauritius. Anil Gayan n'a pas cach   sa frustration lors d'un atelier de travail consacr   au march   chinois*". So, my question to the hon. Minister is: what is concretely being envisaged at the level of Air Mauritius to reverse the current trend?

**Mr Gayan:** Madam Speaker, I am not in a position to answer for Air Mauritius, but what I can inform the House is that from 01 March to 31 March, there were nine flights less on China. From April 01 to April 14 - and this is the information I have obtained from MTPA - already for the first days of April, there are four flights less on the China route. So, this inevitably impacts on tourist arrivals.

**Mr X. L. Duval:** Can I ask the hon. Minister whether it is a question of lack of air seats which he intimated at the beginning of his reply or is it lack of tourists which he intimated at the end of his reply, that is, Air Mauritius no longer wants to fly there because as the CEO has said is not in the business of flying empty planes? So, which one is it? Is it both now, lack of air seats and also lack of clients for the seats? I am a little bit confused.

**Mr Gayan:** But I also take note, Madam Speaker that the CEO of Air Mauritius has in a Press interview yesterday said he is planning to put daily flights to China. So, I don't know, I am not in a position to reply for Air Mauritius, but my concern is that as a country we cannot afford to lose interest in a huge market, in a super power for tourism which China is, and this is why I say what I have said.

**Mr X. L. Duval:** Can I ask the hon. Minister whether he is planning, therefore, to assist Air Mauritius?

**Mr Gayan:** I am sorry?

**Mr X. L. Duval:** Are you going to assist financially Air Mauritius to fly to China?

**Mr Gayan:** Well, after the workshop, Madam Speaker, last Wednesday, this idea came up and, of course, we are going to look at the whole strategy and we will have consultations at the level of Government to see what we can do in that regard.

#### **TOURISM SECTOR – GROWTH RATE**

**(No. B/159) Mr S. Rughoobur (Second Member for Grand'Baie & Poudre d'Or)** asked the Minister of Tourism whether, in regard to the tourism sector, he will state the growth rate thereof over the past five years, indicating the factors accounting therefor.

*(Withdrawn)*

**Madam Speaker:** Next question, Osman Mahomed!

#### **PLAINE SOPHIE - WIND FARM PROJECT**

**(No. B/160) Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the proposed Wind Farm Project at Plaine Sophie, he will, for the benefit of the House, obtain from the Central Electricity Board, information as to –

- (a) the estimated investment and share of renewable energy as a percentage of the total electricity production;

- (b) why same was not commissioned on 12 October 2018 as agreed;
- (c) if the contract has been terminated and the accompanying Development Security of US \$ 3M cashed by the CEB and, if not, why not, and
- (d) the total amount of liquidated damages cashed in relation thereto as at to date.

**The Deputy Prime Minister:** Madam Speaker, with regard to part (a), I am informed by the Central Electricity Board that, at the time of the bidding exercise in 2011, the estimated investment, as submitted by the promoter, was Rs435,241,145 m. and US\$ 49,898,865 million. This is equivalent to roughly Rs2 billion, based on exchange rates at that time of bidding.

The annual energy generation is estimated to be around 50 GWh, representing 2% of the total electricity generation.

With regard to part (b), I am informed by the CEB that by a letter dated 11 October 2018, the promoter requested another extension of time to 12 August 2019.

In view of the situation, CEB, on 30 October 2018, replied that it informed the promoter that it was claiming delay damages of Rs75,000 daily as from 13 October 2018.

By the same letter, the promoter was requested to submit “meaningful and real progress of work” (I quote) - of the project to ensure, I quote again, “completion of work”.

On 21 November 2018, the promoter informed CEB that 42% of the site works had been completed and that most of the turbine components had already been manufactured. The promoter again made a request for an amendment of the ESPA to provide for a revised commercial operation date of 12 August 2019.

The Central Electricity Board is presently carrying out a due diligence exercise on the information provided by the promoter.

On 11 February 2019, the CEB informed the promoter that without waiving the rights of CEB under the ESPA, it had agreed to grant to the Consortium an extension of 45 days to consider such representations as the promoter may wish to make and that it will continue to claim the delay damages during that period.

With regard to the encashment of the Development Security, I am informed that in November 2018, the CEB issued a letter to Barclays Bank for the appropriation of Rs1,425,000 delay damages from part of the Development Security at the Bank. On 23



November 2018, the promoter issued a fresh Development Security document, this time from Standard Bank.

I am informed by the CEB that the two banks, having expressed doubts on the validity of these documents, the matter was referred to the Police for enquiry.

In these circumstances, the CEB accepted payment of delay damages by way of cheques.

On 28 November 2018, the promoter submitted a valid Development Security of US\$ 3 million, to be encashed at any time by CEB. The Development Security is in three parts –

- (i) USD 780,000 from HSBC, valid up to 28 February 2020;
- (ii) USD 2,064,000, and
- (iii) USD 156,000 from MauBank valid up to 30 November 2019.

With regard to part (d), I am informed by the CEB that the total amount paid as at date is Rs8,349,924.66, including interest for delayed payment.

**Madam Speaker:** Hon. Osman Mahomed!

**Mr Osman Mahomed:** Thank you. Can I ask the hon. Deputy Prime Minister whether as a consequence of the uncovering of these two doubtful bank guarantees, the Legal Advisers of CEB have recommended that the contract be terminated for breach of trust on behalf of the seller towards CEB?

**The Deputy Prime Minister:** I have not read the legal advice, but I do understand that the Legal Adviser stated that it was at the end of the day a matter for CEB to determine whether to terminate or not on a commercial basis of commercial criteria.

**Mr Osman Mahomed:** Well, in Parliament, in reply to PQ B/310 of hon. Bashir Jahangeer - a very good question - on 08 May 2018, the hon. Deputy Prime Minister stated clearly that CEB had agreed to a final and last extension of the commercial operation date up to 12 October 2018, following which the contract will be terminated. So, can I ask the hon. Deputy Prime Minister, in view of the troubling circumstances, doubtful bank guarantees and long delay in the project, whether the time has not come for CEB to once and for all terminate this energy purchase and supply agreement?

**The Deputy Prime Minister:** Various points of views are, of course, expressed. Let us see the situation. This is a contract which was awarded, which was an agreement which

was reached in 2010. There were severe delays in the progress of that contract; there is now a situation where certainly CEB would be entitled, perhaps on legal advice, to terminate, but, on the other hand, when we consider the representations made by the promoter to the effect that, at least, half of the project is completed, CEB must effect due diligence in order to make sure that all this is true, and then, they continue to discuss with the promoter. I do not think CEB wishes to straightaway just terminate a contract without making sure that it is first legally entitled to do so and, secondly, that it is in the best commercial interest of CEB.

**Madam Speaker:** Hon. Uteem!

**Mr Uteem:** The hon. Deputy Prime Minister is a Senior Counsel. He has mentioned in his reply that doubt has been expressed on the validity of the guarantee certificate issued by two banks. Now, doesn't he think that this is serious enough for CEB to terminate the contract rather than to condone illegal activity of contractors?

**The Deputy Prime Minister:** Well, my legal opinion counts for very little in this matter, so does yours for that matter.

The point is that we have to trust our legal adviser. Of course, it is a serious matter if there is a defect in the validity, first of the bank documents. The Police is enquiring. I am the last person to be able to express any opinion in this matter and certainly I have no prejudiced opinion. Let us wait for CEB to continue what it has done, and then, we will see what CEB decides.

**Madam Speaker:** Last question, hon. Osman Mahomed!

**Mr Osman Mahomed:** I have with me a letter from Standard Bank, clearly stating that the document has been forged, and I am going to table it. In light of this very serious matter, can I ask the hon. Deputy Prime Minister to revisit its position, because we are dealing with a very murky situation here?

**The Deputy Prime Minister:** I am aware of this letter. This letter has been referred to the Police for enquiry. When you say to revisit, I have no position to revisit, it is CEB which can revisit a situation. CEB has adopted the attitude that it has, because it wants to take the maximum precautions. Its other parties are one Indian firm and a Mauritian firm forming a Consortium. Let us trust the wisdom of the collective wisdom of the Board on this matter.

**Madam Speaker:** Next question, hon. Osman Mahomed!

**FOREIGN OPERATORS - INTERNATIONAL CALLS - TERMINATION RATE**

**(No. B/161) Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central)** asked the Minister of Technology, Communication and Innovation whether, in regard to international calls, he will state if Government has fixed a termination charge/rate in case of default by the operators and, if so, indicate if same is being complied with and, if not, indicate the actions taken to ensure compliance therewith.

**Mr Sawmynaden:** Madam Speaker, following the liberalisation of telecommunications in 2003, new operators appeared on the market offering different services, including international long distance calls.

In view of stabilising the market segment of international long distance calls which witnessed a flurry of international call packages, Government introduced a minimum termination rate.

Madam Speaker, the minimum termination rate is the rate payable by foreign operators to local operators for using their network for delivering international calls to local destination. Accordingly, the minimum termination rate for incoming international call was prescribed through the respective telecommunication directives issued by the ICT Authority as follows –

- 13.3 US Cents per minute as from 01 February 2006;
- 8.5 US Cents as from 01 September 2008, and
- 12.5 US Cents per minute as from 01 October 2010.

The MTR applies to all holders of valid ILD licences which are actively terminating incoming international calls in Mauritius, as authorised under the scope of their respective licences.

However, with the liberalisation of the telecommunication sector combined with the growing competition in the sector as well as the introduction of new technologies, the termination rate applied by the operators has fallen drastically over the years in Mauritius. Some operators have confirmed in a case at Court that they were not complying to MTR fixed through the telecom directive issued by the ICT Authority.

My Ministry tasked the ICT Authority to hold consultations with the ILD operators on the matter and to make appropriate recommendation to address the issue of non-compliance. After wide consultation with relevant stakeholders, the ICT Authority submitted its report to my Ministry detailing its analysis and recommendations on the subject matter. The

recommendations have been examined and it has been found that this is a multi-dimensional and complex issue related to other regulatory aspects as well in the telecommunication sector. On the aspects that need to be addressed to deal with the issue of non-compliance to MTR is the revision of the amount of contribution being made by the operators concerning the Universal Service Fund.

The ICT Authority has recommended that MTR be abolished and concurrently the USF contribution formula be revised. Any revision of the USF contribution formula is being considered with much caution because of the consequence on the activities of the operators, more specifically on the employment of people in the sector.

My Ministry is presently working on the policy option to address both the termination rate and the USF contribution issues.

**Mr Osman Mahomed:** Thank you. Is Data Communications Limited one of these default operators in this sector, and, if so, now that it is bankrupt, does it still owe money to the Universal Service Fund and other charges to Government?

**Mr Sawmynaden:** Actually, there are a total of seven operators, three out of five are contributing to USF; DLC Mauritius Limited and T@media.com Limited are not contributing; two former early operators, that is, Data Communications Limited and Eg Alice Limited are in receivership; two former ILD operators, Hotlink Company Limited and City Corp Limited have not renewed their ILD licenses and all of them owe money to the USF Funds and all cases are in Court.

**Madam Speaker:** Next question, hon. Bhagwan!

#### **URBAN TERMINALS PROJECTS - IMPLEMENTATION**

**(No. B/162) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière)** asked the Minister of Public Infrastructure and Land Transport, Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to the Urban Terminals to be implemented at Curepipe, Place Margéot in Rose Hill and at Victoria and Gare du Nord in Port Louis, he will state where matters stand as to the implementation thereof.

**Mr Bodha:** Madam Speaker, I wish to inform the House that only the Victoria Urban Terminal and the Immigration Square Urban Terminal projects are being implemented by my Ministry. As regards the other Urban Terminals, the projects are being implemented by the

respective Municipal Councils under the aegis of the Ministry of Local Government and Outer Islands.

The status regarding the Victoria Urban Terminal and the Immigration's Square Urban Terminal is as follows –

- Victoria Terminal

My Ministry is in the process of finalising the lease agreement with the selected promoter. A development site is being freed from all incumbrances to allow the commencement of the works. This involves the relocation of hawkers operating at Decaen Frère; construction of a bus holding area at Les Salines; temporary arrangements for alighting and boarding of passengers during the construction phase. A fast track Committee has been set up under the Chair of the supervising Officer of my Ministry to facilitate the obtention of necessary clearances and permits and to monitor the progress of works. Construction works on the site are expected to start by the month of May.

- Immigration Urban Terminal

And as regards to the Immigration Urban Terminal, as I have already replied in an earlier PQ, following a Request for Proposal exercise, Yihai International Investment Management Limited has been selected to implement the project and a letter of notification has been issued to the promoter in this respect. Since part of the development site holds within the buffer zone of the Aapravasi Ghat, the design of the project requires UNESCO clearances prior to the implementation. Accordingly, the design submitted by the promoter has been forwarded to the UNESCO for approval and I am informed that a working session was held in Paris on Friday last, 12 April, with representatives of UNESCO and the consultant of the promoter and a representative of the Ministry of Housing and Lands to that effect. The outcome of the meeting is being awaited. As soon as the UNESCO clearance is obtained, the Ministry of Housing and Lands will finalise the lease agreement with the promoter. Works are expected to start immediately after the signature of the lease agreement.

Madam Speaker, as regards to the Place Margeot Terminal, I am informed by the Municipal Council of Beau Bassin-Rose Hill that the Request for Proposal was launched for a third time on 12 February 2019 following which one application has been received and an Evaluation Committee is currently examining the application to determine its responsiveness to the RFP requirements and the evaluation exercise will come to an end at the end of this month.

I am informed that the first exercise failed due to non-responsiveness of the applications received. As for the second exercise, no applications were received.

As regards to the Curepipe Urban Terminal, I am informed that the Request for Proposal document is being finalised.

**Mr Bhagwan:** I will come to Place Margeot Urban Terminal which directly concerns me. It is clear now that the Minister is stating that the Metro Express will be ready by the end of this year. So, what will happen? What is being planned to cater for the general public? I do not see any urban terminal coming. I hope the Minister is not dreaming to have an urban terminal like New York or something else, here, in Rose Hill. So, can the Minister inform the House...

*(Interruptions)*

As it is, people will get down in the mud. Everywhere it is *chantiers*. So, unless you are dreaming, at least, you can inform the people what would happen by the end of this year when your first train is supposed to come.

**Mr Bodha:** I explained in the PNQ which was put by the hon. Leader of the Opposition that the station is one thing and the terminal is something else. The rail station falls under the contract of Larsen and Toubro at each and every station. So, the train station at Place Margeot will be ready by September. The Urban Terminal is a wider re-engineered version of the bus station as it is today and, as we know, bus stations in Mauritius, for the last 50 years, have known no development. And the Urban Terminal will have the bus terminal, the train terminal, the shopping mall, offices and a number of other components. So, the train terminal is going to be ready by Larsen and Toubro by September.

**Mr Bhagwan:** We all know what has been happening since January with flooding at Rose Hill. I will ask the Minister whether he has had a site visit very recently at Place Margeot and seen for himself the state of drains and the area. I am personally not satisfied, and not me alone, other professionals also, of the quality of work which is being done, not

only in Rose Hill. We all have eyes, we can compare that our local contractors are doing a very good job. So, can the Minister inform the House whether the new situation of flooding in Rose Hill has been taken care of by the contractor and what follow-up he, himself, is doing with regard to the follow-up with the contractor? Because with the Metro Express, there is only talk, talk and talk, but no action. So, we have seen the result from Metro Express. Can the Minister, at least, reassure the population that this problem of flooding in Rose Hill at the opening of this terminal would not be the same as it is?

**Mr Bodha:** Madam Speaker, I can understand the concern of the hon. Member. As regards to the flooding at Sir Virgil Naz, the PPS...

*(Interruptions)*

**Madam Speaker:** Hon. Bhagwan! I gave you ample time to ask your question!

**Mr Bodha:** The Parliamentary Private Secretary, Mr Aliphon, and we have been working with the Local Government together with CWA, WMA to have a drainage system there and the Works Order has already been issued, works have already started. It is costing, I think, about Rs24m. and it will take about nine months.

So, the works are starting there for La Rue Naz. As regards the complaints made by the hon. Member concerning the quality of works, I have been there myself and I have seen to it that we have a finished product. These are temporary works up and until the whole system is established between Place Margeot and the roundabout of Beau Bassin. I have all the time made suggestions, I have seen to it that Larsen and Toubro and all the companies are working. They provide all the mitigating measures because it is a very complex site. I would like to say that, for example, on Vandermeersch, the new road network will be new, the CWA network is new, CEB network is new, cabled; MT network is new and these were networks which lasted 50 years, Madam Speaker. So, in the wake of the Metro, we are re-engineering all the utilities.

*(Interruptions)*

**Madam Speaker:** Hon. Mrs Selvon!

**Mrs Selvon:** Merci, Madame la présidente.

*(Interruptions)*

**Madam Speaker:** Can you, please, listen to hon. Mrs Selvon?

**Mrs Selvon:** L'honorable ministre peut-il confirmer combien de marchands ambulants seront relogés dans les gares du métro ?

**Mr Bodha:** Il faut parler des gares. A Victoria, il y a 1000 et à Immigration, il y a 600.

**Madam Speaker:** Hon. Uteem!

**Mr Uteem:** Thank you, Madam Speaker. With regard to the Urban Terminal in Port Louis, the hon. Minister just mentioned that he is awaiting clearance from UNESCO. Does he have an idea as to when the project will start and how long it will last?

**Mr Bodha:** Well, as regards the final design, everything is ready. The works can be started any time. We need the clearance of UNESCO. There was a presentation on Friday last in Paris and we are waiting for the outcome because we have explained to them that we have a Master Plan with a number of projects around and we are looking forward. There was an officer of Housing and Lands who went there, Mrs Santa, to present the project. So, we are waiting for the recommendations. I have no idea about how long, but we hope that it is going to take a few months.

**Madam Speaker:** I will allow the hon. Member one last question but, please, be brief.

**Mr Bhagwan:** Can the hon. Minister inform the House what is the latest position concerning the 7 star leisure park to replace the...

*(Interruptions)*

I have not yet finished!

**Mr Bodha:** Well, for the recreation park in Ebène, the final design was presented to Cabinet 15 days back and tenders have been launched.

*(Interruptions)*

Tenders have already been launched for the works. The budget is Rs100 m.

**Madam Speaker:** Next question, hon. Jahangeer!

#### **CEB - GIS SUBSTATIONS - TENDER**

**(No. B/163) Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether,



in regard to the proposed construction of six GIS Substations, he will, for the benefit of the House, obtain from the Central Electricity Board, information as to where matters stand as to the launching of the tender therefor.

**The Deputy Prime Minister:** Madam Speaker, I am informed by the Central Electricity Board that it launched a prequalification exercise for the supply, installation, testing and commissioning of six 66 kV GIS Substations on 05 December 2017.

Twenty-two proposals were received at the level of the Central Procurement Board; the Board approved a list of six pre-qualified bidders i.e. –

- (i) Elecnor S.A of Spain;
- (ii) Consolidated Power Projects (Pty) Ltd of South Africa;
- (iii) JV Siemens SAS and Transinvest Construction Ltd;
- (iv) Grid Solutions SAS – France;
- (v) National Contracting Co. Ltd – Saudi Arabia, and
- (vi) ABB India Ltd.

I am informed by the Central Electricity Board that on 07 August 2018, it invited bids from the six applicants which had been approved by the CPB.

On 17 January 2019, the Central Procurement Board informed the Central Electricity Board that four bids had been received and none of them had been found to be responsive.

On 22 January 2019, the Central Electricity Board informed all bidders that none of the bids met the bid requirements and that the bidding exercise was cancelled.

I am informed that one aggrieved bidder, namely JV Siemens SAS and Transinvest Construction Ltd has applied to the Supreme Court for an Interim Order in the nature of an injunction restraining and prohibiting the CEB and the CPB from re-launching a new tender for the project, pending the determination of the application of the main case. The case has been fixed for 22 April 2019.

**Madam Speaker:** Hon. Jahangeer!

**Mr Jahangeer:** Thank you, Madam Speaker. May I know from the DPM what is the budget earmarked for such project and if it will be financed by CEB?

**The Deputy Prime Minister:** I am trying to look for the information if I have it. I am not too sure that I have it because it does not really arise out of the question, Madam Speaker. If I have been asked that question, I would have had it. Perhaps I am going to get the information now. I understand it is Rs3 billion.

**Madam Speaker:** The hon. Member has a supplementary question?

**Mr Jahangeer:** Yes. Given the fact that the Metro Express, the link Rose Hill to Port Louis was supposed to be powered around 9 to 10 MW from one of the substation, namely Ebène, now that it is delayed, can the Deputy Prime Minister inform us what impact it will have on the Metro Express?

**The Deputy Prime Minister:** I am very doubtful about that figure of 9 to 10 MW for the Metro from Rose Hill to Port Louis. It appears to me to be rather strange but I am not a technician. I am sure that CEB will have to find alternative solutions should there, as the hon. Member suggests, in fact, be an impact on the operations of the Metro which we know will be powered by electricity. Apparently, yes, of course, the figure of 9 to 10 MW is for all the routes of the Metro, the whole Metro. One station is about 1 MW only. So I am sure that CEB's engineer will work it out.

**Madam Speaker:** Next question, hon. Jahangeer!

#### GRADE 8 STUDENTS - TEXTBOOKS

(No. B/164) **Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac)** asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the supply of books to Grade 8 students for the year 2019, she will state the name of the supplier thereof.

**Mrs Dookun-Luchoomun:** Madam Speaker, in line with the New Curriculum Framework for the lower secondary elaborated in 2017, new textbooks have been developed by the Mauritius Institute of Education and the Mahatma Gandhi Institute covering all the core and non-core subjects.

The responsibility for the printing and publishing of the Grade 8 textbooks for 2019 has been entrusted to the *Editions de L'Océan Indien Ltée*.

**Madam Speaker:** Hon. Jahangeer!

**Mr Jahangeer:** Thank you, Madam Speaker. An average family in Mauritius with two children or three children to school spends an average of Rs7,000 to Rs10,000 per year

because for the same subject, you have revised edition every year. So, may I know from the hon. Minister what is this revised edition? Is it a new formula in geometry, a new angle in geometry, a new nuclear physics particle or is it simply a sentence that they add in the book so that people has to buy the book every year?

**Mrs Dookun-Luchoomun:** Madam Speaker, when we talk about the National Curriculum framework, we are talking about the new curriculum with respect to the reform in the education system. So, the books that have been prepared this year in 2018/2019 are books that are new and based on the new curriculum. So, these are not new editions, but totally a new set of books that have been prepared by the MIE and the MGI.

**Madam Speaker:** Yes, hon. Jahangeer!

**Mr Jahangeer:** Will it be possible for the hon. Minister to ensure that books bought for certain subjects for this year can be used by the younger brothers and sisters of the same family for a minimum of five years?

**Mrs Dookun-Luchoomun:** I totally agree with the hon. Member. In fact, the new books that have been prepared would be used over a number of years now.

**Madam Speaker:** The Table has been advised that PQ B/149, which was addressed to the hon. Prime Minister but transferred to the hon. Minister of Public Infrastructure and Land Transport, has been withdrawn.

Next question, hon. Jahangeer!

### **CAMP DIABLE - SOCIAL HOUSING UNITS**

**(No. B/165) Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac)** asked the Minister of Housing and Lands whether, in regard to the proposed construction of social housing units at Camp Diable, he will, for the benefit of the House, obtain from the National Housing Development Company Ltd., information as to where matters stand.

**Mr Jhugroo:** Madam Speaker, I am informed by the NHDC Ltd that as at date, 76 housing units have been constructed and allocated at Camp Diable. Moreover, six *arpents* of land have been earmarked at Camp Diable for implementation of future housing projects.

**Madam Speaker:** Hon. Uteem!

**Mr Uteem:** Can I know from the hon. Minister, when he talks about allocation of these 76 houses, is the criteria of allocation, the place of residence of the applicant?

**Mr Jhugroo:** Madam Speaker, with regard to procedures and criteria for allocation of NHDC housing units, I have already tabled in the past following several PQs, and I will ask the hon. Member to go and consult. In fact, all these are taken care of.

**Madam Speaker:** Next question, hon. Jahangeer!

### **LA VIGIE – SLAUGHTER HOUSE**

**(No. B/166) Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac)** asked the Minister of Agro-Industry and Food Security whether, in regard to the proposed construction of a slaughterhouse at La Vigie, he will state where matters stand.

**Mr Seeruttun:** Madam Speaker, I am informed that an Expression of Interest and two bidding exercises have been carried out in respect of the construction of a new slaughterhouse at Wooton.

The first bid exercise was launched on 28 March 2016 and eight bids were received.

Following evaluation of the bids, the award of the contract was recommended to the successful bidder. However, following a challenge at the Independent Review Panel, the latter decided that a second evaluation be carried out.

The Second Bid Evaluation Committee recommended that the contract be awarded to the same bidder who was successful following the first bid evaluation. However, the State Law Office advised that it would not be in order for the Ministry to proceed with the award of the tender as the bid validity period had lapsed.

To avoid undue delay in the project implementation, the Ministry decided to go for a Design and Build Turnkey Project and for a tender to be launched through the Open Advertised Bidding Method.

The bidding documents have been vetted by the Central Procurement Board (CPB) and the tender was launched on 23 April 2018. The closing date was fixed on 17 July 2018.

The CPB has, on 13 September 2018, informed that after evaluation of the technical proposals, no bidder was qualified for financial evaluation, as they were technically non-responsive. Consequently, the evaluation exercise could not proceed further. The CPB,

therefore, requested the Ministry to inform the bidders. All bidders were informed accordingly.

The Ministry has now launched a consultancy services for the provision of management, design and supervision of a new slaughterhouse for cattle, pigs and ovine on 25 February 2019. The closing date was 03 April 2019. However, given that potential bidders requested for more information, the date for submission of the bid had been postponed to 17 April 2019.

The project value is estimated to be Rs250 m. and for this Financial Year 2018/2019, an amount of Rs75 m. has been earmarked.

**Madam Speaker:** Hon Ameer Meea!

**Mr Ameer Meea:** Madam Speaker, in relation to this project, I have several apprehensions on the viability on such product in such a region. Would the hon. Minister agree with me that all the stakeholders are found mostly in the capital and in the north of the region? Firstly, the harbour itself is found in Port Louis and we have seen with the Foot and Mouth disease what happened when cattle came in and it was contained in the harbour area itself. Now, we are talking about building a slaughterhouse inland for Mauritius and all the major markets are in Port Louis or in the North. So, I would ask the hon. Minister if he agrees with me, and if this will be taken into consideration as well?

**Mr Seeruttun:** Madam Speaker, as you are aware, land availability is not something which is very easily available for the Ministry and the Wooton area has been designated to be the place to set up this slaughterhouse. Had

we had any space available in the harbour region, that would have been probably the most suitable place but, unfortunately, the best place that we could found was at Wooton and this is why this has been the chosen.

**Madam Speaker:** Hon. Ameer Meea, next question!

### **AGALEGA - PROJECTS**

**(No. B/167) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East)** asked the Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the Agalega Island, she will, for the benefit of the House, obtain from the Outer

Islands Development Council Ltd., information as to where matters stand as to the ongoing projects being implemented thereat.

**The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa-Daureeawoo):** Madam Speaker, there are different types of projects that are being implemented in Agalega. The main one concerns the construction of an air strip of 3 kms in length and 45 metres in width, an approach jetty of 199 metres long and a berthing jetty of 255 metres and support infrastructure.

According to information obtained, the mobilisation of manpower, equipment and materials by the contractor Afcons Infrastructure Ltd started in September 2018 and is still ongoing. Works are expected to start by May 2019 and will be completed in two years' time. The works are being carried out, as I have said, by Afcons Infrastructure Ltd and are supervised by RITES Ltd, the Global Consultant. In addition, there are a few other projects of lesser scope, *inter alia*, a fish landing station, a dispensary and an office block.

On account of the remoteness of Agalega, the constraints of the procurement procedures and the likelihood of an exorbitant bid price should an open advertise bidding exercise be opted for and should that exercise be successful, consideration is being given to the advisability of entrusting these projects to Afcons Infrastructure Ltd.

Finally, there is also the project for the construction of 50 housing units by the National Housing Development Company Ltd. I have been informed that the NHDC is in the process of enlisting the services of a consultant who will then work on the project description, detailed design and supervision of works. The contract is expected to be finalised before the end of July 2019.

**Madam Speaker:** Hon. Ameer Meea!

**Mr Ameer Meea:** Yes, Madam Speaker. In relation to those ongoing projects and answering to a PQ dated 23 October 2018, a PQ asked by myself, the hon. Vice-Prime Minister informed the House, and I quote –

“As far as I know, this project will be exempted from the requirements of an EIA licence. As per hon. Minister Etienne Sinatambou, they will have to submit an EIA Report.”

Therefore, can I ask the hon. Vice-Prime Minister, if this EIA report that was supposed to be submitted since October last year, that is, almost six months now, has been submitted and if, yes, if she can table a copy of this report?

**Mrs Jeewa-Daureeawoo:** Well, I understand that an environment management plan has been prepared by RITES to take care of the mitigation measures. So, if need be, I will table it in the House.

**Mr Ameer Meea:** Madam Speaker, there is an urgent need because my next question is in relation to the sewage system in Agalega. There is no sewage system, it goes in septic tank and this is thrown away in the forest, far away from the village and there is a risk of contamination of boreholes and the more so that now there are 400 additional Indian workers on the island, the risk is increasing. I have been in contact - as the rare representative of Constituency No. 3, Agalega forms part of it - with them since this morning. They told me there is a great risk on this issue. Therefore, can I relay this to the hon. Vice-Prime Minister to look into this urgent matter?

**Mrs Jeewa-Daureeawoo:** Madam Speaker, I fully agree with the hon. Member. This is being looked at. I must say that this project is of great magnitude and it requires a lot of preparation. As I have said, the project is being carried out on an island about 1,000 kms away from Mauritius. So, there are some preparation works. As you can see, ground works have already started and this is an indication that we are taking the projects very seriously.

With regard to the status of the sewage project, I am informed by the Outer Islands Development Corporation that the Wastewater Management Authority has initially prepared a draft term of reference for the consultancy services for household waste disposal. So, this is being looked at. However, in view of the ongoing projects and future developments, the sewage collection and disposal aspects had to be looked at in a holistic manner.

**Madam Speaker:** Hon. Bhagwan!

**Mr Bhagwan:** Madam Speaker, can we know from the hon. Vice-Prime Minister what is being done by the contractor, even through Government, to bring on board the inhabitants of Agalega with regard to PR exercise informing them of what is happening, even with distribution of pamphlets and so on, and even works - if possible to have work with the contractor? What is being done in that line?

**Mrs Jeewa-Daureeawoo:** Well, there is a – not only by the contractor, I do know that the Resident Manager is having regular talks with the inhabitants to inform them of the whole project, of what is happening.

With regard to the workers, there are presently 350 Indian workers on the site and 80 more workers will be travelling to Agalega during the next trip of Trochetia. Employees of Outer Islands Development Corporation (OIDC) are fully involved in the embarkation and disembarkation exercise in respect of the said project. When the project of construction will start, we will make sure that Agaleans are fully involved in the project.

**Madam Speaker:** Hon. Abbas Mamode!

**Mr Abbas Mamode:** Can the hon. Minister inform the House, concerning the ongoing project, whether Agaleans are being moved away from the place they are residing right now or whether they will have to move away when the major work will start?

**Mrs Jeewa-Daureeawoo:** No, Madam Speaker, they will stay where they are. The project is not near to the houses of the inhabitants. They will not be moved from their residence.

**Madam Speaker:** Next question, hon. Ameer Meea!

**Mr Ameer Meea:** A last question on Agalega.

**Madam Speaker:** Next question! We have spent eight minutes on this question.

#### **CEB – AUDITED ACCOUNTS 2016-2018**

**(No. B/168) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the Central Electricity Board, he will, for the benefit of the House, obtain therefrom, information as to the reasons why the Audited Accounts thereof for the years 2016, 2017 and 2018 have not been laid on the Table of the Assembly.

**The Deputy Prime Minister:** Madam Speaker, I am informed by the Central Electricity Board (CEB) that following amendments to the Statutory Bodies (Accounts and Audit) Act, providing for a change in the financial year to end of 30 June instead of 31 December, the Ministry of Finance and Economic Development instructed statutory bodies to prepare accounts for 18 months with effect from 01 January 2016.



I am informed by CEB that they prepared financial statements for the period January 2016 to June 2017 and submitted them to the National Audit Office (NAO) on 12 October 2017. This was followed by an exchange of correspondence between CEB and the NAO in respect of clarifications required by the NAO. The Director of Audit submitted its report on 25 October 2018.

I am informed by the CEB that the accounts together with the annual report are being printed and will be tabled next month.

As regards the Accounts for 2017/2018, CEB has submitted them to the National Audit Office on 22 October 2018.

The auditing exercise started on 21 February 2019. The accounts will be tabled together with the Annual Report as soon as the audit report is issued.

**Madam Speaker:** Hon. Ameer Meea!

**Mr Ameer Meea:** Madam Speaker, this is another good reason why we should have a Freedom of Information Bill. The last audited financial year was 30 June 2017, so, it's nearly two years since the year-end of CEB. As the hon. Minister mentioned, the Audit Bureau has given its Audit Report, Audit Certificate since October 2018. We are taking seven months to print an account which has already been signed and make it public. So, will the hon. Deputy Prime Minister see to it that this is done urgently, because it's not normal for a public company to take two years to lay its accounts on the Table of the National Assembly, which is such an important organisation.

**The Deputy Prime Minister:** Well, of course, we must always ensure that stricter time limits are respected. I have myself spoken to the Chief Financial Officer to impart my sense of dissatisfaction with that delay, but he has explained to me certain things.

First of all, I believe the hon. Member himself is an Accountant. Once the accounts are ready, then you need to prepare the annual report and that takes time, because you need to consult so many persons involved in the process and finally go to different committees and the Board, and this is why it has taken all this time. Now, those are the explanations we have received from the Chief Financial Officer; I have no reason to disbelieve him. He has assured me, even up to a few minutes ago, that he is exercising due diligence to expedite matters.

Now, we come to other matters. You talked of a year and half, two years. When the new Board took over in 2015, the accounts of 2012 had not been done. Well, they had to

work on 2012 first. The accounts of 2013 had not been finalised and so the accounts of 2014. So, when the Board took over in 2015, they had to impress on the Finance Department and on Management - the old Management, I am not talking of this Management. They had to tell them, get ready with your accounts. Do you know that 2012 was finally prepared and completed on 01 September 2015? So now, they are speeding up and now they are going to complete all the operations and they have finished for 2012 and 2015. The hon. Member will appreciate that for a large body such as this one, we need to be very careful.

**Madam Speaker:** Hon. Ameer Meea!

**Mr Ameer Meea:** Madam Speaker, clearly there is a big problem in the CEB. Be it last Government, be it this Government, nothing has changed. It is taking more than two years to lay Audited Accounts. I would like to differ with what the hon. Deputy Prime Minister just mentioned, that they had to get the Audit Report, Audit Certificate to start preparing the annual report. Where on earth that you need Audit Report, Audit Certificate to prepare Annual Report? Annual Report can be prepared just after year-end, because it is you who give the figures to the Auditors.

**Madam Speaker:** So, what is your question?

**Mr Ameer Meea:** So, my question to the hon. Deputy Prime Minister is that it is high time to look after CEB's Accounting Department and that things should be changed.

**The Deputy Prime Minister:** Well, I said I believe the hon. Member to be an Accountant. I still maintain that belief, but I am just a Lawyer, I have always known that you cannot publish an annual report based on figures which have not been audited. I mean, this is a large organisation; these are not small companies with small Accountants. We have got to be serious.

Now, with regard to delay, yes, I have told the hon. Member, I have expressed my dissatisfaction. I entirely agree on this, but I have given the circumstances and the explanations of the Chief Financial Officer and I have no reason to doubt the veracity of his explanations. They have had three years to catch up and that is why the delays are ongoing.

**Madam Speaker:** Next question, hon. Ameer Meea!

### **METRO EXPRESS PROJECT - IMPLEMENTATION**

**(No. B/169) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East)** asked the Minister of Public Infrastructure and Land Transport, Minister of

Foreign Affairs, Regional Integration and International Trade whether, in regard to the Metro Express Project, he will state where matters stand as to the implementation thereof, indicating the –

- (a) percentage of works completed;
- (b) expenditure incurred, and
- (c) number of jobs created.

**Mr Bodha:** Madam Speaker, the construction of the Metro Express project started in September 2017. Since then, the project has progressed steadily as planned and we are on track and on time. Many activities are ongoing and have been progressing satisfactorily such as the site investigations and the surveys, utilities identifications and diversions, design and construction of the sub-structures and the super structures, namely the piles, the piers and the girdles. Of course, we have also addressed the issue of heavy duty drainage.

The Design and Build Contractor, Larsen & Toubro, is working simultaneously on more than 32 sites for Phase I, from Rose Hill to Port Louis on this national project. We will agree that this is a very complex infrastructure project. I think the biggest ever undertaken in Mauritius. It comprises several layers of activities, such as the infrastructure delivery, operation readiness, capacity building and assurance; all progressing rapidly to ensure operations in September 2019 for Phase I.

Madam Speaker, I am informed that the train simulator will arrive in May this year for the training of the train Captains who are currently being recruited by the Metro Express Limited. The nerve centre of the whole network, the Operations Control Centre at Richelieu will be ready before integrated testing of the light rail vehicles with the tracks, signals and other systems. The trains will start arriving in July for our launch of the service in September.

Madam Speaker, with regard to part (a) of the question, I am informed that as at the end of March 2019, for Phase I, from Rose Hill to Port Louis, which comprises of 12.6KM and seven stations, 70% of the works have already been completed. And for the overall project, from Curepipe to Port Louis, which is of 26KM and 19 stations, the work progress is 42%.

Moreover, I am informed that utilities identification works for Phase II, from Curepipe to Rose Hill are underway. I announced last week, in a Press conference, Madam Speaker, that aligned with the vision of our Prime Minister, the Metro Express Project will

cover the stretch from Rose Hill to Quatre Bornes Station in advance by 2020 to enable commuters from Quatre Bornes to be connected to the network. This will be a new landmark in our station.

Madam Speaker, as regards part (b) of the question, the Metro Express project is being financed through a grant of USD 275m. and a line of credit of USD 260m. from the Government of India. I am informed that as at February 2019, the equivalent of Rs6,649,000,771 have been paid to the Design and Build Contractor Larsen & Toubro in relation to works carried out. Payment for March is being processed as per contractual obligations and all payments to the contractor are made after due validation and certification of the works by RITES, the supervising consultant and overseen by the Singapore Cooperation Enterprise.

Madam Speaker, as regards to part (c) of the question, the construction of the light rail transit system in Mauritius, as I said, is a very complex endeavour requiring a wide range of specialist expertise. Larsen & Toubro is a renowned contractor that has successfully designed and delivered modern railway systems across the world and RITES is the supervising contractor to ensure that delivery is done as regards to project objectives. Singapore Cooperation Enterprise has prepared the reference design of the system and is advising on the technical aspects of the project management.

Metro Express Limited is leading the overall implementation of the project and will operate the LRT system with expert support of the Singapore Mass Rapid Transit system to achieve readiness for the operations.

Madam Speaker, I am informed that as at 11 April 2019, direct jobs generated by Larsen & Toubro is as follows –

- overall workforce - 1,698
- Mauritians working on the different sites - 246

Moreover, 32 staffs are currently employed by MEL to oversee the project delivery and prepare for the operations. To be ready for operation and maintenance in 2019, Metro Express is in the process of recruiting up to 200 persons. These include Chief Operating and Service, maintenance, managers, trainers, executives, engineers, technicians, supervisors, trained captains, customer service stewards, safety managers, ticket inspectors and controllers and various vacancies are currently being filled and have been advertised in the papers.

Madam Speaker, as in other countries, this project is the engine of economic growth and the catalyst for urban regeneration of the five cities. And it is expected that a number of indirect jobs, through business opportunities, to be generated, especially around the stations, will be created as a result of the implementation of the project.

**Madam Speaker:** Hon. Ameer Meea!

**Mr Ameer Meea:** Madam Speaker, we have taken cognizance of the existence of a natural cave in the region of Chebel and Gros Cailloux underneath the region there. And to this effect, I would ask the hon. Minister: why is it that the EIA, the Environment Impact Assessment, is being kept secret? What is it in it that we are hiding? What is in the EIA? Why is it not made public?

**Mr Bodha:** I have many times answered this question, Madam Speaker. In fact, some hon. Members on the other side of the House have a copy of the EIA.

*(Interruptions)*

**Madam Speaker:** Hon. Bhagwan!

**Mr Bodha:** We have said, Madam Speaker, as regards to the environment that the RFTs were prepared by Singapore Cooperation Enterprise. Then, we had Larsen & Toubro and Afcons both prepared the Environment Management Plan when they did the bid, and this was again supervised by the Singapore Cooperation Enterprise. But we decided in Cabinet to do an EIA report, which we did. The elements of the EIA Report have been compared with the Management Plan, have been incorporated in it.

As regards to the laying on the document on the Table of the National Assembly, I have laid the Environment Management Plan here, but the Board of the Metro Express Limited, they, under legal advice, they thought, in their wisdom, that this document should not be laid on the Table of the National Assembly.

**Madam Speaker:** Yes, hon. Ameer Meea!

**Mr Ameer Meea:** Yes, Madam Speaker. Answering a PQ by myself on 16 October 2018 and in relation to part (c) – number of jobs created, the hon. Minister stated to the House that SCE, in order to assess the impacts of Metro Express on the bus system, has been preparing a report. I will quote exactly –

“The report is being finalised and, in fact, will go to Cabinet and that report, that document will help us to have all the discussions with the national bus companies.”

So, therefore, can I ask the hon. Minister if this important document has been finalised? Because it has been eight months now and can he again lay a copy on the Table of the National Assembly.

**Mr Bodha:** We have the document by SCE to assess the impact of the Metro on the bus industry. So, we are working with the Ministry of Finance to see all the measures to bring along so that there is the perfect integration of both systems, of the most modes of transport and we have always given the guarantee that as regards to the workers, we see to it that there are no job losses with the advent of the Metro and we are working with the SCE document. Now, this document together goes another document which we have been working on about the feeder routes, about the new routes, that we are going to create to have one integrated system.

**Madam Speaker:** Hon. Ramano!

**Mr Ramano:** Madame la présidente, dans sa réponse, l'honorable ministre a indiqué que les travaux en ce qui concerne les *utilities* pour la Phase II *are underway*. Est-ce que je peux savoir de l'honorable ministre quand le début des travaux est programmé sur la route St Jean dans la ville de Quatre Bornes ? Est-ce qu'on envisage de déplacer les tuyaux de *sewerage* qui ont été placés il y a quelques années de cela ?

**Mr Bodha:** I have always said, Madam Speaker, that the Metro goes with the reengineering and inserting a new system of the utilities. Because often the utilities they are 30, 40, 50 years old. So, we have to do the mapping, the shifting and the reinstatement.

As regards the specific question, that is, between St Jean and Quatre Bornes, we are now doing the mapping, but the priority for the works now up to end of 2020 in regard to Quatre Bornes is the extension of the line from Rose-Hill to Quatre Bornes, that is, along the Victoria Avenue.

**Madam Speaker:** Hon. Bhagwan!

**Mr Bhagwan:** Madame la présidente, est-ce que je peux demander au ministre s'il y a une incompréhension totale des habitants de Beau Bassin au sujet du rondpoint de Beau Bassin ? Pour tout le monde qui y habite, ceux qui y vont et certains très rarement, tous les cinq ans. Alors, est-ce que le ministre peut, à travers cette question, informer la population de Beau Bassin, ceux qui utilisent, parce que déjà c'est un *hot spot*. J'habite à Rose Hill et je suis content mais pourquoi à Rose Hill sur le rond-point on a fait un *high rise thing* et à Beau Bassin un *hot spot* comme c'est aujourd'hui, rien n'est prévu ? Comment expliquer à la

population ? Même les chauffeurs de taxi, ceux qui vont à l'église, au collège BPS et Philippe Rivalland, est-ce qu'il n'y a pas une nécessité de revoir techniquement la possibilité de construire un truc pour que le train passe ?

**Mr Bodha:** That intersection, Madam Speaker, is going to be signalised. We are working on it, we are remodelling it. In fact, we are at the stage where we are now thinking of the sequencing between the trains so that we can have the time difference between each train when it crosses that particular spot. This is, I think, a very important issue. The Korea Expressway Corporation is working on it, the SCE is working on it and Metro Express is working on it. As soon as we have - which is going to be very soon - all the information as regards the diversion during the works and the final diversion, then we will have a huge campaign to tell everybody how this is going to be done.

As regards the question of my colleague, hon. Ramano, in fact, what is going to be happening in Quatre Bornes is that we are not touching the utility system as it is now, we are just replacing it. The old one will be disconnected and you will have a totally new system.

**Madam Speaker:** Hon. Uteem, next question!

#### **AFFERMAGE MANAGEMENT CONTRACT – IFC REPORT**

**(No. B/170) Mr R. Uteem (First Member for Port Louis South & Port Louis Central)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the proposed Affermage Management Contract for the Operation and Maintenance of the Potable Water Supply and Distribution System, he will, for the benefit of the House, obtain from the Central Water Authority, information as to where matters stand.

**The Deputy Prime Minister:** Madam Speaker, in my reply to the PNQs of 17 April 2018 and 23 June 2018, I informed the House that the International Financial Corporation had submitted its report on 23 March 2018.

In my reply to PQ B/684 on 24 July 2018, I informed the House that the report had been referred to the Ministry of Finance and Economic Development for consideration of its financial implications.

Though there has been a convergence of opinions for over two decades on the necessity to review and modernise the management of the water supply and distribution system, recently there have been numerous views, some very constructive, from stakeholders.

I have had discussions with the hon. Prime Minister and we have agreed to suspend the exercise, to allow for more time to consider all the observations made and if necessary, to organise wider consultations.

**Mr Uteem:** I am glad to hear that the decision has been suspended. May I know from the hon. Deputy Prime Minister whether he is prepared to table a copy of the report of the IFC which he has stated, since 2018, is being considered by his Ministry?

**The Deputy Prime Minister:** Is it the transaction report? I am not too sure to which report the hon. Member is referring?

**Mr Uteem:** In your PQ.

**The Deputy Prime Minister:** Well, let me just say, I will consider his question as drafted and I shall let the House know in due course.

**Madam Speaker:** Hon. Ganoo!

**Mr Ganoo:** Can the hon. Deputy Prime Minister inform the House what has been the level of Government contribution so far in this project?

**The Deputy Prime Minister:** I believe that is the question which has been asked by the hon. gentleman in his PQ which is coming later on. We shall be able to discuss all the financial implications if the hon. Member allow me so that I do not mix up issues.

*(Interruptions)*

But I will give all the information; I can guarantee the hon. Member.

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

**Dr. Boolell:** Will the hon. Deputy Prime Minister state if all discussions with IFC have come to an end in the light of decision taken by the hon. Prime Minister to set aside the project of affermage?

**The Deputy Prime Minister:** The term set aside is erroneous, the term is suspected. That is the contractual term between IFC, so, better stay with this term. We are still discussing some matters. I will have to make a report to Cabinet after consultation with the Prime Minister.

**Madam Speaker:** Next question, hon. Uteem!



## ROAD ACCIDENTS - TOURISTS - CONVICTIONS

**(No. B/171) Mr R. Uteem (First Member for Port Louis South & Port Louis Central)** asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to road accidents in which vehicles driven by tourists are involved, he will, for the benefit of the House, obtain from the Commissioner of Police, for each of the years 2015, 2016, 2017, 2018 and since January 2019 to date, information as to the number thereof, indicating the number of –

- (a) fatal accidents;
- (b) arrests effected;
- (c) prosecutions lodged, and
- (d) convictions secured in relation thereto.

**The Prime Minister:** Madam Speaker, I am replying to this question. As regards part (a) of the question, I am informed by the Commissioner of Police that since January 2015 to date, there have been ninety-six cases of road accidents involving vehicles driven by tourists, out of which ten cases of fatal road accidents have been reported. These are as follows –

- (i) year 2015: 2 cases;
- (ii) 2016: 2 cases;
- (iii) 2017: 3 cases;
- (iv) 2018: Nil, and
- (v) 2019: 3 cases.

Regarding part (b) of the question, I am informed by the Commissioner of Police that ten persons were arrested as follows –

- (i) 2015: 2 persons;
- (ii) 2016: 2 persons;
- (iii) 2017: 3 persons;
- (iv) 2018: Nil, and
- (v) 2019: 3 persons.

Madam Speaker, in regard to part (c) of the question, I am informed that from the 96 cases, 13 prosecutions have been lodged, including 3 in relation to the fatal road accidents.

With regard to part (d) of the question, I am again informed that convictions have been secured in respect of 10 cases including two cases of fatal road accidents.

**Madam Speaker:** Hon. Uteem!

**Mr Uteem:** Thank you, Madam Speaker. Is the hon. Prime Minister aware that in January this year, a Russian tourist, following a road accident a case of involuntary homicide was lodged against that Russian because there was a fatal accident and a boy of 9-year old was involved. So, is the hon. Prime Minister aware that despite the gravity of the situation, of this accident, one month later, the charges were dropped and this Russian gentleman was only fined Rs3,000 because the charges that was brought against him was driving without due care and attention.

So, I would ask the hon. Prime Minister if he is not aware of this, if he can take up the matter with the Commissioner of Police and find out why in this case after one month the Police decided to drop the charge of involuntary homicide and replace it by driving without due care and attention?

**The Prime Minister:** Well, I am aware of this case, Madam Speaker. I, in fact, tried to gather some information from the Commissioner of Police and I shall just state the facts. First of all, there have been thorough investigations with regard to this fatal road accident and the conclusion of the Police was - what was recommended is that Mr D. was to be prosecuted for involuntary homicide by imprudence contrary to such section of the law. But when the matter was referred to the DPP, the DPP was of the view that this case should be lodged before the District Court, prosecuting the accused for driving without due care and attention rather than involuntary homicide as has been previously advised and recommended by the Police.

**Madam Speaker:** Yes, hon. Uteem!

**Mr Uteem:** Is the hon. Prime Minister whether when a tourist driver drives in Mauritius, this tourist is required to have an international licence or to show capability of being able to drive on the left side of the road or can he just drive along the road?

**The Prime Minister:** I am informed that, as the law stands today and as the regulations are in their application, if a person has a valid driving licence in the country or in the place of residence where he comes from, that is valid here. There is just a formality where he gets, I suppose, a document, but that is valid.

**Madam Speaker:** Hon. Osman Mahomed!

**Mr Osman Mahomed:** Thank you. In regard to the particular case raised by hon. Uteem, that young boy, that particular accident, the tourist arrived on the evening before and on the next day he was already on the road, although he was a first timer in Mauritius. Since the hon. Prime Minister mentioned about the law, can we not consider putting a time frame for the tourist to get acquainted with our road system before engaging on the road?

**The Prime Minister:** I would want to know how we can get the person to be acquainted; to be acquainted, you need to drive, Madam Speaker. So, either you will be allowed to drive on public roads or otherwise maybe that person would have to undergo a test...

*(Interruptions)*

No, but how do you get acquainted? I want to know from the hon. Member how we do get acquainted. It must only be by driving.

**Madam Speaker:** Hon. Baloomoody!

**Mr Baloomoody:** Thank you, Madam Speaker. The hon. Prime Minister just mentioned that there have been 10 fatal accidents for the period mentioned. May I know, out of these 10 fatal accidents, how many tourists have been convicted for involuntary homicide by imprudence?

**The Prime Minister:** I have said that there have been 13 prosecutions that have been lodged. I am informed that convictions have been secured in respect of 10, including two cases of fatal road accidents. Probably, I need to have a look at the list. There was sentencing of one tourist in 2017 and one tourist in 2019. So, two.

**Madam Speaker:** Next question, hon. Uteem!

### **ZEP SCHOOLS - MEALS**

**(No. B/172) Mr R. Uteem (First Member for Port Louis South & Port Louis Central)** asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the distribution of meals in the *Zone Education Prioritaire* Schools, she will state, since June 2017 to date, the –

(a) costs thereof;

- (b) name of the contractors therefor, indicating the schools concerned and procurement method used for the selection thereof, and
- (c) composition of the meals distributed.

**Mrs Dookun-Luchoomun:** Madam Speaker, I wish to inform the House that all the 5,876 pupils attending the ZEP schools are being provided with a meal in the context of the supplementary school feeding programme. This meal has been constantly improved over the years, after consultation with the Ministry of Health and Quality of Life.

With regard to part (a) of the question, I am informed that an amount of Rs83,220,137 has been disbursed since June 2017 to date for the supply of meals in the ZEP Schools.

Madam Speaker, as regards part (b) of the question, the procurement exercise for the provision of meals is done at the zone level, through competitive bidding on the basis of specifications which have been cleared with the Ministry of Health and Quality of Life specifically regarding nutritional and sanitary requirements. Tenders in respect of the ZEP schools are thus allocated at the level of the Educational Zones. I am tabling a list of the contractors who have been supplying meals in the 27 ZEP schools during their academic years 2017, 2018 and 2019.

Madam Speaker, as for part (c) of the question, following consultations with the Ministry of Health and Quality of Life, my Ministry has, since April 2017, been providing enhanced meal comprising bread with vegetarian filling, a fruit and water at a cost of Rs60 per pupil per day. The menu has been worked out taking into account the nutritional value of the meal, the need to avoid the use of deep frying and frequent use of processed food, the health and security aspects among others.

**Madam Speaker:** Yes, hon. Uteem!

**Mr Uteem:** Thank you, Madam Speaker. Answering to a PQ on 13 June 2017, the hon. Minister mentioned that hot meals programmes will be implemented on a pilot basis in four ZEP schools, one in each zone. May I know from the hon. Minister whether there has been any outcome, any evaluation done on this pilot project, and whether this pilot project is going to be extended to other ZEP schools?

**Mrs Dookun-Luchoomun:** Madam Speaker, two of the ZEP schools that I mentioned are ready, and right now, tenders have been launched and the evaluation of bids are being done.

**Madam Speaker:** Yes, hon. Uteem!

**Mr Uteem:** I had the chance of raising this issue at Adjournment Time last year. Is hon. Minister aware that there is a lot of waste every day, every week in ZEP schools, because the children going to ZEP schools are not used to eating the type of food that is on the menu, in particular they are not used to eating soya and there is a waste? So, I had asked this question last year. I am asking the hon. Minister if she could talk to the Ministry of Health and Quality of Life to find out whether there can be non-vegetarian diet or so included in the meal provided to the students of ZEP Schools?

**Mrs Dookun-Luchoomun:** Madam Speaker, I must inform the House that we did have complaints in 2017 and certain actions were taken and some of the caterers' contracts have been terminated, but as for 2018 and 2019, we haven't received any complaints as yet. However, talking about the meals, the menus that are provided, we have resorted to the vegetarian menu because of cases of poisoning that resulted earlier, but we are still trying to upgrade and enhance the meals provided, and we will be discussing with the Ministry of Health and Quality of Life to see which menus we can add.

**Mr Uteem:** I am very surprised to hear from the hon. Minister that no complaint has been received because I can tell you there are two ZEP in my Constituency and both are complaining about the quality of food. So, I will tell them to write to you directly. So, may I know from the hon. Minister whether there is any unit in her Ministry that carries out inspection to find out whether the quality of food that is provided meets the required standards?

**Mrs Dookun-Luchoomun:** We have at the level of the Ministry a Project Manager for the ZEP schools and they do carry out visits regularly to ensure that the meals provided are adequate.

**Madam Speaker:** Next question, hon. Quirin!

#### **EDUCATIONAL SUPPORT SCHEME - AMOUNT SPENT**

**(No. B/173) Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière)** asked the Minister of Social Integration and Economic Empowerment whether, in regard to

the Educational Support Scheme, he will give a breakdown of the total amount spent as at to date from funds earmarked therefor for financial year 2018-2019, indicating the –

- (a) eligibility criteria therefor, and
- (b) number of beneficiaries thereof, region-wise.

**Mr Wong Yen Cheong:** Madam Speaker, for the Financial Year 2018/2019, an amount of Rs129,677,648 has been spent on Educational Support Scheme. As at date, it is expected that by June 2019, another amount of Rs32.2 m. will be spent which will make a total of Rs161.9 m. The breakdown of the total amount spent as at 12 April 2019 is as follows –

- child allowance Rs85,801,960
- school premium Rs50,000
- free examination fees Rs118,488
- school materials Rs40 m.
- Crèche Scheme Rs757,200
- support to community-based education Rs3 m.

Madam Speaker, as regards part (a) and (b) of the question, with your permission, I am tabling the information as there are seven pages of explanation in it. Thank you.

**Madam Speaker:** Hon. Quirin!

**Mr Quirin:** Merci, Madame la présidente. L'honorable ministre peut-t-il nous indiquer, par rapport à l'année financière 2017/2018, s'il y a eu une augmentation du nombre de bénéficiaires, quand on compare 2017/2018, 2018/2019, si le nombre a augmenté ?

**Mr Wong Yen Cheong:** Madam Speaker, I do not have the exact figures with me, but I can say, concerning the beneficiaries of SRM, it is very dynamic, as the people are coming in and out all the time. Thank you.

**Mr Quirin:** Madame la présidente, l'honorable ministre peut-il nous dire si son ministère a l'intention de venir en aide aux étudiants qui ont perdu, récemment dans les inondations, tous leurs effets scolaires, tous leurs matériels scolaires et indépendamment, bien sûr, s'ils sont sur le registre social ou pas?

**Mr Wong Yen Cheong:** *Madam Speaker*, nous nous penchons sur la question et j'en ai déjà parlé après les inondations. Certains sont venus, *SRM* ou pas *SRM*. Les *SRM* auront aucun souci, ils auront le matériel scolaire qui est remboursé ; ceux qui ne sont pas *SRM*, ils sont en train de faire la demande et nous étudions la question.

**Madam Speaker:** Next question, hon. Quirin!

#### **MUNICIPAL COUNCIL OF CUREPIPE – TOWN HALL – RENOVATION**

**(No. B/174) Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière)** asked the Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the renovation of the Town Hall of the Municipal Council of Curepipe, she will, for the benefit of the House, obtain from the Municipal Council of Curepipe, information as to where matters stand.

**The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa-Daureeawoo):** Madam Speaker, I am informed by the Municipal Council of Curepipe that for the project, renovation of the Town Hall of Curepipe the contract has been awarded to RBRB Construction Ltd on 28 February 2019 for an amount of Rs140,889,388.80.

Works have started on 19 March 2019 and are expected to be completed by the end of 2020.

**Madam Speaker:** Hon. Quirin, any supplementary?

**Mr Quirin:** Donc, vu l'état de délabrement de ce bâtiment, Madame la présidente, l'honorable ministre peut-il nous confirmer, avant que ne commence les rénovations, s'il y a eu un audit par un professionnel sur l'état des lieux du bâtiment et si on pense pouvoir quand même sauver une partie de ce bâtiment, et s'il y a eu un rapport qui a été fait par ce professionnel ?

**Mrs Jeewa-Daureeawoo:** Madam Speaker, I am sure there has been a survey made by the consultant and contractor. As per the scope of works, I have been given to understand that certain parts of the building will be safe.

**Madam Speaker:** Next question, hon. Quirin!

**JEUX DES JEUNES ELITES – ATHLETES**

(No. B/175) **Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière)** asked the Minister of Youth and Sports whether, in regard to the *Jeux des Jeunes Elites*, scheduled for 15 to 17 April 2019, he will state –

- (a) the number of athletes selected for the finals, gender-wise and discipline-wise, and
- (b) where the athletes will be accommodated during the competition, indicating the budget allocated therefor.

**Mr Toussaint:** Madam Speaker, the '*Jeux des Jeunes Elites*' is a new concept introduced last year by my Ministry, as an education movement for the young athletes of the Republic of Mauritius. The idea behind the '*Jeux des Jeunes Elites*' is to organise an event to educate and engage our young athletes and deliver an experience on the field of play. This forms part of my Ministry's strategy to inculcate a culture of sport, physical activity and self-reliance among our youth. For this year, the '*Jeux des Jeunes Elites*' is being organised from 15 to 17 April, on a residential basis. The competition will comprise also of youth activities and competitions, besides sports disciplines.

Madam Speaker, in regard part (a) of the question for the '*Jeux des Jeunes Elites*' which would be held from 15 to 17 April 2019, I am informed that 920 athletes have been selected from different regions for the finals following preliminaries organised around the island, including Rodrigues, which involved 3,600 athletes. I am tabling the details thereof gender-wise and discipline-wise of athletes retained for the finals.

As regards part (b) of the question, I wish to inform that a budget of Rs1.5 m. has been allocated for the accommodation of the athletes and accompanying officials. I am tabling the details regarding the different places of accommodation, retained after a tender exercise which had been carried out.

Madam Speaker, the opening of the Games took place yesterday afternoon and I am sure that this event, like the others organised by my Ministry, will be a success. Thank you.

**Madam Speaker:** Hon. Quirin!

**Mr Quirin:** Merci, Madame la présidente. L'honorable ministre peut-il nous dire quel est le budget total pour l'organisation de ces jeux ?



**Mr Toussaint:** Malheureusement, je n'ai pas cette information avec moi, parce que dans la question on avait demandé le budget d'*accommodation*, mais je peux *table afterwards*.

**Mr Quirin:** Madame la présidente, les boxeurs réunionnais ont eu des problèmes lors de leur embarcation vers Maurice le 12 avril et ils ont dû rentrer chez eux et revenir le lendemain pour embarquer vers Maurice. Donc, comment se fait-il que des dispositions n'ont pas été prises pour s'assurer que ces jeunes sportifs soient à Maurice à temps et dans les meilleures conditions de façon à pouvoir prendre part à cette compétition ?

**Mr Toussaint:** Madame la présidente, si je comprends bien ce sont les boxeurs rodriguais et non réunionnais.

*(Interruptions)*

J'ai entendu réunionnais. Ce n'est pas grave. Donc, ce sont des boxeurs de Rodrigues.

**Mr Quirin:** C'est Rodrigues, pardon.

**Mr Toussaint:** Okay ! En ce qu'il s'agit de la délégation rodriguaise, c'est la commission au niveau de Rodrigues qui fait tous les arrangements. Je ne suis pas au courant de quel problème il y a pu avoir, mais je vais m'enquérir avec la commissaire des sports.

**Madam Speaker:** Hon. Leopold!

**Mr Leopold:** Thank you, Madam. Can I ask the hon. Minister how many Rodriguan athletes are involved in such games?

**Mr Toussaint:** Madame la présidente, pour toutes les disciplines, pour les responsables de délégation, il y a le personnel médical. Nous avons en tout 177 personnes *involved* dans les jeux de Rodrigues et au niveau des athlètes nous avons 142 athlètes de Rodrigues.

**Madam Speaker:** Next question!

**MAISON DE RETRAITE MERE AUGUSTINE - ROSE BELLE - FINANCIAL ASSISTANCE**

**(No. B/176) Mrs A. Perraud (First Member for Port Louis North & Montagne Longue)** asked the Minister of Social Security, National Solidarity, and Environment and Sustainable Development whether, in regard to the *Maison de Retraite Mère Augustine* at

Rose Belle, he will state the actions being taken, if any, to assist the institution and residents thereof.

**Mr Sinatambou:** Madam Speaker, among other things, my Ministry provides financial assistance under different schemes to the 27 charitable institutions licensed under the Residential Care Home Act operating in Mauritius, including *Maison de Retraite Mère Augustine* located at Rose Belle.

The assistance relates to monthly capitation grants, monthly inmates allowances for the personal use of the inmates, monthly wages for attendance, monthly grants for the maintenance of buildings, yearly financial assistance for domestic appliances and funeral grants as and when required.

For the financial year ending December 2018, my Ministry has disbursed in favour of *Maison de Retraite Mère Augustine* –

- Rs2,117,117 in terms of capitation grant,
- Rs286,785 for inmates allowance,
- Rs483,791 in respect of wages for attendants,
- Rs32,940 in terms of grant for maintenance of buildings, and
- Rs39,536 in terms of funeral grant.

Madam Speaker, a coordinated approach with regard to the disbursement of funds to NGOs has been introduced by Government in the Budget 2018-2019 whereby the provision of financial assistance to charitable institutions as from January 2019 is being met by the National CSR Foundation, which is now the central body to receive and allocate public funds to charitable institutions and NGOs. Nevertheless, my Ministry continues to exercise general supervision and control over the charitable institutions and monitor compliance as per the Residential Care Home Act of 2013 and the Residential Care Home Regulations of 2005.

I am informed that the National CSR Foundation has effect for the period January to March 2019, the following payments of fund for assistance to *Maison de Retraite Mère Augustine* –

- Rs850,458 in terms of capitation grant,
- Rs2,632 for inmates allowance,
- Rs242,052 in respect of wages for attendants, and
- Rs11,200 in terms of grant for maintenance of buildings.

Over and above the financial assistance given to charitable institutions, the officers of the Welfare and the Elderly Persons' Protection Unit of my Ministry effect regular visits, at least three visits every month to the 27 charitable institutions around the island to ensure that the inmates are being looked after and are well-treated.

Any discrepancy and shortcoming detected are taken up with the responsible officers of the charitable institutions.

Monitoring and follow-up are conducted by the Welfare and Elderly Persons' Protection Unit of my Ministry.

For the financial year ending March 2019, a total of 27 visits have been effected by the Welfare and Elderly Persons Protection Unit of my Ministry to *Maison de Retraite Mère Augustine*.

Furthermore, the Medical Unit of my Ministry effects weekly visits to charitable institutions, including *Maison de Retraite Mère Augustine* in order to ensure the good health of its inmates. For the financial year ending March 2019, I am informed that a total of 144 visits of doctors and nurses have been effected at the *Maison de Retraite Mère Augustine* by the Medical Unit. In addition to the services of physiotherapists and occupational therapists from the Medical Unit are also provided on a weekly basis.

For the financial year ending March 2019, a total of 72 visits have been effected by the physiotherapists and occupational therapists inclusive. Finally, in cases of emergency, additional medical visits are also effected.

**Madam Speaker:** Hon. Mrs Perraud!

**Mrs Perraud:** Madame la présidente, est-ce que le ministre pourrait informer la Chambre si lui ou les officiers de son ministère sont au courant qu'il y a une menace de fermeture sur cette maison de retraite, la maison de Retraite Mère Augustine? Que les résidents ont été transférés de Rose Belle au couvent de Belle Rose.

**Mr Sinatambou:** My information is not that there is a risk of closure as such; my information is that the *Maison de Retraite* is envisaging renovation works which cost money and the problem is not closing down by Government or by the Ministry, it is finding the right funds to actually conduct those renovation works.

**Mrs Perraud:** Nous avons une population vieillissante. Est-ce que le ministère pourrait - j'ai écouté toutes les actions que vous avez prises mais est-ce que le ministère

pourrait faire un effort additionnel pour justement que cette maison de retraite, Mère Augustine, ne ferme pas ses portes ?

**Mr Sinatambou:** Well, I will certainly do my level best. The only thing I can say to the House is that already the Budget of my Ministry is nearing Rs25 billion and it is the first budget of the country and exceeds the second budget by nearly 50%. So, we are doing our level best and we will continue but there is a limit to how much money we can bring in.

*(Interruptions)*

**Madam Speaker:** Hon. Mrs Perraud!

**Mrs Perraud:** On the same question?

**Madam Speaker:** Yes.

**Mrs Perraud:** Est-ce que le ministre pourrait nous dire s'il a déjà lui-même personnellement rencontré les religieuses du Bon et Perpétuel Secours en ce qu'il s'agit des difficultés qu'elles rencontrent par rapport à ce problème de rénovation?

**Mr Sinatambou:** In fact, I met, I forgot her name exactly, I think it is Sister Marilyn. I have met one of the principal sisters of *Maison de Retraite Mère Augustine*.

**Madam Speaker:** Next question, hon. Mrs Perraud!

#### **RICHE TERRE - CESSPITS - PUMPING**

**(No. B/177) Mrs A. Perraud (First Member for Port Louis North & Montagne Longue)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether he will, for the benefit of the House, obtain from the Wastewater Management Authority, information as to if it is in presence of complaints regarding the overflow of absorption pits in the region of Riche Terre, Route Saint Georges, and, if so, indicate if remedial actions have been taken in relation thereto.

**The Deputy Prime Minister:** Madam Speaker, I am informed by the Wastewater Management Authority that it has received no complaint, specifically on Route Saint Georges. It has, however, received requests from inhabitants of Cité Roma, Riche Terre for pumping of their cesspits after the heavy rainfall of 09 April 2019.

The Wastewater Management Authority normally provides such service only in sewerred areas and it has pumped the cesspits from 10 to 13 April in order to assist the inhabitants and to avoid any sanitary risks.

**Mrs Perraud:** Effectivement, après les dernières grosses pluies, donc les camions sont venus mais les fosses septiques se remplissent rapidement et le *waste water carrier* doit venir chaque mois. Et par camion les habitats payent Rs1,200. Donc, vu que la connexion au réseau de tout-à-l'égout peine à venir dans cette région, Riche Terre, Cité Roma et les alentours, comment est-ce que le gouvernement pourrait aider les habitants de Riche Terre ?

**The Deputy Prime Minister:** The long-term solution must be Phase III of the Baie du Tombeau Sewerage Project. This is a long-term solution and this will include the regions of Le Hochet, Terre Rouge, Bois Pignolet, Bois Marchand and Riche Terre, including Cité Roma and that will serve 5,900 buildings. Therefore, it is a huge project. It is already there but as you can imagine, this entails all the procedures that are necessary for such huge projects. The Baie du Tombeau Sewerage Project is an on-going project.

**Mrs Perraud:** Ce n'est pas la première fois que je soulève cette question ici au parlement. J'avais eu la dernière fois presque la même réponse. Est-ce que je pourrais vous demander si les procédures ont déjà débutés ou si vous avez un calendrier par rapport à la connexion au système de tout-à-l'égout ?

**The Deputy Prime Minister:** Non, nous n'avons pas de calendrier. Le projet continue et il faut attendre premièrement le *funding* parce que nous parlons d'un projet de milliard de roupies. Ce n'est pas aussi aisé que cela.

**Madam Speaker:** Time is over! The Table has been advised that the following PQs have been withdrawn: PQ B/178, B/179, B/180, B/191, B/192 and B/193.

#### **FOREIGN LABOUR FORCE - MIGRATION POLICY**

(No. B/178) **Mr E. Jhuboo (Third Member for Savanne & Black River)** asked the Minister of Labour, Industrial Relations, Employment and Training whether, in regard to the foreign labour force working in the construction, hospitality and textile industries, he will state if Government proposes to come up with a Migration Policy in relation thereto.

*(Withdrawn)*

#### **TOUR OPERATORS & PLEASURE CRAFTS OPERATORS - LICENCES - QUOTA**

(No. B/179) **Mr E. Jhuboo (Third Member for Savanne & Black River)** asked the Minister of Tourism whether, in regard to the issue of licences to tour operators and pleasure crafts operators, he will state the reasons for the imposition of a quota therefor.

*(Withdrawn)*

## WEST COAST - VEHICULAR TRAFFIC

(No. B/180) **Mr E. Jhuboo (Third Member for Savanne & Black River)** asked the Minister of Public Infrastructure and Land Transport, Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to the west coast, he will state the measures being envisaged to ease vehicular traffic thereat following the traffic problems caused as a result of the closure of the Medine Sugar Factory and the redirection of cane to Omnicane.

*(Withdrawn)*

## 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.

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

*Question put and agreed to.*

**Madam Speaker:** Can I ask the Deputy Speaker to take the Chair, please?

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

(4.28 p.m.)

## STATEMENTS BY MINISTERS

### MOODY'S REPORT - MAURITIUS - RATING

**The Prime Minister:** Mr Deputy Speaker, Sir, I wish to make the following statement.

Last Tuesday, the rating agency Moody's has published its Report in which it attributed to Mauritius a Baa1 rating with a stable outlook.

The rating enhances Mauritius attractiveness as an investment destination. It also renders it cheaper and easier for Government to raise funds when needed.

Mauritius has the second highest sovereign rating from Moody's in Africa, after Botswana.

According to the Report, the credit profile of Mauritius is supported by its diversified, upper middle income economy, proactive development policies and its stable political environment.

The Report further highlights the fact that the economy has demonstrated resilience to external shocks and Government has a strong record in sound economic management.

According to Moody's, the policies of Government will result in a GDP growth of 4 per cent in 2019 and 2020.

Moody's also notes that inflation has been under control and the unemployment rate has declined to 6.9 per cent.

Moody's has also drawn attention to the fact that high debt levels and interest burden can exercise undue pressure on the rating. However, it states that our debt maturity structure and composition are favourable and sustainable, in particular, because –

- (i) Government debt is mostly domestic as 83% of total debt;
- (ii) the external part of the debt is small and on highly concessional terms, and
- (iii) refinancing risks are low in view of Government's ability to issue longer-term domestic bonds.

Thank you.

### **ESAAMLG MUTUAL EVALUATION REPORT**

**The Minister of Financial Services and Good Governance (Mr D. Sesungkur):**

Mr Deputy Speaker, Sir, with your permission I wish to make two statements to the House.

First, I would like to make a statement on the application made by Mauritius for the technical compliance of the re-rating of 12 Financial Action Task Force (FATF) Recommendations, following the publication of the ESAAMLG Mutual Evaluation Report of Mauritius in September last as well as on the outcome of the first Follow-up Report submitted to the ESAAMLG Secretariat with regard to actions being initiated to demonstrate progress towards recommended actions contained in the Mutual Evaluation Report.

Mr Deputy Speaker, Sir, as the House is aware, prior to the publication of the Mutual Evaluation Report, Mauritius had already brought numerous amendments to the Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) framework in the Finance (Miscellaneous Provisions) Act 2008. Furthermore, a new set of Regulations, namely the

Financial Intelligence and Anti- Money Laundering Regulations 2018, was promulgated to be effective as from 01 October 2018, to address FATF requirements regarding Customer Due Diligence, Politically Exposed Persons, Correspondent Banking, Money or Value Transfer Services, New Technologies, Wire Transfers, Reliance on Third Parties, and Internal Control, Foreign Branches and Subsidiaries.

In the light of these changes in the legislative framework, Mauritius submitted to the ESAAMLG Secretariat, its first application for technical compliance re-rating on 12 Recommendations, namely-

- Recommendation 9 on Financial Institution Secrecy Laws;
- Recommendation 10 on Customer Due Diligence;
- Recommendation 12 on Politically Exposed Persons;
- Recommendation 13 on Correspondent Banking;
- Recommendation 15 on New Technologies;
- Recommendation 16 on Wire Transfers;
- Recommendation 17 on Reliance On Third Parties;
- Recommendation 22 on Customer Due Diligence in the Designated Financial Services and Businesses (DNFBPs);
- Recommendation 14 on Money or Value Transfer Services;
- Recommendation 18 on Internal Controls, Foreign Branches and Subsidiaries;
- Recommendation 27 on Powers of Supervisors, and
- Recommendation 32 on Cash Couriers.

The application for technical compliance re-ratings of Mauritius was considered first by the ESAAMLG Secretariat, then by the ESAAMLG Reviewers followed by the Evaluation and Compliance Group (ECG) and finally by the Task Force during the 37th ESAAMLG Task Force of Senior Officials Meeting, which was held from 07 – 12 April 2019 in Arusha, Tanzania.

Mr Deputy Speaker, Sir, I am pleased to inform the House that 10 of these recommendations have been successfully upgraded from Non-Compliant or Partially



Compliant to Largely Compliant or Compliant and one of them from Non-Compliant to Partially Compliant.

Mr Deputy Speaker, Sir, I wish to further inform the House that whilst the ESAAMLG Secretariat has sought clarifications regarding our submission for re-rating of Recommendation 10 on Customer Due Diligence, which is considered as one of the Big 6 Recommendations, the FATF ruled out in our favour. Accordingly, we have been upgraded from Non-Compliant to Largely Compliant.

Most of the technical compliance ratings that we have been upgraded to, will indeed give more comfort to investors and other stakeholders in both the banking and the non-banking sectors as robust AML/CFT preventive measures, reinforcing the integrity of Mauritius as an international financial services centre.

Mr Deputy Speaker, Sir, during the Task Force meeting, Mauritius was congratulated by the ESAAMLG Secretariat on the significant progress made in addressing the technical compliance shortcomings and they have encouraged Mauritius to continue the good work. Moreover, Mauritius was supported by the FATF, the United Kingdom, and the United States of America and all the ESAAMLG Member States. The FATF further congratulated Mauritius on its achievements in a so short span of time.

The progress report of Mauritius will now be subject to review by the FATF Global Community for quality and consistency and will be published on the websites of the ESAAMLG and the FATF once the process is completed, which is expected by early May 2019.

As regards our first Follow-up Report submitted in early February, the ESAAMLG Secretariat has acknowledged that Mauritius has made progress in addressing the recommended actions contained in the Mutual Evaluation Report. The Secretariat has, *inter alia*, recommended that we address other recommendations which require priority actions and expeditiously continue with the process of implementing the provisions of the existing laws and, where required, to enact other appropriate legislations.

In this respect, I wish to further inform the House that Mauritius has applied for the technical compliance re-rating of other FATF Recommendations, which will be considered at the ESAAMLG Meeting in September 2019.

I thank you, Mr Deputy Speaker, Sir.

**GLOBAL BUSINESS SECTOR - CAPITAL GAINS - INDIA - TAXATION**

I now move to the second statement. Mr Deputy Speaker, Sir, at adjournment time at the sitting of Tuesday 02 April, the hon. First Member for Port Louis South and Port Louis Central raised a few of the problems currently faced by the Global Business Sector.

At the end of his intervention, I stated that not only are we aware of the issues but we have studied the statistics and have studied the different requirements and the other compliance issues raised.

I further undertook to come to the House with a statement to clarify the matters raised by the hon. Member. Mr Deputy Speaker, Sir, having obtained your permission, I now propose to do so.

Mr Deputy Speaker, Sir, in regard to the taxing by India of 100% of capital gains realised by a Mauritius entity, a Mauritius fund whenever it disposes its shares in India, in fact, as per Article 13 of the amended DTAA between India and Mauritius, it is clearly stipulated in its subsection 3A that gains from the disposal of shares acquired prior to 01 April 2017 will be exempted of capital gains tax, irrespective of the date of disposal.

Mr Deputy Speaker, Sir, with regard to statistics published in India, the statistics which the hon. Member referred to in his statement are those published by the Department of Industrial Policy & Promotion (DIPP) of the Government of India (now known as the Department of Promotion of Industry and Internal Trade) which refers to a sum of 6.0 billion dollar for the period starting 01 April 2018 to 31 December 2018 for Foreign Direct Investment (FDI) Equity only.

DIPP only captures FDI Equity flows. Additionally, our figures for FDI flows into India do not corroborate with that published by DIPP as we come to a figure of 9.4 billion dollar for the period referred to, which is significantly higher than the figure provided by the Indian authorities.

In fact, Mauritius is more widely used as a platform for Foreign Portfolio Investment (FPI). Generally, FPI is 3 times higher than FDI flows. It is a fact that Mauritius has been a main route for FPI flows much more than the FDI flows. According to our figures, FPI flows into India for the period 01 January 2018 to 31 December 2018 was approximately USD51.4 billion.

Mr Deputy Speaker, Sir, our figures show that the value of direct investments in India through Global Business companies has remained more or less stable at USD117.6 billion as at June 2018.

The recent review carried out by the International Monetary Fund in the context of the Article IV consultation, has confirmed that activity in the global business sector has remained broadly resilient while reforms to the sector are underway. The IMF analysis clearly demonstrated that the growth in Mauritius will be driven by robust performance in the financial sector.

Mr Deputy Speaker, Sir, when comparing ourselves to Singapore, we must bear in mind that the financial sector in Singapore is 30 times bigger than Mauritius. This is because, the financial centre in Singapore was established much before our own, almost four decades ago. Despite the significant size of the financial sector in Singapore and the sophistication of its products and services, Mauritius, however, remains the second largest provider of investment in India, after Singapore.

Over the years, Mauritius has contributed significantly in respect of investment flows to India. Since April 2000 up to December 2018, the Mauritius IFC has contributed around 32% of the Foreign Direct Investment (FDI) Equity inflows into India. My Ministry is well aware of the strategic importance of the Indian market for the future growth of our international financial centre and we are working hard to be in the leading position.

Mr Deputy Speaker, Sir, in regard to the question of the image problem faced by Mauritius, Government has brought wide ranging reforms across the sector to resolutely pursue our ambition of becoming a world class international financial centre of repute. Our financial services sector will only grow if we are able to maintain our reputation and credibility at international level.

It is in this context, therefore, we embarked on two major reform processes to address the issues of BEPS and AML-CFT. These reforms ought to have been done longtime before.

The Deemed Foreign Tax Credit which was initially applicable only to offshore companies was removed and the Partial Exemption regime has been introduced. I am pleased to say that this new fiscal regime was presented to the OECD in September 2018 and was subsequently deemed as non-harmful in December 2018.

Furthermore, in 2018, following the adverse Mutual Evaluation Report issued by the Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG), my Ministry had

to catch up on the work which should have been started or been completed some 10 years ago as regards measures on AML-CFT and all the initiatives undertaken for re-rating of the ESAAMLG Mutual Evaluation Report. As part of our initiatives to ensure that Mauritius is a clean jurisdiction, a National Committee for the Monitoring of AML/CFT issues has also been established. As I have mentioned in my earlier statement, Mauritius has been re-rated as compliant and largely compliant in most areas where we have requested for a re-rating exercise.

These acknowledgements have further enhanced the image and reputation of the Mauritius IFC.

Mr Deputy Speaker, Sir, the European Union is a significant global trade block and a major partner of Mauritius. As a small country, very often, we cannot influence international market policies and have to align ourselves to those of our trading partners. In this same wavelength, Government has agreed to make a few additional refinements to the Partial Exemption System following observations made by the Code of Conduct Group (COCG) of the European Union. We are confident that once these refinements are made, Mauritius will restore its reputation as a compliant jurisdiction for the EU.

Mr Deputy Speaker, Sir, we are leaving no stone unturned to build and protect our brand image.

It is worth mentioning that since June 2018, Mauritius has well performed on several global indices. Our performance regionally and globally is a testimony that the Mauritius IFC has been successful in building its brand.

Mauritius was ranked –

- First in Africa and 20<sup>th</sup> globally in the Ease of Doing Business Index;
- First in Sub-Saharan countries and 49<sup>th</sup> globally in the Global Competitiveness Index;
- First in Africa and 39<sup>th</sup> globally for Best Country for Business by Forbes;
- First in Africa for Mo Ibrahim Index of African Governance;
- First in Africa and 8<sup>th</sup> for the Economic Freedom of the World;
- First in African Transformation Index; and recently the rating given by Moody's.

I would now wish to mention a few projects which have been implemented recently by my Ministry for the development of the financial services sector –

1. My Ministry has commended the need to devise a new vision for the financial services sector and in this context, the Blueprint Report was prepared by McKinsey and successfully launched in 2018. The objective of the Report was to envision the financial sector for the next 10 years.
2. With a view to implementing the recommendations contained in the Blueprint, a Delivery Unit has been set up. The Government is putting adequate financial and other resources to drive future growth and development of our financial services sector.
3. With a view to improving the image and reputation of the Mauritius IFC, we have enlisted the services of a Public Relation Firm, namely Burson Cohn and Wolfe.
4. FSC has also embarked on a vast program to improve overall capacity and services at all levels. It is in this context that it has recently launched a red carpet service available to known customers to fast track their application.
5. Mauritius wants to build a competitive edge in the field of fintech and blockchain, which add on new products and services to our international financial centre. In this context, the Government has set up a Fintech Committee to develop this sector and come up with the necessary legal framework.

Mr Deputy Speaker, Sir, after the establishment of the regional IMF (AFRITAC) Training Centre in Mauritius, I am also delighted to announce that last month, in March 2019, the OECD has set up its Regional Centre of Excellence in Mauritius. The fact that OECD has chosen Mauritius for their regional office is a testimony of trust and will surely enhance our international credibility as a Financial Centre.

Mr Deputy Speaker, Sir, visibility is good but, without credibility, visibility alone cannot yield productivity. Trust and confidence is of extreme importance. This is the reason why Government has brought vast reforms to build trust and confidence in the Mauritius IFC.

Mr Deputy Speaker, Sir, we have a relatively large Global Business Sector with aggregated assets valued at USD 686 billion which is approximately 50 times the size of our

GDP. Contribution of the Global Business sector to the GDP of Mauritius is estimated at 5.7% in 2018/2019 and has produced a year-on-year growth of 4.0%.

Mauritius has always had a primary role in channeling capital and foreign direct investment to major economies during the past 25 years. Over ten of thousands of investors have chosen Mauritius IFC to conduct their business. Over the years, we have built up a strong reputation as an International Financial Centre.

Not later than last week, I received a delegation from the Afrexim Bank which has decided to set up their headquarters for the Fund for Export Development in Africa [FEDA], in Mauritius. The CEO stated that they have chosen Mauritius because it is a fast growing country and that the financial centre presents immense opportunity for development.

Despite some headwinds, our IFC is building on hard rocks. Mr Deputy Speaker, Sir, our financial services sector is here to stay for a long, long time and has glorious days ahead.

I thank you.

**The Deputy Speaker:** Thank you. Hon. Minister, I should have given you the floor before. I apologise for giving you the floor now. You have the floor and you can make your statement.

### **MAURITAS - INTERNATIONAL RECOGNITION**

**The Minister of Industry, Commerce and Consumer Protection (Mr A. Gungah):** Mr Deputy Speaker, Sir, with your permission, I wish to make the following statement to the House on the International Recognition of the Mauritius Accreditation Service, more commonly known as MAURITAS, a Department which operates under the aegis of my Ministry.

The House may wish to note that the main function of MAURITAS, our national accreditation body, is to provide a national unified service for the accreditation of conformity assessment bodies, that is, laboratories, certification and inspection bodies.

Another important function of MAURITAS is to establish agreements on mutual recognition with other national, regional and international accreditation bodies and to obtain and maintain international acceptance of the competence of organisations accredited by it.

Mr Deputy Speaker, Sir, I would like to inform the House that MAURITAS has been admitted as a signatory member to the following Mutual/Multilateral Recognition Arrangements (MRAs) –

- the African Accreditation Cooperation on 28 September 2018;
- the International Laboratory Accreditation Cooperation on 04 October 2018;
- the International Accreditation Forum on 17 October 2018, and
- the Southern African Development Community Cooperation in Accreditation on 14 March 2019.

The business community in Mauritius is, thus, benefitting from the signatory status of MAURITAS to the abovementioned Mutual Recognition Arrangements and Multilateral Recognition Arrangements through the accredited laboratories and certification bodies as follows –

- increased trade exchanges opportunities;
- open market access, and
- competitiveness edge for the Mauritian products.

Mr Deputy Speaker, Sir, the signatory status of MAURITAS by these International Bodies is a milestone achievement for the institution and is in line with the vision of the Government and its strategy for enhancing the competitiveness of our manufacturing sector.

Thank you.

## **PUBLIC BILLS**

### *First Reading*

*On motion made and seconded, the following Bills were read a first time –*

- (a) *The Immigration (Amendment) Bill (No. III of 2019)*
- (b) *The Mauritius Research and Innovation Council Bill (No. IV of 2019)*
- (c) *The Road Traffic (Amendment) Bill (No. V of 2019)*

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

*At 4.53 p.m., the sitting was suspended.*

*On resuming at 5.33 p.m. with Madam Speaker in the Chair.*

(5.34 p.m.)

### *Second Reading*

## **THE IMMIGRATION (AMENDMENT) BILL**

**(NO. III OF 2019)**

*Order for Second Reading read.*

**The Prime Minister:** Madam Speaker, I move that the Immigration (Amendment) Bill (No. III of 2019) be read a second time.

Madam Speaker, allow me, first and foremost to situate the context of that Bill that I have the privilege to present today.

As the House is aware, one of the areas of focus enunciated in the Government Programme 2015-2019 pertaining to immigration matters, relates to the formulation of a new immigration policy so as to reinforce the Immigration Act in order to cater for increasing cross-border movement of persons and its associated risks. Furthermore, the Programme also includes the introduction of regulations to address the issue of fake marriages involving locals and foreigners.

Madam Speaker, the main objects of this Bill are to provide that -

- (a) a non-citizen, who is the spouse of a citizen, shall not have the status of a resident where he was a prohibited immigrant at the time of becoming such a spouse;
- (b) persons who suffer from any physical or mental infirmity or persons who are dumb, blind or otherwise physically defective or physically handicapped and who are likely to be a burden on the State shall no more be treated as a distinct category of prohibited immigrants;
- (c) persons who, from information or advice which in the opinion of the Minister is reliable information or advice, are likely to be undesirable inhabitants of, or visitors to, Mauritius, shall be deemed to be prohibited immigrants, and
- (d) persons or class of persons whose presence in Mauritius, from information or advice which in the opinion of the Minister is reliable information or advice, is likely to be prejudicial to the interests of defence, public safety, public order, public morality or public health, shall be deemed to be prohibited immigrants.

The Immigration Act, as it is today, grants the status of resident to different categories of persons, including a non-citizen who is the spouse of a citizen of Mauritius. In fact, under section 5(1) (c) of the Act, a non-citizen who marries a citizen of Mauritius automatically obtains the status of resident, irrespective of the fact that the non-citizen has been declared a Prohibited Immigrant as defined under section 8(1) of the Act.



Madam Speaker, acquiring the resident status by a non-citizen by virtue of marriage to a citizen of Mauritius is open to abuse when individuals enter into relationships of convenience in order to facilitate entry and stay in the country. In several cases, citizens of Mauritius have been duped into marriage by unscrupulous non-citizens whose main aim is to benefit from the privileges of acquiring the status of resident.

Non-citizens who are prohibited immigrants are not allowed to enter Mauritius. However, they manage to get the Mauritian citizen to travel abroad and get married, and after marriage, the non-citizen automatically acquires the status of resident pursuant to section 5(1) of the Immigration Act. Furthermore, following the marriage to a Mauritian citizen, the non-citizen is eligible to apply for Mauritian Citizenship after having resided in Mauritius under the same conjugal roof for a period of four years in accordance with section 7(2) of the Mauritius Citizenship Act of 1968.

Today, international marriages, involving the citizen of one country and a non-citizen are increasingly common in many parts of the world.

Since the recent past years, the number of non-citizens marrying citizens of Mauritius has continued to increase.

Madam Speaker, we are not against the right of a non-citizen to marry a citizen of Mauritius and also, consequently, become a resident of our country for so long as his or her marriage subsists. We, however, consider that a non-citizen who has been convicted of a serious offence, for example, drug trafficking, terrorism or other criminal offences and undergone a sentence of imprisonment and deemed to be a prohibited immigrant under the Immigration Act, should not automatically obtain the status of resident pursuant to the existing provisions of the Act.

Marriage is, in essence, a private matter between two persons. Nevertheless, the intimacy and privacy of marriage have public policy implications in areas such as residence and citizenship rights. This is particularly true for international marriages involving Mauritian citizens where the transnational nature of such unions invariably challenges in various ways State sovereignty, State ideology and policies on the family, and the application of the immigration and citizenship laws. We have to be alive and sensitive to safeguard the interests and the well-being of our citizens and to protect them so that they do not become the prey of these persons who, by our current existing legislation, are prohibited immigrants.

Madam Speaker, in addition to what I have said, we consider that paragraphs (a) and (c) under section 8(1) of the Act are of discriminatory nature towards persons suffering from any physical or mental infirmity or who are physically handicapped.

The Ministry of Social Security, National Solidarity and Environment and Sustainable Development has drawn the attention to these discriminatory provisions of the Act and has requested that same be amended to be in line with the Convention on the Rights of Persons with Disabilities, which Mauritius has ratified. In fact, Article 4 of the Convention sets out the general obligations of state parties in ensuring and promoting the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.

Madam Speaker, in the light of what I have just said, we believe that any responsible Government should not remain complacent and insensitive to such situations.

It is worth highlighting that the Immigration Act, which exists since 1970 requires a complete review along with other related legislations such as the Civil Status Act, the Mauritius Citizenship Act and the Deportation Act. I wish to inform the House that my Office is currently examining the different legislations in a holistic manner. However, there are certain specific issues, such as those mentioned earlier, which require urgent consideration and action, on one hand not to nurture the injustice towards persons suffering from any physical or mental infirmity or who are physically handicapped and on the other hand to continue to allow malefactors to abuse our systems.

Madam Speaker, let me now give an overview of the salient points of this Bill –

- (a) The amendments at clause 3 of the Bill will amend section 5(1) of the Act, by adding at the end of paragraph (c) the words “and was not a prohibited immigrant at the time of becoming such a spouse.”

This will enable such a non-citizen not to automatically obtain the status of resident upon marrying a citizen of Mauritius if the non-citizen would be categorised under a prohibited immigrant.

- (b) Clause 4 of the Bill will amend section 8(1) -
  - (i) by repealing paragraphs (a) and (c);

To harmonise the Immigration Act with the provisions of the Convention on the Rights of Persons with Disabilities and Article 4 of the Convention, which

sets out the general obligations of state parties in ensuring and promoting the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.

(ii) by adding the following new paragraphs (m) and (n) and deleting the full stop at the end of paragraph (l) and replacing it by a semi column –

(m) would be reading “persons who, from information or advice which in the opinion of the Minister is reliable information or advice, are likely to be undesirable inhabitants of, or visitors to, Mauritius”, and

(n) “persons or class of persons whose presence in Mauritius, from information or advice which in the opinion of the Minister is reliable information or advice, is likely to be prejudicial to the interests of defence, public safety, public order, public morality or public health.”

Such a provision would give the Minister the power to declare a non-citizen as prohibited immigrant based on reliable information or facts from reliable sources. The non-citizen could then not be allowed admission to Mauritius or if he is already in Mauritius, appropriate actions may be initiated under section 13 of the Immigration Act to cause that person to leave Mauritius.

Madam Speaker, it is considered that as a sovereign democratic country, Mauritius has the absolute right to take such measures with a view to strengthening and consolidating its immigration legislation, while also protecting our citizens from being the victims of ill-intentioned foreigners.

Madam Speaker, with these remarks, I commend the Immigration (Amendment) Bill to the House.

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

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

(5.46 p.m.)

**Mr A. Duval (First Member for Curepipe & Midlands):** Madam Speaker, let me start by saying that whilst Notre Dame de Paris, an international symbol of liberty is burning, accidentally, and our thoughts and sympathies are with the Republic of France, here, we are,

in this House, today, torching civil liberties intentionally or recklessly with this kind of legislation, Madam Speaker.

First of all, I have not heard from the Prime Minister an explanation with regard to why this Bill had to come with a Certificate of Urgency, why we have been given only three days, not even two days to prepare, why this Bill is coming for First, Second and Third Reading and will be put to the vote today? Why the urgency? He has not explained. He has not explained also why this Bill is more urgent than, for example, the Freedom of Information Act or the Criminal Justice Bill or so many other promises of his Government and his manifesto to bring meaningful change where this was never ever mentioned.

Madam Speaker, if there is one way to resume this Bill, it is to give the definition of arbitrary. What arbitrary means is the unrestrained use of power. That is what this Bill is all about, Madam Speaker. If I can, for the Mauritian people to understand the implication at stake with this Bill, just explain with regard to the three amendments that are being proposed today, what is, in fact, at stake and how it works.

First of all, Madam Speaker, in the Immigration Act, any person who visits Mauritius, not a resident, not a citizen; a tourist, someone who is coming to work is a visitor and is subject to Section 8 of the Act, the Prohibited Immigrants to restrictions that can be applied by the Office of the Prime Minister to stop that person from entering Mauritius. This is what Section 8 is about. It is about the restrictions that there is in Section 8, you will see, Madam Speaker, there are very clear conditions for this section to apply where the threshold approved is quite high. We talk about reasonable suspicion – ‘shall not be admitted to Mauritius’, for example –

“(e) prostitutes or persons living on earnings of prostitutes or persons reasonably suspected as coming to Mauritius for those or any other immoral purposes.”

For example –

“Persons who are addicted to any drug or reasonably suspected of engaging in the traffic of drugs.”

Or, for example, people who have been declared terrorists. This is under Section 8 of the Act. With this provision, the Prime Minister can stop any person who is neither a citizen nor a resident to come to Mauritius. This is what Section 8 is all about.

If we talk just about this aspect of the law for now, the problem with the amendments that are being proposed today, Madam Speaker, is that contrary to what exists today in the law with regard to the threshold approved which is - and this the important aspect, challengeable in Court where the Court has jurisdiction to issue an injunction to restrain and prohibit the Government, for example, from stopping someone into coming in to issue an order to reverse the decision, the Court can do it. For someone who is aggrieved by this, he should show that, for example, there was no reasonable ground to apply one of these conditions to him. And then, if he could show that, he would seek judicial intervention to reverse - we call it an order mandamus - the decision of Government.

This is how it is and how it has been, Madam Speaker, for years. What we are doing today - and this is the gist of this amendment - is that we are now bringing in, with regard to provisions (c) and (d) of the objects of the Bill, unlimited discretion of the Prime Minister, absolute discretion we call it of the Prime Minister to decide himself, on information or advice he receives from God knows who, a beggar from the street and which is in his opinion as Prime Minister, a person, subjective, wholly subjective to his opinion, however prejudice or bias. And when it is in his opinion reliable information, then the person who is trying to enter is undesirable, whatever that means, Madam Speaker. There is no meaning attached to it. There is the definition of undesirable in the Deportation Act, but we are not here saying whether it is going to be the same definition to be applied or whether it is what the Prime Minister think is undesirable. In any case, Madam Speaker, - and I will come to it later - the definition of undesirable in the Deportation Act is already very wide. Therefore, Madam Speaker, what we are doing is that we are going now to rely solely on the Prime Minister's opinion as to whether a person is undesirable or not.

The worst is, Madam Speaker, that that person will not be able to seek judicial intervention, will not be able to go to Court even though - and I am sure hon. Rutnah perhaps will say after - for you to exclude jurisdiction of the Court, you need to expressly exclude section 76 of the Constitution for it not to have its application. *De facto*, it will not have its application because the Court will never ever try to go and interpret the opinion of the Prime Minister. It is subjective. What was his state of mind, how did he come to that conclusion, to that opinion? He will never do so.

You will see, Madam Speaker, and I will come to it later, whenever there has been absolute discretion, it has been limited expressly to very narrow issues, for example, national security like in the Citizenship Act. Here we are opening the door to whatever the Prime

Minister wants to think, however, prejudice or bias and this is the first point with regard to visitors. The same point, unfortunately, gets worst later.

The second point, Madam Speaker, with regard to object of the Bill subparagraph (d). Now, the hon. Prime Minister is giving himself the right to categorise people. It says –

“persons or class of persons (...)”

Even though the Constitution, at section 16, with regard to discrimination tells you that you cannot categorise people.

You cannot put, for example, a number of people into one category. You cannot say, for example, I do not like South African people, so, as from now, I am going to rule, as a Monarch, that South African people are going to be undesirable inhabitants – and here we are talking about people who are already in Mauritius – who will prejudice public morality or public health, public safety, interest of defence, very wide. So, now, the hon. Prime Minister is giving himself the right, contrary to all established rules, to categorise people, Madam Speaker. This is divine rights that are being given to the hon. Prime Minister today like a Monarch.

And, therefore, we beg to ask the hon. Prime Minister, firstly, who with regard to the visitors – we are not talking about citizens, residents here, just visitors – are going to feel the weight of the power of your office now when trying to enter Mauritius? Who? When we see from the past not so far ago, we have seen how, for example, people, religious practitioners, religious leaders have been deported or their permit not renewed. Are these the kind of people? Are they going to be members of the LGBT Community? Are they going to be members who have certain hairstyle? Are they going to be people with a certain faith, with a certain political opinion? We need to know today, while giving such great powers to the Prime Minister because it is all going to be his opinion at the end of the day. What is his opinion on the matter? We need to know.

Madam Speaker, therefore, section 8, to this day, has never applied to anyone else but visitors to Mauritius and the power under section 8 is to refuse entry. As I said, this was challengeable in a Court of Law. I will tell you why, Madam Speaker, it cannot be challenged. If you go and see any judgement which touches on these issues of discretion of the Prime Minister, you will see that whenever a Court gives its interpretation, the Judiciary, as a responsible and independent Institution, will never try to substitute itself to the executive. It will base the decision, it will examine it on whether it was reasonable or not with regard to,

for example, national interest and public interest. But now that we are putting in the Prime Minister's opinion on the matter, it is wholly subjective. It rests solely with the Prime Minister and his opinion and, therefore, no Court of Law will want – especially since Parliament is going to enact this Bill – to go now and try to interpret what were the state of mind and the opinion of the Prime Minister. Anyway, Madam Speaker, that was section 8, it will apply to visitors.

But now, Madam Speaker, with regard to residents – and here we are talking about spouses – they have, to this day, enjoyed certain rights greater than the rights, for example, of an occupation permit holder, an investor or whatsoever. Someone who marries a Mauritian citizen is automatically given a set of rights. That right is enshrined, you will see, in section 3 of the Immigration Act and I will read it to you, Madam Speaker. It says that –

“Subject to this Act, a citizen a resident or an exempted person, shall be allowed to enter Mauritius or, being in Mauritius, to remain there so long as he holds his status of citizen, resident or exempted person, as the case may be.”

And how do you acquire, as a foreigner, your resident's status? It is through marriage to a Mauritian citizen. And for you to be able to deport a resident here is only two ways going about it, Madam Speaker. The first one is after divorce to that Mauritian citizen, six months is given to that resident to leave the country and then his visa to stay expires and he has to leave. That was the most common way. There is no other way. The other which the hon. Prime Minister has not mentioned is in section 6(1) of the Immigration Act gives him a discretion. It says at section 6 –

“Loss of Status of resident

(1) Where, in relation to a resident, the Minister is satisfied that it is in the public interest to do so, he may, in his absolute discretion, deprive that resident of his status of resident.”

That power is already being exercised by the hon. Prime Minister. He has spoken about the abuses of fake marriages, he can already deport any person who has falsely married, under false pretences married a Mauritian. He can already deport them. But he must do so in the public interest and his discretion is not absolute. There is a case, Madam Speaker, where Sir Gaëtan Duval was Counsel and the respondent was Sir Anerood Jugnauth as Prime Minister in 1993. And, you will see it is the case - if you bear with me, I will come to Jogee later. Sorry, this case was not the one with Sir Gaëtan Duval. It is the case of Green and Minister of

Home Affairs, 1993, Madam Speaker. And the Court said in that case, it is to be noted, speaking about the then Immigration Act, it was section 6(2) which is now section 5(1)(c): ‘a person who acquires the status of resident as the spouse of a citizen of Mauritius under that section can be a resident six months following the termination of his or her marriage – had said that - and unless and until of the degree of divorce is pronounced six months after that it ends.’ But this does not preclude the respondent, that is, the Prime Minister, from depriving him of his status of resident if it is in the public interest to do so. This is why I was talking about: the power, the discretion under section 6 to deprive that person of the status of resident. Section 6(1) speaks of the absolute discretion of the respondent, that is, the Prime Minister, in matters of deprivation of status of resident in the public interest, it may well be that such a discretion is reviewable, the more so as the right of unfettered or absolute discretion has been laid to rest in a number of cases.

All power had legal limits and the rule of law required that Courts be able to examine the exercise of discretionary power, the boundaries of a decision-maker’s jurisdiction conferred by an Act of Parliament was a question solely for the Court to decide. Well, that means, Madam Speaker, is that this power cannot be abused. The Prime Minister cannot abuse section 6(1) and deport whoever he wants, whenever he wants, because this can be challenged in Court and it can be reversed by the Court of law, and this is the point. The powers already that he has under the pretences that are given today in the opening speech, that is, of fake marriages, that is, of abusing the system, these can be tackled easily enough under the current legislation, and if it is, indeed, in the national interest then, no problem will come of it. So, why are we now going to amend this legislation and to give now absolute discretion which the Court will never go into, and I will get to that later. Therefore, unquestionable decision-making to remove a resident and that is what we really want to know, Madam Speaker.

Therefore, residents through marriage had always lost under the current system, can lose their status of resident through only these two provisions, either divorce, six months after or when it is in the public interest, the Prime Minister uses his discretion. Both have to go through a Court of law, can go through a Court of law, divorce has to be pronounced by the Supreme Court, but the discretion under section 6(1) is challengeable and has been challenged before, like in the case I have just said.

So, Madam Speaker, what happens? What do we do then? Today what are we doing, is that now we are going to do what has never been done before. We are going to open the



application of section 8, that is, prohibited immigrants to spouses of Mauritian citizens who are themselves foreigners by adding that amendment which doesn't look like much when you first look at it. It has taken me some time myself. But when you look at adding to section 5, Madam Speaker, that subject to this, any person not being a citizen shall have a status of a resident if he is a spouse of a citizen then you go and add: 'unless he was not a prohibited immigrant at the time of becoming such a spouse'. What does that mean, Madam Speaker? And this is what people need to understand. It doesn't sound like much. What it means now is that we are now going to open the application of section 8, which gives wide powers to the Executive, to the Prime Minister. Let us talk first about to stop a person to enter Mauritius. They stick to that for now, to stop a person to enter Mauritius. Now, it is going to be opening section 8(1) (a) to (l), so many conditions that can now be used, so many provisions that can now be used against residents to stop them from coming into Mauritius, to stop them from being a resident, to remove their status of resident. This is what we are doing.

So, as from voting this Bill, if someone at the time of marriage was a prostitute, for example, or was reasonably suspected of being one or was a drug addict or was a chronic alcoholic or was likely to be a charge on public funds, here we are discriminating with regard to social status and wealth, or persons whom there are reasonable grounds for believing they are likely to engage in any subversive activity of any kind directed against Mauritius, then these people now could lose their residency status. But that's not all, they could also now lose their residency status if the Prime Minister with this atrocious amendment, now is of the opinion that, that person is undesirable. Simple administrative decision, judge and party now. So, Madam Speaker, the number of Mauritians today living with a foreign spouse, the number of people living outside who are Mauritians and who have married, you can grasp now *l'étendue de cette loi*, Madam Speaker, and understand how on earth can you even think of giving so much powers to a Prime Minister, who is going to be completely prejudiced to his own opinion with regard to what he thinks is reliable information and with regard to what he thinks is undesirable. And now this Prime Minister or any other Prime Minister after him will be able to revoke the residency of the person who has to date enjoyed better rights than any other foreigner in this country, who has today and will get to that a constitutional right to become Mauritian. This is what we are doing to these kinds of people. Madam Speaker, this is how this law is completely unacceptable. And again, we are just sticking to removing the state of residence, in a minute we get to deporting them.

Madam Speaker, when you look at the case of Jogee and Medagama versus the Government of Mauritius, the Prime Minister and the Passport and Immigration Office, and when you hear the opening remarks of the judge at the time, hon. Ahnee says and I quote: ‘I could hardly believe my ears when at 10.32 a.m. on Friday 16 July’. That was back in 1993, only a few minutes after he had - and he was the Judge of the Supreme Court, had been so for 13 years, Madam Speaker, Senior Judge.

Madam Speaker, this was on Friday 16 July, only a few minutes after he had finished his arguments as to why Mrs Jogee should not be deported. Mrs Jogee, a Sri Lankan national was married to a Mauritian and she was pregnant of a baby of eight months old. So, had the baby been born, it would have been a Mauritian baby with a Mauritian father. Mrs Jogee had a civil marriage and that was the person we are talking about now. She was not to be deported until the determination of the case which he intended to lodge before the Supreme Court. At the time, Mr Hawaldar, who had been appointed at public expense, burst into his Chambers to say that he had just been informed that his client was deported the night before.

Madam Speaker, this was a matter before a Judge in Chambers. I know an interim order was given; the person intended lodging a main case against the State of Mauritius and were arguing with the State Counsel, the then Paul Lam Shang Leen to make that order interlocutory, therefore, to apply until the end of the main case. An interim order was in force, Madam Speaker. And he goes on to say that thanks to the Press everybody is aware now and let it be stressed that within less than 20 days is to be born a Mauritian Citizen somewhere in the world. Mrs Jogee has, no doubt, with exquisite politeness, been simply deported from Mauritius, only a few hours before the time fixed to hear her application. Only a few hours! The Mauritian child she was carrying would be denied the medical facilities; it would probably be born in one of the poorest countries of the world with one of the highest mortality rates. But then, Madam Speaker, if you turn the page on the judgement, you will see that the intention of Mrs Jogee was to claim her constitutional right, that right to become a Mauritian citizen after having been married to a Mauritian citizen under Section 24 of the Constitution, which says –

“24. Marriage to a citizen of Mauritius

Any person who, after 11 March 1968, marries another person who is or becomes a citizen of Mauritius shall be entitled, upon making application in such manner as may be prescribed and, if he is a British protected person or an

alien, upon taking the oath of allegiance, to be registered as a citizen of Mauritius (...).”

So, this is the Constitutional right, Madam Speaker, to become a citizen of Mauritius subjects to the condition. The condition was then four years of marriage and living under the same conjugal roof. And, Madam Speaker, to go back to the case of Jogee, it says: ‘The proceedings to which I - the judge speaking about himself - have already referred in some details show that the Court was, at the very least, lured and lulled to believe that the applicant would not be deported before the Court had the Court had time to pronounce on her application’. They showed that notwithstanding the order made on 14 July, two days before, the Court was not informed in time of the decision to carry out the deportation. Madam Speaker, this case was so serious that the judge referred the matter to the Director of Public Prosecutions. He said: ‘I decided to refer the present case to the Director of Public Prosecutions so that he should consider whether Contempt of Court are called for’. Madam Speaker, to put the then Prime Minister whether has taken him in Contempt of Court. This is how serious it is. And you know what the judge did, Madam Speaker, he resigned after that, leaving 13 years in the Judiciary because of the *fait accompli* that the then Government had put him in by deporting someone who had the right to stay in Mauritius.

Madam Speaker, the Court, the Judiciary use the rights of people who are married to a Mauritian Citizen and who, as in Section 3, cannot be denied access to the country or cannot be removed from that country so long as they remain a citizen. This is how serious it was, Judge Ahnee resigned, Madam Speaker. I hope it gives you a sense of the seriousness of the Bill that we have today. Madam Speaker, we have been talking about stopping visitors from coming in – residents - and then revoking their status. But now, there is another law which comes into play with this legislation, it’s the Deportation Act, which I have not heard in the opening speech, Madam Speaker.

Madam Speaker, let me quote from the relevant part of the Deportation Act. Madam Speaker, as I said, it is important to note that a resident spouse, married to a Mauritian citizen, cannot be deported simply like this. There has to be on the part of the Prime Minister, if he uses his discretion, he has to show that public interest is at stake. Section 3 of the Deportation Act says –

“This Act shall not apply to persons who belong to Mauritius.”

It goes on to say –

“(...) for purposes of subsection (1) a person shall belong to Mauritius if he is a spouse of a citizen of Mauritius (...).”

Therefore, the Deportation Act does not apply to me, I am a citizen, but it does not apply to any foreigner married to a Mauritian citizen today because he is the spouse of a Mauritian citizen. But, Madam Speaker, the fine print is in Subsection 3, where it says –

“For the purposes of subsection (1), a person specified in subsection (2)(c) - which I have quoted - spouses of a citizen of Mauritius, who, by virtue of section 6(5) of the Immigration Act, is deemed - it was then 6(5) - to be a prohibited immigrant and shall not be deemed to be a person who belongs in Mauritius.”

What it means, Madam Speaker, is when you are now opening Section 8, Prohibited Immigrants, its application to residents, spouses married to Mauritian citizens, you are also now applying Section 3 of the Deportation Act to these people; what it means is that anybody, as from tomorrow, who is declared through whatever condition, provision of Section 8 or if it is in the opinion of the Prime Minister that that person is undesirable, that person will be deported, Madam Speaker. Simply and purely deported!

Madam Speaker, let's take the example of hon. Shakeel Mohamed - he is not the only Member of this House to have a spouse or a daughter or a son who is married to a foreigner. He is not the only one in Mauritius, there are thousands. But let's take the case of hon. Shakeel Mohamed. What if tomorrow he asks an embarrassing question and the Prime Minister then decides...

*(Interruptions)*

Who says so? Nobody says so! Reading about Jogee, it is here the abuse. The door is open to abuse, Madam Speaker, but let's just take the case of hon. Shakeel Mohamed. Madam Speaker, his wife is not a Mauritian, she is from France. He is a Member of this House. What if tomorrow we want to revoke the status of resident of Mrs Shakeel Mohamed? What if tomorrow, after we have done so, we want to deport Mrs Shakeel Mohamed? Nobody says anywhere here that it can't be done. I am telling you it can be done and I tell you, Madam Speaker, one day or another, under this Prime Minister or another it will be done. I hope not, but this type of oppression...

*(Interruptions)*

**Madam Speaker:** Do not get excited!

(Interruptions)

**Mr A. Duval:** This type of oppression, Madam Speaker, will now be possible. And will she have a right of appeal if it is used under the new two provisions that we are bringing in? No, Madam Speaker! I have explained that already. No right of appeal. This is the seriousness of this legislation, Madam Speaker. You will now be able to deport people. And, Madam Speaker, what does it mean when you can deport the spouse of the Mauritian citizen, what are the implications? I will tell you, Madam Speaker. It means that you are denying that person, his constitutional or her constitutional right under Section 24 of the Constitution to become a citizen of Mauritius. Why? Because I will read the Citizenship Act to you; Section 7 of the Citizenship Act, Madam Speaker, Registration of other persons, Subsection (2) –

“(2) Where a non-citizen is or was married to a citizen of Mauritius, he may be registered as a citizen of Mauritius if he satisfied the Minister that he has lived with his spouse under the same conjugal roof in Mauritius for a period of not less than 4 years.”

This is the important point, “of not less than 4 years”. What does it mean, Madam Speaker? It means that if I want to stop someone from becoming a citizen who is the spouse of a Mauritian citizen, but the foreigner, I can simply deport him and put *persona non grata*. Stop him from coming back because Section 8 allows this and I use Section 3 of the Deportation Act, then what? Then that person will never ever be eligible to enjoy his constitutional right. But then you will tell me, Madam Speaker, the Prime Minister already has the discretion under the Citizenship Act to refuse. What does it say? Let’s look at the power! If someone says that he already has the right, let me just look into the details, the power of the Prime Minister on the Citizenship Act. His right under the Act, his power is where is relation to an application for registration under this Section, the Minister is satisfied that it is in the interest of National Security or Public Policy not to grant the applicant. He may, in his absolute discretion and without giving any reason, refuse to register the applicant as a citizen of Mauritius. So you will tell me, Madam Speaker, he does not have to deport anyone; he can just refuse to give. But he cannot, Madam Speaker, in bad faith, for the wrong reasons. You know why? Again, a case of Sir Gaëtan Duval, and, again, against the then Prime Minister, we are still in that era. Madam Speaker, the case of Ester against the hon. Prime Minister and Minister of External Affairs; it analyses the Constitutional right, Section 24, to become a citizen through marriage. It analyses the absolute discretion of the Prime Minister to refuse. In fact, it used to be worded differently before. Justly worded that could not be challenged,

but, Madam Speaker, you know what it says and it is important for the record, Madam Speaker, because I can guarantee you this Act one day will be challenged for its anti-constitutionality and they will look at this debate because we are asking the Prime Minister certain questions that he has to answer in the debate to give what is the intention of the Executive today so that then *ils peuvent se pencher sur la question* and decide whether or not it is indeed democratic or not. But look at what it says –

“Our Constitution has conferred on the Parliament of Mauritius power to make laws that are not contrary to the Constitution. The Constitution itself has enacted provisions related to the acquisition and deprivation of citizenship and has further conferred on Parliament power to prescribe a number of matters in this connection.”

However, what it says is that it has jurisdiction to hear these matters. What it says, Madam Speaker, let me just, not to take the time, it says that the Court has always jurisdiction even in the case of citizenship to come and order what we give an Order of Mandamus to order the Executive to review a decision. It orders contrary to the order that the Prime Minister in this case gives and it says it has always jurisdiction no matter how much discretion you give the Prime Minister, it will always have, unless you expressly provide in the legislation in the Bill that it will not have jurisdiction. Unless you do so, it will always have jurisdiction and you know why, Madam Speaker? Let me just state that quickly before I forget. Do you know why it is always like that? Because, Madam Speaker, it is very simple concept of democracy. It is a very simple concept of the rule of law. It is a very simple concept of the separation of powers and the Court always has the inherent power, Madam Speaker, in any democracy to intervene and to decide whether a decision that is taken is reasonable or not. Madam Speaker, it is also to stop the Executive from being judge and party because then it tramples on the jurisdiction of the Judiciary.

So, there is no such thing, Madam Speaker, as this absolute power and this case tells you that, and it says, let me get to the relevant part, it says, and I quote –

“It studies on the second part of the judgement what is the right on an alien wife of the foreigner to be registered as a citizen of Mauritius.”

It is not absolute. Yes, but is subject to the interest of national security and public policy. Only these two! And it says in this case –

“What is the effect of giving the Prime Minister absolute discretion?”

We call it exclusionary device. Then it says that –

“The Court jurisdiction cannot be limited.”

And it says in cases where the Minister’s refusal to grant citizenship is motivated by consideration – and listen to that part, it is important – consideration other than the two limitatively set out in the proviso to Section 24, that is, National Security public interest, and he gives the example. For example, with regard to the race of that person, the colour or her political opinion or where the Minister simply refuses to study the application on the merits, then the Court would unhesitatingly intervene.

So, therefore, Madam Speaker, why did I say all this? To make the point that the Prime Minister cannot simply refuse to give someone citizenship and cannot invent all sorts of pretences. It is challengeable, always, and can be made to answer for it. It is challengeable. But when you are now, Madam Speaker, removing that right altogether for a person to be eligible, when you are removing all possibilities for a person to even become eligible by deporting that person, by revoking his residence status, unfortunately it is all linked. Then, you do not have to go and use that discretion in the Citizenship Act, which can be challenged. Then you do not have to do so.

And we are talking about the Constitutional right, Madam Speaker. We are talking about fundamental rights; the right to marry, Madam Speaker, the right to have a family. It is found in Article 16 of the Universal Declaration of Human Rights. It is a fundamental human right and now the Prime Minister, because now let’s talk about how this application of the Act can work if he so desires. Now, it is the Prime Minister who is going, him, to decide like a true monarch of the sixteenth century whom you had to go and ask for his blessing to marry. Now, we have to go and ask his blessing to marry a non-citizen? If that person does not please him, he will revoke the status of residency and deport that person, Madam Speaker?

Madam Speaker, this is not the time for monarchy. This is time for democracy, monarchy is an old concept. We cannot give powers *digne d’un roi* to a Prime Minister; that his word is final and even the Court cannot question his word. Do we realise today the line that we are crossing with regard to all the democratic principles, Madam Speaker, with regard to all the established International Human Rights? Do we realise the line we are crossing? And what do we do? We take out the provision that now people suffering from handicaps will not be discriminated upon.

Madam Speaker, it is only cosmetic. Because if he was to discriminate upon people who are handicapped, he does not have to explain himself, they are undesirable. What he is doing? He is making *un projet de loi très joli de l'extérieur*, but in its working, in the way it will be applied, then it is only subject to the prejudice of the Prime Minister. This Prime Minister or any other Prime Minister, Madam Speaker. And this is why this law is hypocritical, Madam Speaker. So, Madam Speaker, I have to say it is revolting, this law.

When you look at *combien de pas en arrière sommes-nous en train de faire aujourd'hui, Madame la présidente, en terme de toutes les pratiques démocratiques, en termes des droits des personnes qui, dans quatre ans, peuvent devenir citoyens mauriciens et avoir les mêmes droits que vous et moi, Madame la présidente*. Therefore, Madam Speaker, this is for me completely, wholly unacceptable. It is an unacceptable piece of legislation. It is now with the work permit regulation, which I will not get into, Madam Speaker, we are going to coerce people, to put pressure on people to find all the means and ways, to have all these people who could find they are being victims of this law.

It is opening the door to abuse, Madam Speaker. It is opening the door to all sorts of things. Madam Speaker, I have dwelled enough on the constitutionality and on all the fundamental rights that have been trampled today. I will talk briefly about other aspects of the Law. Madam Speaker, let me just say one thing before I forget, that we were talking about the amendments and how it is going to be subjective to the Prime Minister. There is the objective test that is applied to all the provisions today in section 8. You remember whether you are a drug dealer, a prostitute, etc., it is an objective test that is applied and if it is challenged, it is that objective test that is applied by the Court of Law. It looks at the sets of facts and decides whether it was reasonable to take that decision. That is how it works, but now we are putting the subjective mind of the Prime Minister into a piece of legislation which the objective test will not find its application and the Court of Law will not interfere in this. The Court of Law will issue no order mandamus against the Government and the Court of Law will never issue an injunction. When you look at the scope of the powers unprecedented for a Prime Minister with regard to deportation, then we can only be scared for what is about to come, Madam Speaker, and I am.

Madam Speaker, the other things as well which I need to talk about with regard to this is the limitation in time. There is no limitation in time. We do not know if it can be done in 50 years after the marriage, we do not know when the provision of this Act will continue to apply after the person has been married and this is the problem, Madam Speaker, because as



in the case of Jogee & Medagama the more time goes the more the chances increase of children being born, of a family being born and then when you take such an arbitrary decision, you are breaking a family.

*C'est le déchirement de la famille.* And then, it goes into the cross-jurisdiction, and then what happens? The mother is deported and her three children stay here. What happens? So, this law is an inhumane piece of legislation. I have to say, it is inhumane and there is no time limit. And this is even worse, no time bar. When you get married, Madam Speaker, you have to publish in the Government Gazette for 10 days. Somebody can challenge it. But the Prime Minister can challenge any wedding, any marriage he thinks fit with regard to a non-citizen with a Mauritian. So, in 30 years, if he becomes Prime Minister again - in this mandate he decides, he is of the opinion that that person is undesirable for example, can he apply it in 30 years when he is back again? I do not have the answer, Madam Speaker, and I should not have the answer because I am not bringing such a piece of legislation today to this House. He has remained silent on this.

Madam Speaker, now, let us talk about the economic aspect of this inhumane legislation. Firstly, we are killing the baby of the missing Lutchmeenaraidoo, the Mauritian Diaspora Scheme. If you do not remember what it is, it has not made much noise, it has not worked very well, but let me just say what at the time was being said.

« Professionnels et grosses pointures fortunées sont dans le viseur de l'EDB. Celui-ci se propose de revisiter le *Mauritian Diaspora Scheme* du 24 mars 2015 pour mieux les attirer. Plus spécifiquement les professionnels qualifiés, au nombre de 50000, concentrés aujourd'hui en Europe avec une forte présence également en Australie et au Canada. »

Madam Speaker, what do we do? We give them a tax holiday of 10 years, we give them tax exemption on all their belongings and we give them a duty free car. So, we go through all this hassle, Madam Speaker, to bring *les talents mauriciens* who are living abroad to come back to help the country. The fight for talent, Madam Speaker, it is an international fight being done by every country, *la guerre des talents*. In the United States, you are smart in IT, you get a green card, you come with your family. In all major countries today, this is how they keep moving ahead. What are we doing?

Now, we expect a Mauritian living in the UK, for example, married to a European to come back. Firstly, his wife or husband who has to get a work permit, that is one thing.

Secondly, that person who would be under the constant threat of his or her status of resident to be revoked and under the constant threat of deportation without any right of appeal, Madam Speaker, that is what we are telling to all these Mauritians to come.

Madam Speaker, I need not say much. I think you realise that no one in their right mind would now really consider coming back, leaving whatever they have accomplished outside of Mauritius, come back to have these threats, *cette épée de Damoclès constamment sur leurs têtes*. I do not see anyone.

Madam Speaker with the brain drain that we have today in Mauritius, with regards to, I said it, *la guerre des talents*, with regard to how we want to be a high income economy. How the hell are we going to now attract the bright minds, sons of this nation working abroad?

Madam Speaker, let me just say to finish, this Bill, Madam Speaker, is to me, *un appétit démesuré de certains aspirants monarques* when you see this legislation. It has no place in our democracy, Madam Speaker, and we are taking ourselves back to the 16<sup>th</sup> Century. I know the Prime Minister prides himself of being *papa tou bane zenfan dan Maurice*. Now, what he wants is the blessing of the Mauritian people who need to come and get his blessing to go and marry a non-citizen. This is what is happening.

Madam Speaker, this law is revolting. Madam Speaker, *je suis tellement révolté par cette loi* and I call upon all the Members of this House because there is bound to be abuse, there is bound to be arbitrary actions, there is bound to be the breaking of families and there is bound to be the violation of our fundamental rights. Madam Speaker, there is bound to be all of this.

Let me call on the hon. Members then, all of them. maybe I have tried to be as unbiased as I can to explain how it will work, Madam Speaker, but let me call upon the people of this Assembly not to vote for a Bill like this. Let me call upon the Prime Minister, if indeed his intentions are good, Madam Speaker, to postpone the vote of this Bill and the debate. genuinely, sincerely, I ask him to postpone it. Let the stakeholders, let the thousands of people today, who are concerned by this legislation even in Mauritius or abroad, let them have their word. Let Members of this House *penser à tête reposée* because two days are not enough to prepare for a Bill like this which has constitutional outreach. There is no reason for the urgency that we understand of.

Madam Speaker, this is my call to the Prime Minister of this House to postpone the debate. If truly the intention is good, postpone it, come with clean hands, explain to us why is it he is taking such drastic measures when he already has the power and it needs to be concluded. He already has the power, Madam Speaker, to deport any person in the current Act, Immigration Act, so long as he can show, if ever contested in Court, that he has done so in the public interest, in the interest of this country. So, I do not understand why he would come and now change the rules of the game.

Madam Speaker, again, this Bill must be postponed. And if it is not, all the Members of the Assembly must keep an independent mind, because otherwise good luck to you!

**Madam Speaker:** Hon. Rutnah!

(6.45 p.m.)

**Mr S. Rutnah (Third Member for Piton & Rivière du Rempart):** Thank you, Madam Speaker. Madam Speaker, I will seek to persuade the House and the people of Mauritius that there is no need to postpone the voting of this Bill today. I will also urge upon Members of this House, except for the PMSD, I will not go into the history, because the PMSD has the habit of asking everybody not to vote and not going into history. I will just remind the House, on the last occasion, when the Mental Health Care (Amendment) Bill was presented to this House, hon. Abbas Mamode made similar appeal about not voting the Bill. So, the party that represents extremist ideas since pre-independence and post-independence will never change and those extremist ideas will remain as they have been...

*(Interruptions)*

Madam Speaker, I am, in fact,...

*(Interruptions)*

**Madam Speaker:** No, hon. Leader of the Opposition, you cannot make remarks on the personal appearance or whatever of any hon. Member.

**Mr Rutnah:** Madam Speaker, I think those who are watching this debate live would have ascertained when the hon. Member from the PMSD was on his feet, I was listening quietly to his debate and extended respect to him. But, unfortunately, it is the habit of the PMSD, it is the habit of the Leader of the Opposition to carry himself in such a way, and it's good that the people of Mauritius are watching this behaviour, this attitude, making remarks,

personal attack from a sitting position, that's perfectly okay, because it demonstrates the level at which politics are being done by the PMSD. In any event, Madam Speaker,...

*(Interruptions)*

**Madam Speaker:** Hon. Lepoigneur, would you continue to obstruct the good and smooth running of the business of the House?

*(Interruptions)*

Okay!

**Mr Rutnah:** I would have expected hon. Lepoigneur to have his name on the list to reply to me if he has anything to say.

But, in any event, Madam Speaker, this Bill is not about giving powers to the Prime Minister like a monarch and to abuse power, as hon. Adrien Duval wants us to believe.

*(Interruptions)*

Hon. Duval went on saying a lot of things and it makes me appear that he has not even understood the purport of this Bill. In fact, I am glad that the way this Bill has been drafted and these days, we have got people who are drafting in very simple English, not like it used to be in the 40s, 50s and 60s. Look at the English, simple, even an O level student can read it and understand that this Bill is about section 8 of the principle Act, the Immigration Act and it amends what, it amends...

*(Interruptions)*

**Madam Speaker:** Hon. Shakeel Mohamed, I draw your attention to the fact you have been constantly disrupting orators. You have been constantly making remarks throughout since the start of the debate on this Bill. So, please, I am giving you a warning.

**Mr Rutnah:** Madam Speaker, the Bill is simply about a very minor part of amendment in relation to section 8 of the principle Act. What it is amending is firstly repealing part of section 8 which deals with people who are physically and mentally infirm, people who are generally not well and people who are sick. This is compliant with international instrument relating to disabled people. It is also compliant with section 16 of our Constitution. So, it is high time, and in fact, I congratulate the Prime Minister for having ponded into this aspect of the law in order to give opportunity to disabled people to come to Mauritius provided that they are not prohibited people. Before, you were a prohibited person, simply by virtue of your

disability or infirmity, but now that has been repealed. And there are two subsections that are being added, subsection 1(m) and (n).

Madam Speaker, prior to 1970, there were a number of ordinances where one had to go and look at the law relating to immigration, then in 1970, the then Labour Government decided to enact the Immigration Act 1970 in order to harmonise the immigration situation in Mauritius post-independence because all the ordinances were pre-independence. And then in 1970, in Section 8 there were subsection (1) (k), then in the 1917 law, this area was amended a number of times in relation to fees, work permit, etc. But the most important amendment took place when the Labour Party and the PMSD were in Government in 1999 and they introduced other amendments, and thereafter, in 2008, I believe, there were further amendments as a result of the enactment of the Prevention of the Terrorism Act 2002 in order to include another subsection (l) into the category of prohibited persons. That category (l) reads as follows –

“(1) persons declared suspected international terrorists under the Prevention of Terrorism Act 2002”

And the law was further amended in 2008 in respect of people who suffer from HIV AIDS etc. So, since 1970 the law has seen a number of amendments, but it is and it should always be the vision of any Government to ensure that the present and the future border of our territory be secured. Now, who are for the purpose of securing our border from prohibited persons? Let’s look at the law. I will go to the 1970 Amended version, the updated version, as to who are supposed to be prohibited immigrants under Section 8 of the Principle Act. There are –

(a) persons who have physical or mental infirmity (...)

Which we now get rid of. There are –

(b) persons afflicted with any infectious or contagious disease;

(c) persons who are dumb, blind or otherwise physically defective or physically handicapped and who are likely to be a charge on public funds;

We get rid of that too.

(d) persons who have been convicted of or admit having committed any crime which, if committed in Mauritius, would be punishable by imprisonment for a term of not less than 6 months;

- (e) prostitutes or persons living on the earnings of prostitutes or persons reasonably suspected as coming to Mauritius for those or any other immoral purposes;
- (f) habitual beggars or vagrants;
- (g) persons who are likely to become a charge on public funds;
- (h) persons who are chronic alcoholics;
- (i) persons who are addicted to any drug or reasonably suspected of engaging in the traffic of drugs;
- (j) persons who are engaged, or reasonably suspected of engaging, in activities prejudicial to the integrity or sovereignty of Mauritius or of any friendly State;
- (k) persons concerning whom there are reasonable grounds for believing they are likely to engage in any subversive activity of any kind directed against Mauritius or detrimental to the security of Mauritius or any friendly State, and
- (l) which is the law that has been amended as the result of the Prevention of the Terrorism Act, persons declared suspected international terrorists under the Prevention of Terrorism Act.

So, according to the 1970 law, it is clear that if our citizen is getting married to a foreign national, who does not fall within the category of Section 8 of the 1970 Act, he is free to get married. There is no need to take the blessing of the hon. Prime Minister because that person is not categorised as prohibited as described in the Act.

Now, the law has to evolve. In 2019, we can't remain stuck in the 1970s, when in 1970 we hardly have any foreign workers in our country and now we have more than 40,000 foreign workers in our country, and on top of that, we have people from foreign countries coming to live in our country on work permits, on all sorts of permits and they are getting married. So, we have to have proper control of our immigration and today if we look at Europe, if we look at England, France, Belgium, Germany, most of the social problems in those countries are as a result of immigration that they did not control. Today they regret, because they did not control immigration. There have been lots of papers, for example, in England, in United Kingdom where the Home Office has been talking about it. And here, we may decide to live in denial like hon. Duval; he can decide to live in denial that there is no problem. He is not living in the real world, he does not accept reality and the reality, Madam

Speaker, is this. And I expect those who are doing politics and those who are in law in politics, at least, to know their surroundings, to know their country, to know what are live issues because there have been criticisms that this Government is bringing this legislation with a Certificate of Urgency and we are not giving time for any debate to happen in the House. I did some research and I can tell you, Madam Speaker, this problem of marriage by convenience is something that does not date back to yesterday.

There was an article on 30 September 2007 in *L'Express* which highlighted the problems of *mariage blanc*. I also found a number of articles in various newspapers which I don't want to quote. On 11 August 2016, there was another article, entitled '*Traque des étrangers: surveillance accrue des mariages blancs*', où il est dit que –

« 10,849 expatriés vivent en règle à Maurice.

Ils sont 10,849 expatriés (en règle) à Maurice, dont 5,366 hommes et 5,483 femmes. Les Français sont les plus nombreux (3,178). À l'opposé, entre autres nationalités, figurent un Albanais, un Estonien, un Islandais ou encore une Sénégalaise. Quant aux étrangers en situation irrégulière, 145 ont été arrêtés et rapatriés dans leur pays d'origine depuis le début de l'année. La semaine dernière, un Indien et un Chinois, dont les contrats ont expiré, ont été retrouvés par les officiers du *PIO*. »

And then it goes on, with a subheading –

« *Comment opèrent ces étrangers ?* »

« *Au PIO, on raconte l'histoire d'une ressortissante indienne déjà mariée dans son pays et mère de deux enfants. Le couple aurait été « berné » par un expatrié indien marié à une Mauricienne, qui leur a promis une vie meilleure. C'est avec un visa touriste que la femme débarque à Maurice. Quatre mois après, elle épouse (...).* »

(Interruptions)

**Mr Mohamed:** On a point of order! The hon. Member is quoting extensively and I leave it in your hands.

**Madam Speaker:** You are right on this point. You can refer to articles, you can quote, but you cannot refer extensively to an article of Press.

**Mr Rutnah:** Madam Speaker, I am reading, it might sound to you that it is extensive but it is only four lines.

**Madam Speaker:** No, hon. Rutnah, please resume your seat. I have given my ruling on this matter and I think that you should go according to my ruling.

**Mr Rutnah:** I bow to your ruling, Madam Speaker.

**Madam Speaker:** Thank you.

**Mr Rutnah:** So, according to this article, Madam Speaker, people pay up to Rs300,000 to get married to a Mauritian citizen, Rs20,000. In this case, there was a transfer of Rs300,000.

Then we have 06 December 2017 –

*« Mariages blancs : 11 cas suspects font l’objet d’une enquête. »*

I am not going to quote extensively, Madam Speaker.

Then we have the latest one, 16 March 2019 –

*« Mariages blancs : un cadre légal en préparation. »*

And then the article talks a lot about the way in which foreigners are actually operating into our country to target vulnerable people in pockets of poor areas, offer money from Rs20,000 to Rs50,000 and sometimes more to get married so that they can become citizen of this country.

I have also got, in September 2017, from Le Défi, I will read one sentence so as not to quote too much –

*« Ils sont d’origine française, belge ou nigérienne. Les officiers du PMO soulignent qu’une bonne partie des étrangers qui contractent des mariages blancs avec des locaux sont séparés de leur conjoint. »*

And then it goes on that in 69 cases, there were divorce and the divorce, after having obtained all the necessary permits and everything. Why? Because Mauritius is becoming a country which attracts lots of foreigners and these foreigners who are criminal, who are convicted in their country or who have got immoral tendencies are using this, so to say, we have got a loophole to come into our country and live here, and when they are finding it difficult to marry in Mauritius. When a wedding is not possible in Mauritius for a French national, for example, or for any European national, for example, it is very easy just to go down to Reunion Island and contract a wedding there, and once the wedding has been solemnised in Reunion Island for all intents and purposes, they are married persons, and that foreigner who



could not marry in Mauritius can then become automatically a resident of Mauritius and eventually, naturalised and become a citizen of Mauritius, and we won't be able to do anything about it.

So, as a country, as a responsible Government, we can't just turn a blind eye to it, and hon. Adrien Duval was wrong. Hon. Adrien Duval was wrong to say that it was not in our Government Programme because, Madam Speaker, I have checked and that is why I say he is not living in the real world and mind you when this Government Programme was being prepared, hon. Duval's party was in the alliance. They sat together to prepare this and at paragraph 145, let me remind hon. Duval who does not have the courage to come and listen to me live, he is listening from his office. Both hon. Duval junior and hon. Duval senior, at paragraph 145 –

“Government will formulate a new immigration policy and reinforce the Immigration Act to cater for increasing cross-border movements of persons and its associated risks.”

Not finished! We go further, at paragraph 146 –

“In line with international best practices, Government will modernise the immigration border control system with a view to enhancing the security and safety of passengers.”

We talked about it. We said that we are going to amend the law, we said that we are going to control our immigration, we said that we are not going to allow our immigration system to be abused religiously by criminals from foreign jurisdiction. We said it and this Prime Minister promised it, and today he is accomplishing his promise.

Now, whether you call him a monarch or a dictator, that, the people of Mauritius today are watching this debate and they will see who is right and who is wrong. And we should not forget the terror that the PMSD, as a party, showed prior to independence and encouraged Mauritian citizens to go away, emigrate from Mauritius to Australia and other countries. We should not forget this. So, terror and today when we are doing something to protect our people, our citizens, Government and the Prime Minister is being called ‘monarch’, ‘abuse’, ‘anti-constitutional’ or ‘unconstitutional’. I will come to the case of Green that he has spoken about and he forgot to quote one of the paragraphs in the judgement deliberately, I will come to that.

Now, Madam Speaker, the Prime Minister has not given explanation as to the Certificate of Urgency and did not give time to prepare for the debate! I also received this

document, this Bill on Saturday morning. Because I was so busy in my Constituency during the weekend, Saturday and Sunday, especially with the advent of the Varusha Pirappu, I didn't have time to look at it, but when I looked at it on Monday morning, but it's a simple amendment of the law which you don't require to have the brain of Einstein to come and debate it! And I am sure an A-level student who has never read law...

*(Interruptions)*

Give some leeway! An A-level student who has not read law in his life can actually look at it, understand the English and I am grateful to those who are drafting these days, and can participate in the debate today. But when you hear the hon. Leader of the Opposition ...

*(Interruptions)*

No, in the Press conference! When you hear the hon. Leader of the Opposition in the Press conference and when you hear hon. Adrian Duval, it is beyond belief and this is what we call suspension of disbelief.

*(Interruptions)*

*Tous les temps mo met costume neuf.* Now, arbitrary! He said it is arbitrary, this is an arbitrary law. How is it arbitrary? He has not expatiated how it is arbitrary but just using interesting adjectives and verbs that make sounds like you know something terrible is happening in the country, something astronomical, colossal, detriment to our countries taking place, playing with words. Oh, goodness, gracious! They can do it very well. But I do not find any difficulty in understanding these amendments today.

Now, let me deal with the so-called divine right of the Prime Minister. Madam Speaker, I do not know what the representative of the Labour Government will say about the powers of the Prime Minister. But let me say this, at least, in 1970, I have taken the principal Act and I will also refer to the amended, updated version. Now, let us see when the Labour Government in 1970 when they enacted for the first time, how many powers the Prime Minister had and whether in 1999, when the Labour/PMSD was in Government, why they did not amend all these provisions that empowered the Prime Minister to take decision. So, when they are in Government, it is okay because you can trust le Roi Lion. He is the one who wanted to go to Réduit with all the powers that existed in the world. Even the American President does not have that kind of power, together with a private jet and everything.

*(Interruptions)*

**Madam Speaker:** No crosstalking, please!

*(Interruptions)*

Do not get carried away by the debates, please!

**Mr Rutnah:** Now, let us look at the 1970 Act together, section 7 which deals with the exempted person, at subsection 3 –

“It shall be lawful for the immigration officer with the approval of the Minister to vary the conditions attached to the admission of an exempted person to Mauritius”

At section 8 (2) –

“The Minister may authorise in writing, under his hand or under the hand of a person designated by him...”

“The Minister may attach such conditions as he thinks fit to the admission of the persons mentioned in the last preceding subsection”

Then, we have got section 9 (1) dealing with Residence Permit –

“The Minister may issue, subject to such conditions as he thinks fit to impose, a written permit...”

I will not read everything but that is what the power of the Minister is, now. Subsection 3 –

“The Minister may, in writing, extend, vary or cancel a residence permit.”

It goes on. Section 10 deals with deposit to be made or security to be furnished by holders of Residence Permit. At section 10(4) –

“The Minister may exempt the holder of a residence permit from making the deposit under subsection (1) ...”

It goes on. Then, we have got refusal to admit, subsection 5 –

“Where the Minister is of opinion that the passenger detained or admitted provisionally in Mauritius under subsection (1) (b) and (c) respectively is not a prohibited immigrant and that he is a fit and proper person, he may issue a residence permit ...”

So, the Minister already had all these powers. We go on to look at the ...

*(Interruptions)*

Yes. I am coming to the absolute discretion.

**Madam Speaker:** Please no conversation!

**Mr Rutnah:** So, Madam Speaker, all these provisions then replicate in the amended version of the law. Then also, the Prime Minister has absolute discretion. But I hear hon. Adrian Duval saying that as a result of these amendments, if any national from other countries has got a case, he cannot go to the Supreme Court and he refers us to section 76 of the Constitution. Section 76 of the Constitution says that our Supreme Court has got unlimited jurisdiction, can hear matters. And despite the fact that the Minister, the Prime Minister in this case, had all these powers, Joguee and Green went to the Supreme Court and they got justice.

Now, what hon. Adrian Duval failed to say in relation to the case of Green is this: in the same judgment it says, though section 6(1) speaks of the absolute discretion of the respondent in matters of deprivation of the status of resident in the public interest, it may well be that such a discretion is reviewable. The more so as the right of unfettered or absolute discretion has been laid to rest in a number of recent cases and they quote the case of Vallet v. Ramgoolam which is to be found in Mauritius Report of 1973 at page 29. This, he fails to say. Why? Deliberately, to make the people out there believe that this kind of amendment is undemocratic.

Madam Speaker, we live by virtue of section 1 of our Constitution in a democratic State and rule of law is the norm in this country. Anyone who feels that his right or her right has been unfettered or have been interfered with can go to the Supreme Court and the Supreme Court has got unlimited Jurisdiction. So, it is wrong to say from this House that those who feel that they have been victimised as a result of this amendment cannot go to the Supreme Court and say that this is a subjective test etc, because I, honestly, believe that hon. Duval does not understand when and how a subjective test arises and when and how an objective test arises.

But if you want to understand, then go back to the LLB law book and read about the man on top of the Clapham Omnibus Principle then, you will be able to decipher what a reasonable person is and when subjective and objective test applies and how it arises. Now, he also said, you know in a manner which is convincing but he does not realise that nowadays Mauritians are educated, he does not realise that in every household because going to University is no more a luxury. He does not realise that in every household there is, at least, one person who has been to university. And now, more people from the villages and towns

will go to university because the Prime Minister has announced in the beginning of the year that university is free for everybody. So, he doesn't realise that people can read and people can understand. Actually, he referred us to section 24 of the Constitution and he only referred us to the first part of it.

*(Interruptions)*

Yes, he referred us only to the first part of it, and this demonstrates the collective attitude of the PMSD, to distort the truth, to distort reality, to make belief and to create this psychological conditioning that something terrible is happening in this country because of these two amendments. Section 24, let me read it so that those, who are listening to me out there, can glean what is right and what is wrong. Section 24 deals with Marriage to a citizen of Mauritius.

“Any person who, after 11 March 1968, marries another person who is or becomes a citizen of Mauritius shall be entitled, upon making application in such manner as may be prescribed and, if he is a British protected person or an alien, upon taking the oath of allegiance, to be registered as a citizen of Mauritius:

All well and good! But then, he fails to read this –

“Provided that the right to be registered as a citizen of Mauritius under this section shall be subject to such exceptions or qualifications”

The operative words, Madam Speaker, are -

“exceptions or qualifications as may be prescribed in the interests of national security or public policy.”

This he fails to say. Now, let us look at the amendment. And even though I come, you know, from Rivière du Rempart, I had the opportunity to go to university...

*(Interruptions)*

Let us see the amendment –

“(m) persons who, from information or advice which in the opinion of the Minister is reliable information or advice, are likely to be undesirable inhabitants of, or visitors to, Mauritius;”

And subparagraph (n) –

“(n) persons or class of persons whose presence in Mauritius, from information or advice which in the opinion of the Minister is reliable information or advice, is likely to be prejudicial to the interests of defence, public safety, public order, public morality or public health.”

Now, are we going to say that this piece of amendment is contrary to our Constitution or contrary to the provisions of human rights. Madam Speaker, I do not know where my luck struck that I had the opportunity to work in England, Wales and United States.

*(Interruptions)*

I was in New York actually. It was better than Phoenix, of course, more lively.

But, Madam Speaker, if you see the amount of cases that foreign nationals of good character with no criminal convictions, with no impeachment that could be done on their morality apply under Article 8 of the International Human Rights Conventions, the right to...

*(Interruptions)*

Yes, my learned friend is right, the European Convention on Human Rights and also which reflects in the International Governments on Human Rights. So, when you see the amount of applications that are made religiously to the European Court of Human Rights under Article 8 dealing with rights to family life, do you know how many cases are refused? How many entry clearance visas are refused? How many spouse visas are refused on the grounds of national security, on the grounds of public morality, and why? Earlier on, when I said lots of social problems in Europe because I have lived it, I know it.

The law had to be amended in England and Wales so as to ensure - and a number of immigration regulations were amended so that to secure their border and that's why even the structure of the Foreign Office and the Home Office had to implement, introduce another special branch of UK Border Agency. Now, it is not the Home Office that deals with it, it is the UK Border Agency that deals with all border problems.

So, this law is compliant with international instrument, it is compliant with our Constitution. Whatever hon. Adrien Duval has said is wrong, full of inexactitude, and not only inexactitude, if I may say terminological inexactitude was the order of the day when he was making reference to terminologies that he, himself, did not understand, because at time he was saying something, but later during his discourse, he was criticising the same thing that he said earlier on. And I was fed up of listening to it time and again.

Now, let me deal with the example that he has given about hon. Mohamed and his family. Madam Speaker, anyone, any Mauritian citizen who happens to marry - because in my family, people have married foreign citizens - and in any Mauritian family where one is married to a foreign national, if that foreign national does not fall under the category of prohibited person, he should not be worried. Why should be worried? Do you see this Government or the Prime Minister is going to interfere with a marriage which has been solemnised and that person with whom a Mauritian citizen has married is a person of good character and hence, he could be an asset to this country or give blessings? Please, there is a limit to politicise everything.

In life, Madam Speaker, in a very short span of time, in politics what I have learned is that when you do politics, one has to have, at least, some degree of political honesty. Some degree of political honesty pays a lot to advance a political career and I learned a lot about political honesty from the Rt. hon. Minister Mentor when we were campaigning together in Constituency No. 7. I learned a lot about political honesty. And that political honesty reflects in the Prime Minister today. He is not doing politics with this Bill, but from the main Opposition party, every time this House sits, even during PNQs, you will see a diversion of the issues and the facts simply in a belief to obtain political mileage. Even this morning we heard it. Life is not always about the distortion of the truth in the name of politics. But, on the contrary, political honesty is of vital importance for our society so that we can set example to our children who are watching us today, to set examples so that they can learn that the politics of the old days, politics of *kuyone dimoune* doesn't work because people are intelligent now, people are going to universities and I am saying time and again.

Madam Speaker, true it is that as a country just like there was brain drain prior to the independence and after independence as a result of the campaign brought by the PMSD, at a certain point in time, we also in Mauritius are facing a similar situation of brain drain. So, it was a measure that was announced to encourage our people who are in foreign countries, who have got the expertise to come and serve our country and to encourage them to do so. I do not see anything wrong.

Now, if you are a Mauritian citizen and you got married to a drug dealer, a drug trafficker, or you are married to someone who is keeping a brothel and carrying out immoral activities in the back street of London, or back street of Paris, do you expect the Mauritian Government, the Prime Minister to accept that kind of person into our country, those who have got bad character? Obviously no! That is why we are enacting, that is why we are

amending. People of good character have nothing to fear. Why should they fear? Now, the Prime Minister will be criticised about when and how he will decide that the information was reliable. But the Prime Minister of any country in relation to national security, on what do they rely? Even the Police rely on reliable information to go and arrest criminals. Here, we are talking about the Prime Minister of a Sovereign State, we are talking about national security, about where do they obtain their information. We are not in the days when the pigeons will carry letters for you and drop them in front of your house and they say, look, I have got this information from King Solomon! The Prime Minister of any country receives intelligence, countries work with intelligence and intelligence are shared. I anticipate Mauritius shares intelligence with other friendly countries to ensure that we keep our borders safe and these are the kinds of information the Prime Minister is going to rely on. Now, if the Prime Minister receives information about a foreign national who is an international crook, but who has never been prosecuted because he manages to escape the law of the country, - we have intelligence - are we going to allow him in to come and target the poor areas of the country for girls or men to get married, to do '*mariage blanc*'? No, otherwise we will not assume our responsibility! As a Government, we have a responsibility towards our citizen, our children, our people to bring in this amendment when we see what is happening in our country, the number of foreign workers coming to the country and you don't know what kind of character they have from back home. This is the kind of law that is going to redress the situation, even if we discover of their bad character at a later stage, we can annul and then kick them out of our country, our jurisdiction. Madam Speaker, I think I have dealt with the criticisms levelled by hon. Adrien Duval in all aspects. Finally, I have to say this, as a Government we have a duty to protect our citizens, our people, our children, and that reflects in the object of this Bill. I am not going to read it, but to demonstrate the honesty of the Prime Minister, you will see in the object of the Bill at (b) that those persons –

“(...) who suffer from any physical or mental infirmity or persons who are dumb, blind or otherwise physically defective or physically handicapped and who are likely to be a burden on the State shall no longer be treated as a distinct category of prohibited persons (...)”

He is living with time; he is living with a trend of modernity, of the development of the international instrument and giving consideration to all these international instruments and our constitution. He is making these amendments and I commend the Prime Minister for making these amendments.



On this note, Madam Speaker, I am ever so grateful. Thank you.

**Madam Speaker:** Hon. Bérenger!

(7.37 p.m.)

**Mr P. Bérenger (Third Member for Stanley & Rose Hill):** Thank you, Madam Speaker. Of course, I listened very carefully to what the Prime Minister had to say because he had said nothing before bringing this Bill to the House in the present circumstances. Nothing can excuse the fact that this Bill, a very important Bill was circulated on Saturday, brought to the House today for First, Second and Third Reading. And I am not surprised that the Prime Minister did not even try to justify this kind of parliamentary behaviour. In fact, when he refrained from making any reference to that issue, it was a sign of *mépris*, I take it to be a sign of *mépris* towards the present Parliament. At least, I hope when he sums up, he will tell us why was there the need to circulate the Bill on Saturday and to bring it for First, Second and Third Reading on Tuesday. There was and there is absolutely no justification for that and I take it that he has refrained from making any reference to that issue because there is absolutely no justification for that kind of parliamentary behaviour.

I also listened very carefully to try and understand the real reasons behind this Bill; a lot of blah blah blah, all over the place. I wanted to try and understand what were and are the real reasons behind this Bill. When I listened very carefully to the Prime Minister, all I heard - but, *en passant*, I must say, hon. Rutnah went a bit at length on that, and rightly so – was that the Prime Minister was very short on the aspect of fake marriages, ‘*mariage blanc*’, sham marriages, call it what we want. It is a real issue. It has been for quite a while and it will always remain a real issue, but I am a bit surprised because this was the only reason put forward by the Prime Minister and, *en passant*, no figure is provided.

We know how many foreign workers there are, both male and female in the country, but no figure is provided. Has there been an acceleration of things that justifies this kind of parliamentary behavior? *C'est en passant* that the Prime Minister gave as only reason for this piece of legislation - no, I will correct myself.

Listening very carefully, there were two reasons from what I gather: one was this issue of *mariage blanc*, of fake marriage, which is a real issue, but the law already provides for combatting this. It has been and it is already correctly being faced by the required authorities.

I agree that there was a second reason which the Prime Minister brought forward. It is to protect the Mauritians who are victims of *mariage blanc*. Now, come on! Mauritians are adult enough to take care of themselves. We don't need that kind of amendment when the law already provides what is required to combat *mariage blanc*, fake, sham marriages and to protect Mauritians, male and female, from becoming victims of foreigners in such circumstances. So, I must say, I feel a bit sad that I haven't heard any attempt from the Prime Minister to justify coming forward with this piece of legislation.

I feel a bit sad because it is an important issue, it is an important moment. Therefore, I believe that the way the Prime Minister presented this piece of legislation, in a way, *il plaide coupable*, but he still has time to tell us what are the real reasons. If there are figures that tell us that this issue has become urgent, tell us, this issue of *mariages blancs*, of fake marriages, sham marriages, give us figures! Tell us more about it! But I don't think that kind of legislation that we are asked to approve tonight is justified in any way. What I believe was justified was to take – it's a bit like the debate we had the other day on mental care.

There are *occasions ratées*, too many *occasions ratées* and, here again, we had an opportunity to look at definitions, to look at provisions in the Bill and I am not satisfied at all with an archaic definition of prohibited immigrant. The definition is contained in a whole section of the Immigration Act and I do not think anybody can be happy with that lengthy definition of prohibited immigrants. Others before me have said so. It includes alcoholics, drug addicts, not traffickers, of course, but drug addicts...

*(Interruptions)*

No, addicted to any drug! Yes, of course. What I mean is, of course, the drug trafficker must be prohibited but not a drug addict. Not necessarily a drug addict and drug addict to me is somebody who needs treatment, who needs care but the solution is not to make automatically prohibited immigrants, of people who are, according to me, victims more than anything else. Therefore, I am giving just these examples.

There is one even more unacceptable, and I will come back to that later. A prohibited immigrant includes persons who are likely to become a charge on public funds. So, any foreigner who falls ill, who needs treatment, of course, he will become a charge to public funds and I don't think that is justification enough to make of somebody a prohibited immigrant simply because on a given occasion he becomes a charge on public funds. So, this is, I believe, a missed opportunity of revising the definition of 'prohibited immigrant'.

As we know, all of us, the Bill has three parts. The first part, whereas at present the law says that a foreigner who marries a Mauritian, automatically has the status of resident in Mauritius because he or she becomes the spouse of a citizen. And now we are adding 'and was not a prohibited immigrant at the time of becoming such a spouse'. I honestly don't think that is required.

Apparently, there has been one case, my friend, hon. Reza Uteem, there has been one judgment in the Supreme Court, there has been one case which is quite shocking. The foreigner married a Mauritian and it is quite shocking, but one case does not justify amending that section of the law in that and I am very uneasy about the definition. So, unless he is the spouse of the citizen and was not a prohibited immigrant at the time of becoming such a spouse.

Does it have *effet rétroactif*? Must it be that at the time of the marriage he had been found to be a prohibited immigrant? Or can we walk backwards, was that person, he or she, in a position of being found to be but was not found to be but *avec effet rétroactif*, we can go back. This makes me very, very uneasy and also somebody cannot be an alcoholic at a given point in time and then he did the necessary to come out of that state of affairs. So, are we going to punish people who might have been an alcoholic or a drug addict at a given point in time?

So, I am very, very unhappy, Madam Speaker, without reason being given, adding those words that we are adding. I honestly think we should think above all about families and children. I don't want to go into details, maybe hon. Reza Uteem will do that to us later; to us *la priorité de la famille, ce sont les familles concernées et les enfants concernés*. This should be our priority, the MMM is proud that as in many cases in the past, we fought for spouses to have their rights recognised in Mauritius.

There was a time the MMM is proud of that, amongst many other fights that we fought, Mrs Shirin Aumeeruddy-Cziffra and many others, this is part of our fight and we know how people suffered, the fundamental injustice but I believe this amendment that we are bringing, brings with it *des risques d'abus*.

En passant, it is a coincidence that we are debating this Bill just a few days after in The Guardian/Observer of last Sunday, there was a dossier published. Couples face insulting checks in a sham marriage crackdown, makes very disturbing reading. How in the UK, the

authorities are abusing, are using insulting checks to find supposedly sham marriage and carry out a crackdown.

We must be very careful and I believe adding these few words allows for that kind of abuse, Madam Speaker. So, I find it very sad that we are amending - that is the first point out of three main points - the law to add those words instead of leaving the law as it is, somebody to become the Spouse of a Mauritian citizen automatically should get, as it is now, the right to become a resident of Mauritius.

The second point, of course, we agree with, it should have been done a long time ago, that is amending the definition of prohibited immigrant to do away with any reference to infirmity, handicap and so on. Fair enough! This is a very good thing. It was pointed out years ago that this should be amended. It is not acceptable. It is not in line with international conventions that we have approved for years now. Fair enough! But we should realise also that the two paragraphs that we are amending read as such –

“persons who appear to the Immigration Officer to be suffering from any physical or mental infirmity and who are likely to be a charge on public funds;”

That is the last commanding part. And in the same way -

“persons who are dumb, blind or otherwise physically defective or physically handicapped and who are likely to be a charge on public funds.”

We do away with these two paragraphs, rightly so. Good! Very good! But we should not forget that lower down, subparagraph (g) remains, that is, prohibited immigrants include -

“persons who are likely to become a charge on public funds;”

That is the exact same words that were the commanding last part in the two paragraphs that we are deleting.

So, I think, we should look afresh at that because handicapped people are a charge on public funds. Of course, but as prohibited people, people with health problems and so on are a charge on public funds and therefore automatically are included in the definition of prohibited immigrants. This, I believe, also should have been deleted. Not just the two paragraphs referring to infirmity and handicapped conditions, but also that paragraph (g), placing all persons who are likely to become a charge on public funds, placing them in the category of prohibited immigrants.

The last point is contentious in its wording but also in its wide intention. I have been Prime Minister, we are not going to be irresponsible as far as we are concerned and preclude any Prime Minister, the present and future Prime Minister, from exercising authority, carrying out duties that are the responsibility, the duties of a Prime Minister. But under our existing law, the Prime Minister has already a lot of powers as far as immigration is concerned. The two sections that we are introducing, I believe, are very badly drafted. Very, very badly drafted!

The new section (m), therefore, now prohibited, will include -

“persons who, from information or advice which in the opinion of the Minister is reliable information or advice, are likely to be undesirable inhabitants ...”

Wide open! Undesirable inhabitants! I find that much too wide and not necessary as the law stands. And the next one also it, therefore, prohibited will include –

“persons or class of persons whose presence in Mauritius, from information or advice which in the opinion of the Minister is reliable information or advice, is likely to be prejudicial to the interests of defence, public safety, public order, public morality or public health.”

As I said, the Prime Minister of Mauritius, under the Constitution, has wide powers in this case as far as immigration is concerned, and, I think, that these two paragraphs are badly drafted and go too far in giving absolute discretion without any guideline in the legislation to the Prime Minister *en poste* to exercise this very serious issue of placing people in the prohibited immigrants category, Madam Speaker.

Therefore, as far as the MMM is concerned, we are against this piece of legislation. The procedure followed, the rush, the fact that we have not been told what are the real reasons behind this piece of legislation and, as I said, we believe that the law, as it exists, gives to the Prime Minister and to the authorities concerned the required powers to deal with *mariage blanc*, with fake sham marriages as well as the other issues that have been brought up. I repeat, I think, we should be very careful when we deal with families, with wives, with husbands, with children especially. And this piece of legislation, even if there is only one case of inhumane treatment of a family and of children and of spouses is one too many. Especially we are asked - it would have been the *bonne foi* for the Prime Minister, well, I correct that because I expected the Prime Minister to tell us, to give us the real reasons behind this piece of legislation, which he did not do.

So, what I had hoped for was for the Prime Minister to make his second reading speech, to tell us the real reasons behind this piece of legislation, to try and justify that piece of legislation, which he has not done, and then, we would have carried on with the debate on another day. Instead of that, we have had a debate where, in his opening speech, the Prime Minister did not tell us why the rush, did not give us the real reasons for that piece of legislation and that is why as far as the MMM is concerned, we are in total disagreement with that Bill.

Thank you, Madam Speaker.

**Madam Speaker:** I will now ask the Deputy Speaker to take the Chair!

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

(8.00 p.m.)

**The Deputy Prime Minister:** *Mr Deputy Speaker, Sir,* le débat commence à prendre une tournure sérieuse, bien qu'après le deuxième intervenant, on ait pu craindre que ce débat prenne une tournure démagogique. Heureusement, que l'honorable Rutnah et ensuite, l'honorable Bérenger - et nous espérons tous ceux qui viendront après, continueront à examiner quelque chose qui doit être examinée avec beaucoup de sérieux, et non pas avec de la désinvolture, et surtout pas en détournant la vérité.

C'est vrai, l'*Immigration Act* est un reliquat du colonialisme. En 1970, j'ai parcouru certains textes de l'ancien Commonwealth, et là, je viens de lire l'*Immigration Act* de la Malaisie, qui contient exactement les mêmes provisions, presque mot à mot les mêmes provisions que nous essayons de voir. C'est dans le cadre - comme l'a fait si bien ressortir l'honorable Rutnah - du programme gouvernemental pour revoir la politique nationale de l'immigration.

Ce qui s'est passé depuis un certain nombre d'années, depuis les années 2000, c'est que Maurice s'ouvre au monde. Il y a la migration circulaire. Les Mauriciens vont vivre ailleurs et des étrangers viennent travailler à Maurice. Et, dans tout cela, c'est une question de pouvoir balancer, d'abord la nécessité de protéger la liberté de mouvement, les droits fondamentaux de la famille, le droit de la famille d'être toujours réunie, mais aussi le droit de l'Etat de se protéger contre des personnages que cette section appelle 'indésirables'. Car, nous avons vu, peut-être, sans le savoir, des gens devenir - je prends l'exemple de citoyenneté, par discrétion du Premier ministre - alors même qu'ils avaient été condamnés

dans d'autres juridictions. Et, dans un petit pays comme Maurice, il est de notre devoir de se protéger.

Beaucoup a été dit sur le certificat d'urgence. Ce n'est pas exceptionnel d'avoir un certificat d'urgence. C'est vrai que c'est la première fois que le Premier ministre, lui, se sert du certificat d'urgence, mais depuis que nous sommes là, il y a eu multiples textes de loi. J'ai fait une liste quelque part, il y a peu près une dizaine de textes de loi, depuis 2015, qui sont passés avec un certificat d'urgence.

*(Interruptions)*

*Le Local Government.*

Il y a toujours des raisons pour justifier une urgence et le Premier ministre a des raisons d'État qui justifient que ce projet de loi passe, aujourd'hui, en première, deuxième et troisième lecture. Nous sommes tous au courant des grands principes et d'ailleurs, la teneur des débats démontre que nul n'avait besoin d'intense préparation pour être présent devant la Chambre, aujourd'hui.

Voyons d'abord - et je vais le faire d'après l'ordre du texte - la première partie. Nous avons notre texte-là qui parle des résidents à Maurice, du droit de résidence, section 5(1) c) du *Immigration Act, persons who are residents in Mauritius*.

Le statut de résident est réservé à tous ceux qui sont des *spouses* d'un ou d'une citoyen. Il suffisait, donc, avant aujourd'hui, qu'on fut l'époux ou l'épouse d'un citoyen ou d'une citoyenne, pour devenir automatiquement résident, avec un risque évidemment de déportation si on tombait au travers de notre droit, avec un risque d'être déclaré un *prohibited immigrant*, si encore une fois, on déplaisait à l'Etat, par exemple, en état condamné ou en faisant toutes sortes de trafics. Mais, que se passe-t-il dans le cas d'un *prohibited immigrant* - qui se trouve à la section 8 du texte - qui a été, donc, expulsé du territoire mauricien, se marie à une mauricienne à l'étranger ? Evidemment, la première situation est le mariage blanc. Un *prohibited immigrant*, c'est vrai, sous l'ancien texte contient des conditions extraordinaires, des mendiants, mais parlons des cas beaucoup plus sérieux, *persons who are reasonably suspected of engaging in the traffic of drugs, persons declared suspected international terrorists under the Prevention of Terrorism Act*.

Est-ce que nous ne devons pas protéger notre territoire de ce genre d'individus ? Je ne parle pas de *chronics, alcoholics, etc.*, mais cette catégorie d'individus qu'il ne faut en aucun cas défendre. Eux, ils pouvaient passer à travers les mailles du filet en épousant une

mauricienne, surtout en effectuant un mariage blanc. Et là, le droit intervient, et dans notre politique d'immigration, il était nécessaire et salubre de pouvoir protéger notre pays de ce genre de personnages.

La deuxième catégorie, c'est d'éliminer cette discrimination envers les personnes avec des *disabilities*. Evidemment, cet article de notre droit qui permettait de déclarer comme *prohibited immigrant* des gens qui souffraient d'infirmité, *persons who appear to the immigration officer to be suffering from physical or mental infirmity and who are likely to be a charge on public funds*, remonte à une époque révolue dans les années 70, de l'époque coloniale, et il n'y avait plus sa place ici, et je ne crois pas que quiconque puisse être contre cette section.

Et j'arrive à la troisième qui a suscité beaucoup de débats, c'est la discrétion conférée au Premier ministre. Je suis tenté de dire si un Premier ministre, on ne nous donne pas une discrétion, mais à qui on va donner de discrétion ? Le Premier ministre reçoit une information et quand il lit cette information, il se dit que cette personne raisonnablement sera indésirable. Cela a mené à des excès de commentaires, tel que, à partir de maintenant, on devrait s'adresser à l'honorable Pravind Jugnauth comme Sa Majesté, puisqu'à partir de maintenant il faudrait avoir sa permission avant de se marier à un ou une étranger/étrangère. Où est-ce qu'on va chercher ça dans ce texte ? Il faut avoir un esprit véritablement tordu pour trouver ça. Cela me fait penser à une remarque dans l'ordre du *Privy Council* à notre collègue, l'honorable S. Teeluckdharry, qui paraissait dans l'affaire des cartes d'identités, et qui plaidait devant le *Privy Council* qu'un Premier ministre peut abuser de la photo des gens sur la carte d'identité et mettre les gens en prison, etc. Et un juge l'a arrêté. Il lui a dit : 'Vous devez présumer qu'un Premier ministre exerce son pouvoir de bonne foi. Mais s'il ne le fait pas, les tribunaux, les cours de justice sont là.' Et l'honorable *First Member for Curepipe* se contredit un peu. Toute personne qui serait victime d'un abus de pouvoir du Premier ministre irait directement en cour suprême et demanderait la révision judiciaire de cette décision et viendrait établir - et probablement, en réclamant plus tard des dommages - que cette information avait été distillée de mauvaise foi par un rival commercial ou un rival amoureux, n'importe quoi...

(Interruptions)

...ou un mendiant. Et en même temps –



“(d) persons or class of persons whose presence in Mauritius, from information or advice which in the opinion of the Minister is reliable information or advice, is likely to be prejudicial to the interests of defence, public safety, public order, public morality or public health (...)”

Quelqu’un qui on sait est membre de l’association australienne dont faisait partie le terroriste de Price Church, se présente devant l’*Immigration Officer*, et nous savons qu’il est membre de cette organisation terrorisme, on le laisse entrer, on ne fait rien ? Pour utiliser la phrase populaire en ce moment : ‘pour mettre le pays à feu et à sang’....

(*Interruptions*)

Pas exagéré ? C’est vous qui exagérez ! Nous n’exagérons en rien les risques du terrorisme et de trafiquants de drogues. Est-ce que c’est exagéré de dire que certaines personnes faisant partie de certains réseaux ne devraient pas avoir accès à notre territoire, et que notre territoire ne devrait pas être protégé de cette catégorie de personnes ? L’honorable premier membre de Curepipe cite Jogee et Medagama. Jogee vient précisément établir ce que tout le monde vient dire. Je ne vais pas relire le tout. Monsieur Jogee avait entré une application. Sa femme était une Sri Lankaise, enceinte de huit mois. Menace de déportation ! Ils vont devant le juge et demandent de suspendre l’ordre. Le juge, contrairement à ce que l’honorable membre dit, n’a jamais donné une injonction. Il avait refusé l’injonction. Le jugement est devant moi. Mais il avait demandé à l’Etat de venir s’expliquer. Et l’Etat, se prévalant de cette petite faille, avait pris Madame Jogee et l’avait mise sur le premier avion et l’avait renvoyée quelque part. Le juge Ahnee, se prévalant de ce que le *Home Secretary* avait eu à subir dans une affaire quelque temps auparavant, l’affaire de ‘M’ contre le *Home Secretary*, avait, à cette époque, été trouvé coupable d’outrage, et ce prévalant de ça, se dit : « Je demande au *DPP* d’examiner si dans ce cas le Premier ministre d’alors, Sir Anerood Jugnauth, nommé dans le jugement, le gouvernement, le Commissaire de Police, etc, n’avait pas été coupable d’outrage à la cour... »

Ce que personne ne dit, et ce qui parait dans le jugement, c’est que Monsieur Jogee, celui qui avait fait l’affidavit et avait présenté la demande en cour, n’était pas Monsieur Jogee, le mari de Madame Medagama. C’était un faux, c’était l’amant de cette dame-là. Et Sir Gaëtan Duval qui avait été son avocat n’était pas à Maurice quand tout cela est arrivé. Quand il débarque à Maurice et qu’il apprend tout ça, il va voir le juge Ahnee, qui lui, se retire de cette affaire-là et ne veut pas avoir affaire à des faussaires. Il se retire de l’affaire et le juge nomme Hawoldar d’office ainsi que d’autres avoués pour paraitre d’office pour ce Monsieur Jogee. La police

capte Monsieur Jogee, bien sûr, et va chercher le véritable Monsieur Jogee. Le véritable Monsieur Jogee dit : « Oui, j'avais épousé cette femme parce que j'étais fou amoureux d'elle, et que, elle, elle faisait semblant d'être amoureuse de moi, uniquement pour avoir la nationalité mais, au fait, elle avait un autre amant avec qui elle vivait et de qui elle attendait un enfant. C'est ça la vérité. Et quand le véritable Jogee vient devant le juge, et dit : « Monsieur le juge, je suis le premier à demander la déportation de Madame – ma femme ! » Et c'est comme ça. Et le juge Ahnee ne démissionne pas parce que la dame a été déportée. Il démissionne parce que le *DPP* est lui tombent en désaccord avec le Chef juge et le DPP d'alors. Je connais ça très bien, personnellement, parce que ces deux-là décident de ne pas continuer avec sa requête de *contempt of court*, et il se dit, dans ce cas, je prends mes clics et mes clacs et je pars. C'est pour cela qu'il a pris sa retraite et non pas pour ces choses burlesques que vous avez entendues. Je me devais de le dire. J'ai pris le jugement pour rétablir la vérité, la vérité que je lis, que je dis, et celle que j'ai lue il y a quelque temps là. Quant aux épouses étrangères de députés dans cette Chambre, je n'ai absolument aucun commentaire à faire, sauf que je pense qu'elles sont toutes ou qu'ils sont tous des personnes tout à fait honnêtes qui ne seront jamais inquiétés. C'est pour cela qu'il a pris sa retraite et non pas pour ces choses burlesques que nous avons entendues et je me devais, j'ai pris le jugement pour rétablir la vérité, la vérité que je lis, que je dis et celle que j'ai lue il y a quelques temps là.

*(Interruptions)*

Quant aux épouses étrangères de députés dans cette Chambre, je n'ai absolument aucun commentaire à faire sauf que je pense qu'elles sont toutes ou qu'ils sont tous des personnes tout à fait honnêtes qui ne seront jamais inquiétés.

Donc, dans cette loi, qui devrait avoir peur ? L'épouse d'un député, une personne qui gagne sa vie honnêtement, une personne qui s'est mariée à un mauricien parce qu'ils étudient ensemble, ils sont amoureux, ils ont une famille avec des enfants ? Parce que le Premier ministre ne va pas envoyer la maréchaussée pour aller chasser toutes les étrangères qui ont des enfants. Soyons un peu sérieux ! Ne tombons pas dans le ridicule qu'on a entendu tout à l'heure-là ! Je ne parle pas de l'honorable troisième membre de Rose Hill, bien sûr. Parlons sérieusement ! Ceux qui ont peur, ceux qui sont en train de clamer à la discrimination, ceux qui sont en train de dire qu'on est en train de voler leurs droits, qui pensent qu'on a besoin du Premier ministre qui exagère les choses, ce sont surtout les trafiquants de drogues qu'on veut protéger. Et ça nous allons être francs au travers de ces personnes. Bien sûr, il faut débattre

des questions sérieuses ; bien sûr, il faut que tout le monde soit mis en garde mais cela ne veut pas dire que nous ne devrions pas protéger les intérêts de notre pays.

On a dit que nous pouvions bannir de Maurice les LGBT. Quand ? Qu'est-ce qu'il y a dans cette loi qui va autoriser au Premier ministre de dire : *this class of persons, LGBT is undesirable*. Bien sûr, c'est contre la Constitution mais évidemment...

*(Interruptions)*

Il y a certaines personnes, oui. Notre Constitution et là. L'article 16 !

Maintenant, je crois que je dois conclure avec une citation, un texte de lois parce qu'on dit du Premier ministre : 'Ah, trop de pouvoir !' Mais combien de pouvoir il a déjà ce Premier ministre! Regardez en Angleterre, *British Nationality Act* – '*the Secretary of State may by order deprive a person of a citizenship status.*' Regardez bien! Nous ne parlons pas de quelqu'un qui n'est même pas citoyen, qui n'est même pas résidant et qui use d'un *loophole* pour devenir résidant, nous parlons de quelqu'un qui a un *citizenship status* – '*the Secretary of State may by order deprive him of that status if the Secretary of State is satisfied that deprivation of citizenship is conducive to the public good.*'

Pas besoin d'avoir d'informations, pas besoin d'avoir des dossiers, pas besoin d'avoir des renseignements, le Secrétaire d'État croit qu'un petit bébé d'une semaine est un danger pour le *public good* ; il prive ce petit bébé de sa nationalité et personne ne peut rien dire mais évidemment la Cour, malheureusement, comme nous le savons, ce petit bébé est mort deux semaines après cette ordre. Il est mort en Syrie mais la Cour aurait stoppé net ce *Secretary of State* tout comme notre ordre judiciaire stopperait net n'importe quel Premier ministre qui abuserait de ses pouvoirs. Le rempart du judiciaire sera toujours là contre les tentatives de l'Exécutif à entraver les libertés fondamentales de citoyen ou de non-citoyen.

J'en ai fait, M. le président.

**The Deputy Speaker:** Hon. Members, I suspend the sitting for one hour.

*At 8.27 p.m., the sitting was suspended.*

*On resuming at 9.33 p.m. with the Deputy Speaker in the Chair.*

(9.33 p.m.)

**Mr S. Mohamed (First Member for Port Louis Maritime & Port Louis East):**  
Thank you, Mr Deputy Speaker, Sir. I have listened with a lot of attention to the hon. Prime

Minister in the presentation of this Bill just as I listened with a lot of attention to all other hon. Members who intervened. But I must underline the fact that having listened to hon. Paul Béranger who spoke on this particular issue, I will, in keeping with good parliamentary practice, try not to repeat all arguments that have already been put forward by Members of the Opposition. And since I am in total agreement with the position adopted by the second intervener, hon. Duval, as well as the pertinent observations made by hon. Béranger, I will try my best, at least, not to delve in those details once again.

I was very happy to also listen to the hon. Deputy Prime Minister who reminded me that in spite of having been away from the Bar for almost 5 years, he has remained a prolific orator who has, in spite of having occupied important positions in the executive, not lost his ability to show his strength in fighting all be it, a losing case for him. He has managed, through his intervention, to try to convince us that the reason why Government was coming forward with this particular piece of legislation was a laudable one. It was for the good of the country, it was for the safety and security of its citizens.

Now, having listened to the hon. Deputy Prime Minister, I asked myself the following question and, I think, Mr Deputy Speaker, Sir, it is important for everyone to ask oneself that question. Was it necessary to come with those amendments No. 3 of 2019 in order to achieve what the hon. Deputy Prime Minister said Government wanted to achieve? Let me pause a minute here by trying to remind all of us that the hon. Prime Minister never, for a minute, explained the purpose and purport of the Bill. He simply told us what was in the Bill, but he never, at one moment, even halted to try to explain to us, Members of Parliament, let alone us, but for the sake of posterity, for those who later on would be here when we are no longer here, reading Hansard, would want to understand what exactly pushed or made the actual Government come forward with this amendment. If, later on, people after us will read Hansard, they will not understand what was exactly the reason to justify this particular piece of legislation, amendment to the Immigration Act. No reasons have been given.

I, totally, as I said, understand the hon. Deputy Prime Minister who acted once again as *un défenseur*. He is trained to do that and did that admirably well coming up with what the hon. Prime Minister did not do with a reason or reasons. But where I believe and I humbly say that no offense is meant where he fails to convince is for the following reason because the question we asked - and I come back to the question - is: was it necessary in order to achieve this issue of fighting terrorists, not allowing them to come to our country, fighting drug traffickers not allowing them to stay in our country or remain in our midst, fighting *mariage*

*blanc* and not allowing them to continue and to put an end to it, to put a proper control to sham marriages? Was it necessary, therefore, to achieve those objectives, at least those three objectives? Was it necessary for us to come with those amendments? In order for it to have been necessary, one needs to analyse the actual legislation which was the Immigration Act of 1970, the updated one, and one has to look into the Immigration Act and see what exactly is there as legal tools to try to stop sham marriages, to try to stop people who have committed such heinous crimes from not allowing them within our midst, such as drugs or prevention of terrorism or any other unlawful, heinous crimes that make them become those prohibited persons as defined under our law in section 2.

Now, the prohibited immigrant is all specified under section 8 of the actual piece of legislation. And when one goes to section 8 of the law, one sees that the Prime Minister, whoever it is today or the future one or the past ones, have always had, whilst this law has been in force, the discretion, absolute, not to declare and I think I would like to make the distinction here, it is not a question of having to declare someone of prohibited immigrant because the law is very clear. It is not necessary for the Prime Minister to make a declaration to that effect or for anyone who would be Ag. Prime Minister for that matter to make a declaration that someone is a prohibited immigrant. It suffices, according to the law, Mr Deputy Speaker, Sir, section 8 of the Immigration Act, it is sufficient simply if someone satisfies those conditions as is explained and enunciated in section 8(1) of the Immigration Act, he is deemed to be a prohibited Immigrant. No need for a declaration, no need for anything in terms of an administrative certificate to be issued. It is simply a signature of the Prime Minister, he is deemed to be in a file somewhere. No certificate needs to be given to this prohibited immigrant, no reasons have to be given to this prohibited immigrant, no explanation has to be given as to why he has become a prohibited immigrant, he simply becomes one because he is deemed to be one. It is important to understand what that means.

There is a difference between the Prime Minister having to declare that someone is a prohibited immigrant as opposed to simply that person is deemed to be. Deemed to be, it is even easier than easy. Before this amendment is voted, it is the actual state of the law. And yes, I have heard the hon. Prime Minister making a comment from a sitting position - when hon. Rutnah was making his speech - that as it stands today, there is still no right of appeal to this. I agree with him. Yes, there is no right of appeal. It is not that the amendment that he is coming forward with, creates a new situation that there is no right of appeal in terms of the amendment. No! The fact remains is that any Prime Minister, be it prior before hon. Pravind

Jugnauth became Prime Minister, hon. Sir Anerood Jugnauth, hon. Dr. Navinchandra Ramgoolam, hon. Bérenger, all those who have occupied that position of Prime Minister had this power of simply making someone a prohibited immigrant, because that person is deemed to be if he goes to one of these conditions.

Let us talk about a simple condition, persons who appear to the Immigration Officer to be suffering from any physical or mental infirmity. Now, the Government has come forward with the position that is going to amend the law when it comes to that particular section which is 8(1)(a) and it will also amend the law with regard to 8(1)(c), persons who are dumb, blind. But, most importantly, when you continue reading it: “who are likely to be a charge on public funds”, rightly pointed out by hon. Bérenger, the section (g), which is 1(g), still reads: ‘persons who are likely to become a charge on public funds’.

So, I tried to understand, and I thought it was a great idea for Government to come forward with this amendment of deleting (a) and (c), because it shows in there, it has a heart. But, since in this legislation, we are not in any way or, at least, there is no proposal to delete (g) which reads that some is deemed to be a prohibited immigrant, and these persons who are likely to become a charge on public funds, still remains in the law. It does not say for what reason he may be deemed, therefore, to be a prohibited immigrant, because he is likely to become a charge on public funds. He does not say for what reason. There needs not be any specific reason for him to become a charge on public funds. It can be because he is dumb, it can be because he is blind, it can be because he is suffering from a physical or mental infirmity.

In fact, now it gives even wider discretion to consider someone to be deemed to be a prohibited immigrant than it would under the actual law. What is being proposed is that it facilitates making someone a prohibited immigrant in any scenario if he is a charge on public funds. So, what, therefore, have we achieved by deleting (a) and (c)? Nothing! Because, in actual fact, as I said, (a) and (c), if it remains in our books - which I abhor, which I don't agree with - it tells the Minister in charge this is how and in what situation, in what scenario someone is deemed to be a prohibited immigrant, and the legislator specifically refers to those situations. But, here, when you remove it and you leave in the books paragraph (g), what you are telling the Prime Minister or any Prime Minister, or in the future or the actual, is that you may still use that as reason. At no time does the legislation, as proposed by the Prime Minister mean by far, or even by close or directly or indirectly, that he will not be able to

make someone a prohibited or deemed to be a prohibited immigrant simply because he is dumb. He still can if (g) is still on the books.

So, if he is really serious about what he meant, then he has to find a better formula or he has to remove paragraph (g) because paragraph (g), as I repeated, still creates and keeps in the books this possibility for someone, anyone, for any reason to be a charge on public funds to be deemed to be a prohibited immigrant. So, I come back to the question, therefore: was there a need to amend the law? And I continue reading, paragraph (i) –

“(i) persons who are addicted to any drug or reasonably suspected of engaging in the traffic of drugs’.

This is in the law already, before the Prime Minister moved to the first reading. So, in answer to the argument put forward by the hon. Deputy Prime Minister, his argument that it was necessary for Government to come with the present amendment in the Bill because we had to fight this scourge of drugs and could not accept people delving in drugs and dealing with the drugs to live amongst us, his argument does not hold because there was no need to amend the law, because the law already provides for situations of that nature.

What about paragraph (k) of the existing law? Before the Prime Minister moves for the first reading, it says –

“(k) persons concerning whom there are reasonable grounds for believing they are likely to engage in any subversive activity of any kind directed against Mauritius or detrimental to the security of Mauritius or any friendly State”

Even paragraph (l) is pertaining to international terrorism and the Prevention of Terrorism Act. Both can easily be used for what the hon. Deputy Prime Minister tried to put forward as this supposed justification that Government is here to protect our citizens, Government is here to protect us against terrorism, because we don't want such people in our midst. But it was already provided for in the law before he moved for the first reading. So what exactly that means? It means the second argument put forward by the hon. Deputy Prime Minister is false and does not hold.

Then, he came up with a third argument; the argument that it was necessary in order to prohibit sham marriages. I heard hon. Rutnah speak and in part of his speech, he referred to statistics that he stands by as being true. I have no reason not to believe him. He said that in 2017, there were only 11 sham marriages. I have not heard the Prime Minister say how many sham marriages there have been in 2018. I have not heard the Prime Minister refer to

statistics pertaining to sham marriages. For that matter, I have not even heard the Prime Minister - forgive me if I am wrong - refer to the terminology sham marriages. It was the hon. Deputy Prime Minister *qui est venu à la rescousse*. But if it is, in fact, the reason, because we all still want to know what is the reason. Has there been a study carried out? Are there statistics to establish that there are so many sham marriages that justifies us coming to this Assembly with such urgency? 11 in 2017. It doesn't say, according to hon. Rutnah's speech and the document he referred to, that the 11 sham marriages happened in 2017. It says that 11 sham marriages were tackled by the authorities in 2017. In other words, those sham marriages could have taken place before 2017, but only dealt with in 2017. So, how many sham marriages do actually take place? This is something, which I believe any responsible Government should have as information and data, before asking our friends who have drafted this law to burn the midnight oil and come with such a rapid piece of document. I am not saying it is not being drafted properly. They do it according to instructions. But, instead of asking them to burn the midnight oil on such an important lead piece of legislation, one should at least base it on data, research. I have not heard the hon. Prime Minister referring to any data. Has anyone of us heard the hon. Prime Minister refer to statistics? No! Has anyone of us heard the hon. Prime Minister refer to a report? No! Have we heard him refer to international experts having commented or suggested the following? No! Has he even said that it was suggested by a branch of the United Nations? No! Has he said that it was a report of the United Nations Committee of Experts that asked us to bring in line with any specific Convention? No! What have we heard the hon. Prime Minister say? He has simply told us what is in the law. We could have read it, which we did, and we know. But I do not understand why the hon. Prime Minister refuses to realise that the law, as it stands today, there is no need to come up with additional legal tools and mechanisms to combat sham marriages, because the Civil Status Act itself provides for safeguards and the filtering process.

Mr Deputy Speaker, Sir, let me declare my interest. I am married to a foreign national. I am here not leading my case, but I am just telling you that I know how it works to get married to a foreigner. First thing, you have to make an application. According the Civil Status Act, no foreigner can get married in Mauritius without making an application to the Registrar and the application should be done in line with the law, and the law provides exactly what documents you need to provide.



The foreigner has to provide the documents as well as the local citizen. The law is very clear on it. Then, there is also the publication phase. The publication phase is precisely in order for it to be done within a certain time - from memory, it's 10 days. When I was getting married, the 10 days felt like an eternity; I wanted it to go so fast. And I remember it so vividly because today, Mr Deputy, Speaker, Sir, I speak to you on 16 April, and it has been ten years today that I got married. It's my wedding anniversary.

*(Interruptions)*

And I am so thankful to the hon. Prime Minister for the gift he has just given me, this Bill.

*(Interruptions)*

This Bill! No, no! I need more to get me angry. Not that! It is disappointing actually.

Mr Deputy Speaker, Sir, what I would like to say is that the publication of the bands – it is done in Europe as well. In England, when you go for the publication of the bands, and during that time, people may object to the marriage. So, in Mauritius, once there is publication, during the ten days people can object to the marriage because it is published. It is not there *simplement pour la forme, mais pour une raison spécifique. Cela donne le temps non seulement aux institutions publiques ou autorité mais aussi aux citoyens qui ont des renseignements à ce sujet. Par exemple, le bureau du Premier ministre, les officiers du bureau du passeport, ils peuvent venir de l'avant, M. le président, et dire clairement que ce mariage ne de doit pas aller de l'avant parce qu'il y a des informations troublantes en ce qui concerne cet étranger ou cette étrangère.*

This is the filtration process. Is this done by the Civil Status Office? Is such a filtration process put into play? Is it implemented by the Civil Status Office? No, Mr Deputy Speaker! Today, Mauritius is and has been for a while a favoured destination for marriage. Even Mauritians wanting to get married to foreigners, they come here and get married. Sometimes they have another marriage somewhere else as well in the home country of the foreign spouse. But the way it is done here, there is already provision in the law for Government institutions, for anyone to try to stop a sham marriage. You can verify it.

Let us not forget section 6 of the Immigration Act. *Il n'y a pas lieu d'avoir un amendement à la loi, M. le président. Et l'autre raison que je mets en avant, je me base sur la section 6 of the Immigration Act that clearly states the loss of status of resident.* Is the hon. Prime Minister, as we speak now before the presentation of the Bill, the First Reading, and before the Bill is voted, before the amendments he suggests become law, is he allowed to

remove residency from a spouse whom he finds is someone who is embarked and participated in a sham marriage? The answer is yes. Today, as we speak, the law provides for it. When you look at Section 6 –

“Where, in relation to a resident (...)”

For example, here, a resident, because once you are a foreign spouse, you married the person in Mauritius, you become a resident. And for those who are lay people, let me say, ‘resident’ here means the ‘foreign spouse’. So, at Section 6 -

“(1) Where, in relation to a resident, the Minister is satisfied that it is in the public interest to do so, he may, in his absolute discretion, deprive that him (the resident) of his status of resident.”

*In other words*, aujourd’hui, à ce jour, sans qu’ils n’y ait besoin d’avoir d’amendement à la loi, la raison qui a été, ou les raisons qui ont été mises de l’avant par l’honorable Collendavelloo ne tiennent pas la route, précisément parce que l’article 6 (1) de la loi sur l’immigration permet au Premier ministre d’enlever le statut de résident à une personne qui est étranger ou étrangère qui a participé à un mariage blanc. Alors, si la loi permet à ce jour et donne ce pouvoir au Premier ministre je me demandais alors quelle était la raison pour venir de l’avant avec cette loi. Comme je l’ai démontré, M. le président, le Premier ministre ne peut pas venir dire qu’il vient de l’avant pour protéger le pays des trafiquants de drogues, parce que la loi prévoit déjà une solution légale à cela. Le Premier ministre ne peut pas venir dire que c’est pour nous protéger contre les terroristes parce que la loi prévoit déjà un arsenal légal pour régler et adresser ce problème. Le Premier ministre ne peut certainement pas venir dire qu’il amène ces lois l’Assemblée nationale pour être amendée parce qu’il veut empêcher des mariages blancs, parce que l’article 6(1) de la loi sur l’immigration donne le pouvoir au Premier ministre d’annuler la résidence d’une personne qui a épousé un mauricien dans un mariage frauduleux.

Ayant dit cela, je me demande alors, et je me demande encore une fois, pas seulement moi qui ai déjà déclaré mon intérêt, mais des milliers de mauriciens, des milliers de mauriciennes se demandent aujourd’hui quelle est la raison pour laquelle, ou les raisons qui poussent notre Premier ministre, l’honorable Pravind Jugnuath de venir de l’avant avec ce projet de loi. Il ne nous a pas dit et tout ce qui a été mis de l’avant par l’honorable vice-Premier ministre ne tient pas la route. Alors, encore une fois, je pense qu’il est nécessaire de continuer notre analyse de la loi proposée par l’honorable Premier ministre, parce qu’il est

nécessaire alors d'aller de l'avant et de lire d'autres provisions de ce qui est proposé. Ce qui est proposé par l'honorable Premier ministre, c'est un amendement à l'article 8 de la loi sur l'immigration. Ce qui est proposé par l'honorable Premier ministre c'est ajouter deux sections, ou deux alinéa à la section 8.

What he proposes is the following –

“(c) persons who, from information or advice which in the opinion of the Minister is reliable information or advice, are likely to be undesirable inhabitants of, or visitors to, Mauritius, (...)”

Let me just simply! The Prime Minister suggests in his proposed amendment that if he receives information that someone is undesirable to be an inhabitant to continue to live in Mauritius, that someone is undesirable to come to Mauritius. Two scenarios, the one who is living, it is undesirable that he or she continues living here or that someone who wants to come to Mauritius undesirable that he comes to visit or she comes to visit Mauritius, he may simply consider those persons to be prohibited immigrants because they are simply deemed to be prohibited immigrants. So, imagine the scenario! Question again, when the law he proposes says “from information or advice”, obtained from whom, is my question. From whom must this information be obtained and from whom must this advice be obtained? When the law that he proposes says that in his opinion this information is reliable, what does reliable mean? Third question: will this reason upon which he relies be communicated to the person that is prejudiced by his decision? Why is it that we do not have an answer already to this question?

So, this means *que quelqu'un simplement qui n'est pas à l'île Maurice, par exemple, si du fait que l'honorable Adrien Duval s'est référé à mon épouse, laissez-moi continuer. Mon épouse décide, ou l'épouse d'un mauricien ou l'époux d'une mauricienne décide d'aller en vacances dans son pays d'origine, le Premier ministre, pas nécessairement ce Premier ministre, un autre Premier ministre décide alors, bon voilà, cette personne* is deemed to be a prohibited immigrant *parce que j'ai eu des informations et j'ai confiance dans ceux qui m'ont informé. Connaissant l'île Maurice comme ce qu'on appelle the other industry of l'industrie palabre.* Does the law proposed say who is to give information? It can be any information. It could be someone whom the Prime Minister talks to very often. I am not saying this Prime Minister, I mean any Prime Minister, talks to very often and who has confidence in him, gets information, imparts it to the Prime Minister and the Prime Minister says: ‘Ok, I believe you.

*I believe you are reliable.*’ But that person is undesirable in Mauritius. What therefore the other question is? What is the definition of ‘undesirable’? The immigration law does not define ‘undesirable’.

The immigration law of South Africa defines ‘undesirable’. The Courts in the United Kingdom, through pronouncements and judgements and precedents, have defined and explained what it means to be undesirable. Today, the Court of Appeal in the United Kingdom - today as we speak - has delivered a judgement which is a striking blow to the Home Secretary in the United Kingdom. Why? Because the Home Secretary in the United Kingdom was making an abuse of the power to expel people or to declare someone undesirable or not to renew the residence permit of some people in the United Kingdom because in the United Kingdom, the Home Secretary’s Department was simply using the fact, and it can be so in Mauritius *du fait que l’honorable Premier ministre n’a pas cru qu’il était nécessaire de définir ou de donner une définition à ‘indésirable’*. *Qu’est-ce que veut dire alors ‘indésirable’ ? Qui et comment est-ce que quelqu’un est considéré comme indésirable ? Est-ce que cela vaudra dire simplement comme au Royaume Uni dans une affaire où la cour d’appel a prononcé un jugement aujourd’hui*, simple mistake in tax declaration, the Home Secretary’s Office was considering the foreigners in that country and the foreign spouses as well in that country to be undesirable because of simple tax errors.

And how many people’s lives have been destroyed because of this interpretation given by the Home Secretary’s Department in the United Kingdom? This is what the Court of Appeal stated today as reported in the Press - today while this Bill is going on. So, imagine the scenario! There is no definition given here. ‘Unreliable’ could be used by any Prime Minister in the future who has an axe to grind. That person decided not to pay his parking fines; this person decided to speed many times, he has lost his driving licence, he has not paid his taxes, he has not paid the rates for the municipality, he has been convicted of having insulted someone. God forbid someone from Government! And, therefore, you become undesirable. Would it be within the premise and what he is authorised to do? Yes, it would be because the word is not defined. But then the hon. Prime Minister and the hon. Deputy Prime Minister and the orator who will speak after me, as *un défenseur*, will come forward and say: “Of course, not! *On est dans un État de droit ! Vous avez le droit d’aller en Cour Suprême et demander une révision judiciaire ! Bien sûr qu’on peut le faire ! Cela prend combien de temps ?* »

Imagine the scenario! And I have seen it happen in this House. People may say I am exaggerating but I am not. I am simply talking from experience. Now maybe it was not the intention of Government to even be nasty to people who are their political opponents but what is important is not what they think, it is the person, prejudice is caused to him. Me, when I went through problems because of this Government, I am the one who suffered. My point of view is important. I am saying it out loud that we are dealing potentially with a Government that uses everything at its disposal or legal tools or officers of the public, even the Commissioner of Police, uses them in order to satisfy their political supremacy.

So, what do we do then? The next orator will say: 'But you can go to the Supreme Court!' Yes. Imagine the scenario, my wife or any Mauritian's spouse, any foreign person living in Mauritius with a resident; imagine all of a sudden they are prohibited citizens. What do they do? They cannot come to Mauritius, they may have children here but they cannot come to Mauritius. They may have a family life here but they cannot come to Mauritius because *il doit y avoir révision judiciaire*, but they cannot come to Mauritius. How do they go about the *révision judiciaire*? Swear an affidavit by way of proxy, lodge it in the Supreme Court, instruct your lawyer by telephone. And then what happens? Wait for the leave stage; that takes one year. Then let us go for the second stage, which is Judicial Review Process, another year and a half or two years, even four years. Therefore, this law creates a scenario where potentially a spouse of a Mauritian citizen or any foreigner working in Mauritius or living in Mauritius with a permit can be declared a prohibited immigrant but will have to wait four years in order to seek redress, if the State does not appeal.

Does this law provide for any *garde-fou*? The Prime Minister will surely say: "But the Law never provided for *garde-fou déjà*. *Ce n'est pas maintenant, tu as découvert l'Amérique.*" But I'll say he is right if he says that. The law never provided for *garde-fou*. Does it mean that the Prime Minister must knowingly continue the same process? If he has an opportunity to come with a new law, why does not he provide for a *garde-fou*? If he tells us that we have to trust him, should he not, therefore, create a law that another Prime Minister will not be able to abuse? If we are to trust the actual Prime Minister, should he not safeguard the interest of the nation and the values of democracy by coming with a law that does not enable another Prime Minister, apart from him, to abuse the law? Is it not his role to be a protector of democracy? Is he a protector of democracy if he puts a law like that by telling us to trust him simply because he is the Prime Minister? But what if there is another one whom we cannot trust? What do we do then? He would have failed in his duty by not protecting us

for the years and months and generations ahead simply by coming with a law and not giving us explanations. And look at what he proposes as well, a new paragraph '(n)' -

“Persons or class of persons whose presence in Mauritius, from information or advice which in the opinion of the Minister is reliable information or advice, is likely to be prejudicial to the interests of defence, public safety, public order, public morality or public health.”

Once again, information from whom! Will this information be communicated? Will reasons be given to the person *que cela vise*? *Imaginons! J'ai eu un appel récemment d'un couple. They have got married recently. Ils m'ont appelé pour me dire qu'ils sont venus de France, une Mauricienne et son mari, un Français. Ils se retrouvent dans un scénario où un est Ostéopathe, le Français. Maintenant, il y a une nouvelle loi.* Because the background is important, understand why there is this mistrust with the population out there and the Government in here. Why is it that there is no trust anymore? Why is it that there is no way that there is this link of trust? It does not exist anymore because the background is of utmost important, Sir. And the background is: the Minister of Labour comes with a regulation where he says now that all people who are married to Mauritians, foreign spouses, shall not be able to work in Mauritius without a work permit. Once again, I declare my interest. But I plead today for all those thousands of wives and husbands who are foreigners, who have worked in Mauritius and paid their taxes, who have worked in Mauritius and created jobs. Created jobs not for one, but created jobs for hundreds of people and those people, even though they own their company, even though they are not employed by someone else, even though they are the sole shareholders of their company, the only directors of their own company, they will now need a work permit to work in Mauritius. Is this not something that is repugnant to the rights that are provided for to citizens living in Mauritius in our Constitution? This is the background. So, therefore, what is the intention I ask of this Government? To stop Mauritians from having foreign wives or husbands! To stop foreigners from coming to this country to work! What is the rationale with having a regulation that says: You shall now no longer - even if you have been working in Mauritius for 20 years, for 30 years, ever since independence or even prior to independence, you have been working in Mauritius as a foreigner, you are married to a Mauritian - have the right to work. You will have to go and ask for a work permit. This, therefore, puts your future, as a working person in Mauritius, in the hands of the Executive, what exactly justifies such a drastic measure. Coupled with that, the Prime Minister comes with this particular law. So,

when you put all of it together, it is a feeling of fear, mistrust that grows in the minds of people.

Quand il y a un projet de loi avec autant d'opacité où la transparence n'a pas sa place, où le premier ministre adopte un langage économique et non pas explicite dans les raisons qui lui ont poussées à venir avec ces lois, il est tout à fait logique, normal, M. le président, que la population se dit il doit y avoir un agenda caché. On est ici en tant qu'honorable membre de l'Assemblée Nationale à essayer de trouver la vérité et on condamne haut et fort cet effort du gouvernement de cacher l'agenda qu'ils ont. S'il y avait une explication et une justification claire, simple et directe, est-ce que le premier ministre ne l'aurait pas simplement expliqué dans son discours ? Il l'aurait fait. Mais pourquoi alors l'honorable Premier ministre s'est tu ? Pourquoi alors l'honorable premier ministre n'a prononcé aucune raison pour venir expliquer sa décision ? C'est cela qui nous interpelle. Je ne parle pas en mon nom simplement mais des milliers de mauriciens et mauriciennes et des milliers d'étrangers qui se retrouvent sur notre territoire et qui se disent : est-ce qu'il est temps pour qu'on quitte l'île Maurice ? A un moment où il faut encourager l'investissement étranger, non seulement des étrangers mais de la diaspora mauricienne. A un moment où il faut faire cela, le gouvernement fait exactement le contraire. Mon jeune ami, l'honorable Duval, a dit que l'honorable Premier ministre agissait comme un monarque, un roi. Le devoir d'un roi, M. le président, même si un roi devient roi dans un État où il n'y a pas de démocratie, c'est de protéger ses citoyens, c'est de s'asseoir autour d'une table, tel un chevalier et de nous dire la vérité et de rien cacher. C'est ça le devoir d'un roi. Et quand un roi décide de ne pas le dire - je ne dis pas qu'il est un roi, je dis quand un roi décide - là, il y a un problème. Alors, moi, j'aimerais aussi revenir sur ce que l'honorable vice-Premier ministre a tenté de faire. Il a tenté et l'a fait admirablement bien de représenter le gouvernement en tant qu'Avocat, défenseur, avec des arguments pertinents, mais encore une fois, comme j'ai démontré clairement que ces arguments ne tiennent pas la route. Il a aussi expliqué ce qui se trouve dans le jugement de la Cour Suprême – *Jogee & Medagama v. Government of Mauritius, Prime Minister and Passport and Immigration Officer* de 1993 que le juge Ahnee a prononcé.

The disgust that Judge Ahnee showed had nothing to do with the facts as to who was married to whom etc. The principle was: did the Government of the day show respect for the Judiciary? That was the issue. When you go and knock at the door of the Judiciary, even though you do not obtain an injunction, but when the matter is returnable for the Government to come and show cause why such and such order should not be granted, *par respect pour le*

*judge, il est évident qu'on ne déporte pas quelqu'un* in behind the back of the Judge who has been called upon to tackle this matter. So, this is basically what the principle in there was.

Let me come again to what – I will not delve much on what hon. Rutnah said because I do not believe - and I say that very humbly so, with no disrespect meant to him - that his arguments really made any sense. It did not even offer a lifeline to Government. It was very entertaining as he always is, but when you analyse the content of the speech, is there any legal argument or reasoning that would show the Government is right. No, there is not. Because as I have said and I will conclude on that, it is the following: when they come up with an amendment, we have to understand, is there a reason for the amendment? Normally, there would be a reason if there is a lacuna in the law; there is a loophole to correct. But as I have taken time to describe and explain, there is the loophole. What the Prime Minister has done is to ascribe him additional powers to act as an autocrat. I am not saying he will, but what if his successor does? I am not saying he will, but what if his acting Prime Minister, sitting next to him does when he is not in Mauritius? What happens if hon. Deputy Prime Minister, sitting in his seat as Ag. Prime Minister, decides to act like an autocrat? What do we do?

Today, I am faced with a situation that is very, very serious. As many other Mauritians in my position, I speak for them today. I am in a situation where potentially any Prime Minister of the future, without any check and balance, without any *mécanisme*, to contest it with rapidity. There is no such mechanism, Sir, that can decide to take the spouse of a Mauritian citizen or someone working in Mauritius, leave them outside Mauritius and break up families. This is the danger that we face today. What have Mauritians married to foreign women done so wrong that we must have this sword of Damocles hanging over our heads with the slanderous of threats? What have we done wrong? Nothing! So, why, therefore, do we have to be wrong in our face, a piece of legislation to satisfy the hunger of some people? This forces us to be in a situation where it will instil fear in our hearts. Do not anger any Prime Minister because he has more power in his hands. In a time and age when democracy demands that the Prime Minister should have less powers, what we do is give him more.

The debate goes on the world over that Prime Ministers should not have a concentration of power because it is wrong for democracy. I stand by that position, and lovers of democracy stand by that position, lovers of change stand by that position. People who want the country to evolve as a democracy, not only in name but in practice, stand by that



decision. But instead of doing that, we are walking another path which is backwards at high speed and giving even more power to one man.

This is a sad day for democracy. Some people may not have the power, the will or the ability to fight any such thing that any Prime Minister may do unlawfully, abusively. But I will not sit down and take things quietly. I will stand up and fight, not only for me but for others most importantly, because abuse, any law that potentially can be an abuse should not stay in our books. This is my contribution for today.

Thank you.

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

(10.24 p.m.)

**The Minister of Tourism (Mr A. Gayan):** Mr Deputy Speaker, Sir, far from being a sad day for our country, I believe this is a great day for the protection of our people and our territorial integrity.

Mr Deputy Speaker, Sir, whenever in any country, there are laws to amend immigration or work permits, there are people who become passionate and when people become too passionate, they lose their sanity and their reason. This is exactly what is happening in the course of this debate, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, maybe it is good for us to travel back in time and to see how all these problems of immigration, visas and permits, arose. Before the First World War, almost anybody could travel anywhere in the world without the necessity of having a proper document, but after the First World War, things changed. In fact, I have an extract, Mr Deputy Speaker, Sir, from the New Zealand Law of 1919. It is very revealing as to the mindset of people who are looking at how to protect their State and their country. This is an extract from the Undesirable Immigrant Exclusion Act in 1919, and I quote –

“4. (1) No person who has at any time been a subject of the State of Germany or of Austria-Hungary as those States existed on the fourth day of August, nineteen hundred and fourteen (being the date of the commencement of the war with Germany), and no alien born in any place which on that date was within the limits of the German Empire in Europe or within the limits of the monarchy of Austria-Hungary, shall land in New Zealand without a licence in that behalf issued by the Attorney-General.”

And it goes on, subsection 3 –

“(3) In any prosecution for an offence against this section the burden of proving that the accused is not a person to whom this section applies shall lie on the accused.”

It is reversing the burden of proof.

“(4) In any prosecution for an offence against this section the Court may admit such evidence as it thinks fit, whether such evidence would be legally admissible in other proceedings or not.”

This is the state of the Immigration law in 1919 and since then, things have moved.

Mr Deputy Speaker, there was a time when people were very liberal about asylum seekers, about refugees. In fact, it is very revealing how things have moved over the years, not only with regard to the problems happening in Europe today.

In the 1970s, when somebody applied for asylum, let us say, in France, he virtually was guaranteed asylum. Today, with regard to all the applications that there can be, maybe not even 5% are retained or the others are rejected because there is a problem with immigration. And this is why I say that one of the fundamental reasons why a State exists, is to protect its territorial integrity and to protect the safety of its people.

No Government, anywhere in the world, can forget that primary responsibility that it has. So, when we look at immigration in Mauritius, in fact, when we became independent in 1968, the first Immigration Act was passed in 1970 which is the basis of the law. In fact, it is significant to go back again to what happened in 1970, Mr Deputy Speaker, Sir. I have heard quite a number of hon. Members say that the Prime Minister has not explained, has not given any reasons why this Bill is necessary. I will come later to some of the issues why this Bill is necessary.

The then Prime Minister, Sir Seewoosagur Ramgoolam, moved for the Second Reading of the Immigration Bill (No. VIII of 1970) and the number of words that he used in the Second Reading was less than 80 for a major Bill. After he had made the introduction, the Bill was passed, there were some questions again. Then, hon. Lesage asked for more time to consider the Bill. The same debate as today, nothing has changed, same issues. But I am saying that in those days, it was very important for the law to be what it reflected from other jurisdictions in the Commonwealth, and this why we have that law. It is only today that we

are going to amend part of the laws that are repugnant to human dignity with regard to infirmity or disabilities.

It is also good to remind ourselves in 1977, when there was an amendment again brought to the Immigration Act, there again, the then Prime Minister, Sir Seewoosagur Ramgoolam, moved for the Second Reading and the number of words was about 80 to 90. That was a very important Bill. That Bill provided for that the male foreigner, who is married to a citizen of Mauritius, shall no longer enjoy the status of resident by reason only of his marriage to a citizen of Mauritius.

That Bill also provides that the Minister may, in his absolute discretion, deprive a resident or an exempted person of his status of resident or of an exempted person as the case maybe, if he is satisfied that it is in the public interest to do so. In the course of that Bill, Mr Deputy Speaker, Sir, the then Minister of Labour and Industrial Relations, hon. Yousuf Mohamed took the floor. It too easy to indulge in cheap politics in this House. One must have a sense of history and a sense of responsibility with what goes on and what has gone on in the House. In the course of that debate hon. Yousuf Mohamed said, and I quote –

“There are many such laws in this country where the hon. Prime Minister is given a great amount of discretion and nobody has to this day had the opportunity of blaming the Prime Minister for any abuse of the rules and regulations and laws applying in this country as regards anybody.”

Has that changed?

The hon. Deputy Prime Minister spoke about all the laws that conferred huge powers in the Prime Minister, but there is a sense of statehood which is present whenever a Prime Minister - I am not saying only of this Prime Minister but of all Prime Ministers. They have to assume that they are responsible people, that they act on the basis of evidence of information and they are of good faith, they take decisions in the interest of the State, but they are not taking decision just to do harm to people. I will come to that later, but let me go back to hon. Yousuf Mohamed. And this is what he said, I quote –

“We must not forget that Mauritius is an overpopulated country. The question of overpopulation and how to reduce its impact has always been foremost in the mind of each and every Mauritian who loves his country and who feels patriotic. We have had recourse to Family Planning - I am not saying that the foreigners who marry our women are fond of making children. It is their right.”

But then, he goes on to say –

“I am not saying that but what I am saying is we should not open our door to people who would come to this country not only to marry our women and hence of course bring in overpopulation, not only by the fact of making children, but by their very presence in this country they add to our population.”

This was the kind of language used by hon. Yousuf Mohamed.

*(Interruptions)*

**The Deputy Speaker:** Silence, please!

**Mr Gayan:** Mr Deputy Speaker, Sir, I am going to skip some of it, but there is something that we have to say for the sake of history. Towards the end of his intervention, Mr Yousuf Mohamed says the following –

“Any foreigner feels free to come to Mauritius these days, ask for a work permit and if he does not get work, he looks at other fields whereby he could bring in some money to himself, Sir. I have had said, Sir, your humble servant, the opportunity of looking into cases where people from Australia, for example, have been coming to Mauritius, going to Rivière Noire and indulging in gandia smoking. *L’homme de la masse!*”

He goes on –

“We can see it in very many sectors of our economy, of employment that Mauritians with better qualifications are not getting jobs, but foreigners, simply because they have got a certain colour of *épidémie*, are getting jobs, they are even getting better jobs than our people...”

This is Hansard. This is history.

I must say, Mr Deputy Speaker, Sir, that hon. Bérenger also intervened in the course of that debate and he called the bluff of hon. Yousuf Mohamed and also of the other Ministers who spoke, especially the Attorney General, hon. Chong Leung. Hansard is there, but for the sake of the record we have to say that hon. Bérenger was extremely succinct in how he destroyed the arguments of the Ministers. I am saying this, Mr Deputy Speaker, Sir, not to cast aspersions or to throw blame on people, but the arguments that were used in the course of that debate by hon. Chong Leung, and I quote –

**“Mr Chong Leung:** They are chucked out (...)”

They are talking of Mauritians who are chucked out to other countries.

“(...) whether you like it or not. They are chucked out. Mr Speaker, those Members on the other side have been shedding crocodile tears on the lot of *les sans-papiers* in France, and now when this country wants to reciprocate and treat foreigners as they treat our boys, they find it no good.”

And hon. Bérenger intervenes –

**“Mr Bérenger:** *On prend des leçons d’Amin !*

**Mr Chong Leung:** Who is talking about Amin? What about Ratsiraka? There is a man in England who goes by the name of Enoch Powell.”

And then, the Prime Minister intervenes –

**“The Prime Minister:** What about Mauritians who have been dispossessed by foreigners?”

Hon. Bérenger picks up on that and says –

“This is the reason that he should have given as the reason for bringing the Bill to the House.”

Mr Deputy Speaker, Sir, this is all part of history. But, let me come to the Bill that is before the House. I wanted to say this because it is important for us to remember that security in a State is very important. When the hon. Prime Minister introduced the Bill, he made it very clear what were the objects of the Bill. Hon. Shakeel Mohamed is worried about his marriage to a foreigner, but let me say that what the Bills says, the Bill provides that a non-citizen, who is the spouse of a citizen, shall not have the status of a resident where he was a prohibited immigrant at the time of becoming such a spouse. So, at the time that he got married, she was not a prohibited immigrant and this law cannot have retrospective effect, it will only have effect as from today. No one can be declared a prohibited immigrant when the marriage took place in – I do not know when. So, that is no fear. I think hon. Shakeel Mohamed is trying to instil fear in the minds of all those who got married about the provision of this Bill. I think he is just engaging in scare tactics. I do not think that it is right, hon. Member, to do this kind of cheap politics. There is no fear at all about Mauritians who are already married because the critical time is at the time of becoming such a spouse. That is the important point that we have to bear in mind and this is exactly what the Bill says.

Mr Deputy Speaker, Sir, hon. Shakeel Mohamed mentioned about all the procedures that a foreigner has to go through under the Civil Status Act. It is true, but that is for Mauritius. When the same person, let us say the Prime Minister's Office says that a foreigner who wants to get married is a prohibited immigrant for various reasons. That person goes to France or to La Reunion, gets married and he comes back married to a Mauritian citizen and he has the status of a resident automatically. This is the problem. What happens somewhere else has no relevance because once the person comes with a marriage certificate, *c'est sa possession d'état* and this is what is going to be accepted and acted on in Mauritius. So, this is automatic. Automatically, he gets the status of a resident.

It is interesting also to refer to a case which went to the Supreme Court, Mr Deputy Speaker, Sir. It is the case of Marguerite, applicant, the Prime Minister of Mauritius and the Passport and Immigration Office. This was an application by a Mauritian citizen for a review of the decision of the respondents. That is, the Prime Minister and the Passport and Immigration Officer who refused to grant an entry visa to her husband, Mr Mark Harry Auten, a British citizen. The applicant had met Mr Auten while she was studying in England. On 30 April 2007, they both came to Mauritius where they intended to get married on 17 May 2007. Pursuant to Section 19A of the Civil Status Act, no marriage between a citizen of Mauritius and a non-citizen can be celebrated unless publication of the intended marriage is made and at the time of making the application for the publication of the marriage, the non-citizen produces a Certificate of Good Character issued by the competent authorities of his country of residence.

The certificate in relation to Mr Auten shows that during the period 08 June 1987 to 21 October 2005, he has been convicted of 22 offences, including several drug offences, one of which being possession of controlled drugs with intent to supply and for which he was sentenced to two years' imprisonment. The Registrar of Civil Status objected and the marriage could not be performed. And in view of the heavy criminal record, the Prime Minister's Office requested that arrangements be made for him to leave Mauritius immediately. Then they left Mauritius on 21 May 2007 and the first respondent was also ordered to be placed on the list of persons requiring prior approval before travelling to Mauritius and then they got married civilly at the Registry in Croydon. And then they made lots of applications to come back to Mauritius and the present application, Mr Deputy Speaker, Sir, relates to the last set of applications and it is claimed that Mr Auten has now, by virtue of his marriage to a citizen of Mauritius, the status of a resident, pursuant to Section

5(1)(c) of the Act and that the decision to refuse him an entry visa is wrong in law and in breach of the other rules of natural justice as well as the principle of what the legal advisors of the applicant have termed *le regroupement familial*. The Court considered the *regroupement familial*, but then the Court also made some comments on Article 8 on the European Convention of Human Rights and then the Court said the following –

“It is to be noted that that Convention, European Convention of Human Rights, is not applicable to Mauritius and that the case of the applicant cannot be that Mr Auten is being removed from Mauritius. Moreover, as pointed out by learned Counsel for the respondents, the European Court has also stated that a State has the right on the international law to control the entry of non-nationals into its territory.”

And quoted a case of *Y vs. Russia 2010*. It is good that I repeat this for everybody to understand that the European Court has also stated that a State has the right, on the international law, to control the entry of non-nationals into its territory. And in that case, the European Court went on to express the view that knowledge on the part of one’s spouse at the time of the marriage that rights of residence of the other were precarious, militate against the finding that an order excluding the rights of spouse violates Article 8. I think this is also very important.

So, what we are doing is nothing new. It is in conformity with what the European Courts have already decided. But then our Supreme Court went on to say –

“But the application is however based on stronger grounds when it seems to challenge the legal basis of the refusal. It is not disputed that Mr Auten has, by virtue of being the spouse of a citizen of Mauritius, obtained the status of a resident, pursuant to Section 5(1)(c) of the Act. It is equally not disputed that Mr Auten has not been deprived of his status of resident under Section 6(1) - as hon. Mohamed was saying - nor ceased to a resident under Section 6(2) and the decision was quashed.

So, his status as a resident was still there and, for all purposes, being married to a Mauritian citizen, he has the status automatically of a resident. So, the law is there.

Hon. Shakeel Mohamed said that the next orator, that is, I was going to say that the Supreme Court is there as the guardian and the protector of rights and this is an example of what happens. But over and above this, Mr Deputy Speaker, Sir, we have also Section 119 of the Constitution and I quote this because this is being aired all over Mauritius. Let me say

that our Constitution provides for compliance with fundamental rights and there is a special section that has, as sub-heading - Saving for jurisdiction of Courts, and I quote Section 119 –

“No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question, whether that person or authority has performed those functions in accordance with this Constitution or any other law or should not perform those functions.”

So, apart from judicial review, we also have the basic provision in the Constitution that confers unlimited powers on our Courts and the Judiciary to deal with these issues.

Mr Deputy Speaker, Sir, hon. Shakeel Mohamed asked the question: ‘Why is it necessary to bring this Bill?’ And he said everything is provided for in this law with regard to all the prohibited immigrants and he referred to Section 8. I am not going to read all the Section 8, but I am going to pick on only one aspect of what he said just to show why it is necessary for this law to be passed. I will refer to Section 8(1) where the law says that prohibited immigrants shall not be admitted to Mauritius, namely –

“Persons declared suspected international terrorists under the Prevention of Terrorism Act.”

We all know that after 9/11, the United Nations Security Council started a programme of tracking, not only terrorism financing, but also terrorist activities. And, very often, the Security Council is in presence of requests by States to prescribe organisations or to prescribe individuals who are deemed terrorists. I take the recent case of India, Mr Deputy Speaker, Sir. One Pakistani national who goes by the name of Masood Azhar who is the head of the Pakistan-based Jaish-e-Mohammed terrorist group, India wanted to have him declared a terrorist by the United Nations Security Council. India had the support of all the permanent members, except China. And there was evidence that this person has been conducting attacks in India; killing people, attacking civilians and everything. China, as a permanent member, vetoed and that person was not declared a terrorist. Then what happens? Under the existing law, the law says clearly and I remember when the law was passed in 2002, persons declared, somebody has to declare that person a suspected terrorist. Who declares? The United Nations Security Council, for us to be in compliance with international law. Let’s say that tomorrow Masood Azhar wants to come to Mauritius, what does the Prime Minister do? This is why we



need this law; because on the basis of evidence, information, the Prime Minister has the duty to protect the security of the State and the safety of the Mauritians. This is just one example, and I can go on the others as well.

There were also some remarks made about persons who are likely to become a charge on public funds. Mr Deputy Speaker, Sir, when I listened to the hon. Members, it is as though we are a country that can afford to be generous and liberal to everybody. When you, Mr Deputy Speaker, Sir, you want to travel somewhere, all the procedures that you have to go through to obtain a visa, let us say, to go to the United States or to Canada. To go to Reunion, next door, if you do not have a *certificat d'hébergement* or an insurance to cover for your medical expenses, you are not allowed access.

So, are we that rich? Can we afford to provide all sorts of benefits to everybody who wants to come to Mauritius? Is this so unreasonable to have this provision in the law? I think we have to be reasonable. We cannot continue to have lots of arguments about human rights etc. when other countries are imposing all sorts of restrictions and obligations on nationals.

About work permits, do you think a Mauritian can simply go to the UK or to France and start working? Do you know how many Mauritians are deported every week on flights from the UK, France and Australia? These are facts and this is what the people need to know. So, when we claim to be over generous and all this, I think there are certain realities that we need to look at. If it is on a basis of reciprocity with another State, fine. I, myself, Mr Deputy Speaker, Sir, I had to go and replace the Deputy Prime Minister in Reunion about two weeks ago. I did not have an insurance policy to cover for medical expenses, the counter here, in Mauritius, said: "no, we are not going to allow you to board the flight". And then, you had to check with the Ministry of Finance, they have a cover for officials, but unfortunately, that cover had expired. Fortunately, they were able to do something. But it can happen to anybody. It happened to me, as a Minister; so, just imagine what can happen to others. So, let us be reasonable about these things and let us also look at the issues as they are.

Mr Deputy Speaker, Sir, the Prime Minister, when he introduced the Bill, he gave reasons. Maybe the reasons are not sufficient for the Opposition but he gave the reasons and he talked about fake marriages. Hon. Rutnah gave a list of all those issues and I do not want to go on the same ground. But let me come to, I think, the repeal of persons suffering from disability. I think that does not have any problem because everybody agrees with that.

With regard to object (c), Mr Deputy Speaker, Sir, when the hon. Prime Minister says that he needs to provide that –

“(c) persons who, from information or advice which in the opinion of the Minister is reliable information or advice, are likely to be undesirable inhabitants of, or visitors to, Mauritius, shall be deemed to be prohibited immigrants.”

We have to work on the basis of good faith and we have to assume that the Prime Minister will be acting on reliable information or advice and we should not just say that he becomes a monarch, he becomes an emperor having all the powers and he can do as he wants. That is not the way a Government works. That is not the way the Prime Minister’s Office works. So, I believe that a lot is being done to create a climate of fear about this Bill, and this is not justified. If there are abuses, of course, there are remedies for the abuses. If there are any decisions which are taken which are arbitrary, people will be able to seek a remedy.

In fact, Mr Deputy Speaker, Sir, it is a Bill that protects the rule of law, it does not defeat civil liberties. It does not prevent anybody from getting married. The Prime Minister is not going to get into the private lives of people who want to get married, at least I hope so.

The way it is being presented, it is as though no Mauritian women would be able to marry a foreigner. That is not the case. It is only in the case of somebody who is declared a prohibited immigrant on the basis of information which is reliable or advice which is reliable and the Prime Minister forms the opinion that it is necessary to declare that person a prohibited immigrant. This is all that is happening. And this is why I believe that all this scaremongering that we have heard from hon. Duval, talking about absolute power being given to a Prime Minister, no recourse to Courts.

Now, we are a multi-racial society, we cannot and as the Minister of Tourism, I will not be party to a law that is going to prohibit tourists from coming to Mauritius. We are an open society, we want to develop tourism and there is nothing in this Bill that would, let us say, discourage any tourist from coming to Mauritius. Those who have something to hide, those who are engaged in drug trafficking or whatever, people will find all sorts of ways of seeking a loophole or of just going by the side of the law. When we have the visit of President Kenyatta, did not we have a journalist from Sierra Leone who came with drugs in his body? But normally he would have gone through immigration as *a bona fide* journalist. But thanks to the, I suppose, the acumen and the flair of the immigration officers, they asked him: “but what is the name of the President of Kenya?” He did not know.

(Interruptions)

So, this is the kind of situation that we are confronted with on a daily basis and this is why I believe that this Bill is something which is good for the security of the State and to protect the vulnerable ladies who, unfortunately, fall victims to the siren calls of the foreign men. Thank you very much.

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

(11.00 p.m.)

**Mrs D. Selvon (Second Member for GRNW & Port Louis West):** Merci, M. le président. Je vous remercie de m'avoir accordé la parole. Tout d'abord, je vais considérer l'*Explanatory Memorandum* de l'honorable Premier Ministre. Premièrement, le Premier ministre donne comme un avertissement aux futurs conjoints et conjointes des ressortissants étrangers dans les termes suivants, je cite –

*“a non-citizen, who is the spouse of a citizen, shall not have the status of a resident where he was a prohibited immigrant at the time of becoming such a spouse”*

Il est clair ici que si une personne veut épouser un homme ou une femme ayant une citoyenneté étrangère, cette personne devrait réclamer ce dernier la preuve qu'il ou qu'elle n'est pas déjà *a prohibited immigrant* car si tel est le cas, son futur conjoint ou conjointe n'aura pas droit de résidence à Maurice.

Deuxièmement, M. le président, il est expliqué que désormais les handicapés, pouvant devenir un fardeau pour l'État mauriciens, ne seront plus traités, *de facto*, comme une catégorie séparée de *prohibited immigrants*. Au plan des autrement capables, je constate que l'amendement met fin à une pratique discriminatoire dans la loi principale.

Troisièmement, la note explicative nous dit que si le Premier ministre a des informations avérées que les conjoints ou conjointes étrangers sont indésirables à Maurice, ils n'auront pas droit au statut de résident, cela se trouve dans l'article 4(n) de l'amendement.

Quatrièmement, la résidence sera refusée également si leur présence peut, selon des informations avérées, je cite –

*“(...) is likely to be prejudicial to the interests of defence, public safety, public order, public morality or public health.”*

Rappelons aussi que la loi principale donne au Premier ministre le droit de refuser la résidence à Maurice aux personnes suspectées de terrorisme. L'article 3 de l'amendement modifie l'article 5 de la loi principale pour ceux qui sont déjà des *prohibited immigrants*.

L'article 4 de l'amendement modifie l'article 8 de la loi principale, en ce qui concerne les personnes indésirables et celles pouvant constituer une menace au pays, comme expliqué plus haut. Somme toute, des personnes de nationalité étrangère, voulant épouser une personne mauricienne et recherchant la citoyenneté mauricienne, sont divisés en quatre groupes. A savoir –

Premièrement, les déjà *prohibited*;

Deuxièmement, les handicapés lesquels échapperont désormais au refus automatique;

Troisièmement, les indésirables, et

Quatrièmement, les personnes dangereuses.

Il existe déjà dans la loi principale à la section 8 (1) une interdiction contre une cinquième catégorie d'immigrants qui s'avèrent être des terroristes, fichés comme tels.

Finalement, trois groupes sur cinq ne seront pas éligibles à la citoyenneté mauricienne.

Mais venons-en à l'article 4(1) de l'amendement qui donne au Premier ministre le titre de 'gardien de la moralité'. Franchement, cela m'étonne, Monsieur le président, car je ne sais pas si le Premier ministre recrutera une équipe de moralisateurs à son bureau pour le conseiller.

To conclude, Mr Deputy Speaker, Sir, hon. Rutnah is right, Government's decision can be appealed in the Court. Hon. Minister Gayan is also right to state Constitution allows appeals.

Je remercie la Chambre de m'avoir écoutée.

**The Deputy Speaker:** Hon. Mrs Daureeawoo!

(11.05 p.m.)

**The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa-Daureeawoo):** Thank you, Mr Deputy Speaker, Sir. I am pleased to have the opportunity to address the House, on behalf of the Government, on the Immigration Amendment Bill, a very

important piece of legislation. Short amendments, of course, but the amendments have all their importance.

So, on this side of the House, we welcome the proposed amendments to the Immigration Act 1970 as more fully contained in the Immigration Amendment Bill. The amendments, which are being proposed today, aim at remedying a loophole identified in the current Immigration Act.

You will agree with me, Mr Deputy Speaker, Sir, in the wake of globalisation, the mission of any Government should be to facilitate the flow of people around the world. However, this should not be effected to the detriment of public interests, public safety and public morality. There is a balancing exercise to be made and this is often the toughest part of any legislative review.

Through the proposed amendments in the present Bill, our Government has given due significance to the preservation of public interest, public safety and public order. The State will be able to exercise a tighter control on the granting of resident status to non-citizens married to Mauritian nationals. It is an elementary principle of public international law that any sovereign State, like the Republic of Mauritius, has the absolute discretion to admit or not admit non-citizens from its territory. The country is free to control the entry and residence of non-citizens. This principle of law is exercised by States through their immigration laws and is based on the principle of State sovereignty and territorial supremacy.

It is apposite for me to refer to a decision of the European Court of human Rights in the case of *Gül versus Switzerland* 1996, where it was clearly stated that it is a matter of well-established international law, that is, sovereign State has the full right to control the entry of non-national on its territory. Now, what does our law say?

Our Constitution in its section 1, indeed, provides that Mauritius shall be a sovereign democratic State. Section 15(1) of the Constitution provides that –

“(1) No person shall be deprived of his freedom of movement (...)”

This freedom of movement consists of –

“(...) the right to move freely throughout Mauritius, the right to reside in any part of Mauritius, the right to enter Mauritius, the right to leave Mauritius and immunity from expulsion from Mauritius.”

But this right to freedom of movement is not an absolute right inasmuch as a derogation is provided under section 15(2) of the Constitution as follows: any restriction on a person's freedom of movement shall not be held inconsistent with or in contravention of this section to the extent that the law in question is imposing restrictions on the movement or residence within Mauritius of any person in the interests of defence, public safety and public order.

So, the present Bill is falling squarely within the ambit of this permissible derogation under, I must say, our Constitution.

Mr Deputy Speaker, Sir, one Member from the opposite side has said that he cannot understand why the word 'undesirable' has been used. The word 'undesirable' has been used, I believe, because we cannot capture or predict each and every situation that will fall under this category. Of course, the Minister will exercise his power reasonably, and I am confident, with utmost care and this is my reading of the definition of 'undesirable' in the present Bill.

Now, clause 3 of the Immigration Amendment Bill is amending section 5 of the principal Immigration Act 1970. With this amendment, a non-citizen, who is the spouse of a Mauritian citizen, will no longer automatically become a resident and obtain entry in Mauritius. Now to be able to obtain this status, as has been clearly said by Members on this side of the House, that person must not, at the time of celebration of his marriage, fall in the category of a prohibited immigrant. It is worth noting that this particular amendment has been inspired from the outcomes of the two judgements of the Supreme Court of Mauritius delivered in 2014. One has already been mentioned by hon. Gayan, *Marguerite V.E.P. v The Prime Minister of Mauritius & anor* in 2014, also the judgement of *Badjonat V.M.P.C. v The Prime Minister of Mauritius & anor*. Through these two judgements, the loophole in the current Immigration Act 1970 regarding the status of a non-citizen spouse of a Mauritian national came to light.

So, the current state of the law under Section 5 of Immigration Act 1970 is such that actually a non-citizen automatically obtains the status of resident and entry in Mauritius upon his marriage to a citizen of Mauritius. The State of Mauritius does not have any control or may not oppose or resist the granting of residence status and entry on Mauritian territory of such non-citizen spouses even though they might represent a threat or danger to national defence public safety and public order.

If the marriage of a non-citizen to a Mauritian citizen is celebrated in Mauritius according to Section 19(a) of the Civil Status Act 1981, as has been mentioned by hon. Mohamed, there must be publication of the intended marriage and at the time of making the application for the publication, the non-citizen must produce a certificate of good character issued by competent authorities of his country of residence. If he has a criminal record or background of any kind, the Prime Minister's Office may object to the celebration of the marriage and the Registrar of Civil Status may not allow the marriage. This procedure allows for a measure of screening by the State as to the background of non-citizen persons who can obtain resident status in Mauritius.

What is happening? Many couples are circumventing the law by celebrating their marriages abroad and as such putting the State of Mauritius before a *fait accompli*. The State is no longer having a measure of control on those non-citizens who automatically obtain the status of residents and therefore obtain an entry visa for Mauritius as a spouse of a Mauritian national under Section 5 of the Immigration Act 1970. This is, in fact, the state of our current law. This amendment is now qualifying the right of a foreign non-citizen spouse to obtain residence and entry in Mauritius by providing that if, at the time of the celebration of the marriage to a Mauritian national, the non-citizen spouse falls in the category of a prohibited immigrant, he will not automatically get the status of a resident and entry in Mauritius.

The definition of a prohibited immigrant has been mentioned, has been elaborated by Members who have intervened before me as mentioned in Section 5 of the Immigration Act 1970 and it includes amongst other persons with criminal record and background, chronic alcoholics, drug addicts or drug traffickers, terrorists or persons who might engage in activities prejudicial to the integrity or sovereignty of Mauritius.

The first amendment, I must say, is totally in line with international Conventions as the European Court of Human Rights has stated in the case of *Tuquabo-Tekle & ors versus the Netherlands* 2005, I quote –

“where immigration is concerned,(...)

we cannot –

“impose on a State a general obligation to respect the choice by married couples of the country of their matrimonial residence and to authorise family reunion in its territory”

This is the privilege of the Sovereign State. This amendment is being done to protect and preserve national interest and defence, public safety and public order of the State of Mauritius by putting restrictions on the entry of non-citizens to Mauritius based on their backgrounds and for justifiable reasons, and to be in conformity with international Conventions.

Clause 4 of the Bill is amending Section 8 of the existing Immigration Act 1970 by adding in the category of prohibited immigrants two categories of persons. This is in the Bill. These additions to the list of prohibited immigrants are to cater to any situations where non-citizens whose presence might be prejudicial to integrity and sovereignty of the State of Mauritius or detrimental to the security of Mauritius and who fall outside the limitative list already provided for under the law.

Clause 4 of the Bill is also amending Section 8 of the principal Immigration Act 1970 by removing from the category of prohibited immigrants, persons with disabilities. This Clause has been lengthily dealt with by the Prime Minister. I will here join hon. Rutnah to congratulate our Prime Minister for this particular measure. One must not forget that the Republic of Mauritius, having signed the United Nations Convention on the Rights of Persons with Disabilities in 2017 and having ratified same in the year 2010, is hereby doing away with any form of discrimination and prejudice towards persons with disabilities by removing them for the category of prohibited immigrants. Now persons with disabilities can henceforth obtain the status of resident and entry in our country.

So, Mr Deputy Speaker, Sir, I believe that these important amendments being brought today by the Immigration (Amendment) Bill will go a long way in better regulating and controlling the entry and presence of non-citizens in our territory. The Bill is very purposeful. The Bill is yet another achievement of our Government to provide, I must say, robust legislative in the interest of public safety, public order and in the interests of all Mauritians as a whole. Thank you.

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

(11.19 p.m.)

**Mr A. Ganoo (First Member Savanne & Black River):** Thank you, Mr Deputy Speaker, Sir.

Mr Deputy Speaker, Sir, this Bill which has been lengthy commented already has, in fact, four limbs by amending the Immigration Act. The limb on which I will comment, Mr Deputy Speaker, has gathered a consensus in this House and it concerns the disability part, if



I may use that expression. When the Bill is amending Section 8 of the principal Act by repealing paragraphs (a) and (c) of the Section, this is certainly a positive amendment.

Mr Deputy Speaker, this amendment is in line with all the different Conventions and international immigration policies concerning disabled persons. So, this is why I think there is a consensus on this issue and, in fact, the Convention on the Rights of the Persons with Disabilities, in Article 18, calls upon State parties to recognise the rights of persons with disabilities to a liberty of movement. The International Convention on the Protection on the Rights of all migrant workers and members of their families also recognise the equal rights of workers and persons to health and urges States to ensure their access to the health and social services required for the prevention of harm to their health. And the 2030 development agenda, Mr Deputy Speaker, Sir, furthermore recognises the importance of empowering people in vulnerable situations, including persons with disabilities, refugees and internally displaced persons. In fact, Goal 10 on reducing inequalities encourages States to empower persons with disabilities and to facilitate their regular and their responsible migration and their mobility.

So, in line with all these conventions and also the United Nations Convention on the Rights of Persons with Disabilities, Government is today therefore coming with this proposal, as I said, which is a positive amendment. But I think what Government should do once for all, Mr Deputy Speaker, Sir, is to come with a Disabilities Act which would be a comprehensive and holistic piece of legislation *pour faire le toilettage nécessaire* where all the different Acts in our Statutory Books should be examined, should be reviewed and wherever discriminatory provisions are to be found against disabled persons, those provisions should be removed and, once for all, the Disabilities Act will be voted and adopted by this House.

With regard to the other limbs, Mr Deputy Speaker, Sir, which are, unfortunately, less consensual, I would like to make a few comments also. I will come, of course, to the first limb and I can read paragraph (a) of the Explanatory Memorandum where the object is to provide that –

- “(a) a non-citizen, who is the spouse of a citizen, shall not have the status of a resident where he was a prohibited immigrant at the time of becoming such a spouse;”

I am sure we are all now familiar with this first amendment and then come the two last amendments (c) and (d) of the Explanatory Memorandum about reliable information and so on, where some information of advice which the Minister will rely upon to decide about the undesirable inhabitants or visitors to Mauritius which shall be deemed to be prohibited immigrants and lastly, persons or class of persons whose presence in Mauritius, the Prime Minister will be receiving information or advice and which, in his opinion, is reliable information and advice, and according to which the information which he has received and in the opinion of the Minister is likely to be prejudicial to the interest of defence, public safety, public order and so on. These persons shall be deemed to be prohibited immigrants.

So, let me comment on the three other limbs of the Bill, Mr Deputy Speaker, Sir, to say that I do not think Government can blame the Opposition. When we go through these provisions or through these amendments for opposing these provisions on this Bill because without repeating what has been said before me, Mr Deputy Speaker, Sir, when we look at the circumstances, at the events which have taken place in our country recently, in which Government itself has been involved, has been a party to these happenings, to these occurrences, to these events, I do not think one can blame the Opposition for entertaining doubts and asking - to borrow the expression of my friend, hon. Shakeel Mohamed, whether there is an *agenda caché* behind these new amendments. Firstly, again, the recent regulations which have been published in the Government Gazette of Mauritius recently about the non-citizens employment restriction exemption where the regulations, which I understand, will be challenged soon before this House by way of a Motion of Disallowance, is concerning the prohibition for spouses who are non-citizens requiring now a permit in respect of non-citizens, before giving a work permit in respect of those non-citizens. I do not want to get involved in this debate now but the day will come when the Motion will be before this House and we will all be able to pronounce ourselves on *le bien-fondé de cette décision* but suffice it to say, Mr Deputy Speaker, Sir, one is perfectly justified and it is a legitimate question to ask what is the agenda of Government against non-citizens, against foreigners these days?

But, more importantly, Mr Deputy Speaker, Sir, I would like to come to one case, something that has taken place in our country recently. In fact, I personally raised this matter in a Press conference which my party held some weeks ago. *Cela concerne le cas du pilote belge Hoffman et sur le refus du PMO d'accorder à ce pilote la possibilité de contracter un mariage civil avec une Mauricienne*. In a letter which the PMO sent to Mr Hoffman, I can read the following –

“As a non-citizen of Mauritius, you are trying to marry a citizen of Mauritius for the sole purpose to automatically acquire the status of resident.”

In this case, you will remember, Mr Deputy Speaker, Sir, that Mr Patrick Hoffman, who had a permanent residence permit since 2016 and in 2017, he was involved in an industrial dispute with Air Mauritius because he was employed as a pilot, and the Prime Minister’s Office decided to withdraw his residence permit. Il a commencé des démarches pour une autorisation de mariage civil après que ce couple ait resté ensemble pendant 12 ans à Maurice. Il a fait publier les bans et l’État civil a décidé de ne pas accorder son aval pour le mariage, compte tenu de l’objection de la Home Affairs Division du Prime Minister’s Office.

Voilà, donc, M. le président, pourquoi dans un cas pareil où Monsieur Hoffmann a été à Maurice pendant une période de 10 ans et s’est engagé avec une mauricienne pendant 10 ans, ils étaient ensemble et suite à un problème qu’il a au niveau de son emploi, suite à une action industrielle, subitement quand il décide d’épouser la mauricienne, les choses commencent à mal tourner pour lui. Donc, ce refus d’accorder au pilote Hoffmann ce mariage civil à une mauricienne avec qui, je répète, il a vécu pendant 12 ans, n’est-elle pas une décision louche, arbitraire, M. le président ?

Est-ce que la raison a été l’absence à son poste de travail et sa décision de ne pas piloter un vol à destination de l’Australie en octobre 2017 où il avait avancé qu’il avait des problèmes de santé ? Il avait produit un certificat médical à son employeur. Mais cette décision, que nous le voulions ou non, semble être une sanction et non une décision administrative. Je veux dire la décision de lui refuser la possibilité de se marier à Maurice. Donc, est-ce que cette demande d’autorisation pour son mariage civil n’était pas un moyen déguisé d’empêcher Monsieur Hoffmann la possibilité d’acquérir la nationalité mauricienne ?

**The Deputy Speaker:** Hon. Ganoo, can you take your seat please? We are not debating on the case of that pilot. I have allowed you to delve on that issue. Can you now return back to the piece of legislation we are debating? Thank you.

**Mr Ganoo:** Well, this Bill is linked to fake marriages and I will come to that in a few minutes, Mr Deputy Speaker, Sir. But I will just end by saying, Mr Deputy Speaker, Sir, that such event which, unfortunately, tends to provoke suspicion ...

*(Interruptions)*

**The Deputy Speaker:** Yes, we have understood your point, hon. Ganoo!

**Mr Ganoo:** ... *vis-à-vis le gouvernement malgré les intentions du gouvernement en proposant les amendements aujourd'hui.* What I want to say is, unfortunately, Mr Deputy Speaker, Sir, in this case the behavior of the Home Affairs Division of the Prime Minister's Office leaves us to ask questions when we see Government coming with the Bill today.

It is good also, Mr Deputy Speaker, Sir, since we are talking of the Civil Status Act, since we are talking of fake marriages today, to draw the attention of the authorities that it is perfectly the right of Government, of the Authorities, to object to the proposed civil marriage of a foreigner with a Mauritian. There is no problem about this; this is the right of the State. But there is a loophole in our law in the sense that when this objection is made by any party, including the authorities, it is the Registrar of Civil Status who enquires into the matter, hears the parties and takes a decision whether to uphold or to reject the objection and to inform the parties accordingly.

According to me, Mr Deputy Speaker, Sir, this is a situation of conflict of interest because the Chief Registrar of the Civil Status Office works under the instructions or is attached to the Prime Minister's Office. I would suggest that Government should review that situation and confer more transparency and do away with this situation of conflict of interest wherein, as I just said, it is the Chief Registrar of the of the Civil Status Office who sits as an arbitrator, as a Judge and decides whether the objection of the Home Affairs Division of the Prime Minister's Office should be retained or rejected.

The question, I think, we have to ask, Mr Deputy Speaker, Sir, today is what is the effect, in fact, of this amendment? By deciding to amend section 5 of the Immigration Act by adding at the end of paragraph (c) the words "and was not a prohibited immigrant at the time of becoming a spouse". So, the relevant section of the Immigration Act is 5(1) (c) –

“(1)...any person, not being a citizen, shall have the status of resident for the purposes of this Act where -

(c) he is the spouse of a citizen;”

That is, whenever a non-citizen marries, becomes the spouse of a citizen, he shall have the status of a resident. This is what the law says today and the amendment which we are bringing to this section of the law is that if at the time of becoming such a spouse he was a prohibited immigrant, therefore, Mr Deputy Speaker, Sir, he loses that status.

I will not repeat what has been said before me concerning the case of Marguerite. I listened hon. Gayan going through the case of Marguerite. When we look at what happened

in the case of Marguerite, this person, when he had to produce his certificate of character because he had the intention to marry a Mauritian Lady, it was then discovered, as hon. Gayan said, he had 22 convictions,

drug offences and so on. Of course, he was deemed a prohibited immigrant and he was not allowed to go on with his civil marriage. Therefore, having been deemed a prohibited immigrant, Mr Auten, I think, he was called, left Mauritius with a Mauritian lady and they got married in Croydon, in the UK. And then, they stayed for some years in the UK and they decided to return to Mauritius. The application for his visa was turned down, but since he had been married to a Mauritian citizen, outside Mauritius, he obtained the status of resident.

**The Deputy Speaker:** Hon. Ganoo, may I please? Are you not repeating what hon. Gayan said earlier? You said you will not repeat. Please, do not repeat and move on with your speech!

**Mr Ganoo:** Well, we can all have different interpretations of the case.

**The Deputy Speaker:** You said that yourself that you are not going to repeat what he had said earlier.

**Mr Ganoo:** Well, Mr Deputy Speaker, allow me to speak! I have not even spoken five minutes. I am sorry, I am here to say what I have to say and I will say it, according to the Standing Orders.

**The Deputy Speaker:** Please! You yourself said when you started that part of your speech that you will not repeat what hon. Gayan said in his speech and you are repeating what he said in his speech.

**Mr Ganoo:** He went more lengthily on this case. I am just summing up.

The refusal to grant him entry was canvassed before the Supreme Court and the Supreme Court found that it was, therefore, wrong in law and also, it was a breach of natural justice. Therefore, this gentleman obtained the status of resident by virtue of section 1 of the Immigration Act and the Supreme Court found that this man has never ceased to be a resident, according to section 6(2) of the Immigration Act and nor has he ever been deprived of his status of resident, according to the Immigration Act.

Now, the amendment that Government is proposing today, Mr Deputy Speaker, this is what I wanted to say, and this is why I had to go through this case, will, of course, now cure and prevent what took place in the case of Marguerite. In fact, *c'est pour contourner cette*

*situation dans l'affaire Marguerite.* This is the relevance of this limb of the amendment, *c'est pour contourner cette situation affaire Marguerite.* Once somebody, under the actual law, is deemed to be a prohibited immigrant, he can go to greener pastures, leaves Mauritius, goes back in his country or to another country, he marries the Mauritian spouse, he acquires the status of a resident, and in spite of his long list of previous convictions, once he has married outside Mauritius, he can come back as a resident, he will obtain his visa and no decision can be taken to refuse him his visa. This is why in the case of Marguerite, this refusal to grant him the visa was declared wrong in law, as he was never deprived of his status as a resident, since he had married a Mauritian citizen, although outside Mauritius.

So, if the law would have been amended as it is being done today, and if that gentleman, Mr Otton, with the new situation now, he would have never acquired the status of a resident, because at the time of his becoming a spouse of the Mauritian citizen, he was a prohibited immigrant, which means to say, Mr Deputy Speaker, Sir, that this precise amendment will now encourage, will now open the eyes of non-citizens with previous convictions, who will now know that they should not get married in Mauritius because they have to produce their certificate of character, they have to submit that certificate, as required by law, and, therefore, to avoid being declared or deemed prohibited immigrants in Mauritius now, it is easier to get married overseas and once he is married to the Mauritian lady or to the Mauritian man, the foreigner acquires a status of resident, he will be granted a visa of entry and he can stay peacefully in Mauritius. Probably, he might not get Mauritian citizenship, although the Constitution, as we have just heard before, section 24 of the Constitution allows somebody, who is married to a Mauritian, to be registered for citizenship, probably, he will never, although he will have stayed more than four years, granted a Mauritian citizenship, but he will be able to stay in Mauritius.

Therefore, the point, Mr Deputy Speaker, Sir, is to avoid the risk of being declared a prohibited immigrant by marrying a foreigner outside Mauritius. By so doing, the non-citizen will acquire the status of residence and can come in Mauritius whatever his criminal record is. This is the point I wanted to make as far as this particular limb is concerned.

Mr Deputy Speaker, I wanted to say, on the contrary, this particular amendment will open the eyes of many non-citizens who wish to settle in Mauritius, and they will now be conscious of the risk they are taking if they decide to come to marry in Mauritius, they will prefer, as I just said, organise their civil marriage in other lands and which will allow them to acquire the status of resident.

The last part of my intervention, Mr Deputy Speaker, Sir, is concerning the two other limbs of this Bill. What I can say on paragraphs (c) and (d) of the Explanatory Memorandum, the comments I wish to make briefly on the decision of Government to amend the long list in section 8, the cases of where persons are deemed to be prohibited immigrants by the amendment about the reliable information or advice that the Prime Minister will rely upon and so on, Mr Deputy Speaker, Sir, according to me, these are wide powers which are being bestowed upon the Minister and *il y a certainement un potentiel d'abus*. The Minister or the Prime Minister might be fed with misleading information. Of course, we understand that any Prime Minister is a responsible person but *le potentiel de dérive, de dérapage est là, Monsieur le président*.

And, of course, we understand that any Prime Minister is a responsible person, but *le potentiel de dérive, de dérapage est là, M. le président*. For example, I was just having a look at section 19 of the Police Act which talks about the functions of the National Security Service, which reads as follows –

“Where the interests of national security so require, the Director- General may enlist persons, other than police officers, to assist the national security service on such terms and conditions as he may determine.”

Of course, we do not know whether the Director-General today or in the past or under previous Governments enlisted persons other than Police officers to assist the NSS on whatever terms and conditions, but I am just saying, Mr Deputy Speaker, Sir, we don't know who are these private persons, not Police officers, who may be enlisted to help the NSS and if the Prime Minister will rely on information fed to him by persons who are not Police officers. This is one instance, Mr Deputy Speaker, Sir, and this is one reason why I am saying that, probably, the Prime Minister might not always be given the right information, information deliberately planted to cause harm to somebody else, to a political opponent or to any other citizen of this country. Therefore, these two provisions seem to me to be very excessive, wide-ranging. This is why we have doubts as to whether the law should have been drafted as widely as it has been done. We are *dans un Etat de droit*, Mr Deputy Speaker, Sir, we don't have agency board or patrol in Mauritius, we rely only on the PIO or on the NSS. Fortunately, at the Supreme Court, we have an independent and impartial judiciary which is respected in our country, which commands the respect that it does. We have a constitutionally independent judiciary which is the effective guardian of our constitution, Mr Deputy Speaker, and the Supreme Court fortunately remains this independent guardian of our constitutional

principles. Our substantive law, Mr Deputy Speaker, Sir, grounds on which Judicial Review can be granted, principles which have been jealously upheld by our Supreme Court in terms of rights of individuals, rules of national justice, unreasonableness in the decision of the authorities, abuse of discretionary power, checking of abuse of power. Mr Deputy Speaker, Sir, we have checks and balances fortunately. There is a long list of judicial pronouncements, authorities, cases which I will not trouble the House today, We have the case of Esher which have been just cited by hon. Duval and a long list of other cases, Mr Deputy Speaker, where the Reviewing Court has demonstrated in our country, in our jurisprudence the power that it exercises. We have also cases of pronouncement in the different judgements of our Supreme Court where, although the law has provided that any decision cannot be challenged in court, the ouster jurisdiction as we call it, and how the different judgements have positively affirmed that these types of Clauses where Ministers final decision - for example, in the Mauritius Citizenship Act, the decision of the Minister on any application under this Act shall not be subject to any appeal or review in Court, where in spite of those types of provisions, the Supreme Court has positively and affirmatively pronounced itself that, however, such a Clause cannot be considered as an invincible shield which could prevent the decision making process from being questioned. So much for democracy, for good governance, Mr Deputy Speaker, Sir! Therefore, this is why, Mr Deputy Speaker, Sir, in spite of all this, the executive should not, in spite of the fact that we have a well-respected judiciary. *Nous sommes dans un Etat de droit.*

I will end up on this, Mr Deputy Speaker, Sir. I do not think the executive should come with laws which can open the flood gates for possible oppression or *dérapage* as I have just said, Mr Deputy Speaker, Sir.

Thank you.

**The Deputy Speaker:** Hon. Mrs Perraud.

(11.58 p.m.)

**Mrs A. Perraud (First Member for Port Louis North & Montagne Longue):** M. le président, dix orateurs ont participé au débat avant moi, et sur la liste je suis onzième. Donc, beaucoup a été dit. Je vais essayer de ne pas répéter les points déjà débattus, mais certains arguments méritent que j'en parle aussi.

M. le président, mon discours sera à deux volets. Par un projet de loi en date du 12 avril 2019, le Premier ministre propose un *Immigration (Amendment) Bill* dans le but de



modifier l'*Immigration Act* du 17 mai 1973. La proposition de loi vise en substance à la modification de l'Article 8 de l'*Immigration Act* de 1973, portant sur la catégorie des *Prohibited Immigrants*. Sont exclus cette catégorie, les citoyens mauriciens et les personnes disposant d'un permis de résidence valide. L'article 8 présente, donc, la particularité d'établir juridiquement les conditions de détermination d'une catégorie de migrants dont l'accès au sol mauricien peut être refusé selon des modalités pratiques, pouvant inclure la détention et le renvoi dans le pays d'origine ou tout autre pays susceptible de l'accueillir - Section 13 (4) de l'*Immigration Act* de 1973. Les décisions du ministre sur ce point ne peuvent être soumises à la correction d'aucune cour - Section 13 (5) de l'*Immigration Act* de 1973.

Le domaine législatif dont il s'agit est, ici, très sensible car ayant des implications sur les libertés des droits fondamentaux de tout étranger voyageant à la destination de Maurice. Aussi, toute action visant à légiférer sur ce point, se doit être assortie des garanties nécessaires, suffisantes et solides afin d'assurer non seulement la sécurité juridique aux personnes potentiellement concernées, mais plus encore, la garantie de l'état de droit. En l'espèce et sur le fond, le projet de loi paraît pour le moins paradoxal.

En effet, d'une part il s'avère que la proposition vise à supprimer les alinéas (a) et (c) de l'Article 8 qui instaure la possibilité de déclarer des personnes '*prohibited immigrants*' à raison de leurs conditions physique et mental. Ce point semble pour ainsi dire être une avancée tant la référence à un tel état de fait semblait contrarier les principes les plus élémentaires des droits de l'homme en matière de protection contre la non-discrimination. En revanche, dans un second temps, le projet de loi ambitionne d'élargir les cas dans lesquels le statut de *prohibited immigrants* pourrait être déclaré à l'encontre d'une personne en ajoutant deux alinéas (m) et (n) à l'Article 8 susmentionné. Ces deux ajouts appellent des questions juridiques sérieuses sur le terrain de la protection des droits de l'homme et des libertés fondamentales des personnes migrantes à Maurice tant qu'au regard du droit interne que du droit international applicable en la matière. En effet, la qualification de *prohibited immigrants* risque, en raison de ses conséquences juridiques et pratiques, d'affecter en elle-même gravement la situation des migrants à Maurice. Ainsi, toutes mesures visant à étendre cette qualification à différents catégories de personnes ou à des catégories entières doivent être prises avec la plus grande précaution et sagesse afin de minimiser les conséquences néfastes et dramatiques que cette qualification juridique peut entraîner sur la vie des personnes et éventuellement de leurs familles. La logique voudrait qu'en la matière des possibilités dans

lesquelles une telle qualification puisse être retenue demeure limitée et strictement énumérée et circonscrite par la loi.

M. le président, on constatera premièrement que les deux alinéas donnent au Premier Ministre un pouvoir discrétionnaire, absolu dans la détermination et l'application de cette qualification. Comme je vous ai dit, beaucoup d'autres orateurs avant moi se sont appesantis sur ce point. Certains ont dit que le Premier Ministre, avec tous les pouvoirs que le Premier Ministre a avec cette loi, est comme un monarque, un empereur ; quelqu'un a même dit un roi parce que c'est le Leader du MSM, le Roi Soleil. Donc la circonstance que sa décision puisse se baser sur une information ou un conseil qu'il considère comme étant fiable, selon sa propre opinion, est une première entorse à la protection des droits fondamentaux des étrangers. Cette première partie de la disposition vise concrètement à soumettre le sort de toute personne migrante à sa volonté et appréciation discrétionnaire sans même qu'aucune garantie d'objectivité, d'impartialité ou d'indépendance soit assurée. Il revient à la loi de protéger toute personne, citoyenne ou non, contre l'arbitraire. Cette exigence ne peut être ici raisonnablement considérée comme respectée. Enfin l'alinéa(n) fait appel à des notions juridiques telles que la protection de l'ordre public, de la moralité ou de la santé publique pour établir un autre critère de justification à l'application du statut de *prohibited immigrants*. Le recours à ces notions n'est pas en soi surprenant. C'est bien souvent sur cette base que les Etats légifèrent et sont autorisés à légiférer en la matière au regard du droit international. Toutefois, ces notions sont appréciées très strictement par les juges quand n'étant pas définies juridiquement elles peuvent, elles aussi, ouvrir la porte à l'arbitraire. En droit interne mauricien, l'Article 2 de la Constitution dispose que la présente constitution est la loi suprême de Maurice et toute autre loi non conforme à la Constitution est dans la mesure de sa non-conformité nulle et non avenue.

Diverses dispositions constitutionnelles pourraient à priori être contrariées par ce projet de loi. En effet, l'Article 16 de la Constitution pose le principe selon lequel aucune loi ne doit comprendre une disposition discriminatoire en elle-même ou par ses effets. Le même Article prévoit, il est vrai, une série d'exceptions en vertu desquelles ce principe n'a pas vocation à s'appliquer. Or contenu du fait que les alinéas (m) et (n) ne comprennent pas de mesures objectives de détermination et de différenciation des situations, ils risquent fortement de mener à des situations de discrimination en fait.

M. le président, Maurice a ratifié la Charte Africaine des Droits de l'Homme et des Peuples le 19 juin 1992. Cette Charte prévoit notamment le droit à une égale protection

devant la loi, Article 3 ; le droit d'avoir sa cause entendue, Article 7; et plus spécifiquement le droit à la défense, Article 7 1. c. Avec la rédaction actuelle, ces dispositions pourraient être invoquées à l'encontre du projet de loi, notamment du fait de l'absence de voie de recours contre une décision ministérielle déclarant une personne *prohibited immigrant*. Toutefois, au vu du mécanisme actuel posé par la Charte Africaine des Droits de l'Homme et des Peuples, aucune décision contraignante ne pourrait réellement venir s'imposer à Maurice.

Avec les amendements tels que proposés aujourd'hui, on pourrait demander à la Cour Africaine des Droits de l'Homme de prononcer un avis consultatif sur la question. L'Article 4 du Protocole de la Charte Africaine des Droits de l'Homme et des Peuples portant création de la Cour Africaine des Droits de l'Homme et des Peuples prévoit en effet qu'il est possible de lui demander de prononcer un tel avis sur toute question juridique concernant la charte ou tout autre instrument pertinent relatif au droit de l'homme. On pourrait aussi contacter la Rapporteuse spéciale sur les réfugiées, demandeurs d'asile, migrants et personnes déplacées afin qu'elle intervienne au titre de ses compétences en matière de migration. Par ailleurs, le projet de loi semble aller à l'encontre de plusieurs dispositions du droit international. De manière générale, il est à rappeler que la Déclaration Universelle des Droits de l'Homme prévoit plusieurs dispositions. Certains droits ont la possibilité d'être limités mais dans l'unique objectif de satisfaire les justes exigences de la morale, de l'ordre public ou du bien-être général dans une société démocratique. De même, les restrictions ne sont possibles que dans le cas où un danger exceptionnel proclamé dans un acte officiel menace l'existence de la nation.

M. le président, en espèce, ce projet de loi tel que présenté pourrait être regardé comme une dérogation aux Articles 12 et 13 du Pacte international relatif aux droits civils et politiques dans la mesure où il constitue une entrave non-justifiée à la liberté de circulation et qu'il ne permet pas à l'étranger déclaré *prohibited immigrant* d'avoir accès à une procédure équitable pour que son cas soit examiné et ce d'autant que la possibilité qu'un particulier dépose une plainte contre Maurice devant le Comité des Droits de l'Homme après épuisement des voies de recours en interne n'est pas à exclure. Maurice a en effet adhéré au premier protocole facultatif se rapportant au Pacte international relatif aux droits civils et politiques établissant ce comité le 12 décembre 1973.

M. le président, ma première réaction est, pareil comme tous les autres qui ont parlé avant moi : pourquoi nous demander de voter cette loi en toute urgence ? Le projet de loi est circulé depuis samedi, et aujourd'hui, mardi, elle est présentée en première lecture, débattue

et votée. Pourquoi cet empressement? Quelles en sont les intentions derrière ? Dans un État démocratique qui se respecte, l'idéal serait le renvoi du débat sur ce projet de loi dans le but de respecter le droit des parlementaires, à leur informer suffisamment à l'avance et leur laisser le temps de mûrir une réflexion sur le projet de loi. D'autre part, pour envisager une évaluation de l'impact législatif de la loi afin d'en améliorer la rédaction et aussi permettre une réflexion de la part de la société.

Avec cette façon de faire du gouvernement, le pouvoir législatif est pris en otage alors que c'est la voix et la volonté du peuple, le fondement de la démocratie. Puisque le projet de loi, tel qui nous est présenté est d'une grande opacité et frôle la dictature avec tous les pouvoirs entre les mains du Premier ministre, les rumeurs circulent que ce projet de loi, comme il est rédigé et présenté à la vitesse grand V, viserait quelques individus qui ne sont pas bien vus du gouvernement. Si c'est le cas, le gouvernement est en train de déchirer des familles, de séparer des couples, de priver des enfants de leur papa ou de leur maman. On ne peut pas faire payer tout le monde à cause de quelques-uns. Depuis que ce projet de loi est en circulation, beaucoup de familles vivent dans l'angoisse, dans la peur. Elles ne savent plus de quoi demain sera fait. Ce projet de loi leur vole leur rêve, leur projet, leur avenir.

J'ai entendu l'honorable Ravi Rutnah dire sur une chaîne de radio privée hier en parlant sur ce projet de loi qu'il ne comprend pas pourquoi les membres de l'opposition veulent plus de temps pour étudier et travailler sur ce projet de loi alors que ce sont que de petits amendements proposés. Et je dois dire que j'ai été outrée, j'ai été sidérée de voir cette indifférence, cette nonchalance. J'aimerais bien qu'un membre du gouvernement aille expliquer à une famille qui est potentiellement concernée par cette loi que ce n'est que de petits amendements. Et c'est là qu'on peut voir si c'est un *caring Government*. Nous nous posons aussi la question sur le pourquoi de ce projet de loi maintenant alors qu'il y a tant de projets de loi qui sont attendus, réclamés par la population depuis longtemps. Par exemple, ce serait beaucoup plus important de présenter au Parlement le *Criminal Justice Bill* que l'*Immigration (Amendment) Bill*.

D'ailleurs, suite au cas de brutalité policière alléguée sur Gaiqui, à une question du *leader* de l'opposition, L'Attorney General avait pris l'engagement de venir de l'avant avec un *Criminal Justice Bill*. Ce projet de loi aurait soulagé le peuple, lui redonner confiance sur la façon dont les enquêtes policières sont faites. Qu'en est-il du *Children's Bill* ? Lorsque j'avais démissionné du gouvernement, démissionné du ministère de l'égalité du genre, du développement de l'enfant et du bien-être de la famille ...

*(Interruptions)*

**The Deputy Speaker:** Hon. Perraud, can you explain how relevant would your saying is with the piece of legislation we are debating, please?

**Mrs Perraud:** *Of course, I can.* Donc, mon point c'est que pourquoi emmener ce projet de loi, particulièrement *the Immigration (Amendment) Bill*, alors qu'il y a beaucoup d'autres lois plus importantes pour la population que ce projet de loi. Donc, c'est ça mon point et je suis en train de développer ce point-là. Donc, je reprends puisque j'ai été coupée. Ce projet de loi qu'on appelle communément le *Children's Bill* était presque finalisé. Deux ans que je sois parti, le *Children's Bill* n'est toujours pas déposé sur la Table du Parlement. Au lieu de protéger les petits enfants mauriciens, la priorité de ce gouvernement est de faire voter l'*Immigration (Amendment) Bill*. M. le président, j'ai pris que deux exemples mais la liste est longue.

M. le président, la loi qui est devant nous, qu'on nous demande de voter ce soir, nous présente un projet de loi qui est vraiment opaque. Je l'ai déjà dit. Je comprends parfaitement la colère, la peur, avec raison, d'Adrien Duval. Il a fait un discours avec passion. D'ailleurs, je tiens à le féliciter pour sa brillante intervention. Les jeunes, les mauriciens aiment les politiciens qui ont le courage et l'audace de parler un langage de vérité avec humilité. Il n'a pas fait un show, un one-man-show. Il a exprimé les sentiments de quelqu'un qui comprend et qui vit une situation où il se retrouve dans les provisions de ce projet de loi. Il a parlé avec son cœur. Le discours d'Adrien Duval reflète les appréhensions réelles de nombreux couples, de nombreuses familles. À écouter tous les orateurs de l'autre côté de la Chambre, personne n'a pu convaincre et démontrer pourquoi le gouvernement est pressé de faire voter cette loi.

Personne n'a pu prouver que le Premier ministre ne détient pas tous les pouvoirs. D'ailleurs, c'est noir sur blanc. Malgré que le Premier ministre adjoint, pendant son discours de 27 minutes a raconté l'histoire, le cas de Jogee avec des détails presque croustillants, le mari, l'épouse, l'amant, la liaison extraconjugale, enfant illégitime etc., l'honorable Collendavello ne nous a pas épargné les détails. Ce que les mauriciens, ce que nous, ce que les téléspectateurs ont retenu, c'est que tout simplement on a déporté une femme enceinte et c'est tout. Et c'est ce que l'honorable Adrien Duval a démontré dans son discours.

À écouter les membres de l'autre côté de la Chambre, on leur donnerait la communion sans confession. Un langage mielleux, pétri de bonnes intentions mais accusant avec agressivité l'opposition de faire de la démagogie.

*(Interruptions)*

**The Deputy Speaker:** Order, please!

**Mrs Perraud:** Merci de me donner raison. Le rôle de l'opposition c'est de veiller, de protéger et de défendre l'intérêt du peuple. C'est notre responsabilité et c'est ce que nous faisons sans peur ni faveur. Merci beaucoup.

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

(00.20 p.m.)

**Mr R. Rampertab (Second Member for Flacq & Bon Accueil):** Mr Deputy Speaker, Sir, thank you for giving me the opportunity to address this august Assembly on the Immigration Amendment Bill. Unfortunately, lately, we have observed an unfair and unwarranted full-fledged trial by the Press over the last few days with regard to the amendments being proposed by the hon. Prime Minister and Minister of Finance.

Indeed, as a parliamentarian, it is my solemn duty to constructively contribute to the debates around this Bill. It is essential, Mr Deputy Speaker, Sir, that we drill down to the very essence behind the amendments and how they will be beneficial to our society and nation. I also hope that Members of this House will put their political affinities apart and uphold our country's values instead.

Mr Deputy Speaker, Sir, let me start by saying that this amendment was long overdue. Over the years, our Immigration legislation has evolved and changed over time, shaped by the shifting social, political and economical climate as well as change in mindset about the desirability and integration.

Mr Deputy Speaker, Sir, we are a country which has been built and shaped on premises of inclusive immigration and, however, inclusion needs to be controlled, secured and non-detrimental to our country. Let me say, Mr Deputy Speaker, Sir, that contrary to what is being reported, Mauritius is not closing its doors, but making it safer. Our country is internationally known for its warm welcome and openness of its inhabitants.

However, unfortunately, our good faith is being put into test by ill intention of individuals who leave no stone unturned to attempt to become residents of our country. Mauritius will continue to welcome those who are genuine, who want to contribute to the socio-economic development of the country and those who do not wear any veil. Through this amendment, Mr Deputy Speaker, Sir, it is this veil that we want to remove.

This amendment, Mr Deputy Speaker, Sir, is a genuine effort to shift between those who sincerely want our country to move to greater heights from those who have bad intentions and wish to harm the nation. It is a sad fact that the number of marriages of conveniences have been rapidly increasing over many years now. The previous Government did nothing to curb this dangerous trend and it is only our Government now which has shown the firmness required to put a stop to this ongoing fraudulent activity.

Mr Deputy Speaker, Sir, this Bill will simply put a final stop to the sham marriages which have been happening for so many years in our country. Mr Deputy Speaker, Sir, in this House, we must remember that we are a small nation united together with a strong bond. However, we should not forget that a volcano is never dead. Therefore, on this side of the House, we feel that it is our duty to tighten the control. This amendment is very important, Mr Deputy Speaker, Sir, as it aims at correcting an injustice towards those genuine immigrants who are suffering physically or have got a mental infirmity as stated in section 8(a).

Mr Deputy Speaker, Sir, previously the doors were completely closed, even for people who have other physical disabilities such as blindness and dumbness as per section 8(c).

Tonight, I would like to ask the question to the Members of the other side of the House: are they willing to tolerate such injustice towards those who are already suffering? Are they ready to reject genuine people suffering from physical disabilities? I leave them to decide because history would bear testimony, Mr Deputy Speaker, Sir. It is, indeed, completely erroneous to say this Bill puts an end to free movements. The Immigration Act is clear. The Act has a provision to ensure that Mauritius benefits from genuine foreign expertise. We are fully aware that we need expert hands from abroad to fashion the Mauritius of tomorrow, and the hon. Prime Minister has also reassured all Members that this is a case. In fact, this amendment makes provision to discriminate between who is a *bona fide* immigrant worker and who is not.

Hence, the employers and employees, who have got good intention, do not have to worry. Of course, those unscrupulous employers and employees, who wish to do their dirty business, are being warned severely. Through this amendment being proposed tonight, Mr Deputy Speaker, Sir, the existing controls are being tightened, and I hear voice being raised against the powers of the Prime Minister. I remind Members of the House, Mauritius has

regional and international partners with whom we have set statutes about sharing of information and intelligence.

In addition, in this era of technological advances, our local law enforcing agencies have successfully leveraged information from foreign sources on several occasions in order to crack down on organised crimes, lone wolves and attempt to defraud our immigration laws by detecting fraudulent use of documents, for example. Mr Deputy Speaker, Sir, I sincerely think that such amendment should have been brought to the House well before as this would have prevented the current deteriorated situation.

Unfortunately, again, I will say, the previous Government was not farsighted enough compared to the current one. Mr Deputy Speaker, Sir, already I would like to mention a survey conducted in the U.S. in 1986 by the Immigration and Naturalisation Service which had revealed that approximately 30% of all petitions for immigrant visas involved suspect marital relationship.

Mr Deputy Speaker, Sir, the situation can only worsen if we do not act fast, and through this Bill, we have the long awaited opportunity to finally act. Mr Deputy Speaker, Sir, conclusively, human rights and civil liberties ought to have exceptions, hence, the necessity for national security, the pursuit of grave felony and public order are exceptions to the right of personal liberty of every person. Constraining liberty presupposes to guarantee the protection and development of others and the restraint of liberty of an offender is made to safeguard the public. In the same manner, with terrorism, it is not right that an alleged terrorist individual rights be put over the rights of the Mauritian citizens. Accordingly, in the post-9/11 era, immigration policy increasingly has intersected with civil liberties and national security imperatives, with significant applications for law enforcement and intelligence agencies as they share more information with each other and with allied Governments as well as for immigrants and immigrant communities.

This Bill aims to achieve just this with the provision to protect the public as well as enable the well-deserved immigrants to come and live in Mauritius. The amendments proposed today, Mr Deputy Speaker, Sir, ultimately reflect our society's belief and attitudes and we contribute to making our country a fairer and more secure one.

Mr Deputy Speaker, Sir, to conclude, let me put the crux of the debate in very simple terms. Currently, we have two options which are either we maintain the current situation or we introduce the Immigration (Amendment) Bill which will make a significant contribution



to reducing illegal immigration. The choice is clear for our country, Mr Deputy Speaker, Sir, and I will urge the Members of this august Assembly to support the hon. Prime Minister's firm act in promoting the safety, security and prosperity of our nation. I, once again, congratulate the Prime Minister and the Ministry of Finance and Economic Development for coming forward with this Bill. He has proven again that unlike other political leaders, he does, indeed, walk the talk and will be relentless in implementing the right measures to protect our nation.

Let me end here, Mr Deputy Speaker, Sir, by saying that this amendment to the Immigration Act is not unreasonable, unfair, unconstitutional, undemocratic or against any human rights, and those who feel aggrieved, can always go to the Court to seek any redress.

Thank you very much, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Hon. Dr. Boolell!

(00.30 p.m.)

**Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes):** Mr Deputy Speaker, Sir, at this late hour of the night or we are on the early hours of the morning, I don't intend to be too long, and I hope common sense will prevail and Prime Minister will come to better senses. Notwithstanding what Members on the opposition bench have said so far, I am sure the hon. Prime Minister has read opinions given by Senior Counsels on the provisions of this Bill. It stands to reason that the Bill should have been ventilated. There is a lot of uncertainty and deep-seated concerns amongst Mauritians, spouses of Mauritian nationals, investors, skilled and highly skilled workers and manual workers.

My concern, and the concern of all those who feel that cold showers have been sent down their spines, is to impress upon the hon. Prime Minister to withdraw this Bill and to invite the opposition and the other stakeholders to sit down to air views to express concern and to come with a consensus. I see no reason why we should rush this Bill, sometimes like fools where even angels with tight fists fear to tread.

Mr Deputy Speaker, Sir, our concern is that fear has been instilled ever since the hon. Minister of Labour and Employment gave an interview to *'Le Week-End'* and he made it quite clear that spouses of Mauritian nationals would have to apply for a work permit because they would not enjoy the same privileges that their spouses have, those, of course, spouses born in Mauritius. When we look at the provisions of this Bill, the fear expressed is justified when we look at the Explanatory Memorandum - I refer to the objects of the Bill, I refer to

(a). Now, it is discriminatory because when we look at the definition of ‘prohibited immigrants’, anyone can be deemed to be a prohibited immigrant and it goes against fundamental human rights.

In respect of cases which are obvious, I have no problem when it comes to -

- (j) persons who are engaged, or reasonably suspected or engaging, in activities prejudicial to the integrity or sovereignty of Mauritius or any friendly State;
- (k) persons concerning whom there are reasonable grounds for believing that they are likely to be engaged in any subversive activity of any kind directed against Mauritius or detrimental to the security of Mauritius or any friendly State.

Much has been said on persons declared suspected international terrorists under Prevention of Terrorism Act. I say it without fear because there is a lot of prejudice and if a case is brought before the United Nations Human Rights Committee, I am sure the Committee will state, in no uncertain terms, that the Bill goes against fundamental human rights, which reminds me of the case brought before the UN Human Rights Committee by a former Attorney General, hon. Mrs Aumeeruddy-Ziffra to justify the reason as to why her husband should enjoy the same rights that she has as a Mauritian citizen, the right to live, to right to stay and the right to enjoy the privileges of a Mauritian citizen.

When I look at section 8 of the main Act, it stands to reason, Mr Deputy Speaker, Sir, if for a country which is signatory to Human Right Conventions, we have to do away with, not only Section 8 (c), but we also have to do away with (g) –

“(g) persons who are likely to become a charge on public funds;”

I think it does not have its *raison d’être*. And as stated earlier by the hon. Minister of Tourism, people who travel to Mauritius, of course, need to have a health insurance policy, except in cases where we have entered into bilateral agreement to allow people coming from neighboring countries to enjoy our free health care.

Now, we have to be faithful to Conventions which we have signed, and I see no reason why we cannot do away with persons afflicted with any infectious or contagious disease. I am yet to understand the rationale behind this, what is the definition of ‘an infectious’. Flu is an infectious disease, HIV is an infectious disease, TB is an infectious disease, and dengue is an infectious disease. So, I think we have to be precise and concise in respect of what is spelled out in ‘Prohibited immigrants’. Earlier the Deputy Prime Minister,

hon. Collendavelloo, referred to specific issues where there is deep-seated concern and he referred to persons who are engaged in what we call 'hardcore illegal activities'. That is understood, but, as I say, there is a call for clarity with respect to definition. For example, as of now we don't know what the definition of 'undesirable inhabitants'. That has to be clearly defined. In South Africa, in the Immigration Act, the term 'undesirable' is clearly defined. Why is there a deep-seated concern? I am not going to say like father like son, but there is some truth with respect to what happened in the past.

*(Interruptions)*

Okay! In respect to what happened in the past, you would recall the colorable device that was used to unseat the Leader of the Opposition. I think there are other cases as well. I recall, and I will mention the case of a gentleman from Malagasy Republic; he was of Indian origin. He came to invest in Mauritius, went into a joint partnership with a Mauritian close to the then Government, and there was extortion. He lost most of his investment and like an unaccompanied luggage was almost *manu militari* dumped, if I can use the word, into the aeroplane. And when he landed in India, he felt so aggrieved he held a Press conference and that the findings of the Press conference made big headlines in the illustrated weekly of India to condemn the attitude of the Mauritian Government which was unreceptive to investors and of the element of bias that prevailed within our system.

So, Mr Deputy Speaker, Sir, when I look at the provisions of the Bill, there is a veil that has to be pierced and the Prime Minister does it without saying it and we have expected it to be forthwith and to spell it out very clearly. I do understand that we live in a plural society and we have to strike the right balance but there should be no departure from fundamental rights. At the same time, we are Small Island Developing Countries, if we do not export, we die and we need to attract investment and services sector is becoming the mainstay of the economy. And therefore we have to invite as many skilled persons as possible but one of the main objectives is to address the problem of sham marriages. We have to know who are we hitting at. And let us call a spade a spade! There are 42,000 foreigners living and working in Mauritius, over and above the 5,000 foreign nationals who are married to Mauritian citizens.

Now, we are targeting specifically people from Bangladesh because rumours are strived that there is an increasing incidence of sham marriages amongst that community, aided and probably abetted by a network of religious bodies. And I would have expected the

Prime Minister to say so but he knows as well as I do that this is not true. There are a few cases and as has been highlighted by hon. Rutnah, official statistics say that there are 11 sham marriages. Now, what is being done, Mr Deputy Speaker, Sir, is to address this problem through the backdoor of the Immigration (Amendment) Bill. But, at the same time, we are a secular State, irrespective of countries where foreigners come from. If they so decide to get married, they have to comply with the provisions of the Civil Status Act. Any marriage conducted by a religious person has to be registered at the Civil Status Office and this has to be over-rhyming.

So, Mr Deputy Speaker, Sir, first, we had the Non-Citizens (Employment Restriction) Act. Now, we are coming with the Immigration (Amendment) Bill and certain questions also have been asked as to who are those people behind this Bill. Are they people who are members of the Gaming Regulatory Body, who feel that they cannot have a hold upon jockeys who no longer need a work permit because they are married to Mauritians? I say this because concern has been expressed and I hope the hon. Prime Minister will enlighten us on this. It is true that a three months grace period has been given, otherwise there would have been pandemonium because some plunderers would have said that the races which were held at the time that they were allowed to work, these races could have been illegal. So, these are issues, Mr Deputy Speaker, Sir, which we need to have answers to these questions.

The other concern which has been expressed is the unfettered powers conferred upon the Prime Minister and for flimsy or frivolous reasons, he may act in an arbitrary manner. This is why I stated earlier that there is an element of fear amongst the expats, amongst those who feel that they cannot operate in a climate of uncertainty. Now, where I do go along is with respect to the amendment being proposed that physically defective or physically handicapped, who are likely to be burden on the State, shall no longer be treated as a distinct category of prohibited immigrants, in line again with the Convention for the Rights of Disabled Persons. But we have to also allow them to come with the carers otherwise it would be difficult for these people to enjoy the rights that they are entitled to. So, I hope, Mr Deputy Speaker, Sir, this will be taken into consideration.

The other concern that has been expressed is decision influenced by regulated bodies; it has been trusted to be reliable for the performance of enhanced due diligence, relevant to the permit resident application, and these two amendments through a system which is working a properly determined threshold.

Now, when a prohibited immigrant is aggrieved, where does he seek redress if he has been deported? There is no provision for that and, I think, it is time that we give due consideration to the setting up of an Immigration Tribunal as exists elsewhere. For example, in UK, the aggrieved person can forward a letter to the Immigration Tribunal for his case to be heard.

Mr Deputy Speaker, Sir, with respect to the absolute discretion which the hon. Prime Minister has, I am sure a Court will have to decide on whether the discretion is judiciously used. Mr Deputy Speaker, Sir, as I say, there is room for concern. The concern has been expressed by foreigners who are working in the services sector especially, manual workers, whom we cannot do without because without the Bangladeshi workers, I mean many sectors of our economy would probably come to a standstill. So, I appeal to the hon. Prime Minister to give fair thought to withdrawing this Bill and to invite Opposition and other stakeholders to have fruitful discussions and to come up with relevant proposals.

Thank you very much, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Hon. Members, Madam Speaker will now resume her seat.

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

**Madam Speaker:** Please, be seated! Hon. Sinatambou!

(00.54 a.m.)

**The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou):** Thank you, Madam Speaker. Madam Speaker, Robert Kennedy once said that one fist of the people are against everything all the time. Here, the Opposition appears to be against everything nearly all the time. So much demagoguery there is that they indulge in. To prove the point, I will recall what the hon. Lady who spoke earlier did. She had timed the Deputy Prime Minister's Speech to have been for 27 minutes.

I, therefore, made an effort to count the number of operative lines in the proposed amendment Bill. Because I just cannot understand why so much is being made that the Opposition needed more time. Indeed, Madam Speaker, there are 18 operative lines under the proposed amendment Bill and it is unthinkable that they should come and claim before this House that they needed more time to consider what are basically four amendments being brought to this Bill.

Indeed, the first one which is the amendment of section 5 (1) of the Act which is being amended to add to section 5(1) (c) the words –

“and was not a prohibited immigrant at the time of becoming such a spouse”.

I believe that no one of a sound mind should be against that particular amendment. Surely, if someone is a prohibited Immigrant under section 8, one would not wish that prohibited immigrant to then marry a Mauritian citizen and then become a resident by the back door. I believe it will be unsound for someone to believe that such a proposal is not fine, is not correct, is not proper in our democracy. So much for section 5(1) (c) in relation to the definition of residents. I also believe that the second proposed amendment which is being introduced by clause 4 (a) of the Bill, which amends section 8 (1) of the principal Act by repealing paragraphs (a) and (c) of section 8(1) dealing with disabled person. I think the hon. Prime Minister has made it clear when he proposed this Bill for second reading, that this particular amendment is actually, let us say, an implementation of Article 4 of the (UNCRPD) the United Nations Convention on the Rights of Persons with Disabilities which is concerned about the full realisation of human rights and fundamental freedoms without discrimination of any kind.

Indeed, I have heard so much nonsense about the human rights and fundamental freedoms of foreigners this evening that I hope that, at least, the Opposition does realise that this particular amendment to section 8(1) (a) and section 8(1) (c) of the main Act being deleted, is actually in favour of the human rights and fundamental freedoms of persons with disabilities. So, if we agree that the first two proposed amendments are actually fully in order because for the first one, section 5 in relation to residents, we do not want residents who are prohibited immigrants to come in from the back door by marrying a citizen. Secondly, we do appreciate that it is actually a progress, a positive improvement for disabled people in the sense that we are realising the human rights and fundamental freedoms by removing them from the list of prohibited immigrants. Then, we are left, I believe, with only the two other amendments which is the introduction of subparagraph (m) and subparagraph (n) in section 8(1) of the Immigration Act dealing with the definition of prohibited Immigrants.

And here, I must say that I cannot understand the level of demagoguery. Let me start, Madam Speaker, with those who actually falsely accused the Government of torturing liberties when it came to introducing those subsections (m) and (n) to section 8(1) of the principal Act dealing with prohibited immigrants. Now, why were they accusing us of

torturing liberties is allegedly because there is an absolute power. Here, I must say I heard that from a number of debaters on the other side of the House. But if that is actually the complaint of the day, one should realise that the concept of the absolute power, if I am not mistaken, was introduced in Act No. 3 of 1977.

The Immigration Amendment Bill of 1977 where the concept of absolute discretion was introduced in the Immigration Act. Through all these years, more than forty years, the concept of absolute discretion has been lying there under successive Governments of which the Members of the Opposition have been part and today they have the audacity of saying that this is actually a torching of liberty, that absolute discretion would be given to the hon. Prime Minister in actually deciding about the classification of a foreign citizen as a prohibited citizen.

I deplore the allegation of *le potentiel de dérive et de dérapage*. We have all explained. I think the Deputy Prime Minister, earlier explained how before the Privy Council, one of the Law Lords actually stopped counsel appearing for the appellant, telling him but how can you make such an allegation against the Prime Minister of the country? The presumption of regularity does operate. You cannot just start by making such allegations and, in any event, we all know that the concept of absolute discretion would actually have to stand the test of law before a court. That is the effect of section 119 quoted by hon. Anil Gayan, the Ministry of Tourism, earlier. It is also the effect of section 17 and section 76 of the Constitution. So, quand même before this House, speaking of a *potentiel de dérive et de dérapage*, another spoke of *frôler la dictature* but all this is subject to a test of legality before our Court of law. So, this, from my point of view, Madam Speaker, is totally unacceptable because not only will there be a potential for redress another Constitution, that is, section 17, section 76 and section 119 but there would also be two other modes of redress which is, first of all, the equitable injunctive relief and judicial review.

So, there are already modes of redress and coming before this House and frightening the country because I must say I couldn't prevent myself from being shocked when I saw that some were alleging that *le Premier ministre veut faire passer en force* this law; some were saying *travestissant une pratique parlementaire*. Speaking of the provisions to actually do away with the discriminatory clauses of section 8(1)(a) and 8(1)(c), the words '*plus épouvantable encore*' were used and it is the same type of expressions that have actually been heard on the other side of the House. Time and time again, Madam Speaker, I have raised my voice to say that this is wrong because they keep sending the wrong image to the outside

world. I just made it a point before I took the floor, Madam Speaker, to try and find out what is at the ranking in the World Democracy Index which is actually drawn by the Economist Intelligence Unit and the World Democracy Index for 2018 actually identifies four categories of countries –

- (1) full democracies;
- (2) flawed democracies;
- (3) hybrid regimes;
- (4) totalitarian regimes.

There are only 20 countries in the world, Madam Speaker, to have actually been defined as being full democracies and Mauritius is the only country in Africa to be among the 20 countries to be a full democracy. We are the only one of four countries in the southern hemisphere with Australia, New Zealand, Uruguay to be a full democracy. No country in Asia qualifies as a full democracy. What will happen if what those people on the other side try to say with the day when you hear that they speak of opacity? Here is a law of 17 lines being brought before this House in full transparency. They have been given the time for the 17 lines. We have been discussing since I think about 5 o'clock, 8 hours of discussions, can you speak of opacity? What will people think when you hear them saying that we are torturing liberties? When, in fact, by taking the type of stand that they are taking, they are inflaming anti-patriotism, they are trying to build up a sort of, that this country, this Government may be actually getting xenophobic. They are putting down our country. They should stop doing that. We should have the type of debate where we do real debating, where we go into the real pros and cons. I know for sure that the hon. Prime Minister is a man of reason. If ever there is some substantial reasonable proposal, he is one who would take it on board but do not come here and tell us that we have to explain the urgency certificate which accompanied the Bill.

I have had the opportunity to be a Minister for nearly ten years. Madam Speaker, in fact, it is the first time I hear that one has to come and explain the certificate of urgency. I was in my first mandate as a Minister, every time certificates of urgency were brought, there was no need to explain. It is the prerogative of the Leader of the House to come with a certificate of urgency, there is no need to explain that. In fact, I have 20 years now of political life, it is the first time I hear of that and I hope that it's the last time because that's the demagoguery that we should do away with.



The other things that I would like to mention, Madam Speaker, is that the hon. Member who spoke before me believes that the objective of bringing the two new amendments to section 8(1) are actually discriminatory and go against individual human rights. Now, let me say that this is not the case and this comes out clearly from the jurisprudence quoted by the hon. Minister of Tourism in the case of Marguerite which is quoted in the Supreme Court judgements of 2014 at page 35, where clear reference is made to the case of Y against Russia, a case of 2010 which was reported in the 51<sup>st</sup> volume of the reports of the European Court of Human Rights. Clearly, it is the prerogative of any country to actually protect its frontiers from non-citizens.

One point was made which I believe is misconceived. True it is that, when we do away with section 8(1) (a) and section 8(1) (c), we are actually fulfilling our obligations under Article 4 of the United Nations Convention on the Rights of Persons with Disabilities. However, in Section 8(1) (j) whenever we speak of persons who are likely to become a charge on public funds, the previous speaker thought that we should also do away with that particular clause. I beg to object to that because, as the hon. Minister of Tourism said earlier, on his way to Reunion Island, he was stopped because he did not have an insurance.

So, indirectly, he became a prohibited immigrant to going to Reunion Island. Incidentally, if you travel to the United Kingdom, if you travel to Australia, if you travel to the United State of America, if you do not have an insurance you don't get in. So, I believe that Section 8 (1) paragraph (g) is actually the type of clause which preserves us from having people who will then become, shall I say, who will become a charge on the State and I think we have the right to have this qualification, this addition of a prohibited immigrant.

Now, what I think is also important here is that this new addition, these two new additions of people who are undesirable visitors and undesirable inhabitants, and those who may cause prejudice to the country for reasons of public order, public safety and three other instances. I believe that, again, we should be, we should agree that surely undesirable people should not be welcome in our country. Of course, then we may argue who is an undesirable person, but I believe that after showing to the House that the first two amendments, that is, the new definition of section 5 of Resident to prevent people who are prohibited immigrants from coming in by the backdoor, by marrying a Mauritian citizen, the second one deleting those discriminatory clauses about disable people, they should be welcome.

Now, we come to the two subsections (m) and (n). Coming to (m), I honestly believe that a real patriot should welcome a clause in his country, where the country says that we should not have in our country non-citizens who actually by their behaviour, by their acts or their omissions become or likely to be undesirable visitors or inhabitants. The only disagreement that we can have, the only discussion we can have is who is an undesirable person for these purposes.

Similarly, when we come to paragraph (n), when we speak of people who are likely to cause prejudice to the country by the public safety public order etc. - there are five of them - I believe that we should all as honest patriotic citizens agree that these are to be welcome. What we can disagree upon are the modalities. What is it that amounts to prejudice? Now, if we go back to what was said regarding the word 'undesirable', hon. Dr. Boolell before me, cited the South African Immigration Act, and the hon. Member for Port Louis East and Port Louis Maritime, hon. Shakeel Mohamed, referred to the jurisprudence from the Judiciary in the United Kingdom. Well, with or without those two, any word in legal parlance, any word which is undefined statutorily is given its legal definition under Mauritian Law by referring to what is called its normal dictionary meaning. So, there is no big deal about the word 'undesirable', and then, that ordinary dictionary meaning will stand tested before Courts of Law if ever the matter goes to Court. So, from my perspective, paragraph (m) in Section 8 (1) of the Immigration Act should not be objected to. Coming to paragraph 8(1) (n), the operative words I understand would be 'who is likely to prejudicial to the to the interests of defence, public safety, public order, public morality or public health'.

When the Opposition says, in particular the PMSD, that they are revolted, are they telling us that this country should allow non-citizens who actually act in a manner which is likely to be prejudicial to the interest of the defence, the public safety, the public order, the public morality and the public health of this country? If they are revolted, I think we should be even more revolted if that's the way they believe this country should actually be governed. And if that is the case they believe this country should be governed, then I pray that they stay in opposition for another 20 years.

Now, I must say that I found that *de bas étage*, when they claim that the cause of the notion of absolute discretion, that the hon. Prime Minister was a monarch that he was being given a divine right and that he could abuse - and here, I must say a very good piece of reading. Immediately a number of Members on this side of the House went to the existing Act. Now, whether it is in section 8 (2) in relation to prohibited immigrants, whether it be in

section 9 (1) in relation to Permanent Resident Permits and Residence Permits, you realise that since 1973, when the 1970 legislation came into force, the Minister has the right to extend to vary or to cancel any residence permit. Here, I wrote down what the hon. Member for Port Louis East and Port Louis Maritime said - something which was quite interesting. In fact, he referred to four Prime Ministers who all had the power. But the point is, has he referred to four Prime Ministers? Now, the same four Prime Ministers could extend, could vary to cancel any residence permit. Is it only now that he discovers monarch? That is why I say, this type of demagoguery must stop and, indeed, what makes them think that things will not work according to regularity. And in an event, if ever there is any apprehension of irregularity the test of law is there to be actually used.

Maybe I will end, Madam Speaker, because I think we are getting quite late. I will end with one particular thing which I believe I should say. I will end with a saying, Madam Speaker, through you, I will say to the Prime Minister, pay no attention to what the critics say, remember, a statue has never been set up in honour of a critic.

With these words, I thank you, Madam Speaker, for your attention.

**Madam Speaker:** Hon. Attorney General!

(01.20 a.m.)

**The Attorney General, Minister of Justice, Human Rights and Institutional Reforms (Mr M. Gobin):** Thank you, Madam Speaker, for giving me the opportunity to lend my voice in support of this Bill which seeks to amend the Immigration Act.

A lot has been said, thus relieving me of the duty to make a very long speech. A number of arguments have been put forward by the opposition and we have all heard from both sides of the House, and the population will judge which arguments are the valid ones. But in summary, let me put this question: what is the Opposition saying? The Opposition is saying they need more time to understand what is in this Bill; they need more time to prepare. I wish to inform the population that this Bill contains only four sections, and if we discount the short title, and if we discount the Interpretation section, we are left with two sections. And it seems that three days are not enough for two sections. And out of those two sections, there is part of it with which they agree, the one concerning disabilities. So, if we discount that, it is one and a half sections, and three days are not enough and we are already Wednesday, and yet they need more time. The population will appreciate.

The population will also appreciate the argument of the Opposition. They are saying there is no need for this amendment; we should not amend Section 5. Basically, this is what the Opposition is saying: do not amend Section 5; no need to add the words '*and was not a prohibited immigrant at the time of becoming such a spouse*'. Let me inform the population, if we do not amend this Section 5, what will happen, and the population will appreciate what is the Opposition saying. If we do not amend Section 5, cases like the case of Marguerite will continue to happen. We have not canvassed the case of Marguerite enough, what is the case of Marguerite? And the population should understand. I say it again, if we do not amend Section 5, cases like Marguerite will continue to happen, and in that case, a person who had 22 convictions in the United Kingdom, including drug offences, one of which being possession of controlled drugs with intent to supply, and for which he was sentenced to two years imprisonment over there, was able to enter Mauritius through the backdoor. And what is that backdoor? He wanted to marry here. He was prevented from doing so because he was a prohibited immigrant. The Registrar of Civil Status upheld the objection and he was not allowed to marry. What did he do? He travelled to the UK, he got married over there, then he comes to Mauritius, he lands here and you cannot do anything. You have to let him enter. With his certificate of 22 convictions, you have to let him enter. And they are saying - the population should understand that - "*let this state of affairs continue*". This is what they are saying.

Madam Speaker, in the UK nowadays, there is something called the Register of Child Sex Offenders. Those who are convicted of offences upon a child, once they are convicted by a Court, their names are inscribed on that register and the Home Office keeps track of those individuals who are convicted of sexual offences on children, and they keep track wherever they move. And some of these predators, they travel to Mauritius.

*(Interruptions)*

And what if such a registered child sex offender in the UK, just like in the case of Marguerite, marries a Mauritian citizen over there *et il débarque ici à l'île Maurice*, what do we do? We cannot do anything right now if we do not amend this law. And the Opposition is saying: "Do not amend it; postpone it; withdraw it!" This is what the Opposition is saying, and the Opposition is saying that unanimously over there. The population should understand what kind of Opposition you have. Dear population, you will be the judge of that. And there is no urgency? This is in essence what has happened as from five o'clock yesterday.

There is another argument. I have only three points to make and then the population will see who is working for the peace, order and good Government of Mauritius and who is being demagogical.

Another point was made by the Opposition, that there is such a breach of fundamental human rights that we should go to the African Union Commission, we should go to the UN Human Rights Committee. I have been noting down, that they will go to so many institutions. What they failed to say is that in the case of Marguerite itself, our Supreme Court has already ruled on the strength of a judgment delivered by the European Court of Human Rights which sits in Strasbourg, in a judgment dated December 2008 that the State has a sovereign right to protect itself. That case is the case of Mr and Mrs Y. Their names have not been set out in full, by direction of the Court itself against the Russian Federation. That case concerned Mr and Mrs Y; they were married; Mr Y was a national from China and Mrs Y, a national from the Russian Federation. Mr Y had been deported to China and they claimed a breach of that famous Article 8 of the European Convention which guarantees the right to privacy of one's life, including in that Convention which is not part of our law, I stress, the protection of family life, because their family life was being allegedly violated. And the European Court held, in the circumstances of that case, Article 8.1 reads as follows, I quote, under the Convention, not under our law –

“Everyone has the right to respect for his private and family life, his home and his correspondence.”

There is also a subsection (2) which, however, I shall not quote here, Madam Speaker. And the European Court held, at page 33 of the judgement, paragraph 103, I quote –

“By way of introduction, the Court notes that the essential object of Article 8 is to protect the individual against arbitrary action by the public authorities.

The Court reiterates that in the context of both positive and negative obligations, the State must strike a fair balance between the competing interests of the individual and of the community as a whole. However, in both contexts, the State enjoys a certain margin of appreciation. Where immigration is concerned, Article 8 cannot be considered to impose on a State a general obligation to respect a married couple's choice of country for their matrimonial residence or to authorise family reunion on its territory.”

The Court had held in that case that the complaint was, I quote –

“Manifestly ill-founded and must be rejected.”

The Court also held, and I will end with this one, on the point of the Human Rights at page 25 at paragraph 74 of the judgement in *Y* against Russia of the European Court of Human Rights, I quote, paragraph 74 –

“It is the Court’s settled case-law (...).”

I want to stress the words ‘settled case-law.’

“(...) that as a matter of well-established international law and subject to their treaty obligations, including those arising from the Convention, Contracting States have the right to control the entry, residents and removal of aliens.”

If any person wishes to challenge the constitutionality or the principles of human rights applicable to this legislation, I will invite them to do so because I am confident we will pass any test of constitutionality or the test of human rights. The population, once again, will be the judge of what the Opposition is saying. If they say no need to amend this law, who are they protecting? What is the agenda? I want to address one last point and I want to tell the population that we had informed the population that we will amend this law.

We had said so at paragraph 145 of the Government Programme which reads and I quote –

“Government will formulate a new immigration policy and reinforce the Immigration Act to cater for increasing cross-border movement of persons and its associated risks.”

There are indeed risks and we are addressing those risks in this amendment which is before the House today. The hon. Prime Minister has stated that there is ongoing work on this legislation, ongoing work on the Deportation Act, ongoing work on the Citizenship Act. We shall come to that later, but it is important that this amendment be brought to the Immigration Act. Therefore, I wish to congratulate the hon. Prime Minister for bringing this important Bill which is in line with Government Program and which shows once again that we walk the talk. I want to reassure the population that the population has voted in a responsible Government in office, with a responsible Prime Minister at the head. We will continue to protect this country, we will continue to put order in this country and we will continue to protect our citizens.

Madam Speaker, we should move on with Government business. We should stop wasting the time of the House. I will, therefore, stop here and I thank you, Madam Speaker.

**Madam Speaker:** Hon. Uteem!

(01.34 a.m.)

**Mr R. Uteem (First Member for Port Louis South & Port Louis Central):** Thank you, Madam Speaker. It is always a daunting task to be the last orator for the Opposition at half past one in the morning. But the importance of this Bill is such that, even at this early hour of the morning, the majority of MPs are present. I have to show my appreciation to the hon. Prime Minister who made it a point today, he does not do that all the time, but he stayed here and listened to all the orators. I hope that, unlike some of his colleagues, he has appreciated the genuine - not demagogical - concern that we, on this side of the House, have.

Essentially, we are objecting on the form and on the substance. On the form, we have not yet received any explanation as to the urgency. Now, the last two orators from the Government said that the Opposition had 3 days to study this Bill, there are only three sections that is being amended, what more time do they need?

Madam Speaker, we are paid to work and we work and you had appreciated the quality of our intervention which shows the amount of work that we have put in in these three days. But when we asked for the adjournment of the debate, it was not for Opposition sake, it was so that this House can hear what the aggrieved parties out there have to say, what the spouses who have married non-citizens and suddenly find themselves with the Damocles sword on their head, what these spouses have to think. When we asked for an adjournment, we wanted to give time for expert in human rights because even the Attorney General talked as if he is an expert on human rights. I will come later to show that even the European Court of Justice has stated that Immigration Law can be struck out as being against section 8 of the European Convention on Human Rights. So that we give time to stakeholders, to human rights activists, to lawyers who specialise in human rights to come and give us the benefit of their thoughts and maybe improve on this piece of legislation. But, unfortunately, the only answer we had is from the hon. Deputy Prime Minister, that we are used to having certificate of urgency and, therefore, it is at the whims and fancies of the leader of the House to choose whether to put a certificate of urgency or not.

Madam Speaker, on the form, we, on this side of the House, we object to both the amendments which try to extend the list of prohibited immigrants and this amendment which

makes the residence of a spouse conditional upon him or her not being a prohibited immigrant at the time he or she married a Mauritian. Now, turning to the first proposition, the proposed amendment to section 8 which is introduced by section 4 (b) of this Bill, as the hon. Deputy Prime Minister rightly pointed out, any immigration matter, any restriction on an immigrant, on a person to come to Mauritius is a restriction on freedom of movement.

We have conventions we have adhered to. We have it in our Constitution, but even for non-citizen, we have conventions to which Mauritius is a party, the United Nations Declaration of Human Rights, there are different conventions. But listening to a lot of Members from the other side, Madam Speaker, I think that we have all forgotten who are we if not descendants of immigrants? There has never been any indigenous population in Mauritius. We do not have aborigines. We all are descendants of immigrants whether our forefathers came as slaves, as coolies or as traders, we are all immigrants. If the Government of those days had listened to speeches of hon. Anil Gayan, hon. Rutnah, hon. Deputy Prime Minister, maybe today we would not be here. Maybe today our immigrant parents, forefathers would not be allowed here, maybe our mothers and fathers would not have been able to marry immigrants.

*(Interruptions)*

This is the truth and, I think, we should take pride of it. If people everywhere cite us as example ...

*(Interruptions)*

**Madam Speaker:** Order!

**Mr Uteem:** If everywhere we are the rainbow nation because of our cultural diversity, because we all are immigrants from different parts of this world, we should treasure that. We should not forget when we prevent someone from coming to this blessed land of ours, that our forefathers came to bless this land as well.

*(Interruptions)*

Hon. Members, do you know how your forefathers were? Do you know where they come from? Do you know what they were involved in?

*(Interruptions)*

**Madam Speaker:** No private conversation, please!



**Mr Uteem:** Madam Speaker, as many orators have pointed out on this side of the House, the Immigration Act already gives very wide powers to the hon. Prime Minister. In fact, I will say the draconian powers and rightly so because I totally agree that every sovereign nation has the right to control its territories and who comes in and out. But the point that we are making on this side of the House is that there is enough powers already in the hands of the Prime Minister as the law stands and there is no need to amend it further. But draconian powers in the hands of a Prime Minister is in section 6(1) of the Immigration Act which gives him the power where he is satisfied that it is in the public interest to do so, he may, in his absolute discretion, deprive a resident of his status of resident. When we talk about resident, we include non-citizen residents as well.

This is the draconian in power in the hands of the Prime Minister but this draconian in power is subject to one very important caveat. He can only exercise this absolute power if it is in the public interest to do so and this is the big safety net that we have. He has to show that it is in the public interest for him to deport someone who is a resident in Mauritius but, today, with the proposed amendment in section 4(b) of this Bill, we are getting rid of that caveat because, today, if this Bill goes through the Prime Minister, acting on advice or information, will be able to prevent a person from becoming a resident if in his opinion that person would be a *persona non grata*; would be an undesirable inhabitant or undesirable visitor.

Now, previously, if this person was an undesirable person, he could have been chucked out, if it was in the public interest to do so. You have to demonstrate it is in the public interest to expel an undesirable person but with this amendment no. Even if he is not against public interest, the Prime Minister, in his whole absolute discretion, can choose to deport a person and now to deport if the Bill goes through, a spouse, a husband or wife of a lawfully married Mauritian.

Now what is reliable information? It is not...Is it objective? Probably not, it is subjective. Who can advise a Prime Minister? Anyone can advise the Prime Minister. Can it be advice from local people, agents, from the secret service? Can it be from secret service of foreign countries? Can it be Mossad? Can it be KGB? Can it be CIA? Can it be Donald Trump? Is that reliable? What is the meaning of undesirable?

Hon. Sinatambou said that we have to give the word ‘undesirable’ its ordinary dictionary meaning but is the hon. Sinatambou aware that there is already a defined term in the Deportation Act for undesirable person, it means and I quote –

“a person who is or has been conducting himself in a manner prejudicial to the peace, defence, public safety, public order, public morality, public health, security or good government of Mauritius.”

There is already a definition which is objective because you have to establish that the person has conducted or is conducting himself in a manner prejudicial. But here no, no definition of who would be an undesirable person? Wide open. It’s the Prime Minister who decides who would be an undesirable person and it is why on this side of the House, we are troubled because as I have stated any restriction, any decision to call someone a prohibited immigrant is a restriction on freedom of movement and is a restriction that we have to justify to our international partners when we decide to exclude one of their representatives but also it has to be justified in a democratic State like Mauritius. So, with that lack of definition of undesirable, does that pass the test of constitutionality, maybe not. So, Madam Speaker, the problem with the lack of definition is that there can be a risk of abuse. An example of the risk of abuse has been given and cited many times by many orators here. It is the case of Jogee and Medagama which I am not going to propose to deal with extensively, suffice to say, to remind just for the sake of people who are not in the House that it concerns the deportation of a woman who was eight months pregnant on the eve of the date on which the case was being heard. But I would like to correct is what the hon. Deputy Prime Minister said and I found it really sad that he said it on such an illustrious gentleman as Mr Robert Ahnee, former Justice, who is no longer here and, for me, it’s the second time that, in this House, this gentleman is being attacked.

The hon. Deputy Prime Minister said that hon. Ahnee did not resign because of the case. He said he resigned because he was not agreeable because the DPP did not intervene. This is what the hon. Deputy Prime Minister said. But let me tell you what happened in fact, and what he hasn’t said. Madam Speaker, what the hon. Deputy Prime Minister did not say is that following this case, there was a Private Notice Question in this House and in this House when hon. Members on the Opposition were questioning the Prime Minister about the right of this child. Forget about the mother, the mother was someone who was unfit according to the Prime Minister to remain as a resident. What about the right of this child, of the Mauritian going to be born? You know what the hon. Prime Minister then said? That was in on the 27

July 1993, it was Sir Anerood Jugnauth, okay. He said: 'I have said she was bearing a child, nobody knows that the father is a Mauritian, nobody can prove that' and then he goes back and says again: 'it is yet to be established without any doubt whatsoever that the child she is bearing has been fathered by a citizen of Mauritius because it has always been clear that she has been leading an immoral life and who knows a foreigner could have fathered the child'. That was on the child but then the hon. Prime Minister did not stop there, he went and had a direct attack on Robert Ahnee and this is what he said: "I am sorry to say it that the judge in the first instance had interfered with the work of the Executive in the case I quoted. When he was approached by a person, he took the liberty on himself of telephoning and giving instruction to the Police and Immigration Office'. That was the reason because the Prime Minister in this House attacked him, attacked his integrity and three days later, Madam Speaker, so that we may have the complete picture of what happened and led to the resignation of Mr Ahnee. Three days later, on the 03 of August 1993, the then Leader of the Opposition, Navin Ramgoolam, moved for an urgent matter, he was denied this and then he moved for the following: "This Assembly direct Mr Speaker to expunge from the Hansard all unwarranted offensives and disrespectful words uttered by the Rt. hon. the Prime Minister at the last sitting of the National Assembly which words constitute an attack against the provision of Standing Order 41 against the confidence and integrity of Mr Justice Ahnee and the Judiciary of the whole". And when asked about the urgency, this is what Dr. Ramgoolam said: "I can just mention that it is an urgent matter because the Judge retirement is imminent". This is the truth, not because he has a qualm with the DPP, it is because he was attacked. He was defenceless like he is today, his integrity is attacked by this House. So, I thought it was important that we set the records straight because Mr Robert Ahnee did not deserve the treated method to him.

Madam Speaker, we are not agreeable to the proposed amendment to deprive a non-citizen who is a spouse of a citizen of his or her residence simply because, at the time of the marriage, he or she was a prohibited immigrant. I listened carefully to Members on the other side, whether it is hon. Anil Gayan, hon. Sinatambou and very, very forcedly to the hon. Attorney General. This amendment is being brought about to cure the Marguerite case. I do not have any problem with that. I agree that a person who is a prohibited immigrant should not be in a better position simply by marrying a citizen of Mauritius. I have no qualms about that, but don't tell me that it is because of this case that we are proposing this amendment because, if this is the case, I would have very serious reservation about the legal process of

the hon. Attorney General. Why? I say so, because if they read the Marguerite case, the hon. Attorney General, and hon. Gayan, who is a Senior Counsel, he has read it extensively, except for the most important part, that is, the conclusion –

“The above provision shows clearly that it does not apply to residents (...).”

That’s fine. But the crucial part which is omitted by everyone, which reads as follows -

“No doubt it is open to the first respondent (...).”

The Prime Minister of Mauritius.

“(...) in his absolute discretion to deprive Mr Auten of his status of resident should he be satisfied that it is in the public interest to do so (...)”

It cannot be clearer than this!

The judge already said so, you have this power, hon. Prime Minister, if you think that it is in the public interest to do so, you can revoke his residence permit. Did the hon. Prime Minister do so? Did the Attorney General, as adviser to the Government, inform the Prime Minister that he has the right under Section 6 (1) of the Immigration Act to deport this gentleman? And today, he comes here and says that we need to amend the law, the public will see who wants to work for them and who wants to work against them. You already have this; it cannot be for that reason. It cannot be for that reason, because the Prime Minister already has the power ...

*(Interruptions)*

This is the judge who says so, not me. I am humble enough to bow to a decision of the Supreme Court unlike the Attorney General. So, Madam Speaker, there is absolutely no reason to put families into jeopardy just on the case of Marguerite.

Madam Speaker, if the hon. Attorney General had had more time to look at this case, maybe he would have seen the fundamental issues that are being raised by this amendment. The first fundamental issue is something that was referred to, in fact, by Mr Justice Robert Ahnee in the case *Jogee & Medagama* when he said, and I quote –

“There is, of course, no need for me to make any pronouncement on the very interesting issues raised before me, namely –

(1) Whether in spite of the language used in the Immigration Act about the Minister’s absolute discretion to deprive a non-citizen of his status of resident and thus cause him

to be deported. The person so deprived cannot in the same time challenge the mysterious decision before a Court of Law.”

So, this is the first issue. Second, and this is most important –

“(2) Whether the Minister may by deporting a non-citizen, also deport the child whom she carries when this child will, according to the laws of Mauritius, be born a Mauritian.”

This is still a valid issue. If tomorrow the hon. Prime Minister finds that the wife of Mauritian is a prohibited immigrant and decides to deport that wife under the new powers given to him, and if it happens that this wife is pregnant with a Mauritian child who will be born as a Mauritian national, can the hon. Prime Minister deport the child also? This is a fundamental point which, unfortunately, Mr Justice Robert Ahnee did not have time to consider. But, this can be raised anew.

Hon. Rampertab, hon. Attorney General, and hon. Sinatambou made a mockery of the fundamental human right issues involved. I am not an expert in human rights, Madam Speaker, I have to say that it's only in the last three days that I prepared this case. I did some research work on the internet, I contacted some of my friends who are experts in these types of laws and they gave me some hints. Actually, there are at least four potential grounds to contest this law on human right issue.

The first one is the right of privacy and family life which has been alluded to by the hon. Attorney General.

“Article 12 of the Universal Declaration of Human Rights

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the new law against such interference and attacks.”

So, already you can't attack a family, you can't attack the honour and reputation by just calling him undesirable. Maybe you are attacking his honour and reputation and you going against Article 12 of the Universal Declaration of Human Rights.

There are very similar language in the following articles, be it Article 17 of the International Covenant on Civil and Political Rights, Article 11 of the American Convention, Article 16 of the Convention of the Rights of the Child, Article 10 of the African Charter on

the rights and Welfare of the Child, and also Article 8 of the European Convention on Human Rights which has been referred to by several Members, and which provides that –

- “1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and as is necessary in a democratic State in the interests of national security, public safety (...).”

And I totally agree with the hon. Attorney General when he referred to a case but what he doesn't say is that the European Court on Human Rights has also interpreted Article 8 to provide fairly robust privacy protection generally and specially to protect family integrity against State interference. The right to cohabit with one's family has been held to be a central aspect of family life under Section 8. More importantly, the European Court of Justice has found that the removal of a person from a country where close members of this family are living, may amount to an infringement of the right to respect for family life as guaranteed by Article 8 (1) of the Convention. So, when you are going to deport one parent and dismantle the family, it can be against Article 8 of the European Convention on Human Rights. And the Court has gone further to say that factors to be taken into account in this context are –

- The extent to which family life is effectively ruptured.
- The extent of the ties in the contracting State, whether they are insurmountable obstacle in the way of the family living in the country of origin of one or more of them.
- Whether there are factors of immigration control or consolidation of public order waiting in favour of exclusion.

So, it's a balancing Act, but it can on the facts amount to a breach of Article 8.

Then, the next fundamental right that maybe offended is the right of a child. Hon. Mrs Aurore Perraud referred to the African Charter on the Rights and Welfare of the Child, Article 19. It is also reproduced in the Convention on the Rights on the Child, a 1999 Convention. Article 9 (1) provides as follows –

“States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review

determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. (...)"

So, is it in the best interests of the child that the father should be deported or the mother be deported and the child stays in Mauritius? That can be challenged on the Convention of the Right of Child.

Then, there is the right of parents. As a correlation to the right of children, parents also have the right to be with and care of the children. So that the third type of rights that can be affected. The fourth type of rights, the right to marry, Article 16(1) of the Universal Declaration states –

“Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.”

What we are doing here is we are creating two types of marriages. A Mauritian can get married to an alcoholic, who is a Mauritian, or to a drug addict, who is a Mauritian, or a criminal, who is a Mauritian, and stays in Mauritius, but a Mauritian cannot marry an alcoholic who is not a Mauritian, or a drug addict who is not a Mauritian. So, there can be discrimination under Article 16.

*(Interruptions)*

I am not the one saying it! I am just saying that these are experts in human rights, who said that there is a breach of Article 16.1 because it discriminates against marriage to non-citizens. This is the law, this is human rights.

*(Interruptions)*

You are laughing but maybe if you had time to study the points, you would have seen that there are judgments in cases of Section 16(1) - Universal Declaration of Human Rights.

Madam Speaker, the hon. Attorney General invited people who were not happy with this Bill to go to the United Nations Human Rights Committee and what not. But if this is done, this is not going to be the first time that the United Nations Committee is called upon to adjudicate on the constitutionality, on the validity of the Immigration Act.

Hon. Anil Gayan referred to the amendment in 1977 to the Immigration Act and to the Deportation Act during his speech. What was this Amendment Act about? That Amendment Act deprived a non-citizen husband, who was married to a Mauritian, from having the status

of a resident, whereas the Act allowed a non-citizen wife to be resident. And hon. Shirin Aumeeruddy-Cziffra, as she was then, together with 19 of the women went all the way to the United Nations Human Rights Committee. And there was a decision in their favour, notwithstanding all the mockery from the other side. There was a decision and what was this decision, Madam Speaker? The decision was –

“Accordingly, the Human Rights Committee acting under Article 5 (...) is of the view that the fact, as outlined in paragraph 7, disclosed violation of the Covenant, in particular, Articles 2.1, 3 and 26, and Articles 17.1 and 23.1.”

And then it goes on before that to explain that the Committee notes several infringements –

“The relationship to their husband clearly belongs to the area of family as used in Articles 17.1 of the Covenant. They are, therefore, protected against what that Article called ‘arbitrary’ or ‘unlawful’ interference. The Committee takes the view that the common residence of the husband and wife has to be considered as the normal behaviour of the family. Husband and wife must live together. Hence, and as the State party has admitted, the exclusion of a person from a country where close members of his family are living, can amount to an interference within the meaning of Article 17.”

*(Interruptions)*

So, maybe if you had more time to study this Bill, hon. Attorney General, maybe you have read it, maybe you have seen that we are not all stupid people. Maybe hon. Sinatambou would have known that he does not have *à coeur le monopole de la connaissance et de l'intelligence*. We may be not intelligent as you but we are not stupid either. We are paid to do a work. So, listen to us when we tell you that there are constitutional issues.

*(Interruptions)*

When this Bill was passed, Madam Speaker, the Human Rights Commission Committee stated –

“The Committee accordingly is of the view that the State Party, Mauritius, should adjust the provision of the Immigration (Amendment) Act 1977 and the Deportation (Amendment) Act 1977 in order to implement its obligation under the covenant and should provide immediate remedies for the victims of the violation found above.”

Directing Mauritius because what was done in the Immigration Act then, was against the Covenant on Civil and Political Rights. And I would not be surprised if tomorrow on the



right facts, a spouse goes and challenges what we are voting today as being against Article 17 of the Covenant on Civil and Political Rights.

Madam Speaker, I said that there are two aspects of the amendment that we are against. As hon. Bérenger said at the beginning, we are all in favour of the amendment to Section 8(a) and Section 8(c) of the Immigration Act because it has effect of eliminating of discrimination against people with disabilities. And, in fact, we are just complying with our obligation under the United Nations Convention on the Rights of Persons with Disabilities.

But then again, Madam Speaker, when I look at the Immigration Bill, my first reaction was I thought that there were pages missing. The hon. Attorney General said only three pages out of these two. I did not get this impression. Why? Because there is one section that I would have expected in this Bill, which is not here, which are the consequential amendments. Have the people in the Government, has the hon. Attorney General, advising the Government, had time to think that we have to change other laws to give effect to this one? Let me say one, Deportation Act. We are amending the Immigration Act to say that we are eliminating discrimination against people with disabilities. But in the Deportation Act, the Prime Minister, if he thinks fit, can make a deportation order in respect of a destitute person. And who is the destitute person? I will read –

““Destitute person” means a person who is, or is likely to be, a charge upon public funds by reason of mental or bodily health or insufficiency of means to support himself and its dependants.”

By mental and bodily health! Hon. Sinatambou, Minister of Social Security, you did not see that? You are bragging about rights of people with disabilities?

**Madam Speaker:** The hon. Member should not address himself to the Minister!

*(Interruptions)*

**Mr Uteem:** Yes, I will address because I want to address you. You had just made a fool of yourself. You are so intelligent that you did not know that you have to amend the Deportation Act!

**Madam Speaker:** Hon. Uteem, address yourself to the Chair, not to the hon. Minister!

*(Interruptions)*

**Mr Uteem:** The point I am trying to make, Madam Speaker, is that if this Bill was not rushed through in Parliament, maybe people would have time to think that you need to have consequential amendments, that when you are changing the Immigration Act, you need to change also the Deportation Act. Because it serves nothing to say that a handicapped person is not a prohibited immigrant, if under the Deportation Act the Prime Minister can still deport him. That is an inconsistency. But this Government knows what it is doing apparently.

The hon. Anil Gayan, in his speech, quoted extensively from Hansard, from the debate when the Immigration Act was amended in 1977 and what hon. Mohamed, the father, said. But I will end by what the then Leader of the Opposition, Mr Anerood Jugnauth as he was known, it was not yet SAJ, stated and I will quote-

“We know that many persons will be at the whim and caprice of the Minister after this piece of legislation will be in our Statute Book. We know I repeat it, we fear that this piece of legislation is not going to be used judiciously especially when we see nothing in the law which will ultimately protect any visiting individual, give him at least a right of appeal or the right to have recourse against the decision of the Minister to a Court of Law.”

I rest my case.

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

(2.12 a.m.)

**The Prime Minister:** Madam Speaker, let me, first of all, thank all the Members who have expressed their views on this important amendment to the Immigration Act. The Members, I would say particularly Members on the Government side, have, in fact, rendered my task very easy because they have replied to practically all the issues that have been raised by Members of the Opposition and then, as we are 2.13 in the morning, I am not going to be repetitive. I had also amassed quite a number of arguments with regard not only to decided cases but also to a number of Protocols, Conventions that have been raised, but I note that a number of my colleagues have already replied. So, I shall just briefly mention a few issues.

With regard to the Government Programme, we have already replied. Hon. Adrien Duval spoke as if we do not have a mandate for amending this law, when it is clearly spelt out therein, and this has already been said. Let me come to the pertinent points that have been raised by hon. Uteem and hon. Mohamed also. With regard to Marguerite against the Prime Minister, I do not need to go into the judgement again. Madam Speaker, this case concerns

somebody who has been convicted - forget about possession - about supply, likely to supply drugs, and this person has been allowed to come in. And the hon. Member is saying: yes, as the judgement mentions, you have other provisions in the law to apply to the Court because ultimately, when you will try to deport him, there is a lengthy process. The way the hon. Member is speaking is as if he has entered and, according to the provisions of the Immigration Act, the Prime Minister just says that this is an undesired immigrant, let us deport him. Does the hon. Member know how long it takes – the hon. Member is himself a Barrister – if the person contests before the Court? In the meantime, what do we do? Such kind of criminals, *les marchands de la mort, combien de fracas ils vont faire ici*. But it is not only this case. There is another case Badjonat against Prime Minister, Passport and Immigration Office in 2014, same judgment, same principle. And since 2014, how many non-citizens have entered a country in this way? They are saying, “Why urgency?” I am going to tell them why urgency.

Madam Speaker, I noted this argument by hon. Uteem. We are a land of immigrants. There are no bumiputras in Mauritius. Yes, we all came from abroad. Does that mean to say that we have to open the door? Because our ancestors came from abroad, we are the product of our ancestors, so let everybody come because they are also immigrants. What nonsense!

Now, let me mention a hypothetical case. We have just noticed what has happened in Christchurch, the Mosque shootings. Let us say that we have Mr Brenton Tarrant, who, we have information, is a danger to the country, and he marries a Mauritian and comes here. The hon. Member is saying that I have the power under the Act to deport him. Again, how long does it take to deport him? What can happen in this country in the meantime? Let me say one thing. I am disappointed with hon. Bérenger because he has been a Prime Minister. Unlike the others, he should understand better. There are certain information which I cannot publicly divulge, Madam Speaker. But I am a responsible Prime Minister. Let me say a hypothetical case. If we have somebody who has been to Mauritius several times, he wants to do business here and we have information - because now there is exchange of information; there is collaboration within our institutions - that this person has been financing people who have been involved in terrorist activities, let us say, and that person is very likely to marry a Mauritian citizen. So, what do we do? I come with a Bill, I say I give time, let us debate because they want to consult non-citizens who are married! I mean, I have a duty towards my country. I have a duty to protect my country and I do not come with a Certificate of Urgency. This is the first time as Prime Minister that I am coming with a Bill with a Certificate of

Urgency, because there is a need for that. It is not something that I play with. Madam Speaker, I do not want to dwell lengthily on that. Each Prime Minister has to assume his responsibility. This is where probably I shall agree that - and I do not want to pass judgment on what has been done in the past by others, but they are mentioning about what has happened when Sir Anerood Jugnauth was Prime Minister. I can mention cases, the case of a doctor who has been convicted, imprisoned nine months in UK for a case of indecent assault on a female colleague at the site of work, who has been granted permission to work here by a former Prime Minister. And he is still here! Do you know how we are going to deal with him, what problem we are facing to try to get rid of him? I appeal to you to understand that when you speak about the powers we have, yes, we do have powers under the Immigration Act. I heard hon. Shakeel Mohamed saying something, referring to his case, his situation, how he got married, you have to apply, it has to be publicised, and somebody or the State can object. True, all this does happen. What happens, again like in the case of Marguerite? I mean, my colleagues have been saying that what people do in such cases is they go abroad and get married.

I was surprised when hon. Ganoo said: "Well, in that case, what will happen, they will not come to marry in Mauritius, because then you have to produce a certificate to say whether you are of good character, you have been convicted or not. That will be an encouragement for people to marry abroad." But precisely, if people would be encouraged to marry abroad, this is the purpose of having the amendment to the Immigration Act.

Madam Speaker, I do not want to dwell on all these Conventions and the Constitution; it has been lengthily debated. Because I am being treated as a monarch, with so many powers. And we are talking about powers, as if hon. Mohamed has just woken up, I must say. Because when we look at section 6(1), Loss of Status of resident -

"(1) Where, in relation to a resident, the Minister is satisfied that it is in the public interest to do so, he may, in his absolute discretion, deprive that resident of his status of resident."

What this section says is that I do not need to get information, get advice, even from a beggar. In my absolute discretion, I act. But then, Members of the Opposition maybe also fail to mention where the problem lies. They talk about absolute discretion, as if I can do it, in my absolute discretion, I deprive somebody of his resident status. Look at the process! Where a resident is deprived of his status of resident, a notice to that effect shall be served

upon him by post - or whatever - at his last address. A notice has to be served, Madam Speaker. And -

“Where a person has acquired his status of resident under section 5(1)(c), he shall cease to be a resident 6 months after the termination of the marriage to the citizen.”

Six months!

What prevents that non-citizen from getting married again? Because we have to wait for six months! He is entitled to stay here. And in the other case, I have to serve him a notice. Now, I serve him a notice, especially when we are dealing with, let us say, criminals, terrorists or whoever, do you think they are going to sit back and say: “Well I have received a notice, let me book my flight, I am leaving the country”? Probably, he will get the best Counsel and Attorney to enter a case to resist this application. I do not want to pass any judgement, but then, we have to go to Court. How long does it take? What I am trying to say, Madam Speaker, is that if somebody would be, maybe, not as harmful, Okay, we can probably wait, we can go through that long legal process. But we are talking about, let us say, drug traffickers, people who are likely to commit serious crimes, sexual offenders, terrorists for that matter. I heard somebody saying: “Well, for terrorists, we have the law.” We have the law? If there is a terrorist who marries a Mauritian citizen, we are bound to allow that person to come in as a resident, as it is today, as it is now; we are bound. And what do we do? And then, hon. Uteem will tell me: “Well, loss of status of resident, you have the power.” And likewise, Madam Speaker, if you look at loss of status of permanent resident - the other one was for resident. Let us say that person has been staying and has acquired permanent residence. Yes, true it is! Section 1: where, in relation to a permanent resident, the Minister is satisfied that it is in the public interest to do so, he may deprive that person of his status of permanent resident. And you are right, in the public interest. Again, this is another reason why we have to be cautious because if this is contested, we will go before a Court of law.

Again, I say my disappointment with regard to what hon. Bérenger has said. You think, when you receive information - and I must say I am really, *enfin*, I do not want to say - listening to hon. Adrien Duval, the criticisms he made towards me, that I could receive information from a beggar, as if non-citizens who are going to marry Mauritian citizens have to get my blessings. I am not going to stoop so low. Some of the other criticisms were fair. Okay, I do appreciate, they are concerns.

But, again, Madam Speaker, this is the problem when you receive information. Of course, now, you can question. I heard hon. Uteem say: “Where do we receive information?” Is it from CIA, from Donald Trump, from whatever? But we live in a world where either we agree that if we get information, for example, from the United Kingdom, from France, I mean, from countries which have institutions, where we believe that there are processes, the investigations are carried out in a fair manner. I am not going to rely on - I do not want to mention any country, but, of course, there are certain countries where we have exchange of information and where we are trying to monitor movement of some people.

I say prevention is better than cure. Now, *plusieurs Membres m’ont traité de monarque*. I have taken a few examples. Singapore! No one has mentioned. I am surprised, because normally Members of the Opposition will come and say, “Look, this is what obtains in this country”. No one has mentioned any country. I can understand why, because I have done some research also.

In Singapore, prohibited immigrants, section 8, the following persons are members of the prohibited classes. Hon. Duval does not probably understand what it means by classes. He thinks that I am going to categorise people. I do not want that kind of nonsense. The prohibited classes –

“(k) Any person who, in consequence of information received from any source or from any government through official or diplomatic channels, is considered by the Minister to be an undesirable immigrant;”

This is the law there. Would you say that the son of Li Kwan Yew is a monarch? I do not know! In Malaysia, in the Immigration Act 1959, the following persons are members of the prohibited classes, again.

“(b) any person” - there, it goes further - “suffering from mental disorder or being a mental defective, or suffering from a contagious and infectious disease which makes his presence in Malaysia dangerous to the community;”

By the way, let me respond to what they have said earlier. There is no omission. We have not forgotten about the Deportation Act. There should not be that consequential amendment because, as was pointed out by some Members, in section 8 of the law, we have removed that provision to make a category of people deemed to be prohibited immigrants like persons who are dumb, blind and so on and so forth. Hon. Bérenger mentioned again, then, they could fall into the category of persons who are likely to become a charge on public funds. Now, this

provision remains because there must be, at least, some leeway in what kind of people are coming. Of course, somebody who is dumb – this is why we are removing this provision, but there can still be somebody who is, as mentioned in the Deportation Act, so mentally handicapped that it will really be a burden on the resources of the country. Then, we will have to apply this section. So, this is what obtains in Malaysia. And then, subsection (k) and I quote –

“any person who, in consequence of information received from any source deemed by the Minister to be reliable, or from any government, through official or diplomatic channels, is deemed by the Minister to be an undesirable immigrant;”

So, it goes on. There are other provisions also.

Now, in Trinidad and Tobago, prohibited classes, again section 8. I am not going to read so as not to waste the time of the House, but it says, and I quote –

“(q) any person who from information or advice which in the opinion of the Minister is reliable information or advice is likely to be an undesirable inhabitant of, or visitor to Trinidad and Tobago”.

This is practically similar to what we are enacting today.

In Kenya, prohibited immigrants and inadmissible persons, again, and I quote –

“(h) a person in respect of whom there is reasonable cause to believe that he or she is engaged in, facilitates any activity detrimental to the security of Kenya or any other State;”

There is another provision, and I quote –

“(q) a person whose conduct offends public morality;”

In Ghana also - no need to mention. New Zealand! That is interesting, and I quote –

**“16 Certain other persons not eligible for visa or entry permission**

(1)

- (a) the Minister has reason to believe -
- (ii) is, or is likely to be, a threat or risk to security; or
- (iii) is, or is likely to be, a threat or risk to public order; or
- (iv) is, or is likely to be, a threat or risk to the public interest;”

So, would we say that the Prime Minister of New Zealand is a monarch? In Canada, and I quote -

**“Security**

(34)(1) A permanent resident or a foreign national is inadmissible on security grounds for

- (d) being a danger to the security of Canada;
- (e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada;”

Madam Speaker, I can go on and on. In Norway, - I believe a democratic respected country for its institutions, and I quote -

“(17) A foreign national may be rejected -

(1) when it is necessary out of consideration for national security, public health, public order or international relations of Norway or another Schengen country.”

So, it is not as if Mauritius is the only country having that kind of amendment. We have looked at other jurisdictions. I am not any court of law, but I notice that Members, especially of the PMSD, have been challenging the case of my primeministership. What has happened? What has the Court said? But it is open to anybody to challenge any legislation. We will see. I have been told that this amendment that we are bringing is in line with the provisions of the Constitution.

Let me end because, as I said, all these have already been replied to by my colleagues. But let me say one thing. This debate somehow reminds me of one thing, the debate on the Prevention of Terrorism Act. When we came to this House, there was hysteria on the Opposition; hysteria that we are becoming a dictatorship; hysteria, because they have gone so far as to say that this was a provision against a particular community, that we wanted to victimise a particular community. Time has gone by. How many people have been arrested under the PoTA? They were saying that we are going to use it as a political tool to arrest, that it is going to be arbitrary.

Madam Speaker, others have been saying that there have been so many – four – Prime Ministers and so on. I cannot speak for other Prime Ministers, former or whoever is going to be in the future. I can speak for myself. My priority, Madam Speaker, is to protect my country and to protect the population first and foremost. I can understand there are concerns.



Yes, I agree, there are concerns. It is a bit like a knife. If you use it properly in the kitchen, you will probably have a good meal, but if you take the knife and you try to do harm to somebody, then, of course, you are doing harm to the country. So, it is up to us, and this is our responsibility.

And as I say, Madam Speaker, we have so many powers. True it is, there are lots of powers vested in the hands of the Prime Minister. But I think, so far, at least I have tried to use those powers judiciously and whether this amendment or any other amendment that will come in the future because, as I have said, we are working on other amendments. This is why we required a Certificate of Urgency. I would call it a piecemeal amendment. We are looking at the Mauritius Citizenship Act, the Deportation Act and the Civil Status Act. This Immigration Act has to be reviewed also and we have to look at all of these interconnected legislations, and let us hope that we will be able then to come with other amendments in the future.

With these words, I again commend the Bill to the House.

*Question put and agreed to.*

*Bill read a second time and committed.*

### COMMITTEE STAGE

*(Madam Speaker in the Chair)*

*The Immigration (Amendment) Bill (No. III of 2019) was considered and agreed to.*

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

*Third Reading*

*On motion made and seconded, the Immigration (Amendment) Bill (No. III of 2019) was read the third time and passed.*

### ADJOURNMENT

**The Prime Minister:** Madam Speaker, I beg to move that this Assembly do now adjourn to Tuesday 23 April 2019 at 11.30 a.m.

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

*Question put and agreed to.*

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

### MATTERS RAISED

#### RENE MAINGARD STREET - ROCHES BRUNES - DRAIN

**Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière):** I shall be very short, Madam Speaker. My request would be addressed to the Prime Minister, responsible for the National Development Unit, if he can direct the NDU to conduct a survey at René Maingard Street at Roches Brunes, the road leading to the Chapelle de Roches Brunes at the corner of Mamzelle Street.

At each heavy rain, there is flooding from René Maingard Street going to Mamzelle Street where works have been carried out by the Municipality with the construction of absorption pits which are not working. The houses are inundated; immediate action is needed to construct a drain along René Maingard Street. Thank you.

**The Prime Minister:** I will look into that.

**Madam Speaker:** Hon. Uteem!

#### CAMP MANNA –WATER STAGNATION

**Mr R. Uteem (First Member for Port Louis South & Port Louis Central):** Madam Speaker, I also have an issue addressed to the hon. Prime Minister. I do not know if it falls under him, if it is the NDU or will it fall under the Land Drainage Authority.

That is a situation in Camp Manna. I have taken pictures which I am going to table, where you can see that there are patches of water following the heavy rainfalls. There is water which is stagnating and there is no proper drain and the inhabitants are afraid that they may be getting diseases because of the stagnant water. So, if the hon. Prime Minister can look into the matter?

**The Prime Minister:** Yes, I will look into it.

**Madam Speaker:** Hon. Baloomoody!

#### LA TOUR KOENIG - CHEMICAL ACCIDENT

**Mr V. Baloomoody (Third Member for GRNW & Port Louis West):** Madam Speaker, last week, exactly at this time, people in La Tour Koenig had to leave their home,

while they were sleeping, to go to the seaside, not for picnicking, but because it was of the catastrophic chemical accident which took place at La Tour Koenig last week.

One week has passed; up to today, the people are still suffering from the bad smell and most of them, their mattresses, because of the thick smock which entered their house, up to today - I just spoke to somebody at 10 o'clock - they are still coughing, smelling and they have had many of their personal belongings destroyed, mostly those who live at Le Coquillage and La Tourette.

Unfortunately, one week has passed; there has been no visit from any authorities whatsoever. We informed the Ministry of Health to send a *caravane de santé* at least to examine these people. Some were admitted in hospitals and were released only on Friday. Be it for the Ministry of Environment, nothing has been done, only to go there to say that the air is clean. Nothing from the hon. Minister, MP from that constituency! If you look at 'Le Défi' today, *il y aura une manifestation demain devant l'usine de CMT* because even the Minister has not gone there and that Minister has had time to give a red carpet welcome to the owner of CMT, who, according to law, has acted in breach of the Occupational Health and Safety Act. So, I am making an appeal to the hon. Prime Minister to intervene in that case.

The Ministry of Health and Quality of Life should go down there to assist. The Ministry of Social Security should see what assistance they can give to those who have been deprived of their personal belongings. The Ministry of Health and Quality of Life with regard to the health and to see what action has to be taken vis-à-vis that factory, who clearly has acted in breach of Section 67 and 68 of the Occupational Health and Safety Act. So, I am making an appeal so that we do not have to wait for another strike. There is a talking now that there will be *manifestation demain*. If not, there would be a hunger strike to avoid all these pains for these people. I am asking the hon. Prime Minister personally to intervene and try to meet those representatives or at least try to find a solution to their *angoisse*. Thank you.

**The Prime Minister:** Madam Speaker, let me inform the hon. Member that I have raised this issue with the Commissioner of Police who has informed me that an enquiry is underway. But in one week I do not think that the inquiry is already completed. So, I will have to wait for the outcome of this inquiry and, in the meantime - I do not know if the Ministry of Environment has on its part – yes, we will look into it.

**Madam Speaker:** Can I appeal to hon. Members to be very brief because I have a long list of ten more hon. Members to intervene.

### **HOSPITALS - GENERAL WORKERS - NEGATIVE INCOME TAX**

**Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East):** I will be very brief, Madam Speaker. The issue I am raising tonight is addressed to the hon. Prime Minister and Minister of Finance. It is in relation to Negative Income Tax for workers working in hospitals, and it relates to the MRA.

There are a number of workers, more specifically General Workers from hospitals who have not yet been paid their Rs500 top-up on their salary and the delay ranges from eight months to 12 months, and these delays are causing difficulty to these workers of hospitals. So, therefore, can I appeal to the hon. Prime Minister and Minister of Finance to look into the matter and try to remedy and also to see to it that there are no further delays?

**The Prime Minister:** I will request for information.

**Madam Speaker:** Hon. Quirin!

### **ALBION BRIDGE (NEW) - CONSTRUCTION**

**Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière):** Merci, Madame la présidente. Ma requête s'adresse à l'honorable ministre des Infrastructures publiques et concerne la construction du nouveau pont à Albion et ses nombreux inconvénients.

En effet, Madame la présidente, les habitants, de même que ceux qui sont de passage à Albion, doivent faire face à de nombreux inconvénients depuis que les travaux de construction du nouveau pont ont démarré. Route déviée par Bellevue Phare pour se rendre à la plage ou au libre-service d'à côté et cela même pour ceux et celles qui résident à quelques mètres du pont sans compter que les utilisateurs du transport public font face à d'énormes difficultés concernant les véhicules de la CNT qui n'ont pas gardé les mêmes horaires de mouvements depuis la fermeture du pont.

De plus, en amont des travaux de construction des nouveaux ponts, le contracteur en question a remplacé les canaux existants par des drains à partir de l'église Notre Dame de la Mer. Et en période de grosses pluies, une partie du morcellement de Chazal est systématiquement inondée. En ce qui concerne le nouveau pont, les travaux ont accumulé des retards considérables et aurait dû être opérationnel depuis le 30 mars. Et maintenant, on apprend que les travaux seront complétés vers la mi-mai et permettez-moi d'en douter. De surcroît, Madame la présidente, les ouvriers ne travaillent pas les dimanches et les jours fériés. Alors, si tel était le cas, cela aurait certainement fait avancer les travaux sans compter

que les petits opérateurs économiques basés près de la plage sont pénalisés car moins nombreux sont ceux qui se rendent à la plage d'Albion depuis le début des travaux et la fermeture de la route. Et pour terminer, un ré-asphaltage de la route qui est déviée par Bellevue Phare est plus que nécessaire. La balle est dans le camp de l'honorable ministre.

**The Minister of Public Infrastructure and Land Transport, Minister of Foreign Affairs, Regional Integration and International Trade (Mr N. Bodha):** Well, there was a Parliamentary Question earlier. From what I have been told, it is a very old bridge. It is an area which is flooded very frequently. It is a Ramsar site, I think it is a very difficult site, but I have taken note of all the constraints and the issues which have been raised. I have been told that we have works for one month. So, we have to see that whether one more month, we can accelerate what can be done and take all the mitigating measures so that the people there do not have all the hassles they have had so far and the resurfacing of the road will be done.

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

(2.53 a.m.)

#### **QUATRE BORNES - MARKET FAIR - SANITATION**

**Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes):** Thank you very much, Madam Speaker. My attention has been drawn that there is a poor sanitation situation at the market fair of Quatre Bornes and on the days when there is the haberdashery fair which takes place twice a week, there is herding of people and the risk of fire is very high. So, I impress upon the Minister of Local Government to address this issue and to take corrective measures.

**The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa Daureeawoo):** I will look into it.

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

(2.54 a.m.)

#### **CENTRE DE FLACQ/LALLMATIE - MARKET INFRASTRUCTURE**

**Mr R. Dayal (First Member for Flacq & Bon Accueil):** Thank you Madam Speaker. My request is addressed to the hon. Minister of Public Infrastructure and Land Transport, Minister of Foreign Affairs, Regional Integration and International Trade. I already raised the issue concerning the market infrastructure of Centre de Flacq and also that

of Lallmatie and I am very appreciative of the good work done by the hon. Minister already. But every Wednesday, when I go to Flacq and on Saturday, when I go to Lallmatie, I impress for a time frame of the completion of the work because the only issue of ventilation is posing a lot of problem not only to tourists, not only to all the stakeholders but also to us when we go there.

**Mr Bodha:** Madam Speaker, I have been told that the final design will be ready by the end of this month and together with the estimates and I think that if we use the framework agreement that we have, we will be able to start the works as soon as possible.

**Madam Speaker:** Hon. Lepoigneur!

(2.55 a.m.)

### **MBC - KTO - CATHOLIC TV CHANNEL**

**Mr G. Lepoigneur (Fifth Member for Beau Bassin & Petite Rivière):** Merci, Madame la présidente. Ma requête s'adresse à l'honorable Premier ministre et je sais que depuis quelques mois, le père Sullivan et son équipe militent pour avoir une chaîne catholique qui est le KTO dans les chaînes de la MBC, ceci afin de faire des familles chrétiennes de l'île Maurice ainsi qu'à Rodrigues prier vive le chapelet en direct de Lourdes ainsi vive mieux les fêtes chrétiennes qui apporteraient du réconfort, confiance et à ceux qui ont grandement besoin. Cela permettrait aussi à mieux préparer l'arrivée du pape, comme on sait que le pape arrive le 09 septembre 2019 où toute la population se préparer à rendre cet événement un événement national surtout que le KTO prône, entre autres, le message de fraternité et de paix à toutes les composantes de la société.

Ce serait souhaitable que le Premier ministre puisse donner un petit coup de pouce pour pouvoir faire activer cette demande. Cette requête sera bien accueillie.

**The Prime Minister:** Well, I believe it concerns the MBC.

*(Interruptions)*

Yes, they have written to the MBC. Okay, I will look into that.

**Madam Speaker:** Hon. Baboo!

(2.56 a.m.)

### **TAKAMAKA BRIDGE - CWA PIPE**

**Mr S. Baboo (Second Member for Vacoas & Floreal):** Thank you, Madam Speaker. My question is addressed to the hon. Minister, Nando Bodha, regarding our Constituency. So, there is a bridge called Takamaka which is situated at John Kennedy Street. Last time, on 24 April 2018, I asked him the question where there is a CWA pipe which has been covered with a layer of concrete. The pavement is around two and a half feet where several people, old people have fell down on that and just recently a primary school student slipped again from that pavement and fell on the street. We can say this guy was lucky, there were no vehicles coming, otherwise, this would have been a tragic accident. I would be grateful if he could do the needful as he told me before he will do the needful and it is one year. If he can, please, just look into that.

**The Minister of Public Infrastructure and Land Transport, Minister of Foreign Affairs, Regional Integration and International Trade (Mr N. Bodha):** In fact, there was a pipe and instead of putting the pipe underneath, they just covered the pipe. So, I have talked to the RDA to do the needful. I will look into it.

**Madam Speaker:** Hon. Abbas Mamode!

(2.58 a.m.)

#### **MAGON STREET - POLICEMEN**

**Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East):** Thank you, Madam Speaker. My issue is addressed to the Rt. hon. Minister Mentor, but I address myself to the hon. Prime Minister. It concerns the presence of Police officers especially during school days and fair days in Plaine Verte. We do not need Policemen only on Kadafi Square, along Magon street and along Route des Pamplemousses there is much havoc especially in the morning. So, please, if the hon. Prime Minister can talk to the Commissioner of Police.

**The Prime Minister:** I will look into that.

**Madam Speaker:** Hon. Henry!

(2.58 a.m.)

#### **RESIDENCE LA CHAUX, COASTAL ROAD - BRIDGE**

**Mr T. Henry (Fourth Member for Mahebourg & Plaine Magnien):** Merci, Madame la présidente. Ma requête va vers le ministre de la MPI. J'aimerais attirer l'attention du ministre sur la deuxième phase que la RDA devait faire à la résidence la chaux, Coastal

Road. La première phase est presque terminée. Mais la deuxième phase, il y a un bout là où le Barachois, il y a un petit pont mais ça commence à devenir sérieux, le pont commence à céder. Donc, je demanderais au ministre de bien vouloir envoyer des ingénieurs pour voir si on peut remédier à ce problème rapidement. Merci.

**Mr Bodha:** *Décidément tous les ponts à Mahebourg ne marchent pas.* So, I am going to send the engineer to do a stress test and then we will accelerate the second phase.

**Madam Speaker:** Hon. Ramful!

(2.58 a.m.)

### MAHEBOURG – HAWKERS

**Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien):** Thank you, Madam Speaker. My issue is addressed to the hon. Vice-Prime Minister and Minister of Local Government. I have received, Madam Speaker, numerous complaints from the inhabitants of Mahebourg, more precisely those living in the surroundings of Harry Latour Stadium, with regard to the operation of the fair which takes place on Mondays.

Apparently, the operation of the fair is causing a lot of inconveniences to those inhabitants because the hawkers are apparently allowed. I do not know if they are authorised by the Council or they do so illegally. They display their goods on the street in front of the entrance of the inhabitants. Now, in cases of emergency, especially when we have old persons and they need to go to a hospital, normally they found their entrances blocked, obstructed by those hawkers.

Apparently, there is a project which has been announced in the budget for the construction of a new fair, but I do not know where matter stands. If I can ask the hon. Prime Minister to look into the matter and in the meantime if remedial measures can be taken so that the entrances of those persons are not blocked or obstructed by those hawkers. Thank you.

**The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare (Mrs F. Jeewa Daureeawoo):** Madam Speaker, I know that a plot of land has already been identified for the construction of a new market fair and the Mauritius Institute of Training and Development presently occupies a portion of land nearby which has been earmarked for the parking facilities. So, the Ministry of Housing and Lands has identified a portion of land for the



relocation of the MITD. There will be a swapping of land and I don't think it will take long for the kick-off of the said project.

With regard to the second part of your question, I will look into it.

**Madam Speaker:** Hon. Abbas Mamode!

### **ROCHE BOIS – FLOODING**

**Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East):** Merci, Madame la présidente. Je vais m'adresser au ministre de la Sécurité sociale et de l'Environnement. En ce qui concerne l'inondation de la semaine dernière à Roche Bois, je constatais de visu parce que j'étais à Roche Bois au moment même de l'inondation. Il y a eu beaucoup des dégâts et surtout concernant les livres et matériaux scolaires. Je peux même vous envoyer une vidéo, si vous voulez, du drame, qui, malheureusement, a frappé beaucoup d'habitants de Roche Bois.

**The Minister of Social Security, National Solidarity, and Environment and Sustainable Development (Mr E. Sinatambou):** Thank you very much, hon. Member. Madam Speaker, I will request my officers to make sure that a survey is done there, because to be able to grant any compensation, we need to have a social enquiry report, so the needful will be done. If the hon. Member would care to, perhaps, share with me the details of what he has told me. Thank you.

*At 03.02 a.m., the Assembly was, on its rising, adjourned to Tuesday 23 April 2019 at 11.30 a.m.*

### **WRITTEN ANSWERS TO QUESTIONS**

#### **BAI GROUP - ASSETS - VALUE**

**(No. B/154) Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes)** asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to the BAI Group, he will state the total cost of the dismantling thereof as at to date, indicating the estimated final cost thereof.

**Reply (Minister of Financial Services and Good Governance):** At the very outset, I would like to draw the attention of the House that the word "dismantling" is inappropriately used by the hon. Member of Parliament. At no point in time was there any decision to dismantle the BAI Group or any related entity.

Following the revocation of the banking licence of Bramer Banking Corporation Ltd, the Financial Services Commission appointed two Conservators to BAI Co. (Mtius) Ltd pursuant to sections 106 and 107 of the Insurance Act. The Conservators have submitted their report to the Commission highlighting that the reported values of the assets of the BAI Co. (Mtius) Ltd at 31 December 2014 were materially overstated whereas the liabilities were understated. The Conservators have assessed the liabilities of the insurer at Rs28 billion whereas the assets are worth Rs16 billion, thus resulting in an excess of liabilities over assets by an amount of Rs12 billion.

More so, the Commission was apprised that KPMG (Mauritius), the auditors of KLAD Investment Corporation Ltd (based in the Bahamas), which is the ultimate holding company of the BAI Co (Mtius) Ltd, had emphasised in their Audit Report for the year ended 31 December 2012 and which was signed on 17 September 2014, that the total liabilities of the group exceeded its assets by USD302 m. (over Rs10 billion).

On the basis of the Report of the Conservator and in line with the provisions of the Insurance Act, the then Minister of Financial Services, Good Governance and Institutional Reforms, requested the FSC to appoint a Special Administrator.

This decision was taken for the following main reasons –

- (i) to safeguard the interests of the insurance policyholders, and
- (ii) to mitigate the real threat to the stability and soundness of the financial system of Mauritius.

With reference to the first part of the question, there has not been any sunk cost incurred by the Government. However, Government has contributed in the equity for the setting up of a few companies for the taking over of the affairs of the ex-BAI. For instance, Rs30 m. has been injected in the National Insurance Co. Ltd, Rs30 m. in the NIC General Insurance Co. Ltd, and Rs700 m. in the ex-National Commercial Bank Ltd.

At this stage, it is premature to indicate any cost that might be incurred in relation to the ex-BAI affair.

#### **REAL ESTATE AGENCIES – LEGISLATION**

**(No. B/182) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East)** asked the Minister of Housing and Lands whether, in regard to the Real Estate Agencies, he will state if Government proposes to come up with new legislation in relation thereto.

**Reply:** The Law Reform Commission had in a Paper entitled “Legislative Framework for the regulation of the activities of Real Estate Agents” highlighted the need to regulate the real estate agents sector, as in Mauritian law, these activities are not regulated, although they have far-reaching financial implications.

Accordingly, this Government intends to introduce a new legislation to regulate activities of the Real Estate Agents after consultation with relevant stakeholders.

### **PRIMARY & SECONDARY SCHOOLS – FIRE CERTIFICATES**

**(No. B/183) Mr K. Ramano (Third Member for Belle Rose & Quatre Bornes)** asked the Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the primary and secondary schools, she will, for the benefit of the House, obtain from the Mauritius Fire and Rescue Service, information as to the number thereof which hold fire certificates.

**Reply:** The answer is as follows –

- out of 210 Government Primary Schools, only 2 of them have been issued with a fire certificate whereas the remaining 208 have been issued with improvement notices;
- out of 46 Primary RCA Schools (SEDEC), improvement notices have been issued to 27 of them;
- out of the 56 Private Unaided (fee paying) Primary Schools, 47 of them have been issued with fire certificates and 3 have been issued with improvement notices;
- none of the 63 State Secondary Schools possesses a fire certificate and all have been issued with improvement notices;
- out of the 6 semi-Government Secondary Schools, only 1 has been issued with a fire certificate, and
- out of the 102 Private Secondary Schools, 82 of them have fire certificates and 18 have been issued with Improvement Notices.

### **MAHEBOURG REGENERATION PROJECT – IMPLEMENTATION**

**(No. B/184) Mr M. Hurreeram (First Member for Mahebourg & Plaine Magnien)** asked the Minister of Arts and Culture whether, in regard to the Mahebourg

Regeneration Project, he will state where matters stand as to the implementation thereof indicating the measures taken since the public consultation exercise held in July 2018.

**Reply (Minister of Tourism):** As announced in the Budget Speech 2018/19, Government's vision is to transform Mahebourg into a "*Village Touristique*" by optimising its historical heritage and potential. This measure is being jointly implemented by my Ministry and the Ministry of Arts and Culture.

A consultative exercise was held with all stakeholders of the tourism industry as well as the inhabitants of Mahebourg on 13 July 2018 at SSS Emmanuel Anquetil to obtain views and proposals for the upgrading of Mahebourg. My Ministry came up with a series of quick-win projects that would contribute in developing Mahebourg into a tourist village and that are in line with the Tourism Strategic Plan 2018-2021. These are –

- upliftment of the Cavendish Bridge;
- embellishment of motorway and roundabouts leading to Mahebourg;
- upgrading of signage panels leading to Mahebourg and installation of information panels in Mandarin in Mahebourg;
- regular cleaning along the banks of Rivière La Chaux;
- installation of additional free Wi-Fi hotspots around the village;
- embellishment of area around monument at *Pointe des Régates*, and
- development of a map of Mahebourg and installation of these maps at strategic locations in Mahebourg.

A follow-up meeting was chaired by the Permanent Secretary of the Ministry of Tourism on 08 November 2018 with all interested parties, who were requested to submit additional project proposals and the respective cost estimates by the end of November 2018. Unfortunately, the majority of those present failed to submit their proposals despite several reminders sent and follow-ups done.

I also chaired a meeting on 21 February 2019, to discuss with the different stakeholders on the *Mahebourg Village Touristique* project being given that it was intended to be a public-private initiative. A final opportunity was provided to all the stakeholders present to submit their proposals, along with cost estimates for the "*Mahebourg Village Touristique*" project by 15 March 2019. However, due to low level of responsiveness, the

deadline was extended to 28 March 2019. Some proposals have been received from a number of stakeholders and these are being examined at the level of my Ministry.

On 21 March 2019, I chaired a meeting with the representatives of the Police for the placement of CCTV cameras at strategic points to upgrade security in Mahebourg.

As at date, the status of implementation of the quick-win projects identified are as follows –

- (i) I have been informed that the Tourism Authority has initiated a procurement exercise for the renovation of the walking pathways along Cavendish Bridge following finalisation of the design and specifications thereof by the Road Development Authority. The electric poles as well as lighting along the Cavendish Bridge and for the side garden, are also being procured by the Tourism Authority;
- (ii) the maintenance and upgrading of Tourism Signage in Mahebourg as well as installation of information panels at historical sites in Mandarin has been completed in January 2019;
- (iii) regular cleaning along the banks of *Rivière La Chaux* is being undertaken by the Tourism Authority;
- (iv) the National Heritage Fund has already appointed a Project Coordinator for the restoration of the *Abreuvoir* and the *Lavoir* at Mahebourg. The team is presently working on the scope of works and drawings for conservation works;
- (v) embellishment of motorway and roundabouts leading to Mahebourg are carried out by the Road Development Authority, and
- (vi) the Mauritius Telecom has installed free Wi-Fi hotspots at 15 sites in the Mahebourg area under the Mauritius Wi-Fi project.

#### **MOTORCYCLES - DT OIL**

**(No. B/185) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East)** asked the Minister of Public Infrastructure and Land Transport, Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to motorcycles using DT Oil, he will state if consideration is being given for the banning thereof in Mauritius and, if so, indicate the reasons therefor.

**Reply:** In the Budget Speech 2018/2019, announcement was made for the importation of new auto cycles and motorcycles to be restricted to those complying with Euro Standards to better control pollution caused by such vehicles. It was also announced that the importation of motorcycles fitted with two-stroke engines which emit high-level of pollutants will be banned.

Two-wheelers fitted with two-stroke engines, in fact, use DT Oil. However, the use of existing auto cycles and motorcycles fitted with two-stroke engines will not be prohibited.

My Ministry is currently holding consultations with key stakeholders, including the Mauritius Revenue Authority, the Mauritius Standards Bureau, the Ministry of Commerce and Industry, the Police Department, the Ministry of Social Security, National Solidarity and Environment, and Sustainable Development and members of the Association of Motorcycle Dealers. The Ministry will then define the procedures to be put in place for the implementation of the budgetary measures and to make recommendations regarding amendments to the legislative framework.

#### **CUREPIPE & MIDLANDS – DRAINS – MAINTENANCE**

**(No. B/186) Ms M. Sewocksingh (Third Member for Curepipe & Midlands)** asked the Minister of Public Infrastructure and Land Transport, Minister of Foreign Affairs, Regional Integration and International Trade whether, in regard to the drains in Constituency No. 17, Curepipe and Midlands falling within the purview of the Road Development Authority, he will, for the benefit of the House, obtain from the Authority, information as to the frequency of the cleaning thereof, indicating –

- (a) the date on which cleaning was last effected, and
- (b) if the said cleaning is carried out by the Authority itself or is being contracted out.

**Reply:** The Road Development Authority (RDA) is responsible for the maintenance and care of roads classified as main roads and motorways all over the island. Regarding Constituency No. 17, Curepipe and Midlands, the roads falling under the responsibility of the RDA, stretching over a total length of 24 Km, are as follows –

- Motorway M1;
- Phoenix-Plaisance Rd A10;
- Floreal Rd B5;
- Quartier Militaire Rd B6;
- Sivananda Rd B63;

- La Brasserie Rd B70;
- Coriolis Rd B86, and
- Pitel-La Chartreuse Rd B52.

The maintenance of drains is carried out on a routine basis, both by in-house labour and framework contractors depending on the complexity of the work, i.e. depending on the length of cleaning, whether the drains are open or covered and whether the drains require upgrading, etc.

With regard to parts (a) and (b) of the question, I am tabling the required information.

#### **MUNICIPAL COUNCIL OF CUREPIPE – DRAINS – COMPLAINTS**

(No. B/187) Ms M. Sewocksingh (Third Member for Curepipe & Midlands) asked the Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the drains in Constituency No. 17, Curepipe and Midlands falling within the purview of the Municipal Council of Curepipe, she will, for the benefit of the House, obtain from the Municipal Council of Curepipe, information as to the number of complaints received in respect of the clogging thereof since 2014 to date, indicating the average time taken to attend to such requests.

**Reply:** I am informed by the Municipal Council of Curepipe that the number of complaints received in respect of clogged drains under the Council's responsibility, and excluding drains under the responsibility of the Road Development Authority, are as follows

<b>Year</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019 (Jan to date)</b>
<b>No. of Complaints</b>	107	93	87	99	138	36

The Council has assured me that complaints are attended to as quickly as possible, but the time taken varies depending on the load of work required in each specific case, and whether these drains are maintained by a private service provider or the Council itself.

The cleaning of open drains is normally carried out by the Council within one or two weeks, depending on the priorities, workload and availability of manpower. For the cleaning of covered drains, it takes between two to four weeks to attend to a request. As regards the private service providers, the complaints are referred to them for necessary action. The Public Health Department of the Council follows up on such cases.

### **TOMBEAU, MAHEBOURG – MINI-SOCCER PITCH**

**(No. B/190) Mr T. Henry (Fourth Member for Mahebourg & Plaine Magnien)** asked the Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare whether, in regard to the football ground at Terrain l'Éléphant, in Mahebourg, she will, for the benefit of the House, obtain from the District Council of Grand Port, information as to when same will be open to the public, indicating if any fee will be charged to the public for the use thereof.

**Reply:** I am informed by the District Council of Grand Port that the construction of a Mini-Soccer Pitch at Tombeau, Mahebourg was completed and handed over to the Council on 31 July 2018.

I have impressed upon the Council to make the necessary arrangements for the immediate opening of the Mini-Soccer Pitch to the public. The opening has now been scheduled for Sunday 28 April 2019.

I am informed that no fees will be charged to the public for the use of the Mini-Soccer Pitch.

### **IMPORT SUBSTITUTION INDUSTRY**

**(No. B/191) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien)** asked the Minister of Industry, Commerce and Consumer Protection whether, in regard to the import substitution industry, he will give a list of the sectors where such policy will be developed, as announced in the Budget Speech 2018-2019, in order to address the trade and current account deficits.

*(Withdrawn)*

### **CONSUMER PRICE INDEX - INCREASE**

**(No. B/192) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien)** asked the Minister of Industry, Commerce and Consumer Protection whether, in regard to the increase in the Consumer Price Index, he will state if consideration will be given for the advisability of –



- (a) reviewing the Consumer Protection Act to provide for more effective supervision on the retail prices affixed and margin of profit made by importers and retail traders, and
- (b) appointing an Ombudsperson for Consumer Protection to receive and investigate complaints from the consumers.

*(Withdrawn)*

#### **GRADE 10 STUDENTS – ADMISSION CRITERIA**

**(No. B/193) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien)** asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the admission of Grade 10 students to the academies in 2021, she will state the criteria laid down therefor.

*(Withdrawn)*

#### **ANSE JONCTION, PAILLES - RIVER - CLEANING**

**(No. B/196) Mrs D. Selvon (Second Member for GRNW & Port Louis West)** asked the Minister of Social Security, National Solidarity, and Environment and Sustainable Development whether, in regard to the River at Anse Jonction, Pailles, he will state if the urgent consideration will be given for the cleaning thereof.

**Reply (The Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare):** I am informed by the Municipal City Council of Port Louis that the river at Anse Jonction, Pailles is cleaned and maintained on a regular basis.

The river was last cleaned in February 2019 and the next cleaning is scheduled to be undertaken during this month.

#### **CONSTITUENCY NO. 14 - NHDC HOUSES - CONSTRUCTION**

**(No. B/197) Mr A. Ganoo (First Member for Savanne & Black River)** asked the Minister of Housing and Lands whether, to the regard to the housing projects in Constituency No. 14, Savanne and Black River, he will, for the benefit of the House, obtain from the National Housing Development Company Ltd., information as to the number of housing units

–

- (a) built and delivered since 2015 to date, and
- (b) to be delivered by December 2019.

**Reply:** I am informed by the NHDC Ltd that as at date, 1,070 housing units have been constructed and delivered in the area of Savanne, Black River and surroundings.

Moreover, 237 housing units are presently under construction in the same area, namely Bassin (102) and Gros Cailloux (135). It is expected that these housing units will be completed and allocated by the end of this year.

In addition, three sites, namely at Cascavelle, Palma and Bassin have been identified for the construction of some 815 housing units. The project is currently at design stage and the contract for works is expected to be awarded by August 2019.

With respect to future social housing projects, three sites have been identified of an extent of 21 *arpents*, namely at Beaux Songes, Surinam and Souillac.

### **SUPREME COURT BUILDING – COMPLETION DATE**

(No. B/200) Mr A. Duval (First Member for Curepipe & Midlands) asked the Attorney-General, Minister of Justice, Human Rights and Institutional Reforms whether, in regard to the proposed construction of a new Supreme Court Building in Port Louis, he will state the –

- (a) time frame set for the completion thereof;
- (b) surface area of the proposed building, and
- (c) courts that will be relocated therein.

**Reply:** As regards part (a), I am informed that the Supreme Court Building is scheduled for completion in December 2019.

As regards part (b), I am informed that as per the contract, the surface area of the proposed building is 25,012.2 m<sup>2</sup>.

As regards part (c) of the question, as to which Courts will be relocated in the new building, this will be a matter for the decision of the Judiciary.

### **LAW PRACTITIONERS ACT - REVIEW - HIGH LEVEL COMMITTEE OF EXPERTS**

(No. B/201) Mr A. Duval (First Member for Curepipe & Midlands) asked the Attorney-General, Minister of Justice, Human Rights and Institutional Reforms whether, in regard to the High Level Committee set up to review the Law Practitioners Act and other enactments of the legal profession, he will, for the benefit of the House, obtain therefrom, information as to the work thereof.

**Reply:** I refer the hon. Member to the reply I have made to the Private Notice Question at the sitting of 07 December 2018.

In line with the Government's pledge to bring meaningful change to the life of our citizens, on 11 January 2019, Cabinet agreed to the appointment of a High Level Committee of Experts under the chairmanship of Lord Phillips to review the Law Practitioners Act and other relevant enactments concerning the legal profession in Mauritius such as the Mauritius Bar Association Act, the Mauritius Law Society Act, the Notaries Act and any enactments related thereto.

It is apposite to highlight that the object of the Committee is to propose amendments and make recommendations with regard to –

- (a) the legal framework pertaining to –
  - (i) the running of courses and the conduct of examinations;
  - (ii) the recognition of foreign qualifications, and
  - (iii) other conditions for admission to practice law in Mauritius;
- (b) the legal framework pertaining to –
  - (i) the institution and conduct of disciplinary proceedings against law practitioners;
  - (ii) the efficient and effective functioning of the Mauritius Bar Association, the Mauritius Law Society and the Chamber for Notaries, and
- (c) other related enactments *in pari materiae* and other matters incidental or related thereto.

The Committee is comprised of the Right Honourable the Lord Philips of Worth Matravers, K.G, P.C, as Chairperson, Honourable K.D. Gunesh-Balaghee, Puisne Judge of the Supreme Court, Mr R. Chetty, S.C, Mr A. Robert S.A., and Mr Jean Michel Caboche-Adam, Notary Public.

The Committee has through Press communiqués invited representations in writing to be addressed to the Secretary of the Committee by 15 April 2019 at latest. The Committee has also, in its communiqué, highlighted that if a person making representations wishes that his representations are to be treated as confidential, this should be clearly indicated when submitting the recommendations so that they may be treated as such. The communiqué was published in local newspapers (*Le Défi* on 19, 21 and 23 February 2019 and *Le Mauricien* on 20, 22 and 23 February 2019).

I am informed that representations in writing have been received from members of public. I am further informed that the Mauritius Bar Association has requested for an extension to submit its representations by the end of April 2019 and that the Law Society and the Law Reform Commission informed verbally and by mail respectively that they are working on the said representations, which will be communicated in due course. As regards students of the CVLE, some have phoned the Secretary to the High Level Committee to inform him that they intend to submit representations in due course.

I am also informed that the Law Reform Commission has agreed to the request of the High Level Committee to submit its views on the Terms of Reference of the High Level Committee. At its meeting of 15 April 2019, the Law Reform Commission discussed the matter and submitted its views, in writing, to the High Level Committee.

I will leave it to the discretion of the High Level Committee to decide whether or not it will entertain any representations for extension of time for submissions. The House will appreciate, therefore, that Government has set up this Committee as an independent body of experts and Government will, in no manner whatsoever, interfere with its independence.

The House will appreciate that the Committee will have to study the representations made before it and that given that Terms of Reference of the High Level Committee deal with a subject matter which is serious in nature, the Committee will be given adequate time to come up with recommendations.

#### **CAMP CHAPELON - FOOTBALL PITCH - CHANGING/CLOAKROOM - RENOVATION**

**(No. B/206) Mr P. Armance (First Member for GRNW & Port Louis West)** asked the Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare whether in regard to the football pitch at Camp Chapelon, she will, for the benefit of the House, obtain information as to where matters stand as to the proposed renovation of the changing/cloakroom attached thereto, indicating the time frame for the start and completion dates thereof.

**Reply:** I am informed by the Municipal City Council of Port Louis that the project for the renovation of the changing/cloakroom at Camp Chapelon football pitch is still on the agenda of the Council but has been put on hold on account of the priority given to the road network in Constituency No. 1, which was severely damaged following the extreme weather conditions resulting in flash floods. The Council had, on a priority basis, undertaken the complete resurfacing of four roads in the region of Camp Chapelon.

I am informed that the renovation of the changing/cloakroom attached to the football pitch at Camp Chapelon will be carried out by the Council in next financial year.

### **FALL ARMY WORMS – DAMAGES**

(No. B/207) Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes) asked the Minister of Agro-Industry and Food Security whether, in regard to the Fall Army Worms, he will state the extent of damages same have caused in mainland Mauritius and Rodrigues respectively, indicating if the flaws in the phytosanitary and sanitary measures that had been put in place following the infestation declared in Rodrigues have been identified.

**Reply:** As far as Mauritius is concerned, the pest was first detected on 28 March 2019 by Extension Officers of the FAREI in a maize field of 33 perches at Belle Vue Maurel during a surveillance survey.

A containment programme was immediately initiated on that day itself. Side by side, an island-wide scouting was undertaken primarily in maize and sugarcane fields as these are the most preferred host of the Fall Army Worm. Ten sites under maize cultivation were identified on the following day to be infested at varying degree by the Fall Army Worm.

The Crisis Committee, which I mentioned in my Statement made on 26 March 2019, met on the next day and decision was taken to have all infested fields immediately treated with an insecticide commonly known as “karate” as a knock down strategy.

Instructions were also given for movement of plants, plant parts and plant products from Rodrigues to be stopped outright to curb any risk of incursion of the pest in Mauritius.

From 28 March to 01 April 2019, the number of sites infested raised from 10 to 28 (26 small holder planters’ fields and 2 corporate sector fields), representing some 10 *arpents* out of the total of 40 *arpents* under maize cultivation around the island.

The House may wish to note that, as at date, presence of FAW has not been observed in sugarcane plantations and since 11 April 2019, no further infestation of maize plantation was noted either.

I am informed that the Crisis Committee has successfully managed to contain the pest in the infested sites and no destruction was resorted to, save the first infested foyer identified at Belle Vue Maurel.

As the remaining plots were all at vegetative stage, the knock down control treatment was repeated a second time and the maize plants in the treated fields are now growing healthily.

A third application of insecticides started on Friday last and is currently ongoing, subject to leniency of weather conditions. Farmers have been sensitised on recommended control strategy and are being provided with neem-based bio pesticides for maintenance treatment.

With regard to Rodrigues, following the alert of presence of the Fall Army Worm in Reunion Island in November 2018, two FAO experts accompanied by officers from the Entomology Division, NPPO and FAREI carried out a visit to Rodrigues from 19 to 21 November 2018 to sensitise the Rodriguan Authorities on potential danger of the pest. Two pheromone traps for capture of adults Fall Army Worm were handed over to the Agricultural Research and Extension Services to be placed in maize plantations for surveillance.

Another mission to Rodrigues was fielded from 26 November to 05 December 2018 whereby officers of the RRA were trained on the identification and trapping of the FAW. It was noted that the two traps provided were still not installed in the targeted areas.

Officers of the RRA were urged to place same as soon as possible. However, these were only placed in the fields around mid-March 2019, after which, planters reported presence of FAW in their maize plantations.

My Ministry was only informed about the suspected incursion of the pest through a phone call on 22 March 2019.

Immediately, a team of Scientific Officers from my Ministry, led by the Principal Scientific Officer of the Entomology Division, was tasked to make an assessment of the level of infestation and to recommend appropriate actions for the treatment of the infested fields as well as containment of the pest in Rodrigues.

A first report from the team indicated that as at 23 March 2019, all the 15 hectares under maize cultivation in the island were infested. The damage caused to the plants was estimated to be around 50%.

Additional lure traps were immediately placed around the island and infested fields were sprayed with insecticides. Maize plantations over a total area of around 1.6 ha situated at Montagne Goyaves and Plateau Bois Noir, which were infested with the Fall Army Worm, were cut down and buried in order to contain the pest.

The control measures were disrupted in view of cyclone Joaninha. After the passage of the cyclone, a 400 litre motorised sprayer and a first consignment of bio pesticide were, among others, sent to Rodrigues. Intensive sensitisation of planters on economic importance of the pest was carried out concurrently.

The Senior Chief Executive of my Ministry and the Chief Executive Officer of FAREI had also proceeded to Rodrigues on 27 March 2019. They have had meetings with the Chief Commissioner, Commissioner for Agriculture and his officers on the strategy to be adopted. It was agreed that regular reports on the matter would be submitted to the Ministry thereafter.

The team came back on 29 March 2019. The Crisis Committee met on the same day and the control measures were drafted and emailed to RRA. Since then, the only report received from Rodrigues was on 12 April 2019, informing that as at date –

- (i) some 15 hectares are still under maize cultivation, and
- (ii) a low level of infestation of the Fall Army Worm is present in mature plantations while that in young plants varies from 1.5 to 20%.

I must also add that it had been reported by planters in Rodrigues that the presence of the pest was observed in some fields since January 2019. However, this was never reported to my Ministry.

With regard to the flaws in the sanitary and phytosanitary measures that had been put in place, I wish to inform the House that the advice tendered to the RRA during the two visits in November 2018 were not scrupulously followed and the traps provided were not installed in time, as recommended.

Had these traps been installed, the early detection of the Fall Army Worm would have been possible and appropriate measures could have been taken to prevent the outbreak.

In view of the above, the team of scientific officers from my Ministry will proceed to Rodrigues this week for a follow-up mission and put in place a more effective surveillance protocol, to monitor not only the Fall Army Worm, but also in respect of the tomato pest ‘Tuta’, which presence has been observed in Reunion Island, and is a potential threat to both Mauritius and Rodrigues.

#### **ANIMAL WELFARE ACT – PROPOSED AMENDMENTS**

**(No. B/211) Ms M. Sewocksingh (Third Member for Curepipe & Midlands)** asked the Minister of Agro-Industry and Food Security whether, in regard to the Animal Welfare Act, he will state if consideration will be given for proposed amendments to be introduced in relation thereto to provide for harsher penalties for offences related to cruelty towards animals.

**Reply:** My Ministry is presently finalising proposals for an Animal Health Bill, in consultation with relevant stakeholders. The new Bill will, *inter alia*, take on board animal

production and animal health and welfare. In this regard, provisions have been made for an animal identification system and for a heavy penalty to those who ill-treat animals.

In this respect, appropriate consequential amendments will be made to the Animal Welfare Act after consultation with the Attorney General's Office.

### **DOT MU (.MU) - STATE OF MAURITIUS - REGISTRATION**

(No. A/1) Ms M. Sewocksingh (Third Member for Curepipe & Midlands) asked the Minister of Technology, Communication and Innovation whether, in regard to the registration of the Dot MU (.mu) domain name in the name of the State of Mauritius, he will state where matters stand.

**Reply:** In a reply to PQ B/375 on 03 May 2016, the House was informed of issues regarding ownership of the Dot Mu (.mu) domain name and the negotiations around the sale of the gov.mu second level domain name to the Government as follows –

- In 2001, Mr Yann Kwok of Internet Direct Limited (IDL), Registrar of .mu domain, delegated the responsibility of managing gov.mu to the then Ministry of Information Technology and Telecommunications. The National Computer Board (NCB) was requested to manage gov.mu on behalf of the Ministry.
- Subsequently, the Registrar did not proceed with the procedure to enable the NCB to manage the gov.mu. The matter dragged on and on 14 November 2012, IDL informed the NCB that charges would apply for all registrations under gov.mu.
- IDL entered a case at the Supreme Court against the then Ministry of Information and Communication Technology for non-settlement of claims. The case was, however, not pursued following the migration of Government websites from gov.mu domain to the govmu.org domain in November/December 2014 after actions taken by IDL to switch off the Domain Name Service for the gov.mu domain.
- In November 2014, IDL claimed Rs864,217,926 for the gov.mu domain name while Government agreed to pay up to Rs25 m. for the re-delegation of the gov.mu domain to cover for two years (2013 and 2014) only.

Discussions continued to be held with IDL during the two ensuing years (2015 and 2016) without any positive outcome. IDL continued to maintain its stand on the monetary



claims for the third level domain names under gov.mu domain name for the period 2000 to 2015.

The Ministry of Technology, Communication and Innovation was, on 19 July 2017, informed of the intention of IDL to issue a proposed plaint with summons against the State of Mauritius and the National Computer Board for a claim amounting to Rs564,991,719, which would cover —

- the claims for the third level domain names under gov.mu domain name for the period 2000 to 2015;
- interests for the years 2015 and 2016;
- forex losses, and
- moral damages and prejudice suffered.

In October 2017, IDL made a fresh proposal to the Ministry to purchase the gov.mu domain and the re-delegation of dot mu. The proposal was not considered to be acceptable as it was on the high side. IDL still maintained its claims for the third level domain names under gov.mu domain name for the period 2000 to 2015.

In February 2018, IDL formally lodged a plaint with summons against the State of Mauritius and the National Computer Board for the sum of Rs564,991,719. The case is still at the level of the Court.