



**SIXTH NATIONAL ASSEMBLY**

**PARLIAMENTARY**

**DEBATES**

**(HANSARD)**

**(UNREVISED)**

**FIRST SESSION**

**TUESDAY 30 OCTOBER 2018**

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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
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Hon. Yogida Sawmynaden	Minister of Technology, Communication and Innovation
Hon. Nandcoomar Bodha, GCSK	Minister of Public Infrastructure and Land Transport
Hon. Mrs Leela Devi Dookun-Luchoomun	Minister of Education and Human Resources, Tertiary Education and Scientific Research
Hon. Anil Kumarsingh Gayan, SC	Minister of Tourism
Dr. the Hon. Mohammad Anwar Husnoo	Minister of Health and Quality of Life
Hon. Prithvirajsing Roopun	Minister of Arts and Culture
Hon. Marie Joseph Noël Etienne Ghislain Sinatambou	Minister of Social Security, National Solidarity, and Environment and Sustainable Development
Hon. Mahen Kumar Seeruttun	Minister of Agro-Industry and Food Security
Hon. Ashit Kumar Gungah	Minister of Industry, Commerce and Consumer Protection
Hon. Maneesh Gobin	Attorney General, Minister of Justice, Human Rights and Institutional Reforms
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Hon. Premdut Koonjoo	Minister of Ocean Economy, Marine Resources, Fisheries and Shipping
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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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Serjeant-at-Arms	Pannoo, Mr Vinod

**MAURITIUS**

**Sixth National Assembly**

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**FIRST SESSION**

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**Debate No. 29 of 2018**

**Sitting of Tuesday 30 October 2018**

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

**The National Anthem was played**

*(Madam Speaker in the Chair)*

**ANNOUNCEMENT****BIHAR LEGISLATIVE ASSEMBLY - DELEGATION - VISIT**

**Madam Speaker:** Hon. Members, we are deeply honoured and privileged to have in our midst this morning a delegation from the Legislative Assembly of Bihar led by the hon. Vijay Kumar Choudhary, Speaker of the Bihar Legislative Assembly and President of the Executive Committee of the Commonwealth Parliamentary Association, Bihar Branch.

The delegation consists of –

1. Hon. Mohammad Haroon Rashid, Acting Chairman of the Bihar Legislative Council and Vice-President of the CPA Ex-Co Bihar Branch;
2. Hon. Sushil Kumar Modi, Deputy Chief Minister of Bihar and member of the CPA Ex-Co Bihar Branch;
3. Hon. Sharwon Kumar, Minister of Parliamentary Affairs Department and member of the CPA Ex-Co Bihar Branch;
4. Hon. Rajiv Ranjan Singh, Minister of Water Resources, Planning and Development and member of the CPA Ex-Co Bihar Branch.

In addition, the delegation is also composed of five hon. Members of the Legislative Assembly of Bihar who are also members of the CPA Ex-Co Bihar Branch.

Also present in the VIP Gallery, His Excellency Mr Abhay Thakur, High Commissioner of India.

Allow me, on behalf of hon. Members of this august Assembly and in my own name, to extend a warm and cordial welcome to our eminent guest and the members of his delegation. I wish the hon. Speaker and his delegation a pleasant and fruitful stay in Mauritius.

Thank you.

**Mr X. L. Duval:** Madam Speaker, on behalf on the Opposition, let me also offer a warm welcome to the Speaker and our hon. friends from Bihar.

**PAPERS LAID**

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

**A. Prime Minister's Office**

- (a) Certificate of Urgency in respect of The National Payment Systems Bill (No. XVII of 2018). (In Original)
- (b) Loan Agreement between the Saudi Fund for Development and the Republic of Mauritius for the Cancer Hospital Project.
- (c) Loan Agreement between the Saudi Fund for Development and the Republic of Mauritius for the Multi Sports Complex.
- (d) Loan Agreement between the Saudi Fund for Development and the Republic of Mauritius for the Social Housing Sector.
- (e) The Excise (Amendment of Schedule) (No. 2) Regulations 2018. (Government Notice No. 135 of 2018)

**B. Ministry of Local Government and Outer Islands**

**Ministry of Gender Equality, Child Development and Family Welfare**

The Mauritius Fire and Rescue Service (Fire Safety Plan and Fire Certificate) Regulations 2018. (Government Notice No. 134 of 2018)

**C. Ministry of Public Infrastructure and Land Transport**

The Road Traffic (Amendment No. 3) Regulations 2018. (Government Notice No. 133 of 2018)

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

The Annual Report and Financial Statements of the Tertiary Education Commission for the year ended 30 June 2017.



**ORAL ANSWERS TO QUESTIONS****NATURAL DISASTERS - WORLD RISK REPORT 2017**

**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 ranking of Mauritius in the World Risk Report 2017 as the 7<sup>th</sup> most exposed country to natural disasters out of the 171 countries surveyed, he will state the actions taken by Government to protect our population therefrom since 01 January 2018 to date.

**Mr Sinatambou:** I wish, at the outset, Madam Speaker, to thank the hon. Leader of the Opposition for his question.

I would first like to point out that the 7<sup>th</sup> rank which Mauritius occupies in the World Risk Report is not a new phenomenon going back to January 2018.

I would like to stress that Mauritius has been occupying this rank in the World Risk Report as far back as 2011. The concept of the World Risk Index, including its modular structure, has been developed by both practical experts on the ground and scientific experts located further afield. The calculation of the Index, which was performed by the Institute for Environment and Human Security of the United Nations University and commissioned by a German Foundation, relies on data sets which are available worldwide.

The World Risk Index calculates the risk for 171 countries worldwide on the basis of four specific components, namely –

- (i) exposure to natural hazards such as earthquakes, hurricanes, flooding, drought and sea level rise;
- (ii) vulnerability as dependent on infrastructure, nutrition, living conditions and economic circumstances;
- (iii) coping capacities as dependent on governance, preparedness and early warning measures, access to healthcare, social and material security, and finally
- (iv) adapting capacities with respect to impending natural events, climate change and other challenges.

The World Risk Index serves to provide answers to the following questions, Madam Speaker, namely, –

1. How probable is an extreme natural event and will it impact human beings?

2. How vulnerable is the population of a country to natural hazards?
3. To what extent can societies cope with acute disasters?
4. Is the society taking disaster preparedness measures against natural hazards which are expected in the future?

Here, I would like to stress that measures are not to be looked at from a standalone perspective on a year-to-year basis. In this respect, I would like to point out that actions taken by this Government to protect the population from such risks do not go back to January 2018. Since its coming into office, this Government has been giving serious consideration to this issue with a view to providing added protection to the population in situation of natural disasters.

Allow me, from this perspective, to enumerate four of the key measures that this Government has taken and which were long overdue well before 2015. The first of these measures is the development of the National Disaster Risk Reduction and Management Policy Strategic Framework and Action Plan for the Republic of Mauritius. Now, maybe before that, I should mention that the first step goes back to 2015, when this Government came up with a National Disaster Scheme which provides for eight particular response schemes –

1. a Cyclone Emergency Scheme;
2. a Heavy Rainfall...

**Mr X.L. Duval:** Madam Speaker, on a point of order, if I may. We will always run out of time. This is why the question relates to January 2018 because I understand it is a very wide subject. I think you need to ask the hon. Minister that he will be limited in his answer. Not to go back to Matusalem!f

**Madam Speaker:** Hon. Leader of the Opposition, you have asked your question also, which is very broad-based. Now, you should understand that it is the right of the hon. Minister, within the time prescribed, and I am here to see to it that he respects the time that has been allocated to him and the time that will be allocated to you for supplementary questions.

**Mr Sinatambou:** I can assure the hon. Leader of the Opposition that I will use only my time.

So, going back to 2015, I mentioned that four very strong measures were taken by this Government within the framework of protecting our population from natural disasters. The first one is the elaboration of the Natural Disaster Strategy, which has eight schemes: one for

cyclones; one for heavy rainfall, torrential rains and flooding; one for tsunamis; one for high waves; one for water crisis; one for earthquakes; one for landslides, and one specifically for Port Louis, that is the Port Louis Response Emergency Plan. Then in 2016, another measure which was long overdue is the enactment of the National Disaster Risk Reduction and Management Act of 2016, which actually asks that we formulate the National Disaster Risk Reduction and Management Policy Strategic Framework and Action Plan.

After that, Madam Speaker, in 2017, another long overdue measure was the enactment of the Land Drainage Authority Act of 2017, which provides for the development and implementation of a Drainage Master Plan, for the coordination of the construction of drainage infrastructure and for ensuring that there is a routine and periodic upgrading and maintenance of the drainage infrastructure, especially when we know about all the flash floods and the flooding and inundation which this country has known in the last decade.

Last but not least, in 2018, Madam Speaker, was the enactment of the Local Government (Amendment) Act, which actually provides for the implementation of measures announced in the Budget Speech 2018-2019 as regards illegal constructions and developments which, *inter alia*, result in inundation and flooding.

Madam Speaker, since the beginning of this year, an amount of Rs46,451,772 has been paid out to 24,122 families comprising 89,961 family members in respect of victims of heavy rainfall, cyclone Berguitta, flood and torrential rain. For cyclone Berguitta, 1,802 households, involving more than 4,000 family members, sought refuge in 78 emergency shelters. According to procedures at my Ministry, all emergency shelters will be equipped with basic amenities in the event of cyclones, torrential rains and flooding.

*(Interruptions)*

*Oh, biscuits!* It is apposite to note, Madam Speaker, that measures regarding the food being given at refugee centres are currently being reviewed by a Ministerial Committee chaired by the hon. Vice-Prime Minister, Minister of Local Government and Outer Islands. I am informed that previously, for every 100 refugees expected at the centres during cyclone warning class 3, 2 pounds of tea, 10 tins of condensed milk, 20 pounds of sugar and 4 pounds of local biscuits were being provided.

*(Interruptions)*

**Madam Speaker:** Do not worry! If he is not relevant to the question, he will run out of time because there is only eight minutes left for him.

**Mr X.L. Duval:** With due respect, he will run out of time, but not answer the question. This is the problem. I want him to answer the question. It is not a question of time.

**Madam Speaker:** Hon. Leader of the Opposition, you will have enough time for supplementary questions and then you may ask that replies to your supplementary questions should be relevant to the question that is being asked. He has got eight more minutes to go.

**Mr Sinatambou:** I believe it is allowed. So, it is good to know that under this Government, the amount of food (biscuits and water) provided has been increased tenfold compared to the previous Governments. I wish to add that the number of evacuees who sought refuge at the emergency shelters has increased substantially, and this has led to the setting up of the Committee chaired by the hon. Vice-Prime Minister, Minister of Local Government and Outer Islands so that we can consider and review the conditions prevailing in refugee centres, the adequacy of the number of refugee centres, the carrying capacity and manning of those centres, the general profile of refugees and their registration as refugees.

Madam Speaker, when we look at the measures which have been taken since January 2018, I would like to stress the measures taken at the level of the National Disaster Risk Reduction and Management Centre. A National Multi-Hazard Emergency Alert System is being implemented to alert the public prior to and during a disaster. In the same vein, two mobile applications have been developed to send alert messages to subscribers before, during, and after disasters. To further enhance our existing warning system, the Doppler radar, which will soon become operational, will provide near real-time information of the impending disaster for the safety of the public.

Additionally, automatic weather stations have been installed, in particular in the region of Port Louis. In the event of any impending disaster, the National Emergency Operations Command is activated and is responsible for coordinating and monitoring response operations on the ground. It is worthy to note, Madam Speaker, that since January 2018, the National Emergency Operations Command has been activated on no less than 67 days to manage cyclones and heavy rainfall events, and I wish to state that fortunately we have had no fatality.

Since January 2018, 38 simulation exercises have been conducted both at national and local levels to prepare all first responders and vulnerable local communities and the population at large to better respond to disasters. In line with section 18 of the National Disaster Risk Reduction and Management Act, a Disaster Response Unit has been set up this year, and it consists of a specialised unit of the Special Mobile Force, to assist disaster response operations from the National Emergency Operations Command, the Local Emergency Operations Commands and the Regional Emergency Operations Command.

An officer from the Indian National Disaster Response Force is actually on deputation since October of this year to help in a capacity building exercise of the Disaster Response Unit.

Many vulnerable areas have already been identified and contingency plans have been prepared and are regularly tested during simulation exercises. Since January 2018, such contingency plans have been developed for the regions of Baie du Tombeau, Résidence La Cure, Camp Manna, Bambous over and above others which already exist from previous years.

Furthermore, a protocol for heavy rainfall for the public sector has already been implemented and a similar protocol for the private sector is being finalised and will soon be implemented. Two real time wireless flood sensors in the region of Port Louis have been installed in October 2018 in collaboration with the University of Mauritius.

Community Disaster Response Programmes are actually being organised and I, myself, attended the last one in the context of the International Day for Disaster Reduction which was held on 13 October 2018 at Bel Ombre. Since January 2018, my Ministry has trained Community Disaster Response Teams in the regions of Résidence La Cure, Rivière du Poste, l'Amitié, Gokoola, Rivière des Galets and, previously, seven Community Disaster Response Teams had been trained in 2017.

Mauritius also participated in the IOWave exercise 2018, which is a regional exercise, carried out every two years for countries in the Indian Ocean to test their preparedness for tsunamis.

There are many more measures, Madam Speaker, but I think that to allow the hon. Leader of the Opposition to put his questions, I will stop here.

**Mr X. L. Duval:** The Doppler radars etc. were ordered by the previous Government, Madam Speaker. Still, let me just ask the hon. Minister whether he is aware that the Government Meteorological Services are predicting a very active cyclonic season, up to 11 cyclones this year compared to 8 last year, and 8 the year before. Is he aware of that?

**Mr Sinatambou:** Yes, because those services fall under my portfolio. I am aware.

**Mr X. L. Duval:** So, the hon. Minister is aware. He always mentions the 7<sup>th</sup> most exposed, and 13<sup>th</sup> in terms of risk because of the state of preparedness of the country. Is the hon. Minister aware that we have deteriorated in the same ranking, the world risk ranking? In 2014, we were less at risk. We were the 14<sup>th</sup> country with a ratio of 14.78% and, under his watch, the risk has increased. We are now 13<sup>th</sup> with a risk factor of 15.11%. Is that because of his total inaction in that respect?

**Mr Sinatambou:** I believe this is most unfair. Unless the hon. Leader of the Opposition has turned deaf, I cannot see how he can attribute any deterioration of less than 1% to inaction. We have heard, just for 2018, of so many things being done. We have heard, in the course of the last three years, of so many steps being taken. So, I would not attribute that to any inaction.

**Mr X. L. Duval:** Madam Speaker, the fact is that the risk factor, as measured by an international organisation for the population, has increased in Mauritius and that is easily verifiable.

Madam Speaker, *au commencement de l'année nous avons frôlé la catastrophe* with super cyclone Berguitta, 240 km/hr. A Ministerial Committee was appointed under the Vice-Prime Minister. We are two days away from the opening of the new cyclone season which, as I have said, is expected very active. What concrete measure has this Ministerial Committee done, please?

**Mr Sinatambou:** The Ministerial Committee is actually chaired by the Vice-Prime Minister, Minister of Local Government and Outer Islands, Minister of Gender Equality, Child Development and Family Welfare, and I can inform the House that the final draft of the recommendations of the Committee has actually been circulated among the Ministers concerned and we will be coming with the report very soon.

**Mr X. L. Duval:** *Après la mort, la tisane!* We are two days away. Madam Speaker, this January, *les centres de refuge ont été pris d'assaut, surtout* in Port Louis where, in fact, thousands of people went to the *centres de refuge*. I would like to ask the hon. Minister - it is in two days' time - whether we are going to increase the number of *centres de refuge* in Port Louis and around the country for the thousands of people, especially here, who were not accommodated in the official *centres de refuge*?

**Mr Sinatambou:** In fact, this, Madam Speaker, is one of the specific matters which has been under the consideration of that Committee. I can say that, certainly, consideration has been given to the need to actually increase the number of refugee centres, especially in the Port Louis region.

**Mr X. L. Duval:** What will be the new number of centres in Port Louis, please? We are two days away from the cyclone season?

**Mr Sinatambou:** Well, the hon. Leader of the Opposition will have to be patient and just wait for the report of the Ministerial Committee.

**Mr X. L. Duval:** Is the hon. Minister aware of the amount of anxiety that there is in Port Louis, where there are thousands of people living in makeshift accommodation,

hundreds of families squatting basically around the riverbeds? Is the hon. Minister aware of the anxiety that exists in Port Louis or other regions, while Government is dragging its feet two days from the cyclone season?

**Mr Sinatambou:** I really beg to disagree. Not only some tend to be deaf sometimes, but some also tend to lose their memory! I mean, for 10 years they were in Government, then, were the people not living in anxiety in those regions?

*(Interruptions)*

**Madam Speaker:** Order!

*(Interruptions)*

Hon. Rutnah!

**Mr Sinatambou:** For 10 years the other side was in Government, in fact, if we look at the sequence of measures taken ...

**Mr X. L. Duval:** Answer the question!

**Mr Sinatambou:** I just showed that, in 2015, for the first time in this country, we had a strategy for eight specific types of disasters. For the first time in this country, in 2016, we had a Natural Disaster Risk Reduction and Management Centre set up.

**Mr X. L. Duval:** You have worsened the risks!

**Mr Sinatambou:** For the first time in 2017, we have a Land Drainage Authority which will supervise and coordinate the action of all the drainage constructions in this country. And, for the first time in 2018, we are actually wiping away all the nonsense that was done by other Governments by having a law...

*(Interruptions)*

... which prohibits people from actually building near or on drains. So, don't come and say that it is now that Government... - Government is not dragging its feet. Government is being proactive. Government is acting more than any other Government before it.

**Mr X. L. Duval:** Madam Speaker, the hon. Minister cannot blame me for what other Ministers of Environment may or may not have done as same as I am not blaming him for *bal couleur*. So, he cannot! Let us come now...

*(Interruptions)*

Otherwise, I will blame him for *bal couleur*! That would be the stupid response!

**Madam Speaker:** Hon. Leader of the Opposition, please! Do not bring in other elements which have nothing to do with the main question, please!

*(Interruptions)*

**Mr X. L. Duval:** Madam Speaker, *bal couleur, bis!*

**Madam Speaker:** Again!

*(Interruptions)*

Please!

**Mr X. L. Duval:** Madam Speaker, let us look at the refugees. There was a public outcry. There was one thing giving them safety and there is another thing treating refugees who are human beings with dignity. Madam Speaker, I would like to ask the hon. Minister now, whether he is making provision to provide better than biscuits, which are against the international norms and whether he is making provision for camp beds, so that people do not have to sleep on the floor? This is 'Etienne Sinatambou *touss sali*, Etienne Sinatambou style', Madam Speaker ! Well, this is '*touss sali*'!

*(Interruptions)*

**Madam Speaker:** Order! Hon. Leader of the Opposition, please, resume your seat!

*(Interruptions)*

Order, please!

*(Interruptions)*

Order! Order, I have said!

Hon. Leader of the Opposition, I have drawn your attention to the fact that there is no need to bring in elements which are irrelevant to the question. Please, abide!

**Mr X. L. Duval:** Madam Speaker, these people are made to sleep on the '*sali*'. So, basically they are all '*toussing sali*'.

*(Interruptions)*

No mattresses!

**Madam Speaker:** Hon. Minister!

**Mr Sinatambou:** Madam Speaker, I am afraid that the hon. Leader of Opposition is confusing who '*touss sali*' and who does not '*touss sali*'. He should look at his side.

*(Interruptions)*

**Mr X. L. Duval:** *Reponn do!* Answer your question!

**Mr Sinatambou:** He should look around him and around his partners.

*(Interruptions)*

May I say, Madam Speaker, that it is...

*(Interruptions)*

**Madam Speaker:** Hon. Rutnah!



*(Interruptions)*

**Mr Sinatambou:** May I say, Madam Speaker, that it is totally inappropriate and untrue to allege that the supply of biscuits and water is my making and my making alone.

*(Interruptions)*

I just explained and that is what I am saying. The Leader of the Opposition should listen because I just explained that, in fact, the supply of biscuits and water has been the making of every single Government throughout decades and, in fact, what happened is that when cyclone Berguitta hit us, I realised that we were giving only 50 grams of biscuit and 20 ml of water.

*(Interruptions)*

And I took it upon myself to multiply it by 10, but they tried to make a big hooaha and launched a shameful attack on me.

However, I can reassure the House that the food allocation is actually one of the matters being reconsidered by the Ministerial Committee headed by the Vice-Prime Minister, Minister of Local Government and Outer Islands and this has nothing to do with what they said; it has to do with what we found out. And, finally, regarding the supply of camp beds, this is also one of the issues under consideration. However, it has to be borne in mind that the refugee centres are fairly small in size. Therefore, we have to be attentive to the space allocation within them.

**Mr X. L. Duval:** Madam Speaker, on this side of the Opposition, we will insist that the refugees are treated with dignity. I would like to ask - this question of dignity, it only costs a few thousand rupees; so many billions are being wasted - why these so-called refugee centres are not equipped with showers so that people at least can bathe properly - women and men showers - and they are not treated like animals in these things.

*(Interruptions)*

**Madam Speaker:** Order, on this side of the House, please!

*(Interruptions)*

Hon. Jhugroo, order please!

*(Interruptions)*

Hon. Jhugroo! Hon. Soodhun, please! Be silent and do not make provocations! Yes!

**Mr Sinatambou:** Madam Speaker, very often, I hear the other side of the House saying that they want the House, the country and the nation to hear what is being said. I want to repeat it again. It is this Government – if we just look at what I just said about the four main measures taken in 2015, 2016, 2017 and 2018 - which has actually taken the steps to make things better for the population. Now, it is totally inappropriate to try and come and say now that you insist that the refugees be treated with dignity when it is this Government again which is taking all the requisite steps to give them as much dignity as possible, the same dignity which all those parties on the other side of the House did not seem to care about when they were in Government.

**Mr X. L. Duval:** Madam Speaker, I explained to the hon. Minister about the previous Ministers.

*(Interruptions)*

**Madam Speaker:** Hon. Bhagwan, please!

**Mr X. L. Duval:** I would like to ask the Minister, Madam Speaker, he keeps saying he has done so much, but, in fact, World Risk International Organisations have downgraded Mauritius. I said our risk has increased. I want this to get into his head, Madam Speaker. It is very hard to do.

Madam Speaker I would like to ask the hon. Minister cyclone season is starting in two days' time. Let us say, God forbid, there is a huge cyclone coming like Berguitta or worst, 300 kms, coming in the next few days to Mauritius, what concretely is the hon. Minister proposing for these thousands of people in Mauritius who live *dans des maisons précaires*. They may be squatters or they may just be poor people. Has he organised to have these people evacuated, put them in refugee centres which do not exist at the moment, which do not have a shower? What is going to happen if tomorrow there is a super cyclone coming to Mauritius and we have thousands of people at risk like there was in the past, Madam Speaker?

**Mr Sinatambou:** Madam Speaker, in the course of my main reply to the question, I already elicited a number of measures taken by the National Emergency Operations Command, the Local Emergency Operations Commands and the Regional one. I highlighted the simulations and the drills. Let me just, therefore, take the example of Port Louis because I think Port Louis and the suburbs are known to have been quite significantly affected by bad weather.

Now, just regarding the Port Louis region, drainage works at Pailles for the drain network has been completed...

*(Interruptions)*

That's it!

**Madam Speaker:** Order, please!

*(Interruptions)*

Order!

*(Interruptions)*

Order!

*(Interruptions)*

Hon. Rutnah!

*(Interruptions)*

You do not have to assist the hon. Minister! Allow him to reply! Yes!

**Mr Sinatambou:** Just to take the example of Port Louis, the Leader of the Opposition wants to know what steps we have taken to cater for all those houses.

*(Interruptions)*

**Mr X. L. Duval:** It is not a question of drains. No drain can stop a flash flood, the Minister should know that.

*(Interruptions)*

No drain can stop a flash flood! No drain! What we are saying here - otherwise thousands of people would not be dying overseas - is what procedure have you got with an island-wide cyclone coming and threatening the island? What have you got to evacuate the thousands of people to safe places of safety? That is my question.

**Mr Sinatambou:** First of all, I have already tabled these documents in the course of my reply to a previous Parliamentary Question, the National Disaster Scheme. It provides all the set-ups before a cyclone or a flood - before, during and after. This is already contained there, but I believe the hon. Leader of the Opposition is totally mistaken if he only wants to know the steps to evacuate because we have to try and take preventive measures and part of the preventive measures consists of taking the steps to try and avoid the drains from being overflowed which is why, I think, it is very appropriate to mention all the drain networks being improved for different areas, but just to allow him again to ask another question, I will stop here, but there are many measures which are being taken and which have been taken.

**Madam Speaker:** Hon. Leader of the Opposition you should have your last question because we have got one minute to go...

**Mr X. L. Duval:** Already!

**Madam Speaker:** ...by the time you ask your question and he replies, please!

**Mr X. L. Duval:** Madam Speaker, nothing has been done since *Berguitta*, it is quite clear. I would like to ask the hon. Minister, he said about preparedness, flooding, is he aware that the Fire Brigade is at the frontline of the fight? Is he aware that a third of the pumps of the Fire Brigade is not working at the moment and Port Louis Fire Station used to have fire pumps, fox pumps and floating pumps? In 2014, they had five pumps. That is why we deteriorate because of laxity, whatever it is. Five pumps, now they have only two pumps working! If tomorrow there is a flash flood in Port Louis, only two pumps are working at the Fire Brigade today, Madam Speaker.

**Mr Sinatambou:** I cannot be aware of something...

*(Interruptions)*

How can I be aware...

*(Interruptions)*

**Madam Speaker:** Order, please!

*(Interruptions)*

We are running out of time. Yes!

**Mr Sinatambou:** How can I be aware of something which does not fall within the purview of my Ministry? That is not possible.

*(Interruptions)*

Now, however...

*(Interruptions)*

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

*(Interruptions)*

No, not from a sitting position, please!

**Mr Sinatambou:** Yes, the Ministerial Committee does not decide what he wants.

*(Interruptions)*

**Madam Speaker:** Hon. Members, I have said that from a sitting position no comment is allowed, and that no dialogue should take place between two hon. Members, you should address the Chair.

**Mr Sinatambou:** We know why he is so undisciplined, but that's up to him. Let me, however, add, I heard the hon. Leader of Opposition saying that there were five pumps and there are two pumps which are not functioning.

*(Interruptions)*

**Madam Speaker:** Hon. Leader of Opposition, do not interrupt him! Why are you interrupting him? Time is already over!

**Mr Sinatambou:** If I understand him properly, out of five pumps, only two were working. Let me inform him that the Special Mobile Force has acquired 20 heavy duty pumps...

*(Interruptions)*

**Mr X. L. Duval:** One last question, Madam Speaker. There is no reason why...

*(Interruptions)*

**Madam Speaker:** Hon. Leader of the Opposition, I will allow you the last question, be concise and brief.

**Mr X. L. Duval:** Yes. There is no reason why if the SMF has got pumps, the Fire Brigade should not have pumps and we lost 11 people in Port Louis, Madam Speaker. I would like to ask a very serious question.

**Madam Speaker:** Order!

*(Interruptions)*

**Mr X. L. Duval:** I have a very serious question. It was worse under hon. Jhugroo? Now, I have to ask him a very serious question. Storms now are coming 300 km/h quite frequently around the world, the construction norms in Mauritius require our buildings to withstand 280 kms; I understand Metro Express is even worst, 150. What is being done to tighten the construction norms in Mauritius? The hon. Minister is talking about prevention. What is being done to tighten the prevention norms in Mauritius so that if and we will have to face a huge cyclone, we are, in fact, more prepared?

**Mr Sinatambou:** Now, is that the last question of the Leader of the Opposition, Madam Speaker, please?

**Madam Speaker:** You have understood the question, please just give a brief reply.

**Mr Sinatambou:** What I would like to say is that this is a matter for the Construction Industry Development Board. I shall certainly refer to them to know what is being done.

**Madam Speaker:** Time is over. Hon. Members, the Table has been advised that PQ B/938 in regard to the combined 20<sup>th</sup> to 23<sup>rd</sup> periodic reports to the Committee on the Elimination of Racial Discrimination will be replied by the hon. Attorney General, Minister of Justice, Human Rights and Institutional Reforms. PQ B/942 in regard to the setting up...

*(Interruptions)*

Hon. Uteem! I am on my feet. Please!

*(Interruptions)*

Hon. Uteem! I am on my feet. Allow me to finish what I have to say and then if you have got anything to say, you stand up and say it. PQ B/942 in regard to the setting up of a SMEs ICT Park for the ICT/BPO activities (Technopole) in Rodrigues will be replied by the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues. PQ B/945 in regard to the National Human Rights Commission will be replied by the hon. Attorney General, Minister of Justice, Human Rights and Institutional Reforms. PQ B/946 and PQ B/947 have been withdrawn. Hon. Osman Mohamed!

### **NDU – PROJECTS - IMPLEMENTATION**

**(No. B/934) 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 projects of different ministries, announced in the successive budget exercises since 2015, earmarked for implementation by the National Development Unit, he will give a list thereof which have, as at to date, not been implemented/started or are encountering delays, indicating in each case the reasons therefor.

**The Prime Minister:** Madam Speaker, since 2015, some 1800 projects have been and are being implemented by the National Development Unit. Out of these, 22 major projects announced in successive Budgets have encountered delays due to their complexity with regard to their location in built-up areas, the topography of the site, difficulty in identifying outlets of drains and the sorting out of land issues especially where various landowners are involved.

A status of these projects is being prepared and will be placed in the Library of the National Assembly.

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

**Mr Osman Mahomed:** Thank you, Madam Speaker. While waiting for the document to be tabled, can I ask the hon. Prime Minister whether he would concur, when NDU implements projects for other Ministries, there is a lot of delays because of lack of coordination and, to rest my case, I am going to give specific examples so that we understand where we are going.

**Madam Speaker:** But hon. Osman Mahomed, you have to be brief and concise in your question.

**Mr Osman Mahomed:** Can I refer the hon. Prime Minister to a particular project in my Constituency implemented for Ministry of Education, the Surtee Soonee Government School football ground whereby after NDU's intervention, after several million rupees spent, the state of the pitch is worse than before because it is now marred in a quagmire of sewer water.

**Madam Speaker:** No, hon. Osman Mahomed, I am sorry, I have to stop you once again. Your question relates to the projects of different Ministries announced in successive Budget exercises. Please, bring your question so that it is relevant to the main question.

**Mr Osman Mahomed:** It is in the Budget, it has been funded, so can I ask the hon. Prime Minister when can this problem be resolved at long last?

**The Prime Minister:** Madam Speaker, this hon. Member comes with a question where 1,800 projects are concerned. He asks a general question and now he comes before this House and asks a specific question about one project. Well, I leave it to the people to judge that kind of question. The hon. Member should come with a specific question with regard to that project and I shall certainly provide him with all the information.

*(Interruptions)*

**Mr Osman Mahomed:** Madam Speaker, I don't have the list in front of me, so it is being prepared. As a general question, would the hon. Prime Minister agree when NDU implements projects for other Ministries, whether announced in the Budget or being currently implemented, there are technical issues which lead to delays and sometimes cost overrun?

**The Prime Minister:** Well, again I would ask the hon. Member to specify in which case he knows there are delays, there are overruns...

*(Interruptions)*

Specific questions, not come with general ones! The hon. Member asks about how many projects especially when there are thousands of projects. So, he should come with a specific question and then, obviously, I shall look into the matter. If there are delays, I shall explain why; if there are cost overruns if ever, I shall explain why..

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

**Dr. Boolell:** Thank you very much, Madam Speaker. Would the hon. Prime Minister submit the list of contractors to whom contracts have been allocated and the cost overrun from encountering delays?



**The Prime Minister:** Obviously, I said that I am going to table the list of all these projects and I shall look into cases where supposedly there are, as I said, delays and cost overruns.

**Madam Speaker:** Hon. Bhagwan!

**Mr Bhagwan:** Thank you, Madam Speaker. We have been informed by the Prime Minister that there are more than one thousand projects which have been implemented. Can the Prime Minister inform the House what mechanism his Ministry has set up to make sure that we are having value for money, quality of work, good contractors and not delays, especially with regard to quality of work?

**The Prime Minister:** Well, with regard to quality of work, there is a process whereby once a contract has been allocated to a contractor there is continuous supervision and monitoring by professionals of the NDU and, if required, we also get the support of the Ministry of Public Infrastructure, so that we see to it that the work is being done according to specifications and the contract that has been awarded.

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

#### **MINISTRIES – PROJECTS – FEASIBILITY STUDIES**

**(No. B/935) 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 Budget 2018-2019, he will state if, prior to the inclusion of projects submitted by ministries therein, the ministries were required to submit feasibility studies in relation thereto and, if not, why not.

**The Prime Minister:** Madam Speaker, the financial instructions number three issued in September 2017, with regard to the Capital Project Process Manuel, clearly sets out the process to be followed by a public body including a Ministry prior to inclusion of these projects in the estimates. As regards projects with value of less than Rs25 m., a feasibility study may be required depending on the complexity of the project.

Furthermore, an amount of Rs100 m. has been provided in Budget 2018-2019 to finance feasibility studies for projects which have not yet reached the required level of preparedness.

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

**Mr Osman Mahomed:** Thank you. Can I ask the hon. Prime Minister, therefore, how does he reconcile the fact that the combined gas cycle turbine of 120 Megawatts, the feasibility study was submitted way after the Budget presentation and it forms part of the Budget? Poten & Partners tabled its report in August 2018 and this is a project of several billion rupees.

**The Prime Minister:** Madam Speaker, again this is a very specific issue. Why the hon. Member does not come and puts the question with regard to that specific issue instead of asking a question of general intent?

**Madam Speaker:** Hon. Osman Mahomed, I just want to draw your attention to the fact that your question is broad-based; it is of a general nature. If you have to come with a specific question, a specific case in point, then, please come with a specific question, otherwise I will entertain questions which are of a general nature relevant to the question that you have asked.

**Mr Osman Mahomed:** Madam Speaker, in last year's Budget exercise 2017-2018, more than 100 projects were not implemented and this represented 41.5% of the Budget measures announced. The project I just mentioned will cost the taxpayers several billion rupees. It is in the Budget exercise 2018-2019, so, I want to know how is it that a feasibility study was submitted way after it appeared in the Budget and tender exercise has even been floated for this project?

**The Prime Minister:** If the hon. Member comes with a specific question, I shall be delighted to give him all the information with regard to that.

*(Interruptions)*

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

**Mr Mohamed:** Thank you, Madam Speaker. With regard to the same issue of feasibility studies that has been confirmed by the hon. Prime Minister, could he confirm whether those feasibility studies are carried out in-house or are they contracted out, and if they are contracted out, how much has been disbursed for those particular feasibility studies to be carried out?

**The Prime Minister:** Well, again, I need notice of that question because I believe that there are feasibility studies carried out by private consultants and whether they can be carried out in-house whenever possible, obviously, I am sure, they will thus be carried out. So, I can

look into how many of those feasibility studies have been carried out and by whom, and I can table this information.

**Madam Speaker:** Hon. Members, the Table has now been advised that PQ B/938 has been withdrawn. Next question, hon. Baboo!

### **LOTTOTECH – DRAWING**

**(No. B/936) Mr S. Baboo (Second Member for Vacoas & Floreal)** 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 Lottotech, he will, for the benefit of the House, obtain information as to the reasons for the drawing thereof twice a week.

**The Prime Minister:** Madam Speaker, I am informed that, following a Request for Proposal issued by the State Investment Corporation in March 2008, Lottotech was retained as the preferred bidder to operate the Mauritius National Lottery. Accordingly, on 03 April 2009, a Shareholder's Agreement was signed between Lottotech and State Investment Corporation, thus making the latter a shareholder of Lottotech as the promoter of the project. Subsequently, Lottotech applied for a licence to operate the Mauritius National Lottery based on its proposals for five game categories. On 16 April 2009, the Gambling Regulatory Authority issued to Lottotech the Mauritius National Lottery Operator Licence. However, Lottotech was authorised to operate only two games categories namely, one weekly Lotto 6/40 game and the instant scratch cards known as *cartes à gratter*.

Lottotech entered a case against Government for breach of the Shareholders' Agreement. Thereafter, on 30 October 2012, a Memorandum of Agreement was signed between Government and Lottotech before the Mediation Judge for the contribution of Lottotech to the Consolidated Fund to be reduced from an initial 58.01% to 46.16% based on the two authorised games.

Madam Speaker, the hon. Member will recall that in the 2015 Budget Speech a total ban on gambling advertisement and instant scratch cards effective as from July 2015 was announced. As a result of the implementation of these measures, in 2016, Lottotech entered a case against Government for a breach of the agreement signed in 2012. Lottotech claimed a monetary compensation for the losses incurred or a reduction in the rate of its contribution to the Consolidated Fund.

On 13 June 2018, a Memorandum of Agreement was signed before the Mediation Judge of the Supreme Court, whereby Lottotech agreed to waive all its rights to any claim for monetary compensation and to increase its contribution to Government from 46.16% to 47.16%. Government, on its part, agreed to the following –

- (i) the operating licence of Lottotech will be renewed for two consecutive periods of five years up to April 2029;
- (ii) Lottotech shall be authorised to operate a second weekly Lotto 6/40 game after consultation with the Gambling Regulatory Authority, and
- (iii) the transfer of the brand name and mark of the *Loterie Vert* currently held by Government Lotteries and operated by Lottery Committee to Lottotech.

Madam Speaker, I wish to inform the House that the Lottery Committee, which is a body corporate set up under section 86 of the Gambling Regulatory Act 2007, has been making losses which stood at Rs8.4 m. and Rs13.6 m. in 2014 and 2015, respectively. This year up to the month of May the deficit was Rs5.1 m. These deficits are being met from the Prize Account wherein unclaimed funds for winning tickets are credited, when these sums ought to have been credited into the Consolidated Fund. The Lottery Committee, in view of its financial position, is no longer a viable concern. During protracted negotiation, Lottotech agreed to take over the brand name and mark of the *Loterie Vert* and to modernise it for a complete turnaround.

Madam Speaker, with the transfer of the *Loterie Vert* to Lottotech, the Lottery Committee will have to wind up. As part of the agreement signed before the Mediation Judge, Lottotech agreed to employ 44 out of 65 employees of the Lottery Committee and to pay to each of them a monthly salary no less than their last salary at the Lottery Committee.

Actions and procedures have already been initiated to give effect to the provisions of the agreement signed on 13 June 2018. In accordance with Rule 13 (3) of the Supreme Court (Mediation) Rules 2010 -

“The agreement embodied in the memorandum shall be executed in the same manner as if it were a judgement of the Court by consent of and between the parties who have signed it.”

Subsequently, Madam Speaker, Lottotech, after obtaining the approval of the Gambling Regulatory Authority, introduced the second weekly draw on Wednesday 05 September 2018.

**Madam Speaker:** Hon. Baboo!

**Mr Baboo:** Madam Speaker, can the hon. Prime Minister inform the House the reason for allowing Lottotech to have two draws per week as he just said when *L'Alliance Lepep* promised to stop the *nation zougadère* and Budget 2015-2016 stated that *nation zougadère* is based on the illusion that life is a jackpot?

**The Prime Minister:** Well, what we said was we are going, first of all, to sensitise people and take necessary measures in order to make gambling less attractive so that we do not induce people to get involved in more gambling activities. But we must also face the fact that whenever a licence has been given to an operator, if we decide to cancel the licence, we can do so, but then, Government has to pay compensation and damages.

Now, I think we have to be reasonable and prudent, and since we are managing public funds, we try to do so in a way which is not detrimental to the country and to the people. That is why we have the measure that was announced in the Budget to ban the scratch cards and that, therefore, has also resulted into banning the advertisement, and it has also resulted into a case against the Government. But then, this is how we came to a settlement and to an agreement, and I just spelt out the terms of the settlement.

**Madam Speaker:** Hon. Baboo!

**Mr Baboo:** Well, I just heard the hon. Prime Minister, in his answer, said that the company is not viable, and according to the Annual Report 2017 of Lottotech, it clearly states that the company continues to be profitable in spite of the GRA restrictions. I here also table a copy of the report. Therefore, can the hon. Prime Minister state to the House why a *tapis rouge* treatment was offered to Lottotech, licensed till 2029, the monopoly of the lottery operator, in return of a very meagre one per cent increase to the Consolidated Fund contribution?

**The Prime Minister:** The hon. Member has the cheek to say that a *tapis rouge* was given to the Lottotech! Let me remind him that when his party was in Government, on 30 October of 2012, the contribution of Lottotech to the Consolidated Fund was reduced from 58.01% to 46.16%. What kind of *tapis* is that, Madam Speaker?

*(Interruptions)*

**Madam Speaker:** Order!

**The Prime Minister:** In terms of contribution, what does it mean? So that people can understand what we are talking about, that is the contribution of Lottotech to the Consolidated Fund, and let me give an example. In 2011, it was Rs844,500,000. and something. In 2014/15, it went down to Rs388 m. But let me take the figure of 2013, because that is more appropriate and that was still when they were in Government and the hon. Leader of the Opposition was the Minister of Finance. So, from Rs844 million and something, it came down to Rs605 m. Now, I do not know if the hon. Member is calling what we have done giving a *tapis rouge*, but that kind of *tapis* is *tapis volant*!

**Mr X. L. Duval:** Madam Speaker, may I ask the hon. Prime Minister whether it was confirmed that the procedures were followed and this was also done in front of the Court?

**The Prime Minister:** I agree, hon. Leader of the Opposition. This is why I stated in my answer that it was done before the Mediation Court. But then, it is unfair for the hon. Leader of the Opposition, his party, to come and say today that we had a case. We had a case before against the Government. Again, that was settled before the Mediation Commission and yet he says that now we are giving a *tapis rouge*. I mean, he has to be fair. This is my point!

**Madam Speaker:** Hon. Uteem!

**Mr Uteem:** Thank you, Madam Speaker. May I know from the hon. Prime Minister whether he is prepared to table a copy of this agreement with Lottotech, and pending this, can he inform the House whether there is any clause therein preventing GRA, for a period of 10 years, from granting any lottery licence to any third party?

**The Prime Minister:** First of all, I do not have any problem to table this document and the relevant information before this House. And secondly, Madam Speaker, it stands to reason that there cannot be two operators in Mauritius. Let me remind him - he is so new, it is good that I remind him - when I was in MSM-MMM Government, we had conducted a feasibility study. At that time, we were going to give the licence. Do you know what was one of the consultant's recommendations? It is that there can be only one operator. I am not saying that I disagree with that. I totally agree with that because there is no room for two operators in Mauritius. So, I will definitely table this information.

**Madam Speaker:** Hon. Ramano!

**Mr Ramano:** Madame la présidente, la publicité du Lotto existe de plus belle, malgré l'annonce du ministre Lutchmeenaraidoo dans son budget de 2015. Est-ce que je peux savoir de l'honorable Premier ministre s'il y a eu un changement de politique à ce sujet?

**The Prime Minister:** Non, Madame la présidente, il n'y a pas de changement de politique. Cela a été annoncé dans le budget, cela a été implémenté et la GRA veille à ce qu'il n'y ait pas de publicité concernant les *gambling activities*.

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

**COMMISSION OF INQUIRY ON DRUG TRAFFICKING REPORT -  
MINISTERIAL COMMITTEE**

**(No. B/937) 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 Task Force set up by the Ministerial Committee, under the chair of the Director-General of the Independent Commission against Corruption to coordinate the implementation, by the relevant investigative agencies, of the recommendations contained in the Report of the Commission of Inquiry on Drug Trafficking in Mauritius and in its annexes, he will, for the benefit of the House, obtain therefrom, information as to the –

- (a) number of meetings held as at to date, and
- (b) recommendations implemented as at to date.

**The Prime Minister:** Madam Speaker, in regard to part (a) of the question, the House was informed in reply to Parliamentary Question B/804 on 16 October 2018 that the Ministerial Committee had decided to set up a Task Force under the Chair of the Director General of the Independent Commission Against Corruption to coordinate the implementation by the relevant investigative agencies of the recommendations contained in the Report of the Commission of Inquiry on Drug Trafficking and its annexes in relation to –

- (i) further enquiries that the Commission has earnestly called for in a number of identified areas;
- (ii) those cases where names have been mentioned;
- (iii) cases where the Commission has drawn attention to, but has not been able to gather sufficient evidence to investigate into, and

- (iv) any other matter not mentioned in the Report, but which might be related to the above.

The Task Force comprises of –

- (i) the Director General of the Independent Commission Against Corruption;
- (ii) the Commissioner of Police;
- (iii) the Deputy Solicitor General;
- (iv) the Director General of the Mauritius Revenue Authority;
- (v) the Director of the Financial Intelligence Unit, and
- (vi) the Director of the Integrity Reporting Services Agency.

I also informed the House that the Task Force started its work soon after it was set up and has met on several occasions to develop the necessary strategy and plan of action to fulfil its mandate.

Concerning part (b) of the question, it would not be appropriate for me to seek, obtain and/or reveal any information on the recommendations being implemented by the Task Force in order not to prejudice ongoing inquiries.

**Madam Speaker:** Hon. Uteem!

**Mr Uteem:** Thank you, Madam Speaker. Can I know from the hon. Prime Minister whether his attention has been drawn to the fact that under Section 71 of our Constitution, the Commissioner of Police is independent and cannot be subject to any directive, be it from the Task Force or anyone other than general policy directives from the Prime Minister?

**The Prime Minister:** I know, Madam Speaker, the Constitution provides for the independence of the Commissioner of Police and I can assure the hon. Member that the Commissioner of Police, being part of the Task Force is not in any way subjected to any direction or any instruction by whoever.

**Madam Speaker:** Hon. Uteem!

**Mr Uteem:** In a workshop during the weekend, our Director of Public Prosecutions stated - and that has been aired on the radio - that only the Police can inquire on drug trafficking matters, only the Police can inquire on information following the report, and not the Task Force, he especially mentioned not the Task Force. So, in view of this, will the hon.



Prime Minister be willing to reconsider the decision of giving such powers to the Task Force to decide and coordinate investigation knowing full well that the first thing any lawyer will do, if the case goes to trial, is to argue that the inquiry is void *ab initio* because it was not conducted by the Police, but initiated by the Task Force?

**The Prime Minister:** Madam Speaker, the DPP has stated the obvious. The DPP has stated what the law prescribes and what we are doing is fully according to the law. I can assure the hon. Member that the Task Force is there for sharing of information, for coordination, so that there is no duplication, and no one, not even the Director of ICAC, chairing that Task Force, has given or is giving any instruction to the Commissioner of Police. The Commissioner of Police will act according to the legal framework that governs the Police.

**Mr Uteem:** Madam Speaker, does not the hon. Prime Minister agree that today it is the Task Force - all the reports from newspapers also confirm this - that decides which witness, which person is going to be interviewed and when? It is not the Commissioner of Police. It is the Task Force and this is against the Constitution.

**The Prime Minister:** The hon. Member is wrong, he is misinformed and it is not the case that the Task Force is giving instructions about whom to enquire upon. I repeat again, persons in the Task Force representing their institutions, will shoulder their responsibility and carry out their duties according to the legal framework that governs each of those institutions. It is merely for practical purposes that there should be - especially when we are fighting and when we are going against the mafia of those involved in drugs - proper coordination.

**Madam Speaker:** Hon. Bhagwan!

**Mr Bhagwan:** Thank you, Madam Speaker. Can I know from the hon. Prime Minister whether, as Prime Minister, he is initiating action against the Barristers whose names have been mentioned in the Report and who are interviewed by the Task Force in view of the fact that they are legal advisers of Government-owned companies or institutions? Can I know whether action will be taken to terminate their employment as legal advisers of these parastatal bodies and Government-owned companies, being given that they have been named in the Lam Shang Leen Report and they are being called upon before the Task Force?

**The Prime Minister:** Madam Speaker, we must understand one thing. We all have gone through the findings of the Report of the Commission on Drug Trafficking. The Report has come up with a certain number of facts. I am not going to pronounce myself on those

facts. But what does the Report recommend? It recommends further investigation, and this is what we are doing precisely. Now, I cannot condemn people in advance when the Commission, itself, has not clearly and unambiguously condemned people, the more so that we all know that there are cases that have been entered before the Supreme Court for judicial review. So, I cannot act in a way as if I, myself, am the judge and as if I am pronouncing a sentence. This cannot be so. We have to be fair.

**Madam Speaker:** Hon. Ganoo!

**Mr Ganoo:** Can I ask the hon. Prime Minister whether the Task Force is subject to the directive of anybody, including the Prime Minister or the Cabinet? What will happen if Government feels that the Task Force is going astray in terms of the recommendations made in the Report?

**The Prime Minister:** The Task Force is not subjected to any directive from the Ministerial Committee. The Ministerial Committee has been set up precisely to be able to put in place that Task Force, but that Task Force is working independently of the Ministerial Committee. What we have asked the Task Force is that, should there, as and when required, be any information that they feel should be publicised - of course, it is not for them to publicise - then they will provide us with the information and we shall do so. That is why I have answered that I cannot give any information. It is not that I cannot give. I am not entitled to retrieve information from the inquiries that are underway. I can assure the hon. Member that, as I am advised, inquiries are proceeding.

**Mr X. L. Duval:** Madam Speaker, what is going to happen to the Commissioner of Police? He has been named in the Report for having transferred this DCP from Rodrigues, and his Office has also been named in the Report for the leaking of information concerning the star witness. What arrangements is the hon. Prime Minister making to complete these inquiries which, in my view, need to be completed?

**The Prime Minister:** Madam Speaker, with regard to what has been mentioned in the Report, inquiries that are warranted will, I am sure, be conducted by the different authorities forming part of the Task Force.

## **ELIMINATION OF RACIAL DISCRIMINATION COMMITTEE - REPORTS**

**(No. B/938) 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 presentation made by the Honourable the Attorney-General, Minister of Justice, Human Rights and Institutional Reforms, of the Update of the combined 20th to 23rd periodic reports to the Committee on the Elimination of Racial Discrimination on 14 and 15 August 2018, in Geneva, he will state if he has taken cognizance of the content thereof.

*(Withdrawn)*

#### **SUGAR INSURANCE FUND BOARD – CROP YEAR 2017**

**(No. B/941) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien)** 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 Sugar Insurance Fund Board, he will –

- (a) for the benefit of the House, obtain therefrom, information as to why
  - (i) it has refused to declare Crop Year 2017 an Event Year, as per the representations of the planters, and
  - (ii) the Crop 2017 Synopsis Report has not been published, and
- (b) state if he will inquire therewith the reasons for the refusal of the request of the planters to declare Crop Year 2017 an Event Year.

*(Withdrawn)*

#### **COMMISSION ON THE PREROGATIVE OF MERCY - REFORMS INSTITUTION ACT OF 1988**

**(No. B/946) Mr V. Baloomoody (Third Member for GRNW & Port Louis West)** 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 powers of the Commission on the Prerogative of Mercy, he will state if consideration will be given for the Constitution to be amended with a view to ensuring that its advice to the President of the Republic is consistent with Section 51 of the Reforms Institution Act of 1988.

*(Withdrawn)*

#### **NATIONAL HUMAN RIGHTS COMMISSION - APPOINTMENTS**

**(No. B/947) Mr V. Baloomoody (Third Member for GRNW & Port Louis West)** 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 National Human Rights Commission, he will, for the benefit of the House, obtain therefrom, information as to if all the posts thereat have been filled, following the reconstitution thereof, indicating the –

- (a) qualifications, experience held and terms and conditions of appointment of the incumbents thereof;
- (b) number of visits effected, since their appointment to date in the -
  - (i) Prisons;
  - (ii) Police cells, and
  - (iii) detention centres, both in mainland Mauritius and Rodrigues, and
- (c) number of workshops organised.

*(Withdrawn)*

**Madam Speaker:** Time is over! The Table has been advised that PQ B/941 has been withdrawn. Hon. Members, the Table has been advised that PQ B/972 in regard to Decaen Project will be replied by the hon. Minister of Housing and Lands. PQs B/997 and B/998 have been withdrawn.

Hon. Rughoobur!

#### **DOORGACHAND HURRY GOVERNMENT SCHOOL - RENOVATION**

**(No. B/948) 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 Doorgachand Hurry Government School in Goodlands, she will state the amount of funds earmarked for the carrying out of renovation works thereat.

**Mrs Dookun-Luchoomun:** Madam Speaker, the upgrading and maintenance of school infrastructure is an ongoing exercise for the Ministry of Education. Each year, a priority list of infrastructural works to be effected in all schools is drawn up in consultation with the school community and, depending on the availability of funds, the projects are implemented in a phased manner. Some maintenance or renovation works are undertaken at zonal level, while for some others, which are of high complexity, they are carried out by contractors appointed by the Ministry of Public Infrastructure and Land Transport under the Framework Agreement.

With regard to the Doorgachand Hurry Government School, I am informed that for this financial year, a total amount of Rs13.7 m. has been earmarked, Rs2.2 m. for works to be carried out at Zone level and Rs11.5 m. to be undertaken by Contractors appointed by the MPI under a Framework Agreement.

All works will, therefore, start during the forthcoming school holidays, that is, in November/December this year. Projects which will be carried out at Zone level and expected to be completed before school resumption are –

- the upgrading and renovation works of the Pre-Primary Unit;
- the dismantling of the existing damaged Corrugated Iron Sheet shelter and construction of a new one;
- the renovation of the toilet block, and
- the removal and replacement of the main entrance sliding gate.

The projects which will be implemented by the Contractor appointed by the MPI under the Framework Agreement are -

- demolition works (careful demolition of concrete beams and re-roofing works);
- demolition of the Asian Language classrooms, and provision of new classrooms with block works and iron sheeting rooftop;
- re-roofing works for classrooms;
- concrete repair and waterproofing works;
- internal and external painting works;
- construction of retaining wall along the side of the football ground, and
- drainage and landscaping works.

It is expected that works will be completed within five months.

**Mr Rughoobur:** Madam Speaker, let me thank the hon. Minister, one for her reply and, secondly, for finally considering these renovation works. We have been waiting for these renovation works for quite long. I have also observed that the issue that we have been getting is the problem of resources at the level of the infrastructure unit. May I request the hon.

Minister if she is contemplating to substantially increase technical resources - architects and engineers - at the level of the Ministry so that they themselves, instead of waiting one, two or three years to complete the outstanding works, can do it?

Last thing, Madam Speaker, ...

**Madam Speaker:** No! Hon. Member, I am sorry. Your question, first of all, is of excessive length. Now, one question at a time. You cannot ask two questions at a time.

**Mrs Dookun-Luchoomun:** We will look into the matter.

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

### **NINE YEAR BASIC SCHOOLING PROGRAMME – TEACHERS - TRAINING**

(No. B/949) **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 Nine Year Basic Schooling Programme, she will state the amount of funds disbursed for the training of the teachers therefor since 2015 to date.

**Mrs Dookun-Luchoomun:** Madam Speaker, as is commonly known, today the NYCBE policy paper “Inspiring every child” provides for continuous professional development as one of the strategic pillars of the reform. This reform, itself, demands a transformation in the processes related to inclusion and learning as heart of equity drive. As well, legitimate expectation of all stakeholders is to ensure that our learners are provided with an education of highest quality. Such a context, Madam Speaker, demands for the reinforcement of the skills and competencies of teachers, the building of their capacity, since it is universally recognised that teachers are the most important within school factor that can directly improve learner achievement.

Accordingly, expenditure has been incurred on the professionalisation of teachers. Heads of schools, inspectors, trainers, supervisors, quality assurance officers, amongst others, have also been trained to ensure the proper implementation of the reforms, especially the application of new pedagogies within the scope of the new curriculum framework.

Madam Speaker, I wish to inform the House that funds disbursed for training since 2015 to date with regard to the Nine Year Continuous Basic Education amount to Rs7,892,824. This amount represents the different quanta disbursed by various partners as follows –

- directly by the Ministry - Rs2.1 m;

- by the MES - Rs579,248;
- by the MIE - Rs4.4 m., and
- by the MITD - Rs717,254.

Funds were provided mainly for the payment of fees to resource persons and provision of logistics.

**Madam Speaker:** Hon. Rughoobur!

**Mr Rughoobur:** Thank you, Madam Speaker. Out of the funds that the hon. Minister just mentioned, Rs500,000, I think, is for the MIE. Last year, there was an important training programme that was to be conducted and she mentioned about this Curriculum Framework, assessment, evaluation and remedial education. May I know from the hon. Minister, since July 2017 till now, whether this training programme has been implemented for the lower grades, I think the seven to nine educators?

**Mrs Dookun-Luchoomun:** Madam Speaker, training is continuous. We have been having sessions in the months of September and October; it is an ongoing process.

**Madam Speaker:** Hon. Rughoobur!

**Mr Rughoobur:** Since we are talking of training and funds earmarked by the MIE - I think some Rs500,000 were paid.

**Mrs Dookun-Luchoomun:** For MIE, it is Rs4.4 m.

**Mr Rughoobur:** Okay! Last year, 340 educators were appointed. There was training for Arts, Civic Education, Road Safety and Physical Education for those 340 educators. May I know from the hon. Minister whether the MIE has the adequate resources, in terms of quality or quantity, to train all these educators?

**Mrs Dookun-Luchoomun:** Madam Speaker, the MIE has been doing the training; the training is over. They are having special sessions at the level of the Ministry now.

**Mr Rughoobur:** Madam Speaker, the hon. Minister last year spoke equally of a very interesting proposal for the setting up of a teachers' academy. May I know the status to date?

**Mrs Dookun-Luchoomun:** Madam Speaker, when we talk about the teachers' academy, we are talking about a number of sessions to be carried out at the level of the Ministry for continuous professional development. We have already started it. We do not

have a proper specific infrastructure for that, but we use the infrastructure available at the level of our institutions for that.

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

**Mrs Perraud:** Can the hon. Minister inform the House whether teachers working in the extended stream have been trained? How many teachers and what are the funds disbursed for the training of the teachers?

**Mrs Dookun-Luchoomun:** Madam Speaker, I don't have the exact figure for the training of teachers in the extended programme, but they have been trained and, part of the sum that I have been mentioning, goes for the training of extended programme teachers as well.

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

**Mr Osman Mahomed:** Can I ask the hon. Minister whether as part of this training programme, support teachers were given training and, if so, how many of them? And how many of them actually got jobs and how many of them are still waiting for the jobs?

**Mrs Dookun-Luchoomun:** Madam Speaker, support teachers are teachers who have been taken by the Ministry through the PSC. They have all undergone training. I presume that the hon. Member is talking about YEP trainees who were trained by the Ministry and had worked for some time in the training programme. I think a few of them were recruited by the PSC; others are working most probably in the private sector.

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

### **EDUCATION REFORM - AFRICAN UNION AGENDA 2063**

**(No. B/950) 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 reforms undertaken by her Ministry, she will state the initiatives taken to ensure that all of them are in line with the Agenda 2063 of the African Union Commission.

**Mrs Dookun-Luchoomun:** Madam Speaker, Agenda 2063 is composed of seven aspirations and is the vision for the African continent, 50 years from now. A vision of an



integrated, prosperous and peaceful Africa driven by its own citizens and representing a dynamic force in the Global Arena.

The seven aspirations are –

1. a prosperous Africa based on inclusive growth and sustainable development;
2. integrated continent, politically united based on the ideals of Pan-Africanism and the vision of Africa's Renaissance;
3. an Africa of Good Governance;
4. democracy;
5. respect for human rights, justice, and rule of law;
6. a peaceful and secure Africa, an Africa with a strong cultural identity, common heritage, values and ethics. An Africa whose development is people driven, relying on the potential of the African people, especially its women and youth and caring for children, and
7. an Africa as a strong united, resilient and influential global player.

Madam Speaker, each aspiration has a set of goals with priority areas and targets that will determine the extent to which the goals are being met. The 50-year plan is being implemented through 5/10 year plans. The first 10-year plan, 2014/2023, lays out the immediate priorities and is designed to kick-start the journey towards 2064.

The goals for education, force and aspiration – a prosperous Africa based on inclusive growth and sustainable development. This means the high standard of living and well-being for Africans, the goal for education being a well-educated citizenry and a skills revolution underpinned by Science, Technology and Innovation.

A key driver of Africa's prosperity will be its World-Class Human Capital developed through quality education, focussed on achieving 100% literacy and numeracy and with clear emphasis on Science, Technology and Engineering.

Africa, by 2063, will be the world's most popular continent with the largest population segment being the youth who will be highly skilled for a global knowledge economy. The action areas for Agenda 2063 are –

- investing in early childhood education;
- building critical skills through expanded access through primary education for all;

- addressing the issues of school dropouts and improving quality issues;
- improving quality and relevance of technical and vocational skills development to address the needs of both cutting edge skills and training majority who are involved in the informal economy;
- revitalising tertiary education through expanding access, improving quality and relevance, building human capital for knowledge, innovation driven economies, and
- harnessing regional and continental resources to significantly scale up human capital formation.

Madam Speaker, our reform in this sector is in line with international and continental commitments taken, namely –

- the sustainable development boards of global Agenda 2030;
- African Union Agenda 2063, as well as the continental education strategy for Africa 2016/2025.

This is reflected in the desired outcomes of education and the various targets.

Our reform, Madam Speaker, has got as main objectives -

- to equip children with knowledge, foundation skills and attitudes leading to self-empowerment;
- inculcate in them a sense of moral responsibility on a set of values and a strong identity for the country;
- promote holistic development of all children, and
- provide equitable learning for all and attain high levels of achievement.

**Madam Speaker:** Hon. Minister, are you almost finished? Otherwise, you may circulate your reply.

**Mrs Dookun-Luchoomun:** I will just end, Madam Speaker. Our reform is very much in line with the African agenda.

**Mr Rughoobur:** Madam Speaker, the hon. Minister rightly pointed out the six aspirations of Agenda 2063. May I know from the hon. Minister, specifically on this issue of STI (Science, Technology and Innovation), how is this being integrated in our reform?

**Mrs Dookun-Luchoomun:** Madam Speaker, together with the Rajiv Gandhi Science Centre, the Ministry is working on to ensure that, as early as in the pre-primary cycle, we are coming up with the awakening of the pre-primary students towards science. So, the work is being done. Every year, we are carrying out science fairs and all schools are participating in science exhibitions being held at the Rajiv Gandhi Science Centre. We are also renovating and upgrading our science clubs.

**Mr Rughoobur:** Madam Speaker, the hon. Minister last year also mentioned the eight committees that were to work out on the reform. May I know whether, out of these eight committees, there is any committee which concentrated its efforts, at least partly in this whole issue of Agenda 2063, and whether this is being integrated in the reform?

**Mrs Dookun-Luchoomun:** Madam Speaker, I have just mentioned that the reform itself is based on our aspirations and, we, being part of Africa, it also includes the African aspiration. Everything is being done in line with our commitments at the continental level and international level.

**Madam Speaker:** Hon. Rughoobur!

**Mr Rughoobur:** Madam Speaker, we are talking also today of this issue of Educational Accreditation Agency and a common education system in place for Africa. May I make a request to the hon. Minister, if we can have an African desk at the level of the Ministry to make a follow-up of what is happening at the level of the African Union?

**Mrs Dookun-Luchoomun:** Madam Speaker, we are already working with our friends from the African countries on accreditation processors. There are a number of MoUs that have been signed. So, it is being done. We don't really need an African desk at the level of the Ministry, but the work is being done at the level of the different countries and partners that we have in education.

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

**Mrs Perraud:** The Agenda 2063 of the African Union Commission laid emphasis on values, peace, nation-building and equality. How is this translated in our schools through the education given to our children?

**Mrs Dookun-Luchoomun:** Madam Speaker, when we came up with the National Curriculum Framework, we have laid a lot of emphasis on life skills and among life skills, we have been talking about values and also a number of other issues, namely sexuality education, so on and so forth. So, teachers are being trained to deliver on all these different issues.

**Madam Speaker:** Hon. Uteem!

**Mr Uteem:** Thank you, Madam Speaker. The hon. Minister is talking about the implementation of the African Union Recommendation. Is the hon. Minister aware that be it at primary level and secondary level, students in Mauritius know almost nothing about Africa, about African cultures, about even basic things about what languages are spoken in African countries. So, would the hon. Minister consider including specifically, right from primary school, a module on African studies?

**Mrs Dookun-Luchoomun:** Madam Speaker, our school curriculum does take into consideration the cultures present in Mauritius at primary level, but as we move on to the lower secondary, we are coming up with new items to be put in the curriculum with regard to History and all. So, there are elements that will be put in at the level of lower secondary and upper secondary.

**Madam Speaker:** Last question, hon. Dr. Boolell!

**Dr. Boolell:** To some extent, the Minister has replied to the question. Now, can I ask the Minister, in the light of an emergence of PAN African Renaissance, what is concretely being done by the Ministry to sensitise the students and to impress upon them that Africa is a continent of today and of tomorrow?

**Mrs Dookun-Luchoomun:** Madam Speaker, we are having lots of collaboration with African countries, but we are also receiving a large number of students coming from Africa and the exposure of our students at the level of the Tertiary Sector to Africa and students coming from Africa, has enormously improved, but as far as the African Renaissance is concerned, we have been talking about accreditation; we have also been talking about Africa getting its universities in the Top 25 by 2020, following the Kigali Initiative. So, things are being done. We are moving in line with all the commitments we have taken at the level of the African continent.

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

*At 1.00 p.m. the sitting was suspended.*

*On resuming at 2.37 p.m. with the Deputy Speaker in the Chair.*

#### **SCHOOL STUDENTS – DIGITAL TABLETS - SUPPLY**

**(No. B/951) Mr Osman Mahomed (Third 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 Project for the Supply of Digital Tablets to School Students, she will state if same has been scrapped or is being reconsidered by her Ministry.

**Mrs Dookun-Luchoomun:** Mr Deputy Speaker, Sir, in the context of the reforms being implemented in the Education Sector by my Ministry, an ICT Strategy for education has been elaborated.

The Early Digital Learning Programme has been initiated this year with the help and support of the Government of India to allow students to develop an early digital culture and a culture of digital usage. 26,800 digital Tablets, 950 projectors and 1,340 charging racks have been placed in all Grade I and II in primary schools.

These Tablets have been uploaded with learning and relevant educational materials. The project is being extended to Grade III next year.

My Ministry is currently completing procedures with Exo India for the provision of 12,800 Tablets, 480 projectors and 960 rack charges to enable extension of the EDLP Project to Grade III in 2019.

**Mr Osman Mahomed:** Thank you Mr Deputy Speaker. Mr Deputy Speaker, the school tablet project for secondary school has known a lot of problems. Can I ask the hon. Minister what precautions are being taken? As the hon. Minister knows, last Friday the company what was supposed to supply tablets to secondary school had gone bankrupt and this Rs140 m. of tax payers' money appears to be going down the drain. Can I ask the hon. Minister what precaution is being taken for the primary school tablets so that we don't have this chaotic situation that we have had for the secondary school?

**Mrs Dookun-Luchoomun:** Mr Deputy Speaker, Sir, as I have just mentioned, the EDLP is being done with help of the Government of India. We have just implemented the first phase successfully. All the tablets are in schools and students are using them. We are proceeding with the second phase and we believe that we will have no problems with this particular project.

**Mr Osman Mahomed:** Can I ask the hon. Minister whether the ICT Ministry is at all involved because I am to refer to a very pertaining press article 'favouritism and abuse of power' which appears in Weekly of last week...

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

**Mr Osman Mahomed:** But, I have to, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** You are not supposed to refer to a press article when you are putting your question. Thank you.

**Mr Osman Mahomed:** Okay. Because a press article has come out in the press no one has come forward to reply to that press article. Is the ICT Ministry at all involved because if that is going to be the case, the Government is going to lose money seemingly again?

**Mrs Dookun-Luchoomun:** Mr Deputy Speaker, Sir, I think the hon. Member is a bit confused. I am talking about the project of my Ministry and the project deals with tablets distribution within primary schools. As I have said earlier, there are absolutely no linkages with any other projects. This particular project is being run with the help and support of the Government of India and the dealings have been done with Exo India, a company under the aegis of the Indian Ministry of Human Resources.

**Mr Osman Mahomed:** No, there is no confusion Mr Deputy Speaker. Tablets do not work in isolation, they need internet connection and this is where the ICT Ministry comes in...

**The Deputy Speaker:** Hon. Mahomed, please I have told you before put your question.

**Mr Osman Mahomed:** Yes. So, do we have it from the hon. Minister that the ICT Ministry will not be involved at all in this project?

**Mrs Dookun-Luchoomun:** Mr Deputy Speaker, Sir, these two projects are totally different.

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

**Mr Ameer Meea:** Mr Deputy Speaker, Sir, just to clarify because I have not heard the hon. Minister reply to the effect that the company supplying the tablets, that is, DCEL went into receivership. Is it the same company that will supply the tablets or not? Can the hon. Minister clarify on this?

**Mrs Dookun-Luchoomun:** Mr Deputy Speaker, Sir, I have answered questions a number times in this august Assembly with regard to the EDLP project. This project is being run by the Ministry of Education, with the support of the Government of India, with a company run under the aegis of the Indian Ministry of Human Resources Exo India. And Exo

India had recruited, had come up with an Indian company for the supply of the tablets. These two projects are totally different.

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

**Mr Bhagwan:** Can I know from the hon. Minister whether this Indian Company, which is linked with the new project, has a representative in Mauritius. Is it with that representative?

**Mrs Dookun-Luchoomun:** Mr Deputy Speaker, Sir, there is a local agent of the company which deals with the maintenance of the tablets in Mauritius.

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

**Mr Armance:** Thank you, Mr Deputy Speaker. I would like to find out from the Minister regarding the tablet, what are the liabilities of the student if it gets lost or is stolen?

**Mrs Dookun-Luchoomun:** Sorry?

**Mr Armance:** What are the liabilities for the student if the tablet gets lost or is stolen?

**Mrs Dookun-Luchoomun:** The tablets are retained in school. They are kept in school. Students use the tablets in their classroom.

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

**Ms Sewocksingh:** Can the hon. Minister inform the House, the number of tablets that have already been delivered and the criteria that were taken into consideration for these tablets to be delivered?

**Mrs Dookun-Luchoomun:** The tablets are supplied to all the primary schools and are kept in the schools. Each and every child in Grades I and II have been provided with a tablet which is kept within the school premises in the classrooms.

*(Interruptions)*

I'll give the name.

**The Deputy Speaker:** Next question, hon. Ameer Meea!

#### **RING ROAD PROJECT - PHASES II AND III - IMPLEMENTATION**

**(No. B/952) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East)** asked the Minister of Public Infrastructure and Land Transport whether, in regard to the Ring Road Project, he will, for the benefit of the House, obtain from the Road

Development Authority, information as to if consideration will be given for the implementation of Phases II and III thereof and, if so, when and, if not, why not.

**Mr Bodha:** Mr Deputy Speaker, Sir, I wish to refer the hon. Member to the reply made to Parliamentary Question B/907 on 05 December 2017; my colleague, the hon. Minister of Social Security who replaced me then, gave a detailed account of the Ring Road project.

He also informed the House that consideration would be given for the implementation of Phases 2 and 3 of the Ring Road project after the implementation of other major projects such as the Jumbo Phoenix Grade Separator, the A1M1 Bridge linking Coromandel to Sorèze, the Deschartes Flyover, a new flyover at Quay D, the Jin Fei Project and the Urban Terminals of Victoria and Immigration Square, amongst others.

I am pleased to inform the House that works have already started for the Jumbo Phoenix Grade Separator and the A1M1 Bridge in April 2018 and presently, the works are expected to be completed by November 2020.

The Deschartes Flyover has reached an advanced stage and will be completed, Mr Deputy Speaker, Sir, by December this year. As for the Jin Fei, it will be completed in April 2019 and the two urban terminals are expected to start works early 2019.

Mr Deputy Speaker, Sir, regarding the Ring Road project, it comprises the following three phases as initially proposed by J. Maynard, Transaction Advisor for the Road Decongestion, in May 2015 –

- Phase 1 - from Montebello to Guibies over an approximate length of 5 kms;
- Phase 2 - from Guibies to Champ de Mars over 3.9 kms through a single tunnel, and
- Phase 3 - from junction at Boulevard Victoria parallel to Military Road up to the Container Park at Mer Rouge.

The Ring Road Phase I has been completed and is operational since May 2017 after the repairs.

As regards the Ring Road Phase II, its original alignment was subsequently reviewed by the Korean Expressway Corporation. It will be of the same approximate length of 3.9 kilometres starting from the end of the existing Ring Road Phase I on Guibies, but it will involve the construction of two parallel tunnels of approximately 1.2 kilometre across the



Quoin Bluff Mountain, with an interchange at Tranquebar to the centre of the capital up to Volcy Pougnet street and to Château d'Eau at Champ de Mars.

Phase 3 would be from junction at Tranquebar through a bridge and a tunnel across Colline Monneron uphill of Vallée Pitot and parallel to Military Road to join the Motorway M2 at the Quay D and the Mer Rouge junction.

I am informed by the Road Development Authority (RDA) that presently avenues for funding options for the implementation of Phases 2 and 3 of the Ring Road project are being explored with the Republic of Korea, the People's Republic of China and other international agencies. After securing the necessary funds, it is proposed to proceed as follows –

- (i) hire the services of a Consultant to –
  - a) carry out geotechnical and soil investigation;
  - b) prepare the bidding documents on a design and build basis after reviewing all the existing technical information from previous studies.
- (ii) appoint a Contractor to carry out the works.

**Mr Ameer Meea:** Yes, Mr Deputy Speaker. Answering to a PQ on the 04 July 2017, the hon. Minister informed the House that, in relation to Phases II and III, a study would be carried out for the tunnel. It was in July 2017 PQ B/492.

Can I ask the hon. Minister whether this study since then has been done, and if it has been done whether he can table a copy of this study, and by whom has this study been done?

**Mr Bodha:** Well, this study has not yet been done. In fact, we are planning to have to the first geotechnical study in the months to come.

**Mr Ameer Meea:** In a similar past PQ, the hon. Minister informed the House, we recall, that there were many repairs that were being done for the Ring Road Project Phase 1, whereby there was Rs115 m. of performance bond, and secondly Rs42 m. of retention money. May I ask the hon. Minister whether these sums have completely been released now?

**Mr Bodha:** I will have to check. What I can say is that the works were under the defect liability period. In fact, the repairs have been carried out by the company which built the road and the retention money was there, in fact, to offset the sum until the works have been done. I have to check about that. I think it must have been repaid already.

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

**Mr Uteem:** Thank you, Mr Deputy Speaker, Sir. The hon. Minister may be aware that there are many people living on the alignment, especially in Tranquebar and Vallée Pitot area, whose land has not been regularised precisely because they were told that the Ring Road may be coming to their land. So, may I know from the hon. Minister whether in coordination with the hon. Minister of Housing and Lands, they had meetings with the people living there and let them know what will happen to them, whether they will be compensated or they will be moved to other places?

**Mr Bodha:** I would like to reassure the hon. Member. I think the new alignment goes up and all these people do not have this problem. They are not having any problem on land issues. The alignment is going to be at the foot of the hill but beyond the urban area.

**The Deputy Speaker:** Next question, hon. Ameer Meea!

#### **FOOT AND MOUTH DISEASE – ANIMALS - IMPORTATION**

**(No. B/953) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East)** asked the Minister of Agro-Industry and Food Security whether, in regard to the breeding and fattening of animals imported from Rodrigues in mainland Mauritius, he will state if mainland Mauritius has now been granted its Foot and Mouth Disease freedom status by the World Health Organisation for Animal Health for same to be allowed.

**Mr Seeruttun:** Mr Deputy Speaker, Sir, at present, the import of animals for breeding and fattening, from Rodrigues, in mainland Mauritius is not authorised.

I wish to inform the House that Mauritius and Rodrigues have not yet been granted Foot and Mouth Disease (FMD) freedom status by the World Organisation for Animal Health (OIE).

I have been apprised that the serosurveillance program is still going on and is expected to be completed by mid-November and an application for declaration of FMD freedom will be made by mid-December this year if the level of positive Non-Specific Protein (NSP) in animals is found to be below 5%.

**Mr Ameer Meea:** Mr Deputy Speaker, Sir, more than two and half years since the outbreak of FMD disease, cattle now are being imported from Rodrigues, through the Meat Authority, slaughtered and used for consumption. Therefore, can I ask the hon. Minister whether he finds it normal that cattle are being imported, slaughtered and consumed - this is

okay - but they cannot be imported for fattening and breeding? If they cannot be imported for fattening and breeding, how can we import them, slaughter them and consume them?

**Mr Seeruttun:** Well, let me first inform the House, Mr Deputy Speaker, Sir, that the FMD disease is not transmitted into human beings. I have said that many times at the time when we had that outbreak. Yet, the hon. Member is probably aware that in many countries where FMD disease is endemic in animals, they are being consumed without any issues. That is one thing.

Secondly, we have allowed animals from Rodrigues to be imported and those animals that are being imported from Rodrigues are being screened by the vets there. They are first selected from areas where they were not affected by the FMD. Secondly, they are being screened, quarantined and before even getting on board the ships, they are being verified for a last time before being embarked and when they come to Mauritius, they go straightaway to the slaughter house for slaughtering.

**Mr Ameer Meea:** But according to my information, one of the reasons why cattle are not being imported for breeding in Mauritius is that the main importer, who is in a monopolistic situation, is putting pressure on the veterinary services not to allow importation from Rodrigues so that they still have their monopolistic situation to import from South Africa and Australia. I will ask the hon. Minister to see to it that no pressure is exercised from whoever so as not to allow cattle from being imported from Rodrigues.

**Mr Seeruttun:** Mr Deputy Speaker, Sir, first, I would like to reassure the hon. Member that I do not work under pressure. I must say that last year, we imported from Rodrigues 1,495 heads of goats and sheep and 444 heads of cattle. And this year, from January to date, we have already imported 1,938 goats and sheep, and 204 cattle. So, claiming that we are under pressure from a specific importer not to import animals from Rodrigues is not correct.

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

**Mr Jhuboo:** Thank you, Mr Deputy Speaker, Sir. Within export interdiction on live animals after an outbreak of FMD follows a protocol and the protocol is as follows: the infected livestock has to be vaccinated twice and serological surveillance test has to be carried out and submitted to the World Health Organisation. My question to the hon. Minister is: has the serological surveillance test been carried out in the prescribed delay?

**Mr Seeruttun:** That is what we have been doing ever since we have completed the vaccination exercise. Usually, according to the protocol set, six months after the vaccination exercise is completed, we have to undertake that serological surveillance test. We have done two exercises already and this is the third which we are undertaking and which is due to be completed by mid-November. Then, we will look at the results and, like I said, if the results show that the presence of those viruses are below 5%, then we will be in a position to ask for the freedom of FMD status.

**The Deputy Speaker:** Hon. Dr. Boolell!

**Dr. Boolell:** Thank you very much, Mr Deputy Speaker, Sir. Can I ask the hon. Minister whether we have obtained clearance from the *Organisation Internationale Épizootique* and the FAO? He has stated that we are here to obtain freedom status and there is a surveillance programme which is ongoing. In fact, we should encourage importation of cattle from Rodrigues. But I would like to know whether we obtained clearance from *Organisation Internationale Épizootique* and the FAO?

**Mr Seeruttun:** But that is what I am saying. We are aware of the protocol set by the OIE and we are just following all the protocols set and that is where we are today. We have done the vaccination, now we are doing the surveillance and the tests have been carried out on two periods. Now, we are on the third surveillance test period and we will see what the results are. Like I said again, if the results are going to be below 5%, then we can apply for that freedom status.

**Dr. Boolell:** I put a specific question. I have asked whether we obtained clearance from *Organisation Internationale Épizootique* and the FAO. If we have, please submit the report.

**Mr Seeruttun:** I do not know what clearance the hon. Member is asking for.

**The Deputy Speaker:** You should listen to the answer, hon. Dr. Boolell!

**Mr Seeruttun:** All the time that we have been dealing with this problem, we have been in constant contact with the OIE and they are the one who have recommended that we follow that protocol. Again, like I said, we are not there because we have not yet come below the 5% limit to ask for freedom status.

**The Deputy Speaker:** Last question, hon. Ameer Meea!

**Mr Ameer Meea:** Since its outbreak, all the measures and the precautions that have been taken, I understand that there have not been any new cases. In fact, what I wanted to ask the hon. Minister is whether in recent months, there has been any single case of FMD?

**Mr Seeruttun:** None, Mr Deputy Speaker, Sir. Ever since, I think, it was sometime in September 2016, we have not had any case of FMD disease in Mauritius or in Rodrigues.

**The Deputy Speaker:** Next question, hon. Ameer Meea!

#### STATE OF MAURITIUS – COURT CASES – COMPENSATION

**(No. B/954) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East)** asked the Attorney-General, Minister of Justice, Human Rights and Institutional Reforms whether, in regard to the court cases lodged against the State, he will state the names of the beneficiaries of out of court compensation in settlement thereof over the past three years.

**Mr Gobin:** Mr Deputy Speaker, Sir, with regard to Court cases lodged against the State, there are no cases which have been settled out of Court. If the hon. Member is referring to settlement in Court that is a different matter. There are 42 cases which have been settled: 10 at the Supreme Court level, 24 at the Intermediate Court and 8 at the District Court. All those cases are being tabulated and I will deposit the list in the Library of the National Assembly.

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

**Mr Ameer Meea:** Thank you, Mr Deputy Speaker, Sir. Even if the hon. Minister does not have the information now, he can give it at a later stage. Can he also give a list of cases that have been lodged against the State for the past three years, but which have not yet been settled? I know that the Minister does not have the information now, but can you provide the House with the information at a later stage?

**Mr Gobin:** That will have to come by way of a substantive question. What is actually being tabulated is the 42 cases lodged against the State which have been settled in Court; I want to specify that, not out of Court, but for the number of cases which are still pending that is another matter. It will take some time because there are quite a number of cases against the State. The House will appreciate.

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

**Mr Uteem:** Thank you, Mr Deputy Speaker, Sir. May I know from the hon. Attorney General what is the procedure that is followed before the State decides to settle a case in Court? What is the procedure? Is the advice taken? Is the decision taken by the State Law Office? Is the decision taken by the Attorney General's Office or is it by Government? Can you please enlighten us?

**Mr Gobin:** Invariably, it is on advice received from the State Law Office and also depending on the quantum. There are different levels of authorisations; at District Court level, Intermediate Court and even at Supreme Court depending on quantum. Some cases need my approval. Some cases require Cabinet approval depending on the quantum of money involved.

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

**Mr Ganoo:** The hon. Attorney General knows that very often parties cannot successfully sue the State because of the limitation that exists in our law. Doesn't he think that it is time now for the Government to review this law about the rule of limitation so that this privilege, which is available to the State and public officers, should be done away with, so that there is equality before the law?

**Mr Gobin:** This is a matter which is still under examination, but it is premature for me to give a definite answer at this stage.

**The Deputy Speaker:** Hon. Dr. Boolell, last question!

**Dr. Boolell:** In the light of the question which hon. Ganoo has asked, can I ask the Minister why is it that in some specific cases, procedures are fast track and compensation is disbursed in Court?

**Mr Gobin:** It is not a question of fast track. Each case is decided on its own merits, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Next question, Ameer Meea!

#### **PUBLIC HEALTH INSTITUTIONS - CANCER TREATMENT**

**(No. B/955) Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East)** asked the Minister of Health and Quality of Life whether, in regard to cancer, he will state –

- (a) the number of patients presently suffering therefrom and following treatment in public health institutions per type thereof, and
- (b) where matters stand as to the -
  - (i) upgrading of the cancer section of the Victoria Hospital, and
  - (ii) construction of the new Cancer Centre at Solferino, indicating the expected start and completion dates thereof.

**Dr. Husnoo:** Mr Deputy Speaker, Sir, with your permission, I would like reply to both questions Nos. B/955 and B/962 together.

I am advised that the number of patients following treatment for cancer is 8,207.

Regarding part (b) (i), Mr Deputy Speaker, Sir, I wish to inform the House that with a view to improve the situation at the Cancer Section of Victoria Hospital, I made a visit there about two months ago. We have already initiated action to provide for additional space thereat pending the construction of the new Cancer Hospital at Solferino. Four locations have been earmarked for extension work. Three of which have been identified for conversion into a waiting areas and a fourth one for construction of a Day Care Unit as part of the proposed extension work at the Cancer Unit at Victoria. The conversion work for the two waiting areas have already been carried out in-house by my Ministry. As the remaining waiting area and the Day Care, on 28 September 2018, a request has been made to the Ministry of Public Infrastructure and Land Transport for the work to be undertaken by the district contractor under the framework agreement. My Ministry is awaiting the cost estimate for the said work, so that we can request bids from the district contractor. Once we have a contractor, the work will be completed within a month.

Mr Deputy Speaker, Sir, as regards section (b) (ii) of question B/955 , I wish to inform the House that the tender for the construction of the new Cancer Centre was launched in January 2018 and following the bid evaluation exercise, a successful bidder was selected. The tendering exercise was carried out by the consultant appointed under the G-to-G agreement with the Government of India namely HSCC India Ltd.

As regards the funding of the project, the Saudi Fund for Development has already agreed to finance the project through a soft loan of USD 25 m. equivalent to Rs875 m. The loan agreement was signed on 22 October 2018.

Mr Deputy Speaker, Sir, the letter of award has been issued on 29 October 2018 to the successful bidder namely Swadeshi Civil Infrastructure Private Ltd.

As regards the time frame for the project, I am given to understand that the duration of the construction work of the project will be about 15 months and the construction work has been scheduled to start by mid-November 2018.

Mr Deputy Speaker, Sir, now, I am going to reply to question B/962 part (a). I wish to apprise the House that all serviceable second hand equipment has been transferred to Victoria Hospital and distributed to wards and units in July 2016. As regards the unserviceable item, same have been sold by auction on November 2016 after having been certified by a Board of Survey.

Mr Deputy Speaker, Sir, as regards part (b), I have been advised that the renovation has been included in the overall course of the project and would be around Rs93 m. The total infrastructural course of the project is Rs1 billion.

**Mr Ameer Meea:** The hon. Minister gave us the details, but he did not give us the details on the name of the bidders, how many bidders there were and also the name of the successful bidder and also what is the value of the bid?

**Dr. Husnoo:** Sorry, how many bidders there were, I do not have this information, but I give the name of the successful bidder. It is Swadeshi Civil Infrastructure Private Ltd and the value is Rs1 billion.

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

**Mr Ramano:** Merci, M. le président. Dans sa réponse en date du 31 octobre 2007, le ministre parle: *'This project is being implemented by HSCC India Ltd under a G-to-G arrangement and part of the financing will be under the Indian Line of Credit.'* Et aujourd'hui nous entendons parler de *'Saudi Fund.'* Est-ce que je peux savoir quelle sera la répartition éventuellement entre ces deux fonds ?

**Dr. Husnoo:** Initially, the project was going to be financed by the Line of Credit from India, but after discussions, we have shifted and contacted the Saudi Fund and they have agreed to fund the project on very good terms and conditions.

**The Deputy Speaker:** Hon. Dr. Boolell!

**Dr. Boolell:** I hope you will not be accused of Indian bashing!



**The Deputy Speaker:** No comments, hon. Dr. Boolell! Put your question!

**Dr. Boolell:** Yes, Mr Deputy Speaker, Sir, with due pleasure. Can I ask the hon. Minister, till the project is implemented, whether there is epidemiological study being carried out or conducted with respect to the high incidence of cancer in Mauritius?

**Dr. Husnoo:** I mean, in Mauritius, we have the statistics. As I mentioned, we have statistics for the last seven or eight years here with me. If the hon. Member is talking about the causes, I mean, we go according to international studies, because Mauritius being a small country, we do not have a lot of epidemiological studies which are done locally. We go according to international studies.

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

**Mr Bhagwan:** Thank you, Mr Deputy Speaker, Sir. Pending the implementation of this very important project, can the hon. Minister inform the House what action has been initiated to alleviate the problems which the cancer patients are facing while attending, especially Victoria Hospital? There are lots of problems, practical problems, amenities. So, has the hon. Minister effected a site visit recently and can he inform those patients what immediate short-term and even long-term action he intends to take pending the implementation of this project?

**Dr. Husnoo:** Mr Deputy Speaker, Sir, I think I have just answered part of the question because I just mentioned that I made a visit there about two months ago. We have identified four sites where we are going to do repairs. There are three waiting areas and one day care centre. Out of these three waiting areas, we have already done two waiting areas, and for the remaining waiting area and the day care, we are waiting for the district contractor. Once I get the district contractor, I am going to do that as well.

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

**Mr Leopold:** Thank you, Mr Deputy Speaker, Sir. Can I ask the hon. Minister the most common cancer that his Ministry has found amongst male and what are the preventive measures he is taking to curb that situation?

**Dr. Husnoo:** Sorry, the hon. Member is talking about male?

**Mr Leopold:** Yes.

**Dr. Husnoo:** Male cancer. I think that the main male cancers common amongst male are –

1. prostate cancer;
2. lung cancer, and
3. colorectal cancer.

And for the female, it is the breast cancer and cervical cancer that are the most common ones. We have a lot of screening programmes for breast cancer and cervical cancer. Now we have started a screening programme for colon cancer. So, we have a lot of screening programmes. I mean, where it has been shown that it is going to be effective, we are carrying them out. For prevention as well, for cervical cancer, we are doing SPV vaccine to the young girls in Standard V, Standard VI and Form 1 level to prevent them from getting cervical cancer in the future.

**Mr Bérenger:** Can I ask a question?

**The Deputy Speaker:** I shall allow two last supplementary questions: one to hon. Ramano and another one to hon. Aadil Ameer Meea.

**Mr Bérenger:** I heard the hon. Minister say - if I heard him correctly - that the tender has been awarded for one billion. Can it be confirmed that we are talking about Medpoint Hospital? It will be *réaménagé* and so on. But we are not talking about a new building, if I got it right. We are talking about the Medpoint Hospital, *réaménagé* and so on. The round figure of one billion makes me very, very uneasy. If indeed the tender has been awarded for one billion, can I know from the hon. Minister what does that entail?

**Dr. Husnoo:** First, let me explain myself. The works that are being done there is for renovation of the Medpoint Clinic that was there before and putting up a new building as well. I think it is a four/five storey building. Both of them - together - are going to cost Rs1 billion. Now, as far as renovation of ex-Medpoint Clinic, I think I have mentioned that it is only Rs93 m. out of this Rs1 billion.

**The Deputy Speaker:** Yes, hon. Ameer Meea!

**Mr Ameer Meea:** Just to clarify again, with regard to this figure, both contracts have been awarded to the same contractor, that is, renovation and the setting up of this new Cancer Centre.

**Dr. Husnoo:** It is only one contract to do the renovation and the new building as well.

**The Deputy Speaker:** Last question, hon. Ramano!

**Mr Ramano:** Merci M. le président. Est-ce que je pourrais savoir, dans un souci de transparence, si le ministre est d'accord pour nous donner des éclaircissements en ce qui concerne les conditions attachées à ce *loan* sous le *Saudi Fund* ? Est-ce que c'est toujours sous un *G to G agreement*?

**Dr. Husnoo:** I will look into the matter and I will inform the hon. Member later on.

**The Deputy Speaker:** Next question, hon. Jhuboo!

### LITTERING & ILLEGAL DUMPING - PENALTIES

(No. B/956) **Mr E. Jhuboo (Third Member for Savanne & Black River)** asked the Minister of Social Security, National Solidarity, and Environment and Sustainable Development whether, in regard to littering and illegal dumping, he will state –

- (a) if consideration will be given for the introduction of additional measures and tougher penalties in relation thereto, and
- (b) number of cases lodged by his Ministry in relation thereto since March 2018 to date, indicating the outcome thereof.

**Mr Sinatambou:** Mr Deputy Speaker, Sir, there are two main legislative instruments dealing with littering and illegal dumping. These are the Environment Protection Act of 2002 and the Local Government Act of 2011.

With regard to part (a) of the question, section 88 of the Environment Protection Act of 2002 makes provision for the issue of fixed penalties in relation to littering and dumping. The Ninth Schedule to the Act details the fines for littering and dumping from any trade, business, industry, office or any service provider into a canal, drain or public place and water bodies, and these fines range from Rs6,000 to Rs10,000.

Regarding littering from any source other than a trade, business, industry, office or service provider into the media referred to above, the penalty for an offence ranges from Rs2,000 to Rs3,000. In addition, failing to comply with a Fixed Penalty Notice within a prescribed delay constitutes an offence. Upon conviction, an offender is liable to a fine, which is not less than three times the amount of the fixed penalty, as per section 88(5) of the Environment Protection Act of 2002.

I wish to inform the House that a review of the fines for offences and penalties in relation to littering and dumping under the Environment Protection Act of 2002 is under consideration.

Regarding illegal dumping, the House may be aware that section 61 (7A) of the Local Government Act of 2011 has recently been amended and it is effective since 10 October 2018. The amendments relate to cases where any occupier of land fails to comply with a notice served upon him to remove waste from a given property within a specified period. Upon conviction, that person is now liable to a fine of not less than Rs10,000 and not exceeding Rs50,000. Previously, under section 158(1) of the Local Government Act of 2011, a person convicted of such an offence was liable to a fine not exceeding Rs25,000. Therefore, Mr Deputy Speaker, Sir, the fines for offences relating to illegal dumping have already been increased and been made more stringent.

With regard to part (b), I have the figures from March 2018 to September 2018 and not to date. The *Police de l'Environnement* has established 1,305 contraventions for illegal littering and dumping. In all these cases, the enquiry is ongoing.

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

**Mr Jhuboo:** Merci, M. le président. Le constat est je crois unanime. L'île est de plus en plus sale, et il y a même des dépotoirs à ciel ouvert. Ma question au ministre est la suivante. N'est-il pas le moment de prendre le taureau par les cornes et de venir avec des mesures fortes qui vont endiguer ce fléau qui est l'incivisme et cette manie de jeter tout un petit peu partout ?

**Mr Sinatambou:** I believe that if you have a fine which can go up to Rs50, 000 for unlawful dumping, surely that should be a deterrent enough if you actually dump. I agree with the hon. Member at least on one thing, on the element of *incivisme*. Unfortunately, we seem to have developed two categories of people in this country. Those who, on the one hand, keep doing the cleaning, keep doing the tidying up, and those who, on the other hand, seem to take pleasure in actually making the country dirty. I do not know what to do about it except from applying the law. The law seems to be quite stringent. We are sensitising, we are coming with many measures, but somehow we must concede that those who are actually insensitive should really - sorry for the word - clean up their act.

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

**Ms Sewocksingh:** Thank you, Mr Deputy Speaker, Sir. In relation to this question, may the hon. Minister inform the House if his Ministry is ready to have a dumping ground with waste segregation? For example, having metals, plastics sent to a place where they can

be recycled, food wastage and things like that which can be used for compost and other products which cannot be recycled can be incinerated.

**Mr Sinatambou:** In fact, I thank the hon. Member for this supplementary question. My Ministry is currently proceeding with the elaboration of a National Waste Strategy regarding waste management, with particular emphasis on resource recovery and recycling. So, we are going in that direction. But again, I must say, it is a question of culture. We try to use eco bins on the beaches to put plastic bottles. Because we know of this *incivisme*, we use *fil métallique*, just for them to be transparent. Still, as opposed to just getting plastic bottles, we got corned beef tins into the very eco bins which are meant to receive plastic bottles.

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

**Mr Bhagwan:** Illegal dumping at night, especially construction wastes which are now becoming more frequent, you can see it on bare lands, even along motorway. Can the hon. Minister inform the House whether, apart from the *Police de l'Environnement*, there are joint operation with the normal police, even the Traffic Unit at night against these illegal dumping by lorries, especially construction wastes?

**Mr Sitatambou:** Mr Deputy Speaker, Sir, this is being considered. I must say that in the Budget, we are even coming with a particular provision whereby we are going to set up, shall I say, a site just to accommodate construction and demolition wastes.

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

**Mr Ganoo:** Indeed, it is a question of *incivisme*. But in the recent clean-up campaign, which was organised by NGO, it became abundantly clear that many families because they live in small houses, with no backyard, no front yard, sometimes they have no choice than to dump their wastes somewhere in the vicinity. Isn't it a question of designating specific areas in poor and depressed areas where people can dump their wastes or shouldn't we give more means to the local authorities to come more regularly and clean up those areas?

**Mr Sinatambou:** I am not sure I would agree with the hon. Member. The State spends Rs1.5 billion for collection, transport, transfer and disposal of solid waste. For the beach, we spend Rs130 m. a year to clean the beaches and the collection is for everywhere. I think the problem lies somewhere else, it is much more *de l'incivisme*, I believe.

**The Deputy Speaker:** Hon. Jhuboo, last question!

**Mr Jhuboo:** Mr Deputy Speaker Sir, pour étayer les propos de l'honorable Ganoo, je vous dépose quelques photos prises devant le symbole de notre biodiversité, le parc national de Rivière Noire qui est devenu un dépotoir à ciel ouvert. Dans une de ses réponses, le ministre faisait état de 4,829 contraventions, de janvier 2015 à février 2018, à l'égard du *illegal littering* et seulement 37 contraventions concernant le *illegal dumping*. Donc, ma question au ministre, est-il satisfait de ces 37 contraventions sur une période de trois ans, c'est-à-dire, presque 12 contraventions par an par la Police de l'Environnement pour le *illegal dumping*?

**Mr Sinatambou:** Well, by definition, illegal dumping occurs in a very secretive manner. I mean, does one expect that the police would have been waiting before the National Park to watch this lorry dumping the waste? Of course, I am not satisfied. That is why I believe somehow the Safe City Project will help with the CCTV cameras to identify lorries with the whole dumping material which they are going to lay somewhere. To some extent, I believe that there are other means which are now being implemented by Government, which will clear the air, and which, certainly, will cater for this situation with which I am not satisfied.

#### **CASE NOYALE FISHERIES POST - CONSTRUCTION**

**(No. B/957) Mr E. Jhuboo (Third Member for Savanne & Black River)** asked the Minister of Ocean Economy, Marine Resources, Fisheries and Shipping whether, in regard to the construction of the new Case Noyale Fisheries Post, he will state where matters stand.

**The Minister of Youth and Sports (Mr S. Toussaint):** Mr Deputy Speaker, Sir, I am informed that tenders for the construction of the New Case Noyale Fisheries Post were launched on 30 July 2018 with closing date 29 August 2018.

The project is currently at bid evaluation stage. The expected date of award is end November 2018.

**Mr Jhuboo:** I know the hon. Minister is not the substantive Minister, but before this tender exercise, there was another one which was launched in December 2017. Can we know why this previous exercise was cancelled?

**Mr Toussaint:** Actually, Mr Deputy Speaker Sir, it was launched on 23 November 2017, with closing date 22 December 2017. Six bids were received at that time. The price quoted by the bidder, who was found to be technically responsive to the bid, was above the project estimated cost by more than 15 % and negotiation with the bidder to reduce the

quoted price within the threshold of 15 % of the estimated cost failed. As a result of this, the bid exercise was cancelled.

**Mr Jhuboo:** I know the Minister is acting on behalf of his colleague, but maybe he will be able to solve a simple problem. In La Gaulette, there are 22 fishermen, in Le Morne 34, in Case Noyale 50. Each month, they have to go to La Preneuse to have their cards stamped. It is much easier to have one officer from the Ministry of Fisheries to go at a given time, at a respective date in a village council and have the cards stamped.

**The Deputy Speaker:** Put your question!

**Mr Jhuboo:** Could the hon. Minister look into this matter?

**Mr Toussaint:** Mr Deputy Speaker, Sir, I will pass on the information to my colleague.

**The Deputy Speaker:** Next question, hon. Jhuboo!

#### **FOOD CROPS – HERBICIDE TESTS**

(No. B/958) **Mr E. Jhuboo (Third Member for Savanne & Black River)** asked the Minister of Agro-Industry and Food Security whether, in regard to herbicides, he will state the number of tests for roundup residue thereof carried out since 2015 to date, indicating if the samples tested were found to exceed the maximum residue levels thereof.

**Mr Seeruttun:** Mr Deputy Speaker, Sir, I am informed that the Food Technology Laboratory of my Ministry carries out tests on samples of fruits and vegetables for insecticides, fungicides and some herbicides. No samples have been analysed for the herbicide roundup as this molecule is not listed in the first schedule of the Use of Pesticide Act 2018.

I am further informed by the Mauritius Cane Industry Authority that the active ingredient of herbicide roundup is glyphosate and is a non-selective herbicide. It is neither recommended nor used as a standard herbicide in established sugarcane or food crops fields.

Mr Deputy Speaker, Sir, I am also informed that some glyphosate is applied on non-crop lands adjacent to sugarcane fields, including field roads. Necessary precautions are taken to avoid any drip as this may affect the sugarcane and all food crops grown. For this purpose, glyphosate is included in a list of agro chemicals used within sugarcane production.

Glyphosate is absorbed so strongly on soil that any leaching or residual uptake by plants is very difficult.

Furthermore, glyphosate is not translocated in the xylem, so, uptake from soil is very limited. Glyphosate is mainly used by vegetable growers between two crop cycles and for the control of weeds on non-crop lands. Glyphosate is, therefore, avoided completely on or in the vicinity of food crops during the vegetative phases of production.

Mr Deputy Speaker, Sir, concerns about health hazards due to glyphosate residues have been raised in other countries due to the fact that new genetically engineered plants that are glyphosate-resistant, such as glyphosate-resistant sugar beet are cultivated where the herbicide is applied on the crop and some residues may be detected.

Moreover, in some countries, glyphosate has been used as a sugarcane ripener, prior to harvest to increase sucrose content. Here too, some residues may be detected. In Mauritius, there is no glyphosate-resistant to cane nor is it used as ripener.

In Mauritius, glyphosate is not used for weed control in sugarcane. It may be used for weed control prior to planting of the sugarcane crop.

Consequently, no residues of this compound are expected to be present in raw or refined sugar.

So, the risk of finding active ingredients of glyphosate is negligible. On this basis, test for glyphosate residues in sugar is not carried out. The House will note that health and environmental concerns have been reported in the US and other countries where their crops are genetically modified with glyphosate resistant genes in such conditions the herbicide is applied in post emergence of the crops and there may be some residues. In Mauritius, genetically modified plants are not authorised and used.

**The Deputy Speaker:** Hon. Dr. Boolell!

**Dr. Boolell:** From the reply given by the Minister, then it stands to reason. Can I impress upon him to ban glyphosate since it has deleterious environment and health effect, and you said concern has been expressed on this two issues?

**Mr Seeruttun:** Mr Deputy Speaker, Sir, I just mentioned that it is a non-selective herbicide which means that if you apply it on any crop, it is going to completely destroy the crop. That is why it is not being applied on the crops that are then consumed. They are used to eliminate weeds and they are very often used in between crop cycles, and it is true that



recently there has been a lawsuit case in the US where one big manufacturer of this product has been fined and I have asked the representative of my Ministry on the Board of the Dangerous Chemicals Control Board to look into that matter.

**The Deputy Speaker:** Yes, hon. Ms Sewocksingh!

**Ms Sewocksingh:** Can I ask the hon. Minister if he could consider having a survey to, at least, have an idea of the amount of roundup being used in the country?

**Mr Seeruttun:** Well, there is no need to go for a survey. We can, by the volume of the product that is being imported and sold, estimate the use of that particular product.

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

**Mr Jhuboo:** Thank you, Mr Deputy Speaker, Sir. Where hon. Dr. Boolell left, is the hon. Minister aware that the following countries have banned roundup:...

*(Interruptions)*

**The Deputy Speaker:** No crosstalking, please!

**Mr Jhuboo:** ...EU, Belgium, Bermuda, Colombia, Sri Lanka, El Salvador, Middle East Countries and France. So, if the hon. Minister is not considering the ban of the roundup, can he, at least, consider phasing out of the product?

**Mr Seeruttun:** Mr Deputy Speaker, Sir, I just mentioned that this product is being banned in those countries where they used genetically modified crops that are resistant to glyphosate. That is why they have been banned. And, so far, in Mauritius, we are not using genetically modified crops and if we apply it on those crops, it is going to destroy completely those crops. They are applied for the eradication of weeds.

**Mr Jhuboo:** Is the hon. Minister aware of a declaration of Mr Kreepaloo Sunghoon, *le secrétaire général de la Small Planters Association* -

*« L'industrie sucrière est le plus grand utilisateur de glyphosate. Le produit est utilisé avant l'ensemencement et après la récolte. Dans les vergers, il était pendu même sous les arbres fruitiers pour éliminer les mauvaises herbes. »*

**The Deputy Speaker:** Do not quote extensively, hon. Jhuboo!

**Mr Jhuboo:** Is the Minister aware of that?

**Mr Seeruttun:** M. le président, j'ai fait mention dans ma réponse que, justement entre deux cycles de plantation, il y a l'utilisation de ce produit pour ce qu'on appelle faire le *minimum tillage* afin de préparer le champ pour la replantation. Donc, c'est un produit qui est utilisé dans les champs de cannes entre deux cycles de plantation.

**The Deputy Speaker:** Next question, hon. Jhuboo!

#### **TAMARINA-PIERREFONDS - TRAFFIC CONGESTION**

**(No. B/959) Mr E. Jhuboo (Third Member for Savanne & Black River)** asked the Minister of Public Infrastructure and Land Transport whether, in regard to the traffic flow on the A3 from Tamarina to Cascavelle and thereafter on the B2 from Cascavelle to Pierrefonds, he will state the measures taken, if any, to ease traffic congestion occurring thereat during peak hours.

**Mr Bodha:** Mr Deputy Speaker, Sir, in regard to traffic flow from Tamarina to Pierrefonds, the Black River Road A3 and the Palma Road B2 are the only roads that serve that region of the island. All traffic going to Flic en Flac, Tamarin and onwards in the western area has no other choice than to use these roads and this results in heavily loaded roads with traffic jam at peak hours and especially during weekends. These roads meet at a staggered junction near the Cascavelle Shopping Mall and is controlled by a set of traffic lights.

Mr Deputy Speaker, Sir, we have indeed observed that there is a real problem of traffic congestion. The traffic is slow moving at that junction along the Black River Road A3 from Tamarina to Cascavelle and along the Palma B2 Road from Cascavelle to Pierrefonds particularly during the peak time of 08.15 hours to 9 hours in the morning and 16.30 hours to 17.15 hours in the afternoon. Outside these peak hours, the traffic is fluid without any congestion and the junction near the Cascavelle Shopping Mall operates satisfactorily. But however, on Sundays and public holidays the situation is even worse.

Surveys done by the Police indicate that congestion occurs because of bus stops, traffic lights, that is, pelican crossings, speed breakers, that is, rumbles strips and the speed camera. They unfortunately contribute to some extent to congestion. However, for road safety reasons, they have to be maintained.

Mr Deputy Speaker, Sir, with a view to improve connectivity and the fluidity of movement in that area, three major projects have already been identified by the Road Development Authority (RDA) –

- (i) Tamarin Bypass - the RDA is undertaking a feasibility study. A meeting is scheduled this week with the Ministry of Finance and Economic Development to determine the sources of funding;
- (ii) the second project is a New access road to Flic en Flac which is at detailed design stage. The alignment has been identified and we are negotiating with Medine for a cost sharing mechanism and on the issue of land acquisition, and
- (iii) the third project is La Vigie-La Brasserie-Beaux Songes Link Road for which bids were already launched but had to be cancelled in view of high cost of the project, in fact this was to be funded by a line of credit from India. Alternative modes of financing the project are being sought.

Furthermore, Mr Deputy Speaker, Sir, I am informed that this situation of traffic congestion has been taken into consideration by the Police in the Safe City Project and intelligent traffic cameras will be installed at two strategic sites, namely, at Beaux Songes and Cascavelle Medine Business Park for monitoring the traffic flow. These cameras are expected to be operational by June 2019. It is also expected that the above measures would be a major leap in improving the traffic management thereat.

Mr Deputy Speaker, Sir, however, as short term measures, I am informed that in order to alleviate the situation of traffic congestion, it is proposed to undertake some management measures, regular mobile patrols are being maintained by the Police and the Divisional Supporting Unit (DSU) and the ERS an extension of the bus layby at major bus stops which will reduce queuing up of buses on the main road thereby attenuating the traffic congestion;

- (i) a restriction on the movement of heavy goods vehicles during peak hours, and
- (ii) manning of the Pierrefonds Roundabout and the Pelican crossings near the first and the second bus stops by the Police.

Furthermore, the Traffic Modeling Unit will investigate the area thoroughly and come up with some additional traffic measures.

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

**Mr Jhuboo:** Thank you, Mr Deputy Speaker, Sir. Could the hon. Minister envisage the opening of the Matala bypass just to alleviate the traffic from Tamarin to Port Louis and *vice versa*?

**Mr Bodha:** In fact, the suggestion was made earlier. We are doing some investigation and from my understanding there is the issue of land acquisition. So, we are talking to Medine.

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

**Mr Ramano:** M. le président, juste après le rondpoint de Pierrefonds, les autorités sont à construire deux bus stop juste dans le tournant après l'école de Vatel et cela constitue un danger potentiel pour le trafic et aussi pour la sécurité. J'aurai souhaité que le ministre donne une attention particulière à cela.

**Mr Bodha:** I will certainly look into the matter, Mr Deputy Speaker, Sir.

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

**Mr Ganoo:** The Minister mentioned the second of the three projects as being the access road to Flic en Flac, wherein he mentioned also that this is a cost sharing project with Medine. Can the hon. Minister tell us where the difficulty is because this access road has been in the pipeline for years and years in fact before this present Government came to power and several questions have been asked? Can the hon. Minister tell us where is the problem with this access road to Flic en Flac which can certainly ease the situation raised by my friend, hon. Jhuboo?

**Mr Bodha:** Well, the issue is going to be addressed, I think, in two days, Mr Deputy Speaker, Sir. The issue is: Medine is proposing to fund part of the project against Land Conversion Rights. So, it is a policy decision for Government to take, otherwise technically everything is ready for us to start the project.

**The Deputy Speaker:** Next question, hon. Baboo!

### **CHILD DELIVERY - CAESAREAN SECTION**

(No. B/960) **Mr S. Baboo (Second Member for Vacoas & Floreal)** asked the Minister of Health and Quality of Life whether, in regard to normal child delivery and child delivery by caesarean section, respectively, he will state the number thereof practised in Mauritius, in each case, since January 2017 to June 2018.

**Dr. Husnoo:** Mr Deputy Speaker, Sir, the figures for normal deliveries and caesarean section are as follows –

#### **Childbirth in Public Hospitals for the period 2017-2018**

<b>Year</b>	<b>Normal Delivery</b>	<b>Caesarean Section</b>
2017	4,558	4,309
2018 (as at 30 September 2018)	3,279	3,152

**Childbirth in Private Clinics for the period 2017-2018**

<b>Year</b>	<b>Normal Delivery</b>	<b>Caesarean Section</b>
2017	1,431	2,113

As far as figures for 2018, it has not been compiled yet for the private clinics.

**Mr Baboo:** Can the hon. Minister state the reason why there is an increase rate in the caesarean deliveries from 40.6% for 18,884 births in 2001 to 54.9% for 12,057 births in 2015, when the WHO recommends a rate of not more than 15%?

**Dr. Husnoo:** Yes, we have discussed that as well. A study was carried out by the Mauritius Institute of Health in collaboration with the private health institution on factors associated with an increase in the rate of caesarean section in Mauritius. The main reasons for the high caesarean rate in Mauritius are as follows –

- (i) High rate of previous caesarean section, if the mother has done once, so very likely she is going to need the second one;
- (ii) High prevalence of hypertension, that is, high blood pressure, disorders in pregnancy;
- (iii) High prevalence of diabetes during pregnancy;
- (iv) Unknown last menstrual period leading to inaccurate expected date of deliveries;
- (v) Increase in number of teenage pregnancy;

- (vi) Increase in elderly *primigravida* which means ladies who become pregnant after the age of 35. They are at more risk;
- (vii) Big sized baby in short statured women, and
- (viii) Caesarean section on request by the mothers themselves.

**Mr Baboo:** Can the hon. Minister inform the House whether there is any system of audit or independent assessment to countercheck the increase in caesarean deliveries, since caesarean deliveries are associated with high maternal and neonatal complication rates?

**Dr. Husnoo:** Yes, I agree. I mean caesarean sections do have their own complications. Now, what are the remedial measures that have been taken?

- (i) Regular meetings are held by the consultant in charge for each hospital to ensure the review of all caesarean cases to assess their justifications;
- (ii) Early detection of high risks cases in the anti natal period, and
- (iii) Close monitoring in the pre natal period, when the mother is delivering the baby.

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

**Ms Sewocksingh:** Thank you Mr Deputy Speaker, Sir, we could hear from the reply of the hon. Minister that there is no big difference between numbers of normal deliveries and caesareans. Can the hon. Minister inform the House if future mothers or rather future parents are aware of *les pour et les contre d'une caesarienne*? At your Ministry, do they have some kind of training for *les pour et les contre d'une caesarienne*?

**Dr. Husnoo:** Awareness. To tell you frankly, the hospitals they do not do this kind of awareness programme for or against caesarean section. They do not do this kind of awareness programme, because a lot of these would depend on the obstetrician at the end of the day. It depends on the condition of the mother, whether there is any reason to operate on her to do a CS or it depends on the condition of the baby at that particular time. You may have planned to have a normal delivery but suddenly the baby has a complication, you have to do a caesarean section as well. So, there are so many factors as well.

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

**Mr Barbier:** Thank you, Mr Deputy Speaker, Sir. May I ask the Minister whether it is true to say that, while practising a caesarean, the doctor will get paid extra money for that, and if so...

**Dr. Husnoo:** Sorry?

**Mr Barbier:** Is it true to say that while practising caesarean, the doctor will receive extra money for that? And if it is so, what is the amount?

**Dr. Husnoo:** In the hospital, we do not give any extra money for that.

**The Deputy Speaker:** Last question, hon. Baboo! No? Hon. Ramano, next question!

### HEPATITIS C INFECTION - AGE GROUP

(No. B/961) **Mr K. Ramano (Third Member for Belle Rose & Quatre Bornes)** asked the Minister of Health and Quality of Life whether, in regard to the Hepatitis C Infection, he will state the number of patients suffering therefrom per age group.

**Dr. Husnoo:** Mr Deputy Speaker, Sir, with your kind permission, I am tabling a document providing the information requested by the hon. Member.

**Mr Ramano:** M. le président, est-ce que je peux savoir de l'honorable ministre s'il existe un protocole ou obligation est faite aux cliniques privées de rapporter les cas au Ministère de la Santé ?

**Dr. Husnoo:** Actually, most of the tests for Hepatitis are carried out by the Central Lab at Candos. So we get the figures from the Central Lab at Candos.

**Mr Ramano:** Merci M. le président. Selon les récentes émissions de radio, etc. il paraît qu'il y a une légère baisse mais la situation reste toujours alarmante. Est-ce que je peux savoir de l'honorable Ministre s'il existe un département spécial au niveau de chaque hôpital public pour ceux souffrant d'Hépatite C ?

**Dr. Husnoo:** Actually, I do not know whether there has been a decrease. I do not know where that figure comes, because if anything we feel it is much more than the actual official figures. That is what we feel. The people that get Hepatitis C are a very selected group; usually people who have got HIV, people who inject themselves with drugs and it is very difficult. It is a population which is very difficult to get hold of to do the test. So we assume the actual figure would be more than the official figure. That is important. And as far as treatment is concerned, the treatment was very expensive a few years ago. I think it was a figure of about Rs2 m. per patient for 3 months treatment, but, gradually, the price is coming down now. In fact, I had a conference two weeks ago in Mauritius, attended by some international sommité on Hepatitis C who was in Mauritius 2 weeks ago. We discussed, we feel we may have about 15, 000 people suffering from Hepatitis C. Now we are going to work on a programme how to gradually treat this patient, because we know the complications

of Hepatitis C. To get Hepatitis C, you are going to get chronic liver problem, you are going to get cirrhosis, you are going to get cancer of the liver. We appreciate the problem, we had a conference only 2 weeks ago, and we are going to work trying to identify these patients and to treat them as well.

#### **MED POINT CLINIC – RENOVATION – FUNDS BUDGETED**

(No. B/962) Mr K. Ramano (Third Member for Belle Rose & Quatre Bornes) asked the Minister of Health and Quality of Life whether, in regard to the former Med Point Clinic, he will state –

- (a) the present state and use made of the second hand equipment purchased therefor;
- (b) the quantum of funds budgeted for the renovation thereof, and
- (c) where matters stand as to the proposed setting up of a cancer hospital thereat.

*(Vide Reply to PQ B/955)*

#### **AGALEGA & ST BRANDON ISLANDS – CRUISES & TRIPS**

(No. B/963) Mrs D. Selvon (Second 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 Agalega and St Brandon Islands, she will, for the benefit of the House, obtain from the Outer Islands Development Council, information as to if it is in presence of requests for the organization of pleasure cruises and trips by air or by sea thereto and, if so, indicate –

- (a) the proposed number of applications that will be approved, and
- (b) if the taking of necessary measures for the safeguard of the ecological balance thereof are being envisaged.

**The Minister of Arts and Culture (Mr P. Roopun):** Mr Deputy Speaker, Sir, I am informed that, according to the current practice, any foreigner who wishes to visit St Brandon and/or Agaléga, has to seek the clearance of the OI DC, the Outer Islands Development Corporation, which is responsible for the management and development of the outer islands, and also of the Prime Minister's Office. For the period January to October 2018, the OI DC has received and approved 52 applications for pleasure crafts including catamarans for St Brandon and 185 foreigners have visited St Brandon. As regards Agaléga, the OI DC is not in presence of any application.



Mr Deputy Speaker, Sir, I am also informed that it is for the first time that an application was received for organising a cruise to St Brandon. One company has made a request to transit for one and half day to St Brandon on its way to other parts of Africa. I am advised that the Environment and Sustainable Development Division of the Ministry of Environment has not approved the grant of an EIA licence on 09 October 2018 as it did not meet the required criteria and the company was informed accordingly.

With regard to part (b) of the question and in addition to the requirements for the submission of an EIA licence, I am further informed that –

- (i) the applicants for pleasure crafts are requested to abide by a set of guidelines to protect the environment, and
- (ii) the officers of the National Coast Guard based at St Brandon also effect regular patrols on the islets with a view to ensuring that no unauthorised activities are carried out as this may cause disturbances to the flora and fauna at St Brandon and its surrounding areas.

**Mrs Selvon:** L'honorable ministre peut-il dire si des études ont déjà été faites et quand sur l'écologie d'Agaléga et de St Brandon et s'il veut bien déposer ces études sur la Table de cette auguste Assemblée ?

**Mr Roopun:** Unfortunately, Mr Deputy Speaker, Sir, I do not have this information.

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

**Mr Jhuboo:** Thank you, Mr Deputy Speaker, Sir. Mention was made in the manifesto of *l'Alliance Lelep* that *des initiatives seront prises en faveur de la protection de l'écosystème dans les trois îles et St Brandon sera déclarée un parc marin. Donc*, my question to the hon. Minister is: when is the classification of St Brandon as a natural Park scheduled for? Mr Deputy Speaker, Sir, I am also tabling pictures of illegal settlement and illegal fishing in St Brandon.

**Mr Roopun:** We are working on all the projects which are in our Government Manifesto, Mr Deputy Speaker, Sir.

## **POLICE AND CRIMINAL EVIDENCE BILL - PROVISIONAL CHARGES - INTRODUCTION**

**(No. B/964) Mrs D. Selvon (Second Member for GRNW & Port Louis West)** asked the Attorney-General, Minister of Justice, Human Rights and Institutional Reforms

whether, in regard to the proposed reform in relation to provisional charges, he will state the expected date of introduction of the proposed Police and Criminal Evidence Bill in the House which purports to deal therewith, amongst others.

**Mr Gobin:** Mr Deputy Speaker, Sir, in reply to PQ B/601 last year, I had informed the House of the progress made in relation to the drafting of the Police and Criminal Evidence Bill which was being drafted with the help of the drafting expert from the Commonwealth Secretariat namely, Mr Geoffrey Rivlin QC .

A lot of progress has been made since, and the Bill has reached near completion. It is renamed the Police and Criminal Justice Bill, to better reflect its contents and the emphasis it puts on better guaranteeing the rights of citizens under the Constitution. The Bill itself is accompanied by Codes of Practice setting out in detail the parameters for Police powers of search and seizure, powers of arrest and the conduct of interviews in places of detention.

Necessary consultations have been held and we have reached the stage where the Office of the Director of Public Prosecutions and the Police Force are preparing themselves for the introduction of this piece of legislation which is going to transform the criminal justice landscape for Mauritius. There will be specific time frames set for the charging of a suspect and time limits for time spent on remand by suspects.

The Police and Criminal Justice Bill will be introduced in the House in the very near future once all the stakeholders are ready to implement it in practice. To this end, guidelines are being finalised at the level of the Office of the Director of Public Prosecutions and the Police regarding the charging of suspects, all with a view to the timely implementation of the Bill once it is passed in the National Assembly.

**Mrs Selvon:** L'honorable ministre peut-il dire si la nouvelle loi va mettre fin à la pratique des *provisional charges* et de nombreux abus auxquels ils mènent souvent ?

**Mr Gobin:** Let us cross the bridge when we come to it and when the Bill will be circulated in the House.

**Mrs Selvon:** Hon. Minister, you have not replied to my question.

**Mr Gobin:** Mr Deputy Speaker, Sir, this is my reply.

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

**Mr Rutnah:** Thank you, Mr Deputy Speaker, Sir. Can the hon. Attorney General state whether in the proposed Bill we have a regime of disclosure of evidence at investigative

stage prior to interviewing of suspects and also a further disclosure regime at trial stage, be it primary disclosure or secondary disclosure?

**Mr Gobin:** I can only reiterate the previous answer given.

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

**Mr Ramful:** Thank you, Mr Deputy Speaker, Sir. There have been lots of debates about provisional charges and the hon. Minister stated that there have been lots of consultations. Now, can we know concretely what is being proposed? Are we going to continue with the much criticised method of provisionally charging accused parties?

**Mr Gobin:** Well, this is again a question along the same line, requiring the same answer from me. But the consultation is part of the question and I can only refer the hon. Member to previous replies given to PQs where details of the consultations have been given in the House.

**The Deputy Speaker:** Next question, hon. Mrs Selvon!

#### **RIVIÈRE NOIRE - IRS PROJECT – ALLEGED MALPRACTICES**

**(No. B/965) Mrs D. Selvon (Second Member for GRNW & Port Louis West)** asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the alleged case of malpractices and fraud to the tune of R69 m. in relation to an IRS Project in Rivière Noire, following a statement made by one Mr B. H. M. to the Central Crime Investigation Division, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to where matters stand as to the inquiry carried out thereinto.

**Sir Anerood Jugnauth:** Mr Deputy Speaker, Sir, I am informed by the Commissioner of Police that the alleged case of fraud in relation to an IRS Project reported by one Mr B. H. M. at the Central CID has been referred to the Office of the Director of Public Prosecutions on 20 October 2017 for advice.

**Mrs Selvon:** Will the hon. Minister Mentor explain why the delay to inquire has been excessively long?

**Sir Anerood Jugnauth:** What has been long, I do not understand? Is it the inquiry? The inquiry has been over since long and it has been referred to the Office of the DPP.

**Mrs Selvon:** Hon. Minister Mentor, it has taken years for this case to be inquired by the Police.

**Sir Anerood Jugnauth:** Well, these questions should be put to the DPP.

**The Deputy Speaker:** Next question, hon. Uteem!

#### **METRO EXPRESS LTD – MAINTENANCE - CONTRACT**

**(No. B/966) Mr R. Uteem (First Member for Port Louis South & Port Louis Central)** asked the Minister of Public Infrastructure and Land Transport whether, in regard to the contract for the maintenance and operation of the Metro Express, he will, for the benefit of the House obtain from Metro Express Ltd., information as to if same has been awarded and, if so, indicate the –

- (a) name of the successful bidder, and
- (b) terms and conditions thereof, including, the fees payable therefor.

**Mr Bodha:** Mr Deputy Speaker, Sir, as regards part (a) of the question, I am informed that, on 03 October 2018, the Metro Express Ltd (MEL) signed an Operation Readiness Services Contract with the Singapore Cooperation Enterprise (SCE) together with its partner SMRT International Pte Ltd (SMRT).

Following a Request for Proposals for Operation Readiness Services by Metro Express Ltd on 25 May 2018, under the Government to Government Agreement between the Singapore Cooperation Enterprise and a second proposal was also requested from the High Commission of India under the agreement between India and Mauritius. There were two proposals and finally the contract was awarded after a due diligence exercise which was carried out to assess the two proposals which were received.

Mr Deputy Speaker, Sir, as regards part (b) of the question, I am informed that the Operation Readiness Plan and Services are to be carried out during the Design and Build phase of the Metro Express Project and its transition into a revenue service, when operation of the Metro Express starts, that is, in September 2019.

The SCE Operation Readiness Services Project Team will develop the philosophy to determine all the maintenance requirements for the depot, the railway tracks, the rolling stock and ancillary infrastructure. Hence, the SCE Operation Readiness Services Project Team will guide and assist Metro Express in the following operations -

- (i) the railway operations and maintenance;
- (ii) the depot operations and maintenance, and
- (iii) the network management and the maintenance.

The SCE Operation Readiness Services Project Team will also ensure the development of local staff and support functions, throughout the above three stages, to enable the successful delivery of the Metro Express operations.

Mr Deputy Speaker, Sir, the SCE Operation Readiness Services Project Team will hence support Metro Express to -

- (i) fulfil its commitment to the Public for a Safe, Reliable, Environmentally Cleaner and Customer-centric Public Transport Service;
- (ii) ensure the operation of the Metro Express Light Rail System as from September 2019;
- (iii) build the capacity and capability of the Metro Express Operations and to generate net job creation in the transportation sector, and
- (iv) during the operation of the Metro Express Light Rail System, lead, assist and accompany Metro Express staff as from September 2019.

Mr Deputy Speaker, Sir, I am further informed that the Operational Readiness Services will be delivered over a period of 24 months, from the start of the assignment, which is due to end by September 2020.

The fee payable to the SCE/SMRT consortium for the Operation Readiness Services is Singapore Dollar 9,291,000, which is approximately equal to Rs420 m. at the current foreign rate for the period of 24 months.

**Mr Uteem:** Mr Deputy Speaker, Sir, if I have understood correctly what the hon. Minister is saying is that this two-year contract is only to prepare the Metro Express Ltd. What is going when Metro Express starts functioning after two years? Who is going to operate it? Who is going to maintain it? Who is going to be responsible for servicing the railway, for servicing the train?

**Mr Bodha:** The period is for two years. The Metro is starting in September 2019. They are together with us up to September 2020. So, the idea is to recruit 200 people. So, the

consortium will help recruit 200 people, prepare the whole team of Mauritius to be able to manage and maintain the system.

**Mr Uteem:** Mr Deputy Speaker, Sir, do I take it then that with respect to spare part and maintenance of railway track after two years, this company will have the capacity to do it? Would we not need to have experts from abroad to help us with these technical issues?

**Mr Bodha:** As regards the maintenance, which is whether light maintenance or heavy maintenance, this will be done, I believe, by CAF because we are talking to them, that is, about the spare parts, the servicing and everything. The team in Mauritius will be there just to supervise the whole thing. The light maintenance will be done in Mauritius by Mauritian people, but the heavy maintenance will be done by the provider.

**The Deputy Speaker:** Next question, hon. Uteem!

### **CHILDREN'S BILL - INTRODUCTION**

**(No. B/967) Mr R. Uteem (First Member for Port Louis South & Port Louis Central)** 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 proposed Children's Bill, she will state the –

- (a) names and qualifications of the experts, whose services have been retained to work thereon, indicating in each case the fees payable thereto, and
- (b) expected date of introduction thereof in the House.

**The Minister of Arts and Culture (Mr P. Roopun):** Mr Deputy Speaker, Sir, I wish to inform the House that the Ministry of Gender Equality, Child Development and Family Welfare had, in February 2018, obtained Technical Assistance from the European Union (EU), through the ICE Consortium, which was funded under the 11<sup>th</sup> European Development Fund, in terms of Consultancy Services for the following assignments namely –

- statistical Capacity Development for Gender Analysis and strengthening national capacity to collect, analyse and disseminate statistics on men, women and children;
- preparation of a Gender Equality Bill;
- capacity Building Programme for Gender Mainstreaming, and
- revise and finalise the Children's Bill and Preparation of a draft Adoption Bill.

To that effect, the services of an international consultant namely, Ms Irina Urumova were made available to my Ministry, to revise and finalise the Children's Bill.

Ms Irina Urumova holds a University Diploma in English Language and Literature, Bachelor of Laws and an LLM in U.S Legal Studies. She is currently an external PhD Candidate from the Intervict International Victimology Institute, Tilburg University and The Netherlands. The international consultant has over 10 years of professional experience providing legal advice and legal technical assistance in the area of rule of law and human rights, with particular working experience on criminal justice, juvenile justice and child protection, anti-trafficking and human rights monitoring, amongst others.

Moreover, the consultant has experience in reviewing draft legislation and legislative concept papers and developing recommendations and drafting justice reform strategies and proposals. She has acquired extensive international experience from the Central Asia, South-East Europe, EU, Ukraine and the Russian Federation, amongst others. I am going to table a copy of the Consultant's CV.

I am informed, Mr Deputy Speaker, Sir, by the Delegation of the European Union to the Republic of Mauritius that a global price contract of 207,714 euros was paid to the ICE Consortium for the consultancy services for the drafting of three Bills, the Children's Bill, being one of them.

With regard to part (b) of the question, I wish to inform the House that the elaboration of the Children's Bill was a tedious process which required broad discussions and extensive consultations with various stakeholders, same is still ongoing, following the submission of the consultant's report in June 2018. The Bill is intended to be introduced at the soonest in the National Assembly.

**Mr Uteem:** Thank you, Mr Deputy Speaker, Sir. I understand that the hon. Minister is not the substantive Minister. We signed the Convention on Rights of Child and every year the United Nations Committee makes the same remark to Mauritius. Can I ask the hon. Minister when is the Children's Bill going to be enacted? For this has been going on for almost a decade now. So, can I have from the hon. Minister, at least, a timeline as to when this Bill will come before Parliament?

**Mr Roopun:** Mr Deputy Speaker, Sir, I may confirm that we are working actively on the Bill and that all consultations have been completed. A report from the consultant was

received in June 2018. There are a few policy decisions which have to be taken and hopefully it will come to National Assembly very soon.

**Mr Uteem:** With respect to one of the observations in the report by the Committee on the Rights of Child is in regard to the legal age of marriage. So, may I know from the hon. Minister if any policy decision has been taken by the Government as far as the legal age for marriage?

**Mr Roopun:** I understand no.

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

**Mr Ganoo:** I am sure the hon. Minister must have taken cognizance of the reports on the Ombudsman for Children which was made public some two weeks ago, in which the Ombudsman made a pressing appeal so that the Children's Act which he qualifies *dans un cadre juridique solide et indispensable pour assurer la protection de nos enfants* sees the day as soon as possible. Can the hon. Minister give an undertaking that this Bill will be before the House by the end of this year?

**Mr Roopun:** We are working actively on that, Mr Deputy Speaker, Sir. There are certain policy decisions which have to be taken and I cannot say whether it is going to be ready before the end of this year.

**The Deputy Speaker:** Hon. Mrs Perraud!

**Mrs Perraud:** Can the hon. Minister inform the House whether in the proposed Children's Bill, you will do away with the term 'child beyond control'? Is there a policy decision taken for this?

**Mr Roopun:** Unfortunately, I cannot enlighten the hon. Member on that issue.

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

**Ms Sewocksingh:** Can the hon. Minister pass on the message to the concerned Minister, if she could take on-board a National Action Plan for Children while drafting the Children's Bill? This programme has been very successful in different countries like UK, New Zealand, etc. Even the UNICEF works on such kind of plan. So, would the hon. Minister take it into consideration?

**Mr Roopun:** I will pass on the message to the substantive Minister.

**The Deputy Speaker:** Last question, hon. Uteem!



**Mr Uteem:** Thank you, Mr Deputy Speaker, Sir. May I know from the hon. Minister whether in this Children's Bill, the Government intends to set out the legal age for criminal responsibility of children?

**Mr Roopun:** Unfortunately Mr Deputy Speaker, Sir, I am not working personally on the Bill and I cannot at this stage tell any of the issue as regards what the Bill is going to concern.

**The Deputy Speaker:** Next question hon. Bhagwan!

### **METRO EXPRESS PROJECT – POLLUTION ABATEMENT**

**(No. B/968) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière)** asked the Minister of Public Infrastructure and Land Transport whether, in regard to the Metro Express Project, he will state if the –

- (a) pollution-abatement measures are strictly enforced, indicating if the inhabitants concerned therewith will be made to undergo medical check-ups;
- (b) Vandermeersch Street is being reinstated;
- (c) Traffic Management Scheme is fully operational, and
- (d) SMEs and other small operators affected therewith will be compensated for loss of revenue.

**Mr Bodha:** Mr Deputy Speaker, Sir, as regards part (a) of the question, I am informed that all necessary measures are being taken, to address the concerns of inhabitants along Vandermeersch Street, and that the Design and Build Contractor, Larsen and Toubro Ltd, is strictly adhering to the Environmental Mitigating Measures, which have been prepared for the project during construction works. Close monitoring is being carried out to ensure that these measures are being strictly adhered to.

I am informed, Mr Deputy Speaker, Sir, that appropriate pollution abatement measures have been incorporated in the Contractor's Environmental Management Plan (EMP), which include a strict monitoring regime and mitigation measures to be adopted in relation to air quality, water quality and noise levels.

For example, some mitigation measures are as follows –

- for dust control, road cleaning is being done daily, water is sprinkled twice daily to suppress the dust and washing is being carried out every night on Vandermeersch Street;
- further, barricades to prevent access to work site and to prevent the construction dust from dispersing to outside have also been set up;
- covers are placed on storage piles through the use of blanket to reduce dust emission, and
- for Siltation control of all drains and channels, measures are taken to ensure that there are no debris that may block any drain or channel.

Mr Deputy Speaker, Sir, I am informed that inhabitants are notified in advance when noisy work is to be carried out by Larsen and Toubro through press release, leaflets, communiqués, social media posting and one to one interactions with individuals by their Place Managers. Measures are also taken to prevent noise at source and control measures to reduce and manage noise levels at work.

Waste monitoring and control, including waste avoidance and control of hazardous waste, is also ensured, Mr Deputy Speaker, Sir. Wastes are moved to approved disposal sites and stay on site not more than three days. Environmental monitoring tests for noise, dust and water quality are being conducted at regular intervals and reported accordingly to Metro Express.

Furthermore, Metro Express instigated the Quality Health Safety and Environment (QHSE) Patrols to ensure compliance to the Contractor's Environment Management Plan and to the satisfaction of all stakeholders. This patrol is made up of specialists from Larsen and Toubro, RITES, Metro Express, the Police, Traffic Management and Road Safety Unit, Road Development Authority, Central Electricity Board, Central Water Authority, Mauritius Telecom, Bharat Telecom, amongst others, and have made a request for the Ministry of Health also to provide an officer on that patrol.

The inhabitants are being proactively informed about any works affecting their premises and their surrounding environment. Complaints are being addressed at during meetings held thrice a week under the chairmanship of the Mayor of Beau Bassin-Rose Hill and the issue of having medical checks has not been raised so far, but may be considered, as may be required.

Mr Deputy Speaker, Sir, as regards part (b) of the question, the Vandermeersch Street is currently undergoing major construction works, which is an essential element to the whole project. Partial road closures are ongoing in accordance with approvals from relevant stakeholders, that is, the RDA and TMRSU and the Police. After construction works, the Metro Express will be completed, Vandermeersch Street will be reinstated permanently in accordance with requirements of all authorities concerned. This is expected to be at latest by the first quarter of 2019.

Furthermore, at the end of the works, it is not only the Metro Express Project that would be on track, literally, all the surroundings as well would be upgraded to a state of the art infrastructure: new CWA pipelines, modern street lightings by CEB, including underground cables, more efficient drainage system, urban design features (new roads, pathways, footways, landscaping features) and other facilities, as well as the new recreational park at Ebène.

Mr Deputy Speaker, Sir, as regards part (c) of the question, I am informed that the TMRSU Scheme for the closure of Vandermeersch Street is in accordance with the RDA and TMRSU requirements and are being communicated to the public via a press communiqué issued before the start of any traffic diversion and the first stage has started from Gool Roundabout to Victor Hugo Street, and this is currently in operation.

The works implemented consist of construction of storm drains and other road furniture. The first phase is expected to be completed by mid-November 2018, and this will be followed by the next phase from Victor Hugo Street to Révérend Lebrun Street, which is expected to be completed by the third week of December 2018. The Police are constantly present at the construction sites, including monitoring of the traffic lights whenever needed, as well as planning and providing detailed input into the traffic schemes being put in place.

All traffic diversion and management schemes as well as the relevant interface are being managed by a team.

Mr Deputy Speaker, Sir, as regards part (d) of the question, I am informed that for all small businesses affected by the works along the Metro Express Alignment, one of the main concern is reduced access to their premises. The Contractor compassionately ensures that tailor made alternative routes are being provided and maintained for all businesses near the work site throughout the works with due regard to safety aspects for all users at all times.

Furthermore, as is the case worldwide with such infrastructure projects, Metro Express and Larsen and Toubro is engaging on a day to day basis with all those concerned. Social media is being used among others to inform people and businesses about the works being carried out.

New solutions such as improving the way finding signage to the affected businesses are being put forward. Insofar as issues such as potential loss of revenue is concerned, the upgrading of the surroundings through the new infrastructure, urban terminal, Ebène Park will bring in a much improved business friendly environment. All these factors should be taken into consideration when assessing options such as any potential compensation.

**Mr Bhagwan:** I have a few supplementary questions, Mr Deputy Speaker, Sir, with your permission.

**The Deputy Speaker:** Yes, hon. Bhagwan, please!

**Mr Bhagwan:** Unfortunately, the reply which is being given by the hon. Minister is not the same. The situation is not rosy; there is a chaotic situation in Rose Hill. I take it from the hon. Minister. I will not go into...

**The Deputy Speaker:** Please, put your question, hon. Member!

**Mr Bhagwan:** I am asking my question.

**The Deputy Speaker:** Yes, please do so.

**Mr Bhagwan:** Regarding to the situation in regard to the noise, you can go and have a place to stay for a few days and you will see for yourself what is happening at night; working at one, two, three in the morning. I can say, as a *témoin*; I reside there. For me, as an MP, as a citizen, this coordination for the project is not working at all. I can say it and the people staying there also. Is the hon. Minister aware of the chaotic situation which happened yesterday? There was a problem of sewerage. The Wastewater attended afterwards, and there was pollution everywhere. I hope the hon. Minister has been made aware. Is the hon. Minister himself convinced that the coordination is working? The Larsen and Toubro people are giving you programmes of work through your consultant, through the Metro Express, the person responsible, and this is not the case in practice. So, is the hon. Minister agreeable to go and see by himself what is happening? He has just mentioned the Police. Is the hon. Minister aware that at the traffic lights at the old junctions, there are no Police Officers? It is

left by the Police responsible on 'orange'. So, people coming out from the lateral roads are facing difficulty.

**The Deputy Speaker:** Hon. Bhagwan, there are so many questions in one question. Let the hon. Minister reply.

**Mr Bodha:** I am very compassionate to all the complaints which are being made by the hon. Member. I would like to say that this is a project of national importance. We are working 24/7 on 30 sites. 600 people are working day and night, and I understand that we have problems of dust, of noise, of pollution. We have had a problem, the issue about sewerage which occurred in Rose Hill and we are attending to it on a 24/7 basis. The Coordination Committee is meeting and the hon. Member is saying that the coordination is not working as it should. Well, let me reassure him that I am personally going to see to it that the coordination meeting gives us the exact rendering of the state of works and the complaints. I am sure that the hon. Deputy Prime Minister and the hon. Vice- Prime Minister will give us a hand. I am going to go there personally and look into the matter in the days to come and I will report, Mr Deputy Speaker, Sir.

**Mr Bhagwan:** We all agree this is a big project; it is a very huge project. At the entrance of Nelson Mandela Street at Cité Barkly, it is a very difficult area. Is the hon. Minister aware of the problem facing three or four families – *région enclavée*? We have raised the issue with the Municipality. The hon. Minister has informed us of the meeting which is monitored by the mayor. Unfortunately, this is not working. Can I again ask the hon. Minister to go and see by himself what is happening along Nelson Mandela Street, Cité Barkly, the situation of these families, especially when the children had to face examination very recently?

**Mr Bodha:** From the information I had on Monday, when we had coordination meeting here in Government House, this problem should have been solved. If it has not been solved, I will look into the matter personally.

**Mr Bhagwan:** The hon. Minister has mentioned Vandermeersch. We all agree that we will not be able to resurface Vandermeersch Street. They are working. But, unfortunately, the work which has been carried out like pipe laying, other traffic light installations, the temporary state of Vandermeersch Street *laisse à désirer*. It is a permanent cause of accidents. This is a road which is *très fréquenté*. Is the hon. Minister convinced that the officers of the Metro Express are doing their job properly or is he giving a reply only on

paper, just to satisfy the purpose of giving a reply to Parliament? Is the hon. Minister convinced that the officers of the Metro Express are doing their job properly, or is he given a reply on paper just to satisfy the purpose of giving a reply to Parliament?

**Mr Bodha:** Mr Deputy Speaker, Sir, sometime back I requested the resurfacing on the left side of the whole of Vandermeersch Street, which has been done. Now, we have closed one segment of Vandermeersch Street and there is a diversion. We have to close two other segments. I will go and see the place myself. I think the hon. Deputy Prime Minister will accompany me, if it is possible. I understand that there is the issue of traffic congestion also. I have talked to the Commissioner of Police. Now, if the coordination meeting is not working, or it is working only on paper, but not on the terrain, we have to see to it that what has to be done, is done.

**The Deputy Speaker:** One last question!

*(Interruptions)*

This is the question of hon. Bhagwan. I am giving hon. Bhagwan priority. Please!

*(Interruptions)*

No, you cannot! If you do not put question, time will be over. Hon. Bhagwan!

*(Interruptions)*

Put your question, hon. Bhagwan!

*(Interruptions)*

**Mr Bhagwan:** *To pé crier ar mwa la non?*

**The Deputy Speaker:** Put your question, hon. Bhagwan!

*(Interruptions)*

I have given you supplementary questions before, hon. Ganoo. This is not fair to say so. That is the question of hon. Bhagwan, let him have his supplementary question! Please, put your question!

**Mr Bhagwan:** Mr Deputy Speaker, has the Minister effected a site visit from the roundabout of Beau Bassin up to Vandermeersch Street? The road has been closed for more than one month. They are working late at night. Is the hon. Minister aware that in the region of lower Beau Bassin, where we have a filling station and the Phillippe Rivalland

Government School - fortunately children are on holidays - a petition has been circulated by the inhabitants? The quality of work which is being done by your contractors *laisse à désirer* and it is a permanent danger to the inhabitants, especially old people walking along?

**Mr Bodha:** Mr Deputy Speaker, Sir, we have closed Vandermeersch street on three stages. This is the last stage which is near the petrol station. I have been there myself. These are temporarily works, and what I said here, is that, once all is done, Vandermeersch Street will be a lot better off. The CEB has put cables along Vandermeersch Street, which means that during cyclones the Vandermeersch people are going to have electricity, while, maybe, other places will not have electricity. We have updated the utilities. Whatever has been done is for the better, because some of the CWA pipes are 50 years old. So, it is an opportunity. We are spending about Rs450 m. just for utilities, Mr Deputy Speaker, Sir.

*(Interruptions)*

**The Deputy Speaker:** Hon. Mohamed, please!

Hon. Members, the Table has been advised that the following PQs have been withdrawn: B/985, B/986, B/987, B/988, B/989, B/976, B/977, B/978 and B/979. Question Time is over!

## MOTION

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

**The Prime Minister:** Mr Deputy Speaker, Sir, 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.*

## STATEMENTS BY MINISTERS

(4.21 p.m.)

### MO IBRAHIM REPORT 2018 – MAURITIUS RANKING

**The Prime Minister:** Mr Deputy Speaker, Sir, with your permission I have the following statement to make.

The Mo Ibrahim Report 2018 was released yesterday. Its analysis is based on 2017 figures. The Report covered 54 African countries.

Mauritius maintained its 1<sup>st</sup> position on Overall Governance with a score of 79.5 out of 100 in front of Seychelles and Cape Verde, which scored 73.2 and 71.1 respectively.

Mauritius also ranked 1<sup>st</sup> in all four components of the Index, namely Safety and Rule of Law, Participation and Human Rights, Sustainable Economic Opportunity and Human Development. It is to be noted that on the Participation and Human Rights component, Mauritius has a higher score in Civil Society Participation, Freedom of Expression and Freedom of Association and Assembly.

In particular, the Report highlights that Mauritius has witnessed an improvement in the last five years in the Safety and Rule of Law component, which is based on the Independence of the Judiciary, absence of corruption in government branches and the public sector, anti-corruption mechanism and reliability of police services, property rights and absence of favoritism amongst others.

Regarding the component Sustainable Economic Opportunity, Mauritius score was higher on Budget Balance, Robustness of Banks and Digital and IT Infrastructure.

Mr Deputy Speaker, Sir, this Report is encouraging. It is yet another international recognition of the progress that our country is making, reflecting the hard work and dedication of the population.

I thank you.

#### **PLACE MARGEOT - SEWER PIPE - REPAIRS**

**The Deputy Prime Minister:** Mr Deputy Speaker, with your permission, I shall make a statement to inform the House of an incident involving a sewer pipe at Place Margeot, Rose Hill.

During the night of Saturday 27 October to Sunday 28 October 2018, while Larsen & Toubro was engaged in drilling works, a sewer pipe was damaged leading to a major blockage within the trunk sewer. This caused a wastewater overflow in the neighbourhood.

There was also a serious risk of contamination into a nearby river with possible adverse consequences on the Pailles Water Treatment Plant. In fact, wastewater matter had started to flow into Rivière Sèche.

The Water Resources Unit of my Ministry, the Ministry of Health, the Wastewater Management Authority and the Central Water Authority were immediately put on alert.



The CWA immediately stopped pumping operations from the Municipal Dyke along from GRNW. The Pailles Water Treatment Plant stopped operations. In order to ensure continuity of supply, CWA used treated water from Pailles service reservoir, which has a capacity of 25,000 m<sup>3</sup>, for the purpose of distribution to the regions of Port Louis.

Larsen & Toubro immediately mobilised its resources and subcontractors to carry out the repair of the damage sewer.

At the same time, the Central Water Authority Laboratory has been carrying tests on raw and treated water at regular intervals to assess the quality of water. These tests will continue until at least the end of this week.

At 23.00 hours yesterday, it was determined that there was no risk of water pollution and pumping operations to the Pailles Treatment Plant resumed.

As a measure of precaution, this morning, at 0530 hours, all pumping operations were interrupted again, but resumed at 09.00 hours.

The CWA, the WMA and the Ministry of Health are constantly monitoring the situation.

Communiqués will be issued in order to keep the population regularly informed of developments.

Thank you.

**INTERNATIONAL CONVENTION ON QUALITY CONTROL CIRCLES –  
MAURITIUS PARTICIPATION**

**The Minister of Financial Services and Good Governance (Mr D. Sesungkur):** Mr Deputy Speaker, Sir, with your permission, I propose to make a statement with regard to the participation of Mauritius to the International Convention on Quality Control Circles (ICQCC 2018) in Singapore from 22 to 25 October.

Mr Deputy Speaker, Sir, in line with Government's policy to promote innovation, enhance productivity and improve quality and competitiveness, the National Productivity and Competitiveness Council (NPCC) has elaborated a 3-year Strategic Plan aiming at offering opportunities to enterprises for boosting productivity and minimising waste through Productivity Improvement Programmes.

One important measure initiated by the NPCC concerns the organisation for the first time, of the National Productivity and Quality Convention (NPQC) in August 2018. The Convention provides an opportunity to Small and Medium Enterprises as well as large companies and public sector organisations, to showcase outstanding productivity and quality improvement initiatives.

114 organisations, of which 24 were SMEs, 34 large companies and 56 Government Bodies/Parastatal Organisations participated in the NPQC 2018. They were required to present a project currently being implemented at their respective organisation and related to productivity and quality through Quality Circles, Innovation, Business Excellence, Productivity Improvement and Lean Management.

Mr Deputy Speaker, Sir, an international panel of jurors, comprising Dr. D. K. Srivastava, the Executive Director of the Quality Circle Forum of India, Mr PengYong Tan, the Vice-President of the Singapore Productivity Association and Prof. Daniel Khan, O.B.E., Chief Operation Officer of the Institute of Productivity, UK, assessed the 114 projects and six of them were proclaimed Grand Winners of the Convention. They are namely –

- (a) Category SME:
  - (i) Kanhye Health Foods Co Ltd, and
  - (ii) CheeKips Ltd.
- (b) Category Large companies:
  - (i) Cervonic Ltd, and
  - (ii) Sofap Ltd.
- (c) Category Public sector organisations/Parastatal organisations:

- (i) Central Electricity Board, and
- (ii) Haemophilia Association of Mauritius.

Subsequently, Mr Deputy Speaker, Sir, the Grand Winners were given the opportunity to participate in the 2018 edition of the International Convention on Quality Control Circles in Singapore hosted by the Singapore Productivity Association. A total of 480 teams from 14 countries, including Mauritius presented their projects at this international event.

Mr Deputy Speaker, Sir, I am pleased to inform the House that each of the six teams which represented Mauritius at this International Convention won Gold Awards for their respective project. Moreover, Cervonic from the IBL Group won the Best In-Country Award among the six Mauritian teams.

Mr Deputy Speaker, Sir, I wish to add that on 23 October 2018, following the proposal by India and seconded by Philippines and Bangladesh, the Core Country Meeting of the International Convention on Quality Control Circles validated and approved the membership of NPCC Mauritius in the International Convention.

Thank you.

## PUBLIC BILLS

### *First Reading*

*On motion made and seconded, the National Payment Systems Bill (No. XVII of 2018) was read a first time.*

### *Second Reading*

## THE JUDICIAL AND LEGAL PROVISIONS (NO. 2) BILL

(No. XVI of 2018)

*Order for Second Reading read.*

**The Attorney General, Minister of Justice, Human Rights and Institutional Reforms (Mr M. Gobin):** Mr Deputy Speaker, Sir, I move that the Judicial and Legal Provisions (No. 2) Bill (No. XVI of 2018) be read a second time. Mr Deputy Speaker, Sir, allow me to refer to the theme of the Government Programme 2015-2019 which is ‘Achieving Meaningful Change’. This is the second Judicial and Legal Provisions Bill which is being presented this year and as with the previous legislation introduced by Government, the guiding principle has been achieving meaningful change for the benefit of our citizens.

This Bill provides a number of technical amendments to various enactments, as is normally the case in any Judicial and Legal Provisions Bill. Mr Deputy Speaker, Sir, I will go straight to the clauses of the Bill and explain the technical amendments. Clause 2 of the Bill amends the Courts Act to provide as follows –

- (a) to provide that it is the Attorney General rather than the President who will make regulations under Section 2 of the Courts Act. Section 2 of the Courts Act provides that, I quote –

“prescribed amount”, in relation to the Intermediate Court or a District Court, means such sum as the President may, by regulations, determine.”

It is clear, in law - and more particularly in constitutional law - that when the President acts under ordinary legislation as opposed to when the President acts under the Constitution, he can only act under the advice of Cabinet. Under the existing provisions of the Courts Act, the President is not exercising any constitutional functions but is exercising a function, acting under the advice of Cabinet. It is perfectly within the powers of Parliament, when making laws under section 46 of the Constitution, therefore to bring the amendment contained in this clause.

- (b) the second amendment to the Courts Act, Mr Deputy Speaker, Sir, is to provide that the language to be used in the Supreme Court shall be English, except where a party or witness in a case satisfies the Court that he does not possess sufficient knowledge in English. In that case, he will be allowed to address the Court or give evidence in the language he is best acquainted with; it is here important to compare the existing provisions and the new provisions in this Bill, and it will become very clear that the new provisions in the Bill indeed are intended to bring clarity.
- (c) the third amendment, Mr Deputy Speaker, Sir, is to provide for a better procedure in relation to the keeping of minutes of proceedings.
- (d) The fourth amendment to the Courts Act is to provide that summons may only be issued on a judicial officer and legal officer only with the leave of a Judge in Chambers. We have had many instances of abuse in the past, with law officers and judicial officers being called as witnesses in Court and we have had to apply for such summons to be quashed. Now we are placing the onus

on the person proposing to summon a judicial officer or a legal officer to seek leave of the Judge in Chambers before he summons a judicial officer or a legal officer. I hasten to add, Mr Deputy Speaker, Sir, that the Courts Act already makes provisions for Summons to be issued on a judicial officer only with leave of the Judge in Chambers. This procedure is being extended to legal officers as defined in the clause.

- (e) the fifth amendment repeals and replaces section 177 of the Courts Act and deals with the recording of evidence and submissions in Court, and provides for the use of technology for the recording of evidence and submissions as well in Court.

Under clause 3 of the Bill, the Criminal Code is being amended to insert a new section 298A which provides for the offence of perverting the course of justice. This will plug a loophole in our Criminal Law. Conduct which may constitute perverting the course of justice includes (but is not limited) to; fabricating or falsifying evidence, concealing or destroying evidence, interfering with exhibits, interfering with witnesses, publishing matters calculated to prejudice a fair trial, etc. In the United Kingdom, the offence of perverting the course of justice has been analysed in a number of cases.

In *R v Kenny*, for example, the Court found that a breach of a restraint order made under the English Proceeds of Crime Act 2002 involving no illegality beyond the breach of the order itself, was capable of constituting the offence of perverting the course of justice. The fact that the order includes a warning that a breach may be treated as Contempt of Court does not limit a judge from treating the breach as perverting the course of justice.

In another English case, that of *Director of Public Prosecutions v S.K.*, the Court held that it is possible for someone who completed the unpaid work hours of a community order imposed on another to be guilty of perverting the course of justice. Although the criminal proceedings had concluded with the imposition of a community order against the defendant, the Court concluded that, just as with restraint orders, there was a continuing and ongoing criminal process to enforce the requirement to undertake unpaid work. By assisting an offender to avoid undertaking unpaid work and the sanction for failing to complete the work under the English Criminal Justice Act 2003, the respondent had perverted the course of justice.

The maximum penalty following conviction for perverting the course of justice is life imprisonment and/or a fine. Custodial sentences should be imposed in all but the most exceptional cases, as was held in the English case of Attorney General, Reference No. 35 of 2009, the Court held as follows, and I quote -

“...it is a longstanding principle that perverting the course of justice is so serious an offence that it is almost always necessary to impose an immediate custodial sentence unless there are exceptional circumstances... That is because such actions as giving a false account of events to investigating authorities undermines the very system of criminal justice which is thereby impeded in its functioning.”

Mr Deputy Speaker, Sir, we will be tough on crime and on those who assist criminals in any way whatsoever. This is why we are amending the Criminal Code to include the offence of perverting the course of justice.

Under clause 4 of the Bill, Mr Deputy Speaker, Sir, the District and Intermediate Courts (Criminal Jurisdiction) Act is being amended in order to provide for the correction of an error of law in sentencing and to allow for some flexibility to judicial officers to correct mistakes and avoid prejudice to the prosecution or to the defence. Experience has shown, Mr Deputy Speaker, Sir, that in a number of cases unfortunate errors do occur. In the present state of our law, once a Magistrate passes sentence he or she is *functus officio* and cannot amend the sentence despite there being in some unfortunate cases a glaring error of law. For instance, an error between a disqualification of a license or a cancellation of a license, an error in the citation of the enactment under which the accused is sentenced and such errors of the like. Such cases are indeed unfortunate, but when they do occur, such cases have to go all the way to the Supreme Court through the long and costly appeal process in order to be corrected. Such cases, needless to say, put an unnecessary burden on the Supreme Court. With this amendment, we are providing for a simple procedure for the Magistrate to correct the error in the sentence passed. The delay to appeal is consequently being extended by the same delay of seven days.

Mr Deputy Speaker, Sir, in clause 5 of the Bill, we are providing for an amendment to the Information and Communication Technologies Act to enhance the clarity of the Act and to strengthen the penalty provided for in the Act.

Section 47(1) is being amended to align the penalty applicable with the penalty provided for comparable offences under the Computer Misuse and Cybercrime Act. The

definitions of message and telecommunications are also being clarified for more certainty in the criminal law.

Clause 6, Mr Deputy Speaker, Sir, amends the Institute for Judicial and Legal Studies Act to provide that the Board of the IJLS shall make recommendations annually to the Chief Justice to give effect to its object under section 4(d) of the IJLS Act.

The amendments to the IJLS Act also provide that, six months from the coming into operation of this section, the IJLS shall make its first recommendations to the Chief Justice. I will explain why I say first recommendations.

The Act is further amended in the power to make delegated legislations. With the present amendment, we are providing that the Regulations will continue to be made by the Board - except that the Regulations will be approved by the Attorney General, as opposed to the Chief Justice.

Mr Deputy Speaker, Sir, there is nothing new in which we are bringing in our statute books with this amendment inasmuch as the Interpretation and General Clauses Act already provides that delegated legislations should be approved by the Minister.

Concerning the amendment being brought to section 4 of the IJLS Act, I have to explain why I stated earlier that the IJLS shall, within six months from the coming into operation of the section, make its first recommendations to the Chief Justice.

Section 4(d) of the IJLS Act, which is in force since 01 October 2011, provides as follows –

“The objects of the Institute shall be to promote transparency and consistency in the sentencing of offenders and the award of civil damages, by making recommendations to the Chief Justice for the issue of guidelines.”

Since 2011, we have not seen guidelines on sentencing or on the award of damages and these are functions conferred by statute on the IJLS. It is the policy of Government that to achieve greater consistency and transparency in sentencing, the IJLS has to make recommendations to the Chief Justice. It will be for the Chief Justice to decide whether or not to agree and implement the recommendations. We are also seeking to keep the statutory duty of the IJLS insofar as section 4(d) is concerned under review and this is why recommendations should be made every year.

I wish to recall that in this very House, all Members were shocked recently when an imprisonment of one month was imposed on a person who had killed a cyclist and seriously injured other cyclists, and Parliamentary questions were being put to my colleague, the Minister of Public infrastructure and Land Transport. The DPP is even appealing against this judgement. Had there been guidelines on sentencing, we would probably have avoided a situation such as this one and guidelines would have indicated the applicable sentence.

Therefore, the IJLS will have to make its recommendations every year. Now, I agree, this represents more work for the IJLS, but I am confident that the IJLS, which is a relatively new Institution is fully up and running and will be able to meet the challenge.

Mr Deputy Speaker, Sir, clause 7 of the Bill amends section 2 of the Interpretation and General Clauses Act and provides for the definition of 'Rules Committee'. This expression 'Rules Committee' is used in many enactments and not only in the Courts Act, but it was not defined. We are curing this technical defect by providing a definition.

Mr Deputy Speaker, Sir, in clause 8, we amend the Law Reform Commission Act to empower the Attorney General to terminate the appointment of members of other that those referred to in section 1 (b), 1 (c) and 1 (ca). Further, the amendment provides that members appointed under section 7 (1) (d), (e), (f) and (g) shall vacate their office on the commencement of the proposed new subsection 5 of the Law Reform Commission Act. It would appear, Mr Deputy Speaker, Sir, that the amendments to the Law Reform Commission Act are being misunderstood to say the least. Allow me, therefore, to enlighten the House on these amendments -

- (a) I have received representations from the Mauritius Law Society to the effect that the Mauritius Law Society wishes to be represented on the LRC Board by its actual elected members. As members of the House will appreciate, elections are held every year at the level of the Mauritius Law Society and the Bar Council for that matter. The incoming Committee of the Mauritius Law Society or the Bar Council for that matter are saddled - if I may say so - with a 'representative' on the LRC Board who has not been designated by them or whose appointment they were not consulted upon. For instance - with a period of five years, we have a situation now where the representative of the Law Society is not the representative of the current Mauritius Law Society.



- (b) My Office has in the past received similar representations from the Mauritius Bar Association, and
- (c) similar oral representations have been received from the University of Mauritius.

Mr Deputy Speaker, Sir, when organisations such as the Mauritius Law Society, the Bar Council and the University of Mauritius are represented on the Board of the Law Reform Commission, democracy demands that the members of those institutions share the same vision as their respective nominating institutions. With these amendments, it will be for the said institutions, as they are currently constituted, to propose names to me and I will proceed with nominations in accordance with the LRC Act. Once these amendments come into force - and I hope they will very soon - I will hold fresh consultations with the Vice-Chancellor of the University of Mauritius, the Mauritius Law Society and the Bar Council with a view to appointing - for a period of two years - a representative of these organisations respectively. I hasten to add that it is my earnest wish to see Senior Counsel and Senior Attorneys being appointed. There has unfortunately been some petty politics on these amendments. The criticisms of the amendments to the Law Reform Commission Act are, Mr Deputy Speaker, Sir, baseless. Let me add this. I have personally discussed the amendments with the Chairman of the Law Reform Commission. The Chairman of the Law Reform Commission is Mr Ramdewar, Senior Attorney. He is one of the most respected - if not the most respected Attorney in this country. He has been my law lecturer in the past and I respect him as such. I respect him as a guru. Many retired Judges and many sitting Judges of the Supreme Court respect him as a guru. Mr Deputy Speaker, Sir, I have his blessings for these amendments.

*(Interruptions)*

If the Opposition wants to play cheap politics, let the people be their Judges. We will continue to do what is right for this country.

Clause 9 of the Bill amends the Mauritius Bar Association Act to provide for an increase in the number of members of the Mauritius Bar Association Act from six to seven and also to bring clarification in relation to the status of law officers.

Mr Deputy Speaker, Sir, as the law is now, the Attorney General is an *ex officio* member of the Bar Council. I am not an elected member but I am a member by law. Now, the question is: where is the mischief in the actual state of the Law? What are we trying to cure?

Mr Deputy Speaker, Sir, the law providing that the Attorney General is a member of the Bar Council dates to 1957, a long time ago when the Bar was perhaps only a club of a handful of lawyers in colonial Mauritius. I don't know, maybe Sir Anerood had been called to the Bar then, but I was certainly not there. We did not even have an Attorney General then. We used to have the *Procureur* and the Advocate General. This has continued to be the state of our law and it is unfortunate. The continued presence of the Attorney General as an *ex-officio* member of the Bar Council is, to my mind, purely and simply an anachronism. The Bar Council should in all fairness consist of elected representatives to manage the affairs of the council just like it is the case for the Mauritius Law Society and the *Chambre des Notaires*.

Secondly, the Attorney General is the Principal Legal Adviser to Government under section 69 of the Constitution. The Bar Council and my office have their respective duties to be discharged independently.

Thirdly, the right of audience of the Attorney General is provided for in the provisions of the Law Officers Act and the same Law Officers Act caters for the right of audience of law officers who are under the authority of the Judicial and Legal Service Commission. Section 86 of the Constitution - which is the supreme law of Mauritius - contains specific provisions for law officers and out of abundance of caution we are making specific reference to section 86 of the Constitution in this Bill.

Fourth, Mr Deputy Speaker, Sir, under the provisions of the Law Practitioners Act, the Attorney General has the statutory power to institute disciplinary proceedings against law practitioners. It stands to reason that the regulatory role of the Attorney General which I have just described demands that the regulator that is the Attorney General cannot be a member of the Bar Council which is composed of Law Practitioners. The same principle applies for the Mauritius Law Society or the *Chambre des Notaires*,

Fifth and more importantly, Mr Deputy Speaker, Sir, lawyers are not only lawyers nowadays. The legal world has evolved substantially since 1957. Lawyers are nowadays called DNFBP - Designated Non-Financial Business or Professionals and DNFBPs are required to be supervised by a Supervisory Authority for AML/CFT purposes Anti-Money Laundering and Countering Financing of Terrorism, our law on AML/CFT. Mr Deputy Speaker, Sir, the FIAMLA, the Financial Intelligence Anti-Money Laundering Act specifies who is the supervisory authority for law practitioners as well as for law firms and the

Attorney General is supervisory authority. Once again, common sense is sufficient authority to dictate that the Attorney General cannot, therefore, continue to be an *ex-officio* member of the Bar Council.

Clause 10 of the Bill amends the Registration Duty Act (section 14 provides for registration of judgments). It was not in order that original orders or judgments are being required when certified true copies may be used. We can all take notice that original judgments are kept in the Court files. This anomaly in our law is being addressed.

In clause 11 of the Bill, we are amending the Courts (Determination of Prescribed Amount) Regulations 1995 to give effect to paragraph 214 of the Budget Speech. In this clause, Mr Deputy Speaker, Sir, we are also providing for transitional provisions. I wish to add that these amendments in the prescribed amount were requested by the Judiciary in the context of pre-Budget consultations held for the last Budget.

This amendment, Mr Deputy Speaker, Sir, aims at bringing our law in line with the provisions of a number of Hague Conventions on Private International Law.

I have to add that this part of the Bill will be proclaimed to come into force later compared to the other provisions of the Bill. And this after we have made sure that all our legal provisions are in line with the Hague Conventions on Private International Law.

This amendment is also in line with what obtains in third party procedure.

The Supreme Court Rules as well as our jurisprudence recognise the principle of third party intervention in Rule 38 of the Supreme Court Rules 2000 where Rule 38 subsection 5 provides, I quote –

“Any person not a party to an action before a Court or in Chambers may intervene in the action provided he has obtained leave to do so from a Judge on good cause shown.”

We are empowering the Attorney General to seek mutual legal assistance through official channels, namely through the central authority of another State. The proposed new power to be given to the Attorney General is complementary to section 4 of the existing Mutual Legal Assistance in Criminal and Related Matters Act, that the latter Act deals with serious offences and related matters. A careful reader will note that unlike the mutual legal assistance in Criminal and Related Matters Act, the Letters of Request Rules 1985 deal with civil and commercial matters in addition to criminal matters.

Clause 13 of the Bill amends the Supreme Court (Jury lists and Panels) Rules 1992 to provide the manner in which the list of Jurors is compiled. There is a dire need, Mr Deputy Speaker, Sir, to update the jury list and we have provided a more efficient way of doing it in a very timely manner.

Mr Deputy Speaker, Sir, I trust that Members of this House will realise that the amendments to the various enactments aim not only at improving our judicial and legal systems and the efficiency of our Courts, but are also meant to safeguard the interests of the public, by addressing problems, difficulties and defects presently in our law and within the system generally.

Mr Deputy Speaker, Sir, before I conclude, I wish to add one issue. During the debates on the first Judicial and Legal Provisions Bill 2018, there was unanimity in this House about the need to introduce time limits for judgments. I have been studying this matter and it is, indeed, a complex issue. If reforms are done, it will certainly assist in enhancing confidence in the Judiciary, contribute to the rule of law and improve our ease of doing business. The possibility of bringing amendments to provide for time limits for the delivery of judgments so that Courts deliver judgments in a timely manner, has been left out of this Bill, but is currently being studied. I will be consulting the Chief Justice in relation to this very sensitive area before proceeding any further in relation to this matter.

Mr Deputy Speaker, Sir, under the leadership of the hon. Prime Minister, this Government will continue to achieve meaningful change for the benefit of our citizens.

With these words, I commend the Bill to the House.

**Mr Bodha rose and seconded.**

**The Deputy Speaker:** Hon. Members, I think it is a convenient time to have a tea break, I, therefore, suspend the sitting for half an hour.

*At 5.02 p.m., the sitting was suspended.*

*On resuming at 5.34 p.m. with Madam Speaker in the Chair.*

**Madam Speaker:** Hon. Uteem!

**Mr R. Uteem (First Member for Port Louis South & Port Louis Central):** Thank you, Madam Speaker. The Bill which we are being called upon today to debate and vote is, in my humble opinion, contrary to several provisions of our Constitution. It is a matter of great regret that the hon. Attorney General chose to spend not even one minute, he spoke less than

one minute on the proposed amendment to the Information and Communication Technologies Act which is being amended pursuant to Section 5 of this Bill. In fact, one has to wonder, why is it that in a Bill, which talks about Judicial and Legal Provisions, there are amendments to the Information and Communication Technologies Act? Is it because of the timing? Are we being called upon to debate and vote an amendment, because there have been certain texts and pictures circulating on Facebook, on Internet?

Anyway, in his summing-up, the hon. Attorney General, I am sure, will address the very serious concern I have about the proposed amendment to the Information and Communication Technologies Act. First of all, Article 1 of our Constitution, Madam Speaker, provides –

“Mauritius shall be a sovereign democratic State, which shall be known as the Republic of Mauritius.”

In my humble opinion, the proposed amendment violates Section 1 because it is not in accordance with what is expected in a democratic State. Article 3(a) of our Constitution under the heading ‘Fundamental rights and freedoms of the individual’ provides –

“It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed (...) but subject to respect for the rights and freedoms of others (...) each and all of the following human rights and fundamental freedoms -

- (a) (...)
- (b) freedom of conscience, of expression, of assembly and association and freedom to establish schools;”

Again, in my humble opinion, Madam Speaker, what we are proposing to amend violates Article 3(b) of the Constitution, the freedom of expression. Article 12(1) of our Constitution under the heading ‘Protection of freedom of expression’ provides that, and I quote –

- “(1) Except with his own consent, no person shall be hindered in the enjoyment of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.”

The proposed amendment is, in my humble submission, a violation of the fundamental human rights of a Mauritian to freely hold opinion and receive and impart ideas.

I concede, Madam Speaker, that Article 12(2) provides that this freedom of expression is not an absolute right. We can, for example, enact a law for the purpose of protecting the reputation, rights or freedom of other persons or their private lives or persons concerned in legal proceedings.

We agree, Madam Speaker, that we have to protect the reputation of others, we have to protect the rights of others, and we have to protect the privacy of others. But section 46 of the ICT Act, as currently drafted, already provides the necessary protection of law. May I remind the House that it is a Minister issued from the MMM ranks that presented the ICTA Bill back in 2001. Therefore, it was very important then and now to the MMM and for everybody, I hope, to have a balance between freedom of expression and the right to privacy, the right not to be morally harassed or unduly defamed by someone using the internet. We need to strike that balance. But what we have in this Bill, today, Madam Speaker, goes beyond what is necessary to protect the rights of others. We are criminalising, we are making it an offence today to use a telecommunication device to cause annoyance, humiliation and inconvenience to someone else.

As the law currently stands, if you use a communication device to cause distress or anxiety, it is a criminal offence. We agree with that. But here, we are not talking about distress or anxiety; we are talking about annoyance. You send an SMS, you make a point which annoys someone else, it is a criminal offence, and now it is going to be punishable by 10 years imprisonment. You put a post on your Facebook, it causes an inconvenience, again 10 years imprisonment. How can that be justified in a democratic State? We are talking about 10 years imprisonment, Madam Speaker. We live in a democratic State. We may not agree with what someone else may say. We always quarrel; we quarrel in the family, we quarrel with our friends, but we cannot prevent someone from expressing his thoughts just because we do not agree with it. We cannot shut someone's mouth and put him in jail because what he is saying is causing us annoyance, is causing us inconvenience.

Let us take my example, Madam Speaker. Time and time again, I go on social media and criticise the Government. I am sure each time I criticise the Government, I am causing them annoyance, I am causing them inconvenience. But am I a criminal because I do that? Am I going to be sent 10 years in jail just because I am criticising and causing annoyance to the Government, Ministers and their cronies, friends and nepotists, family members?

This is a very serious and dangerous amendment that we are proposing. We are not talking about distress, we are not talking about moral harassment, we are not talking about saying defamatory words, fraudulent words. We are talking about simply saying the truth and hurting people's feeling, causing them inconvenience, annoying them. And even then it is not an offence only to cause them an annoyance. It is equally an offence if we say something which is likely to cause them annoyance, likely to cause them inconvenience. Whether actually, as politicians with crocodile skin, they were affected or not; this is immaterial. It is an objective test. Is it likely to cause them annoyance and is it likely to cause them inconvenience? I respectfully submit, Madam Speaker, this is anti-constitutional.

This proposed amendment will not affect only politicians, will not affect only those who criticise the Government. It will affect every single Mauritian, especially the young ones, because it is the young ones who everyday go on Facebook, on Twitter and send SMS.

I know of a case, Madam Speaker, very unfortunate case. There was a young chap in my constituency who fancied a girl. In the good old days, we would go and tell the girl that we like her, she would push us away and that would be the end of the matter. We will try again, she will again push us and that would be the end of matter. There is no offence caused, we are all hopeless romantics, so good for us. But what this young guy did was to go on sending SMS to this girl, declaring his love for this girl. And the girl did not say anything. The father found his SMS. The father took the girl and went to the Police Station and filed a declaration against the boy. The boy was arrested and confessed, 'Yes, I am in love with this girl. Yes, I sent these SMS to her'. And you know what happened, Madam Speaker? Later on, this girl reached 18 years old, she went to Court and said, 'I don't want to go ahead with this case'. The file was sent to the DPP's Office and the DPP said, 'Because he has confessed a crime, he needs to be prosecuted', and he was sentenced for 15 counts of Rs15,000 each.

In that case, this boy had used swear words, *jurons*, insult. So, it was already an offence. But imagine this boy, instead of saying foul language, he was just declaring his love and annoying her. Sending so many SMS to this girl was causing her to be annoyed or inconvenience because her parents found out about it. This poor guy would be sentenced to jail now. This is how dangerous this law is.

I was talking to a friend earlier and he was telling me, 'What if you have a friend, a colleague from work who sends you an SMS at 11 o'clock at night, and your wife or your husband finds out about it and queries you?' And you would go '*oh, non, enn folle sa!*' She is

crazy. I don't know why she sent me the SMS'. Next day, the wife or the husband goes to the Police, take this SMS and say, 'You know, there is a girl who is causing trouble to my husband, she is causing annoyance to my husband, she is causing inconvenience to my husband'. 10 years imprisonment! This is what this laws says. We are smiling, but it can happen to many people in this House.

Madam Speaker, as I said, I am not talking about defamation. There is already the law which protects people against defamation. If someone goes and post a defamatory statement on Facebook, Twitter or on the web, you can prosecute him. But if someone causes you inconvenience, the remedy is to sue that person for damages if you think that, through whatever he said, he has caused inconvenience, you have been annoyed and you suffered damages. You go and sue him or her in court, it is a civil matter. You do not take that person, handcuff him and send him to jail.

Now, forget about defamation. Let us take the case of insult. If today, Madam Speaker, you insult a person, your neighbour, or someone in the street, or a friend, you can be arrested and you can have a fine. But, now, if instead of insulting that person, you send him or her an SMS or you do a post on Facebook, it's no longer a fine, it is 10 years imprisonment. So, because of the form of communication, for speech there is one penalty, and from saying the same thing, writing it down, tapping it down on social media, the penalty is tenfold, it is 10 years imprisonment. So, is that fair, it that democratic, is that not against the rule of proportionality? Are we not discriminating between the forms of communication?

Madam Speaker, I am very concerned about this law because the temptation of abuse is there. When the threshold for criminalising what you say is so low, everybody is in danger. When it is so easy to arrest someone because he has written something which has caused you annoyance, caused you inconvenience, then there is a high risk of this provision being misused by the Government, by any government for that matter, and we know the track record of different governments which have come to power, unfortunately. We know the number of people who have been arrested, handcuffed, humiliated, only to be subsequently released. Ms Touria Prayag wrote a whole book about this: *Provisional Charges*.

*(Interruptions)*

I am just stating a fact! These people were handcuffed, were humiliated when provisional charges were lodged against them. Now, in such a case, do you know how many people, not only politicians, how easy it would be for someone who does not like another person to go to



the Police and say, go and arrest that person because he sent me an email which is causing me annoyance, which is causing me inconvenience? And really, this will not hold the constitutionality test, Madam Speaker.

*(Interruptions)*

And you are laughing! I can tell you of an example; I can testify what happened to me during the Municipal Council campaign, when we were assaulted by the MSM activists, by the husband of hon. Mrs Jadoo-Jaunbocus. Listen to that! I put a post on my Facebook, explaining what happened on that day. And you know what happened? The Police came and I had to go to the Cyber Crime because Mrs Jadoo-Jaunbocus had given a statement against me. I had to show that I was not lying. And, in fact, the DPP is prosecuting her husband and the activists of the MSM. But still, I was called under warning. My statement was taken under warning because an hon. Member, a former Minister, had stated that Mr Uteem wrote something in his Facebook, so, he used a telecommunication device, which is causing her anxiety and distress. Now, what I did was true. I was let off, but I surely caused her annoyance. I am sure that my post caused her inconvenience.

So, with this new law, today I would not be here. Maybe, I would be behind bars, if that law was applicable. That is how dangerous this law is. If you say something which causes annoyance, which causes inconvenience, you can be sent to jail for 10 years.

Madam Speaker, I am not the only one who thinks that this is contrary to the Constitution. There has been a case in India, the case of *Shreya Singhal v. Union of India*. It is a decision of the Indian Supreme Court which was delivered on 24 March 2015 - it is 122 pages long. In India, there is a law comparable to our ICT Act, which is called Information Technology Act, and there is a Section, Section 66A, which is similar to our Section 46, and which prohibits the sending of information of grossly offensive and menacing nature. And it is widely reported in the Press, namely in the *Hindustan Times* of 2015, that this Section had been misused by the Police to arrest persons for posting critical comments about social and political issues, about political leaders on social media. And most of the arrests were for posting controversial remarks or photos, and for sharing, commenting on, or liking such posts. Does that sound familiar? People being arrested for sharing posts, for sharing pictures, for sending and liking posts!

Madam Speaker, in this 122 pages long, well-reasoned Supreme Court Judgement, the Court struck out Section 66A of the Information Technology Act 2000 as being violative of Article 19(1)(a) of the Indian Constitution, which provides that –

“*All citizens shall have the right to freedom of speech and expression.*”

Article 19(1) of the Indian Constitution is very similar to our Article 3 and Article 12 of our Constitution; both guarantee the right of Freedom of Speech and Expression. The whole judgment makes reading, but I would cite only three passages. First, citing US authorities, this is what the Learned Judges of the Indian Supreme Court said –

“Fear of serious injury cannot alone justify suppression of free speech and assembly. Men feared witches and burned women. To justify suppression of free speech, there must be a reasonable ground to fear that serious evil will result if free speech is practised.”

“It is clear that Section 66A, arbitrarily, excessively and disproportionately invades the right of free speech and upsets the balance between such rights and the reasonable restrictions that may be imposed on such rights.”

“Such is the **rich** of this Section and if it is to withstand the test of constitutionality, the chilling effect on free speech would be total.”

Madam Speaker, we like to follow India, we like to call ourselves *chota Bharat*. Let us follow what India is doing. You cannot oppress freedom of expression. You have to have a balance, and what we are doing here today is arbitrary, excessive, disproportionately invades the right of free speech. If this law goes through - to cite what has been stated - it will have a chilling effect on free speech.

Madam Speaker, if we look at the Explanatory Memorandum, paragraph 3 (b) says that the various enactment are being amended to, *inter alia* –

“(b) bring improvements to the Information and Communication Technologies Act;”

I am afraid, Madam Speaker, we are not doing any improvement. In fact, when we are going to enact this Bill, we are going to come up with a law which is extremely dangerous and it is going to cause a lot unwarranted distress on the population.

Madam Speaker, turning quickly to the other provisions of the Bill, again, I do not think that the amendment to the ICTA is the only amendment which may be construed as

being anti-constitutional. If we look at the Letters of Request Rule of 1985, this is Section 12 of the Bill. The Letters of Request Rules 1985 are being amended. Now, what are these Letters of Request Rules? It is not an act of Parliament, Madam Speaker. What it is, it is a set of rules that was made by Judges of the Supreme Court under Section 198 of the Courts Act. So, there is a Courts Act, the Courts Act gives the power to the Supreme Court to enact laws and among these laws, the Judges had enacted the Letters of Request Rules. This is the power which has been given to the Judiciary to make rules. And the Courts Act, Section 198, subsection (3)(b) provides –

“(3) Rules made under subsection (1) may provide for -

(b) the means by which particular facts may be proved and the mode in which evidence thereof may be given in civil cases before any Court;”

So, the Courts Act already gives the power to the Judges to come up with rules. Because we are talking about the Judiciary, we are talking about separation of power. We have the executive, we have Parliament which makes laws, and we have a Judiciary which interprets and provides sentences. And the Judiciary should be able to make their own rules, how to prove something, how to adduce evidence. If someone is not in Mauritius and he wants to depone, it is for the Judges to decide what type of rules need to be followed, what evidence to accept or what evidence not to accept. And the Judges have passed a rule and, today, Parliament, legislature, we are going to interfere with the powers of the Judiciary which we have given to them. We are now going to amend rules which were done by the Judges! Isn't that an infringement on the role, powers of the Judiciary? Now, Parliament is going to interfere with rules made by Judges. Judges make the rules. Now, by Parliament, we are amending laws, rules made Judges. We are not amending laws passed by us. We are amending laws, rules made by Judges. Is that proper? So much for the form.

Now, on the substance, what does this rule that is being amended provide for? It provides that –

“4. (1) Where, in relation to any proceedings, other than criminal proceedings pending before a Court in Mauritius, the Attorney-General considers it desirable to obtain the evidence of a witness in another State, he may make a written request to the Central Authority of that State –

(a) to have evidence taken or documents or other articles produced; and

- (b) to transmit to Mauritius any evidence, document or article taken or produced.”

First of all, it is the Attorney General who considers if it is desirable to obtain the evidence. So, it is he who decides. As at to date, if a foreigner wants to obtain evidence in Mauritius, he has to go through the Master, the Master is an independent judicial officer. His independence is protected by the Constitution.

Today, we are going to give this power to the Attorney General. Let me remind hon. Members that the Attorney General is the political appointee. He is the only Minister who, by virtue of the Constitution, can be someone who is not a Member of Parliament. He is purely and simply a political appointee and until recently hon. Yerrigadoo, who was Attorney General, was not a Member of Parliament. So, we are talking about giving powers to a political appointee. If he considers it desirable, he is going to make a written request to the Central Authority with capital ‘C’ and capital ‘A’ and, unfortunately, Central Authority is not defined in the Act, in the letters of request rules or in the Courts Act.

Let us sit down and think what we were saying. There is a civil case, a dispute, a divorce and one of the parties is outside of Mauritius and the Mauritian party wants to take evidence from that person who is no longer in Mauritius. He does not have to go to Court. He has to go to the Attorney General: ‘Can you please consider writing to the competent authority, your friends, and telling them to go and take deposition from my former husband’. This is what is said in this Bill. There are absolutely no objective criteria. It is purely at the discretion of the Attorney General. If he considers it necessary, he will contact the competent authority and get the proof. So, every private dispute where there is a non-resident in Mauritius, if you want to secure evidence, you will have to go through the Attorney General!

In a dispute between two private citizens, we will need to have the Attorney General determine whether he will contact his counterpart in a different country and allow us to take evidence! And the risk of conflict of interest! What happens if there is a case involving the State? What happens if there is a case involving the Attorney General? Is that far-fetched? Have you all forgotten what happened two years ago? The famous Dufry/Frydu scandal! The affidavit sworn by a non-citizen who said that he was sequestered in a house, citing the former Attorney General, the former Minister of Good Governance and the actual Prime Minister. If there is a commercial case following from this affidavit, it is the Attorney

General who is going to decide whether to go abroad and get evidence. Isn't that a clear case of interference by the Executive in what should be the judiciary recourse?

I do not have any problem when it comes to criminal matters. Criminal matters. Under mutual assistance in criminal matters, the powers are already given to the Attorney General to go and make requests. We see he has done that in the Boskalis case recently. I do not have any problem, but we are talking about criminal matter. Criminal matter, we need to have one authority to contact his counterpart, but for civil and commercial matters, there is a private dispute. The Attorney General has absolutely nothing to do with the private dispute between two individuals. I respectfully submit it should not be the Attorney General who has to make the request. It should come from either the Judge in Chambers or a Masters or even if it is the Attorney General who ultimately sent the request, it should be the Attorney General upon being directed by a Judge of the Supreme Court. If I am involved in litigation, I want to take evidence because a witness cannot travel to Mauritius. I want to be able to take a testimony outside of Mauritius. I get leave from the Court, the Judge then informs the Attorney General and the Attorney General writes. I do not have any qualms with that because I would have had the protection of a Judge. But as the Bill is currently drafted, it is the Attorney General, if he considers it desirable, he is the one who is going to decide. Madam Speaker, this is extremely dangerous. As I said, for me, it infringes on the separation of powers and on the right of the judiciary.

The next point that I have a problem with, Madam Speaker, is with this tendency of this Government and of the Attorney General to try to control decision-making of others *comme une dérive totalitaire*, the obsession of the Government and the Attorney General to control everything.

Two weeks ago, Madam Speaker, when we debated the law on Acquisitive Prescription, I found it very odd that the hon. Attorney General stated that he had requested the Law Reform Commission to send him a report in confidence. Confidential! So, people should not know what the Law Reform Commission has to say. A few days before that, the law Reform Commission published a paper about fake news. A report on fake news and what did they say in that report. They said that we have been requested by the Attorney General to prepare a paper on social media, fake profile, fake news and other harmful digital communication. What did they do? They prepared a report which was not to the taste of the Government of the day because that report stated that we cannot criminalise fake news because we will be infringing on freedom of expression. They considered section 46 of

ICTA. They said: ‘Yes, we can amend it for moral harassment, but not for fake news.’ And today we are amending section 46 without taking into consideration what the Law Reform Commission has stated!

The truth of the matter, Madam Speaker, is that today the Attorney General is not happy with the report and opinion that is being published by the Law Reform Commission. The hon. Attorney General and perhaps the Government want to control the Law Reform Commission so that the Law Reform Commission would sanction whatever they decide. This argument about, you know, a term of office for five years is too long because when you are representing the Bar Council or the law society and there is a change at the level of the Bar Council and law society, there should be a change of its representatives. If that was the reason, then give that power to the Bar Council and Law Reform Society. Why give the power to the Attorney General? Why is it that it is the Attorney General who would remove these people? Why? At the moment, they can only remove these people if they have been bankrupt, for neglect of duty, misbehaviour, physical or mental incapacity because it is important to ensure the independence of the Law Reform Commission.

Now, imagine someone probably close to power because I do not see many distinguished people accepting to be under the control of the Attorney General for two years. Imagine someone who sits on this Law Reform Commission has been appointed by the Attorney General or by another person, he knows that anytime the Attorney General is going to remove him or her, do you think that this person is going to write anything which is contrary to what the Attorney General is expecting. Is it how we are going to guarantee the independence of the Law Reform Commission? The hon. Attorney General mentioned Mr Ramdewar. I have a lot of respect for him because he was also my teacher when I was doing the bar in Mauritius. Mr Ramdewar is one of several members of the Law Reform Commission. What did another member say in the newspaper?

Mr Narsinghen –

*“C’est une atteinte à la démocratie, l’indépendance de la Law Reform Commission est menacée...”*

So, you know it is not because one person Mr Ramdewar is saying he is agreeable that automatically the Law Commission should fall within the purview and supervision of the Attorney General.

Madam Speaker, this tendency of the Attorney General to control everything is also there when it comes to the proposed amendment to the IJLS – the IJLS performs a very important function in Mauritius because it is the one who is responsible for admission to the Bar and for training.

I have no problem with the first amendment proposed by the Attorney General to compel them to make guidance rules. I have no problem and, in fact, I think it's long overdue. That is section 6. But where we do have a problem is in section 17 – section 17 for the time being provides that the Board of the Institute for Judicial and Legal Studies can make regulations after consultation with the Chief Justice. Now, this is being amended to provide that it is not the Chief Justice who is going to supervise or control the IJLS, it is the Attorney General. So, when the IJLS is going to make proposition about sentencing guidelines, about damages, it is not the Chief Justice who has to concur with what they are saying, it is the Attorney General. Again *une mainmise de l'Attorney General sur* the Institute for Judicial and Legal Studies Act.

Madam Speaker, I have spoken lengthily on this Bill because I think what we are doing is really anti-constitutional and I will end by citing what was said in another case of the Indian Supreme Court. In August 2016, following a series of cases lodged by Mrs hon. Jayalalithaa who was then Chief Minister of Tamil Nadu and other members of her party against political opponents and they were all arrested under this Information Technologies Act which was then declared anti-constitutional and this is what the learned Judge said –

“This is not how a healthy democracy functions. You must face criticism if you are a public figure”

So we are all public figures. Let us behave like grown-ups and not come up with laws that are anti-constitutional.

Thank you.

**Madam Speaker:** Hon. Gayan!

(6.10 p.m.)

**The Minister of Tourism (Mr A. Gayan):** Madam Speaker, let me first of all, congratulate the hon. Attorney General for the introduction of this Bill - The Judicial and Legal Provisions (No. 2) Bill of 2018. The Explanatory Memorandum is very clear and I would like to again congratulate him for the clarity with which he presented his second

reading. I think that anybody, who listened to him carefully, realises that this Bill has nothing sinister. It is a Bill that goes, as he said himself, towards achieving meaningful change.

Madam Speaker, since hon. Uteem has made a few comments about certain aspects of the Bill, let me start with what he said about letters of request. The Letters of Requests, as it appears in the Bill, in fact, date to 1985 and it is important to bear that in mind because from what I could gather from hon. Uteem, this was again an assault on the independence of the Judiciary. But when one goes to the Letters of Requests of 1985, Madam Speaker, what do the Letters of Requests say and I quote: ‘These are rules made by the Judge of the Supreme Court under section 198 of the Courts Act’ and in the second paragraph: ‘where in relation to any civil, commercial or criminal matter which is pending before a court or tribunal of another State, provision is made in an enactment or a Convention to which Mauritius is a party, it appears desirable to obtain the testimony of a witness in Mauritius.’

At the time these rules were enacted, Mauritius was not a party to any Convention and the hon. Attorney General has made it very clear in his Second Reading that this particular part of the Bill will not become operational until we have done certain other things. What are the other things that we need?

We need to adopt certain Conventions. Madam Speaker, there are, in fact, two Conventions which we need to adopt before the Letters of Requests can really become effective as per the amendment proposed. The first is the Hague Conference on Private International Law; it is a Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. This Convention was concluded in November 1965 but, for reasons which are not very clear, Mauritius did not ratify or sign that Convention and the second Convention is The Convention on the Taking of Evidence Abroad in Civil or Commercial Matters.

This is again a Hague Convention. Mauritius, Madam Speaker, has adopted certain Conventions of the Hague and there are some core Conventions which have been adopted under the Hague Conference on Private International Law and I quote for the sake of completeness, the Hague Conventions which Mauritius is a party to. The first one is –

- (i) Convention of 05 October 1961 on the Conflicts of Laws Relating to the Form of Testamentary Dispositions;
- (ii) Convention of 05 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents;



- (iii) Convention of 25 October 1980 on the Civil Aspects of International Child Abduction;
- (iv) Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption;
- (v) Convention of 05 July 2006 on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary.

Madam Speaker, the world is changing. There are transnational crimes or issues of litigation pending all over the world. Mauritius, itself, is a party to lots of arbitration. We need to have as a backdrop for the rule of law the adoption of these Conventions. It is only when we have adopted these Conventions, when there will be a central authority as provided in the Convention that this particular part of the Bill will really become effective. So, what we hear about an attack on the Judiciary, taking away from the Judges what doesn't belong to the Executive, that is, not at all here or there.

I think we should stop in this House to play politics all the time. We have to look at the issues and look at the issues as they are. In fact, once we adopt these two Conventions, which I have just mentioned, it will be similar to what was mentioned by hon. Uteem about the Mutual Legal Assistance in criminal and money laundering matters. So, we need to have that particular part of the structure to complete criminal, civil and commercial matters. This is all that is happening. There is nothing more that is happening.

We need to understand that these letters of requests are part of the process of transnational litigation. Once we have adopted these Conventions, therefore Mauritius is not only to receive letters of requests from other countries for the purpose of getting the evidence of somebody who happens to be in Mauritius but will also be able to send our request to other countries. So, it is going to be in the mutual interest of both countries, of all countries in fact, that signed this Convention. I hope that, with this clarification, that particular concern expressed by hon. Uteem is a bit dispelled.

Let me come now to the other main part of his argument with regard to annoyance about the amendment to the ICTA. Madam Speaker, section 46 of the Information and Communication Technologies Act already provides for offences in a wide range of areas. And the amendment that we are proposing with regard to section 46 (ga) where we are adding certain things in that particular part of the section which reads –

“In paragraph (ga) by deleting the words ‘or is likely to cause distress or anxiety’ and replacing them by the words ‘which is likely to cause or cause annoyance, humiliation, inconvenience, distress or anxiety to any person.’

Now, when we go to section 46, we already find in section 46 (h) and I quote –

“Any person who uses an information and communication service, including telecommunication service -

- (i) for the transmission or reception of a message which is grossly offensive or of an indecent, obscene or menacing character, or
- (ii) for the purpose of causing annoyance, inconvenience or needless anxiety to any person;”

It is already there and this is the law which was passed by the MMM/MSM Government in 2001. It is already there, because we need to be conscious, Madam Speaker, of the impact of social media. I just take one example. An article is published in a newspaper, there are comments, if that paper has an agenda, all the comments are negative towards the Government or out of 10, there will be half a comment that is purely favourable. This needs to be regulated.

Madam Speaker, we are not in any way undermining the freedom of expression as mentioned by hon. Uteem. When we go to the Constitution, hon. Uteem started by saying that Mauritius shall be a sovereign, democratic State which shall be known as the Republic of Mauritius. That particular provision of the Constitution is not being amended and, in fact, we heard the hon. Prime Minister earlier on making a statement on Mo Ibrahim. What did Mo Ibrahim say? We are No. 1 in governance. We are No. 1 on freedom of expression. We are No. 1 in all those things. So, I think it is important that we have a debate which is being aired publicly, nationally, internationally and let everybody know where the truth lies, where fair comment lies and where prejudice also lies.

Now, let me come to the section mentioned by hon. Uteem about protection of freedom of expression. Of course, we are protecting freedom of expression. He mentioned Tooria Prayag. Tooria Prayag, had she been in her country of birth, she would not be able to write 1% of what she is writing.

*(Interruptions)*

Democracy!

*(Interruptions)*

I am not giving way! Madam Speaker, I am not giving way!

*(Interruptions)*

**Mr Mohamed:** On a point of order!

*(Interruptions)*

**Mr Gayan:** I am not giving way!

**Madam Speaker:** The hon. Member has got a point of order!

**Mr Mohamed:** On a point of order. I think what the hon. Minister has done is extremely offensive to another friendly country. So, he should refrain from venting out his frustration on a friendly country that is Morocco. He should not do that. We have diplomatic links with another country. He should not sit here and criticise another country as he is doing. That is insulting and he should know better for having been a Minister of foreign affairs.

*(Interruptions)*

**Madam Speaker:** Hon. Gayan, please! I would request hon. Members not to use offensive language against any other friendly country. But what I would say is that an argument has been made by hon. Uteem and I think the hon. Minister has the right to counteract the argument that has been made.

**Mr Gayan:** That was exactly what I was doing, Madam Speaker. But let me come back to section 12 of the Constitution. I quote paragraph 1 –

“Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.”

But subsection 2 goes on to say –

“(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision –

- (a) in the interests of defence, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts ...”

And it goes on like this. So, we need to strike a balance. The media have a right to say what they say, but they have no right to say anything about fake news. They have no right to say falsehoods. How many times, Madam Speaker, cases have gone to Court in defamation cases against newspapers. Judgment is delivered in favour of the Plaintiff. When the Article was published, it was published in front page and when the judgment is given, it is lost in a small corner in the newspaper. Is that fairness? And they call it independence of the media, of the Press! This is what is happening and this is why we need to address these issues. Fake news! Fake news is not only in Mauritius, it is a big issue around the world, in the US. But let me say, Madam Speaker, that this Government is not in any way undermining the freedom of expression. Newspapers are being published, the radios are saying what they have to say everyday, 24 hours, and they say and they criticise everybody with impunity. But social media, Madam Speaker, is a very important tool.

Now, let me give some examples of what social media has been doing. Madam Speaker, we are not the only country in the world concerned about social media. Australia, the UK and France; France recently had a very important law on social media. We believe that social media links people together. We also believe that the vast majority of people are decent. They use social media as a tool for connecting with their friends, their family and people. But there is always a minority that misbehaves. And it is for that minority that the law must exist to tell and to send a signal that impunity will not forever exist. People must bear responsibility for what they do, what they show, what they write, what messages they send, what photos they post and most of the time, Madam Speaker, when we talk of social media, we know the harm that is being done. Cyber bullying! Do you know in England how many kids have been warned? Young kids aged 12 to 13 have been arrested by the Police, cautioned for bullying on the net. Revenge porn! A couple is together, they get into a fight, they had exchanged very intimate photos when they were together and then when they are separated, revenge porn. Do you allow this to go unpunished? Is not there a remedy for the person who is injured, who is prejudiced? There is another thing which is an intentional

disruption of an online forum by causing offence or starting an argument. There is another form of bullying. It is called 'virtual mobbing' where a number of individuals use social media or messaging to make comments to or about another individual, usually, because they are opposed to that person's opinions.

Madam Speaker, there are other things. Of course, there are other laws for defamation, harassment. There are other laws that exist to deal with these issues. A defamation case can last years, and by the time it is over, no one remembers what it was all about. So, we need a quick remedy because we are dealing with a medium which is instantaneous, which is immediate, which touches millions and millions of people around the world, instantly. So, this is why *aux grands maux il faut les grands remèdes*. That is the only way we can really get, not people to stop criticising, we are being criticised every day. We do not bother about the criticism as long as it is fair, as long as it is responsible, as long as it gives the person criticised the chance to make representations. How many times anyone, on this side of the House, can say that when they were going to be criticised, they were called and they were put in presence of what was going to be published or posted.

Madam Speaker, it is good also that I mention - because my friend Uteem raised an issue of annoyance, as though it was a big departure from something that we know. In the United Kingdom, there is Section 127 of the Communications Act of 2003. That law came after our own law, and this section deals with electronic communications which are grossly offensive or indecent, obscene or menacing, false for the purpose of causing annoyance, inconvenience or needless anxiety to another. We are not inventing anything. In fact, United Kingdom has millions of people on social media. We have got just 1.4 million, and maybe half of the population is on social media. But, we need to be aware of what goes on and what remedies and what solutions are being brought by others.

Madam Speaker, if there is one thing that I need to say about freedom of expression, our Constitution is modelled on the International Convention on Human Rights and also on the European Convention on Human Rights. There is nothing different. In fact, in our Courts, very often we cite cases of the European Court of Human Rights and from other places. I was happy that hon. Uteem mentioned the cases from India.

India is very advanced in all this, but they also know that there comes a time when, let us say, it is for public security. You remember recently there was a member of the Indian military who got in contact with a woman from another country, which is not on the best of

terms with India. They started collaborating on the net, and because the confidence grew, the guy, who was in a sensitive position, was sending information to that particular woman. And what happened? That almost developed into a major crisis between those two countries, India and Pakistan. There are all sorts of things happening. You need to protect your security. This is why it is important for all of us to be aware of what we are talking about, what is it that is involved in social media, what are the things that are being done. Look at what is happening in the United States! The inquiry is still on about whether the Russia meddled in the election of Donald Trump. I do not know what is going to happen. There is an inquiry. It is a matter of concern to everybody. But when it comes to personal reputations, in an instant, something is posted on the net, it goes around the world, stays there permanently, anonymously and no one can say anything.

Madam Speaker, Facebook has started a programme of fact-checking which regard to third parties. Facebook is present in almost all the countries in the world. Do you know how many countries where this particular fact-checking for third parties exists, the number of countries that is involved? 17! So, what fact-checking is being done? We do not have the muscle to tell Facebook: 'Come and check all the things that are being published on your Facebook network'. This is reality. This is why we need to have a system where we protect the reputation of people, the reputation of children. We know how much of child pornography exists on the net. Who does not know that? Despite all the precautions that we take.

It is important, Madam Speaker that we have a law that is consonant with the requirement of the Constitution, but which also protects the private lives of people, does not destroy the reputation of people without any basis, because the harm that can be done by social media is terrible.

Madam Speaker, I agree with hon. Uteem, we are public figures, we are subject to criticism. But come face to face, do not hide behind anonymity, to take a name like - I don't know what - you go on the newspapers....

*(Interruptions)*

No!

Have the courage, come out and say: 'I, X, am against you for this reason'. Do not hide, that is cowardice of a despicable nature. This is why Madam Speaker, freedom of expression is not in danger. Freedom of Expression will continue, but there must be fairness and there must

be courage on the part of people who want to criticise, to come out and criticise openly. Do not hide behind fictitious names. I hope that this message will go out. I hope also that anonymity will be excluded from all the social networks. Criticism is part of democracy. We need to be challenged in a democracy. I am not saying that whenever we are criticised, the criticism is right, but we take note, it must be done *à visage découvert*. This is what we are asking for!

Madam Speaker, I wanted to share certain other things with the House about the power of social media. I cannot find my paper. Anyway, I will say it from memory.

Madam Speaker, in Brazil, the elections were over recently, about two days ago. When the elections were on, 40% of all messages, electoral and other messages, on social media were false. All the politicians in Brazil spent most of their time undoing the damage of false news. That happened; it just happened. So, this is why I say that if we are not careful with social media, we run the risk, Madam Speaker, of having a very serious situation in Mauritius.

Let me give you some other examples of what is happening in the world of social media, artificial intelligence and all these things. I was talking about Brazil. 44% of voters used WhatsApp to read political and electoral information. But that App, WhatsApp, was used to spread alarming amounts of misinformation, rumours and falsehoods. The political climate was poisonous. We will be going towards elections; we do not want that situation. Come, we fight on issues, not on falsehoods, and this is what I hope we are going to do.

Madam Speaker, we all know about the MIT, Massachusetts Institute of Technology, which is a very famous institute. They have developed in the MIT media lab, Madam Speaker, a system called Deep Angel. That system can remove persons and objects from photos. They can change everything. You can have a photo with something and that system can remove people and objects. It is very dangerous. I am not saying that science in itself is bad, but we need to know the extent to which science can undo all the benefits of modern technology.

Madam Speaker, let me also say a few things about the other aspects of the Bill, which hon. Uteem commented on. He commented on the Law Reform Commission. Madam Speaker, there is nothing wrong with getting a Law Reform Commission that has, as members, people who represent their organisations. The hon. Attorney General explained in very clear terms why this amendment was being brought. We take the case of somebody who

happens to be the head of the Faculty of Law at the University of Mauritius. It is a rotating chair of the Faculty. So, when the person happens to be there and he is posted to the Law Reform Commission, it is fine. But when he is no longer the head? He has to move. He has to make way for the person who is eligible to be there. It is the same for the Bar Council; it is the same for the notaries. So, there is nothing really wrong with this proposed amendment, and I endorse fully the explanations given by the hon. Attorney General.

The same thing for the Mauritius Bar Association. Madam Speaker, do you know when the law was enacted? In 1957; on 23 December 1957. At that time, there were only about 25 - Sir Anerood Jugnauth would know -; there were not many lawyers in Mauritius. And when the Bar Council was then meeting, we used to meet in a small office in the Attorney General's Office. Today, we have a Bar of almost 1,000 members. What was good at that time is no longer good today. The role of the Attorney General is now that of a regulator. Then, it was OK for the Attorney General to be *ex officio* member, but today that is no longer the case. And again, here, with the role that the Attorney General is getting in terms of other aspects of the regulatory services, I believe that it is only good that he should not be an unelected member of the Bar Council.

Madam Speaker, let me say one thing, because this is important, regarding the error in sentence. This will be the last point because I do not want to go on the other things. It can happen, through pressure of work, that a magistrate does not pass the right sentence. But if there is an error of law in the sentence, what this Bill is saying is that the Court is given seven days to correct that error of law. Once there is an error of law, then that can be corrected. It saves a lot of time because otherwise the magistrate, the moment he or she signs the sentence, he/she is *functus officio* and can no longer touch that brief. What we are saying now is that there is an additional period which is being given to correct an error of law, and I believe that the court itself may *proprio motu* raise the point or it can be parties or council or somebody, an interested party who may realise that there is a mistake in the sentence. So, this is what is going to trigger this particular part of the Bill. So, I believe that this is a very good amendment because it helps in the flexibility of dealing with errors of law.

Madam Speaker, I think I have taken more time than I intended, but let me say that there is nothing sinister about this Bill, and I commend the Attorney General.

Thank you very much.

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



(11.24 p.m.)

**Mr A. Duval (First Member for Curepipe & Midlands):** Thank you, Madam Speaker. Madam Speaker, there is clearly a trend of this Government in terms of institution and democracy, and it is taking us backward. It is very clear Madam Speaker, and I will show it.

Madam Speaker, I think my hon. friend from the Opposition, hon. Uteem, has canvassed very clearly the point of the ICTA, and I was not going to go on it. But listening to the hon. Gayan, I have to try and correct many of the mistakes and half-truths that he has said.

Madam Speaker, section 12 of our Constitution is very clear with regard to freedom of expression, and what is very clear from the amendment here is that we are now creating the offence of annoyance and inconvenience. We are now recognising that annoyance and inconvenience is enough to sending someone to jail, subject to a post. And although the hon. Gayan is saying that this is, in fact, what is done in many countries, it is not true, Madam Speaker. It is not true, and I will here refer to Twitter, which is as you know, a multi-billion company based in Silicon Valley. For example, if you have followed the news recently, you will remember that in the US, there was this far-right leader of a political party who has been using Twitter to broadcast offensive videos, treating other people with degrading terms and saying racist comments. And using Twitter for broadcast things that are not true! Conspiracy theories! What happened to that famous person? Nothing, Madam Speaker! This is what freedom of expression is, but it is taken to an extreme. And yet, Twitter, the multi billion dollar industry, which is a public company, which has shareholders, shares being traded – so, no quarrel! – came up with a statement saying it was in no way a breach of its rule and that it would allow people to come and state their opinions, however offensive. This is the extreme, of course. What the Attorney General is bringing to the House is the law that is now going to criminalise the use of the telecommunication on social media platform, on WhatsApp, on Twitter that causes annoyance or inconvenience. When you go to the Oxford Dictionary, to the synonym of ‘annoyance,’ annoyance is to cause displeasure, vexation. This is annoyance. On what standard are we now going to refer to, to hold people criminally liable for up to 10 years’ imprisonment on the basis of annoyance and inconvenience?

I want to denounce the hypocrisy of some, in saying that we have now to control social media, where not less than three or four years ago, in the political campaign, we, at the

time, *l'Alliance Lepep*, what did we not post on Facebook! What type of videos did we not put?

*(Interruptions)*

We have to be honest! What videos did we not post? Even the '*Vire Mam*' had were three versions, Nos. 1, 2 and 3. Wasn't it annoying? Wasn't it inconvenient to those whom we were criticising? Wasn't it inconvenient and annoying to Ms Soornack, for example? All the posts that have been posted from Members of this House and from agents and supporters of the then *l'Alliance Lepep*, wasn't it annoying? I call it hypocrisy, Madam Speaker! Because, today, they sit on Government side and power is in their hands, and they now know the power of Facebook! The same power that we exploited to come to this House, to win the election! And now they know that this power is uncontrollable! The real power of freedom of expression is speech that we should preserve. Madam Speaker, Facebook does not just have a thousand members on it. People have to realise that, today, a third of the population, nearly 400,000 Mauritians are connected to Facebook; they use it daily to express their feelings, to express their faults and to express their emotions. We should realise that Facebook, today, has 2.6 billion people around the world. And, in only three years' time, there are going to be three billion people on Facebook. So, we are trying now to curtail the rights of speech of Mauritian and others the right to express their feelings in Mauritius, to criticise and curtailing this? Madam Speaker, we are trying to put a lid on it when a third of the population is using it. What next then, Madam Speaker? Are we going to come now with a law to stop people from criticising Government verbally, orally in private in their homes, because this is tantamount to the same thing, when you have 400,000 people on Facebook who use it? It is a recognised means today to advertise job offers and to apply. It is an advertised mean today to read the newspapers. It is of acceptable mean today to do most of what we can do, in terms of communication in our everyday life.

It raises serious questions as to creating two classes of citizens. I am presently being broadcast on Facebook through parliamentary TV. Hon. Gayan, his intervention was also on Facebook - earlier I checked. All the major newspapers in Mauritius post a live link on Facebook. So, we, hon. Members, are going to be able to annoy in our speeches, are going to use phrases that may cause inconvenience to some Members, and yet, we will have Parliamentary immunity, while others will not be able to do so? Madam Speaker, is this the kind of democracy that we want? So, we can say anything, I can say anything now. I must say that hon. Gayan was annoying in his speech and he was inconvenient.

*(Interruptions)*

He was very annoying. I have read comments. They have said himself is annoying. Then what, Madam Speaker? We do realise that what we were doing here is, in fact, restraining the liberties of people guaranteed by our Constitution. What are the reasons for it? The Attorney General has not given us any valid reason, except that some make an abuse of it. Hon. Gayan says: 'Touria Prayag, if she was in her country, she would not have the same liberties.' But what hon. Gayan does not say - since he is talking of liberties and comparing countries - is that he, himself, if institutions were working, should have been facing now an inquiry.

*(Interruptions)*

Many Members of this House should have been facing inquiries if institutions were working properly.

*(Interruptions)*

**Madam Speaker:** No dialogue between hon. Members! Address the Chair! Please, proceed!

*(Interruptions)*

If you have a point of order, hon. Gayan, then you rise and say so! Please!

**Mr A. Duval:** How dare he to compare countries and standards when he is living in a glasshouse, and he is throwing stones? How dare he? He says that he wants face-to-face, Madam Speaker. Perhaps like the Ruhomally couple! What happened to them? Even when they used fake accounts on Facebook, they were arrested. What happened after? Was there any prosecution? Was there any offence? We all remember! Face-to-face! Already you are using this Government, institutions to threaten and to take action on revenge! So, Madam Speaker, how can a Minister of this Government come and say that he wants face-to-face criticisms now, that he is fed up of people hiding under fake accounts and criticising him, and when they do it, they are arrested! There are many other examples. Yash Ramchurn, a friend of mine, was arrested! Ish Sookun! There are so many examples. So, how dare he come and say now he wants face-to-face?

Madam Speaker, there is a trend and this country is going dangerously to the dogs. Yes, but dangerously we are going North Korean style now. This amendment *est digne de la*

*Corée du Nord* trying to shut people's mouth, trying to stop them from exercising their right under section 12 of our Constitution to freely express themselves, *et c'est grave*.

And then what happens, Madam Speaker, with regard to cyber-attacks and hackers? Is it not too easy then? Someone has hacks, for example, I have the account of hon. Gayan tomorrow when he is no longer in Government and I write an offensive statement and then hon. Gayan, who will then be Mr Gayan, is arrested and prosecuted and sent to 10 years of imprisonment because someone hacked the account.

Today, there are hackings, for example, the play station network, one of the most cited cases of billions of users' accounts and confidential information being hacked. There was one recently, British Airways. There are so many instances where hackers hack into the accounts of multi-billion dollar companies with sophisticated systems, so sophisticated that we can't even dream of here in this country. So, what happens then, Madam Speaker? Is this guaranteeing the rights of individuals? Is this furtherance of democracy? Are we even taking this into account?

What is clear, Madam Speaker, is that there is this hypocrisy. We have surfed on Facebook. I have myself done it. All of us, here, have done it. We are all thankful to Mark Zuckerberg for having invented Facebook, we are all thankful to You Tube for having provided us with a platform when, during the last General Elections, it was the most appropriate way to express ourselves. We are all thankful to it. And what are we trying to do today? To stop the opponents of tomorrow from using the same platform, from surfing the same waves and to try and cling on to power!

*C'est un exemple, Madame la présidente, pour moi concret que ce gouvernement a des tendances dictatoriales.* Because these kinds of legislation has no place in a democracy, especially with its specificities as Mauritius has no place in our democracy.

Madam Speaker, I originally intended to speak mainly on the Law Reform Commission amendments. At section 8 of this Bill today, we are making amendments to the Law Reform Commission, we are making amendments to a commission that has as its purpose, and to quote from the Commission itself –

- “(a) to keep under review in a systematic way the law of Mauritius;
- (b) to make recommendations for the reform and development of the law in Mauritius, and
- (c) to advise the Attorney General .”

To make sure that law is understood - because *nul n'est censé ignorer la loi* – by Mauritians, *est à portée des Mauriciens de comprendre*, to simplify our existing legislation or to recommend for future legislation and to provide a more simplistic, we have the most simple way to understand and a great part of that Commission's work is to recommend to Government, to the Attorney General to recommend amendments that are necessary to keep in mind the trend internationally, the established best practices and to make sure that our law is developed in line with these best practices.

This is the role of the Commission and the Law Reform Commission, in its own brief on the work of the Law Reform Commission, says that –

“The Commission considers its primary function is of ensuring our laws are in conformity with constitutional and human rights standards, as well as with our international obligations.”

With the integration of Mauritius in international economy, there is mounting pressure to adopt new laws to reflect international standards. It says that ‘policies can no longer be devised in ignorance of international norms and practices and hence the need for adequate research so that policymakers are made fully aware of the integration of proposed legislative changes’. And it says ‘our laws in the opinion of the Commission should reflect the best international practices’, not like the law that is being brought today with regard to the ICTA.

“The Commission is thus committed to comparative legal research in order to evaluate the merits and demerits of our law in the light of the experience of other jurisdictions.”

The Commission vision is that of just, fair and efficient laws. Laws must reflect and advise the nation's social and economic interest in the light of the exigencies of globalisation. That is the mission of the Commission and it goes further to say how it has to discharge that mission, how it has to reach that objective, and it says –

“(...) in discharging its mandate, the Commission put a particular emphasis on the following values –

1. independence - the complete independence afforded to the Commission in reviewing the law and in formulating proposals for necessary reform is rooted in constitutionalism and is the most important factor in ensuring that it fully meets its obligation under its mandate. It has to be

independent for it to be able to work as intended, as it is in other countries,  
Madam Speaker;

2. impartiality – the Commission recognises the crucial importance of carrying out its mandate in an impartial and objective way and fully adheres to these principles in all aspects of its work.

And the Commission that we have today in Mauritius is modelled on the Commonwealth Model. In fact, ours is nearly identical to the New Zealand Model. But I will come to that later. And it says that ‘the Law Reform Commission as an independent and especially slow reform agency is able to take an inclusive objective and professional approach to reform the laws that govern society. It is particularly suited to topics where independent non-partisan investigation would assist in establishing the credibility of law reform proposal or where collaboration or consultation, with a wide range of stakeholders, is needed.

It even further says in that brief on its work, its mission, its objective and how it carries out this work that the Commission does not lobby for implementation of its proposal because we do not have a political agenda to surf. It does not allow itself to be dragged in the political arena. Its duty is to enlighten policymakers, that is the Government and the public, through opinions based on high quality research. The contribution of Independent Law Reform Agencies to the development of the Law has, time and again, been recognised at Commonwealth Law Conferences and at meetings of Commonwealth Law Ministers.

It is not just the Commission saying it or me. This is a principle, a foundation established by the Commonwealth. The strength of the institution lies in its membership from professionals with experience who value their independence and its methodology, its observations, views about laws and policy benchmarking international practices.

To end on that very same paper, Madam Speaker, what the Commission does and what it has done in the past is that it studies the laws of the land, it consults with the public and then it makes a report and recommendations and in some cases it even drafts legislation that are then taken by the Attorney General and brought to this House. For example, Madam Speaker, the Commission could review the penalties of our drug policy, whether cannabis, for example, is to be treated as harder drugs like heroine. For example, the Commission, in its work, would be brought to review whether a certificate of morality, a certificate of character still have its place in our society or, for example, the Commission could find itself reviewing

the Equal Opportunities Act, whether it should apply to public sector. This is the kind of work it does and, in fact Madam Speaker, when you look at all the reports of the Commission - and I will cite a few - the issue paper on constitutional protection of human rights where it says: the Commission has expressed the view that there is a need to better safeguard existing rights to afford constitutional protection to economic, social and cultural rights and also to guarantee the rights of vulnerable persons and, strengthening recognised right, the Commission has considered that the protection afforded to the right to equality by sections 3 and 16 of the Constitution are insufficient. This is what it has said in this issue paper. And it says the prohibit discriminations on specific grounds are not in line with international best practices. There is another issue paper on equality and discrimination. There are other issue papers, Madam Speaker, on judicial review, on the operational autonomy of the Office of Director of Public Prosecution as a constitutional imperative, for example. In its issue paper...

**Madam Speaker:** Hon. Adrien Duval, I'll interrupt you for a while. We understand that you want to elaborate on what the Law Reform Commission does. I have given you time to elaborate on what the Law Reform Commission does. I think it's high time now that you come to the amendments that are being brought in this legislation to the Law Reform Commission because otherwise, you may dwell lengthily on the attributes of the Commission, what it can do, what it cannot do but I think I have given you sufficient time to dwell lengthily on that but we have an amendment, you will have now to come to the amendment which is in front of us, please.

**Mr A. Duval:** Madam Speaker, with respect, this goes to the foundation. The working of the Commission, in fact, cannot be separated from the mode of appointment because we are, in fact, going to amend the law with people replacing the actual members of the Commission and I am just saying what is their work. It is important, the same as hon. Gayan has dwelled lengthily on other things. I will take the point, Madam Speaker.

Let me just go to the amendment then. Madam Speaker, the hon. Attorney General, I have listened to him carefully with regard to his motive, his reasons, his excuse for coming with the amendments today and his reasons are, first of all, with regard to the Bar Council, the Mauritius Law Society, the University of Mauritius and the Notary Chambers that membership changes every year or so, and that we must give that opportunity to these bodies to elect new members but I salute the point of the hon. Uteem. The powers need not be given to the Attorney General. If it was really the case, it should have been, for example, that, upon request of the President of the Bar Council or the Mauritius Law Society, the Attorney

General would then give effect to the termination but he cannot himself decide on his own accord whether or not, to terminate the membership of a member of the Commission. In fact, Madam Speaker, when you look at the amendments being brought, and when you compare them to the Law Reform Commission Act 2005, you will see that, out of the amendments being brought today, there is, first of all, the power being given to the Attorney General to terminate the membership of the member of the Commission without any reason. When I tell you that the law is identical to the New Zealand law, when I tell you that it is the model that has been taken, well then, we have to refer to the New Zealand law and you will see that, in the New Zealand Law, the Commission has the same power, it has the same wide ranging powers to initiate on its own.

Studies, recommendations, looking into law - it can, on its own, initiate these things and when you look at the Law Reform Commission of New Zealand it says what we do; among many things that it says, it says the Law Commission is an independent crown entity. This makes us different from other State's sector agencies, the Government does not direct how we carry out our work or the recommendations we make. When we have copied and paste the New Zealand legislation into our own Law Reform Commission Act 2005, we also took the same principle that it should be independent and independence means what? It means to be independent not to rely on Government for funding, for example, to manage its own funding, to be autonomous but also not to be scared of Government or the Attorney General in displeasing him in carrying out and discharging our function, not to be scared to be taken off the Commission if we do not please the Government of the day and become 'yes man'. This is what independence is. So, Madam Speaker, the New Zealand Act, it gives you as Mauritius the same framework as to when and how you can remove a member and you have to refer, in the case of New Zealand, to another Act which is called the Crown Entities Act which covers, in fact, all statutory bodies, appointments and it is the same for the Law Reform Commission of New Zealand. It tells you, Madam Speaker, that to remove a member of independent crown entities there, the Governor General may, at any time, for just cause - this is the word 'just cause' - on the advice of the responsible Minister given after consultation with the Attorney General, remove a member of an independent crown entity from office. In New Zealand, it is not even the Attorney General who decides. He consults the responsible Minister - in that case, it is himself falling under the Attorney General's Office for the Law Reform Commission - and after consultation, he requested the Governor General, in that case the President, to remove the member. So, it is not the power given to the



Attorney General there or the Minister if it is a statutory body falling outside the Attorney General's Office to another Ministry and what is 'just cause'? 'Just cause', Madam Speaker, is misconduct, inability to perform the function of office, neglect of duty and breach of the collective duties of the Board; of individual duties of members. It is virtually exactly the same as it is now prior to his amendment.

I direct you to the Act, Madam Speaker, and you will see at section 7 (4) of the Law Reform Commission Act, it says –

“The Attorney-General may at any time terminate the appointment of a member, other than a member appointed under subsection (1) (b) and (c) (...)”

That is a member appointed by the Judiciary, the Solicitor-General's Office or the DPP's Office. These are the reasons for termination -

“For bankruptcy, neglect of duty, misbehaviour, or physical or mental incapacity.”

It is virtually the same as the reasons provided in the New Zealand Law, to remove a member of an Independent Statutory Body. What we are doing now under Part 8 of the Judicial and Legal Provisions Act is, firstly, we are taking our reasons for termination, we are modifying the New Section 4 and replacing it by a new Section that would read: The Attorney General may at any time terminate the appointment of a member other than the members that I have referred to.

So, we are completely removing the need to justify termination, we are giving a blank cheque to the Attorney General to do as it pleases him with regard to termination of the appointment of members of the Law Reform Commission, Madam Speaker. The same Commission that I have so many times quoted from its brief, on its work, the guarantee that it has to be independent to do its work, that is has to be autonomous to do its work, and we are removing this.

The excuses and reasons given by the Attorney General today are not, in fact, the truth because when you look at the composition of the board, you will see that there are nine members. There is the Chairperson who is appointed by the Attorney General, *de préférence quelqu'un de complaisance*, a representative of the Judiciary appointed by the Chief Justice, someone whom he will not be able to influence, the Solicitor General or his representative, *idem* for the Director of Public Prosecutions or his representatives. We know the Government action trying to, with the Prosecution Commission, do the same as it is doing here, to control this. So, these are seeds that are given to members of the Judiciary,

representatives of the Solicitor General, etc. These are the seeds that are decided by people other than the Attorney General. But then, you have a problem, you have a Barrister who is appointed by the Bar Council after consultation with the Attorney General, the surname is proposed by the Bar Council, you have an Attorney who is appointed by the Attorney General after consultation with the Law Society, a Notary, after consultation with the *Chambre des notaires*, you have a full-time member of the department of law after consultation with the Vice-Chancellor and then you have two members of the Civil Society.

When you look at the composition of the board, you will see that out of nine members now, the Attorney General will be able to remove four of them and, therefore, completely influence the decision-making when you couple it with the Chairperson and the two members of Civil Society who are chosen directly by the Attorney General without any qualifications. There is no need for qualifications, there is no need to be a law practitioner and it is good that members of the Civil Society sit on that board. But, you understand now that out of nine members, you have completely removed four members that could not otherwise influence. How does he do that? By removing without any reason, any justification these members, when he feels to do so.

Madam Speaker, the Commission, with this amendment, will be *de jure* independent and *de facto* dependent. The recognised principle for independence of an institution lies with the appointment and with the security of tenure. This is the recognised principle in our Constitution. The Prime Minister is appointed by the President, but to be removed there is a mechanism, by way of motion of no confidence, losing a vote. The President himself is appointed by Parliament, but to be removed there has to be constituted a tribunal after being voted in Parliament. For the Commissioner of Police, it is the same, the Chief justice it is the same, Judges and the judiciary, the Director of Public Prosecutions and all these institutions created under our Constitution have these enshrined as a basis of the foundation, the principle of independence with the guarantee that they will not be removed for no reasons, that for you to be removed, you must have a reason. But when you take away that guarantee, Madam Speaker, when you take away any logic of having to show cause, just cause, then you simply have another board full of yes men, majority *en tous les cas*, where you can just impose your will. This is why I have explained the powers and the work of the commission.

When you go and look at all the reports and the findings, the recommendations of that commission with regard to important aspects of our law, equality, independence of

institutions, DPP etc., you understand *qu'une commission comme celle là, si elle fait son travail, peut être extrêmement gênante pour un gouvernement qui a des tendances - comme établies de ce gouvernement - à la limite de la dictature.*

Donc, on peut comprendre les raisons et les intentions de ce gouvernement d'emmener aujourd'hui une mesure aussi rétrograde que cette mesure-là, Madame la présidente. On prend l'institution qui est mandatée pour non seulement faire en sorte que chaque mauricien comprenne leur droit, pour non seulement faire en sorte que chaque loi de notre pays soit en ligne avec le principe d'égalité, en ligne avec le principe établi démocratiquement et nous faisons en sorte aujourd'hui de politiser cette institution, de retirer toute garantie qu'elle sera indépendante, de retirer toute garantie qu'elle fera son travail sans faveur ni frayer. C'est ce que nous faisons. L'*Attorney General* aujourd'hui fait en sorte, avec des excuses, bidon je dois dire, de pouvoir avoir un contrôle de la majorité du *board* de son côté. Des *béni-oui-oui*, des *yes men!* *This is what you are doing.*

They should be ashamed of coming with such a legislation especially since the Law Reform Commission has been doing such an important work with regard to our legal framework, with regard to modernising our country. As you know, Madam Speaker, Government decides. Parliament creates legislations and the Courts of Justice ensure that these legislations are respected, are adhered to. But, then, you have this institution which is outside, thinking outside the box, which is looking at what is being done elsewhere, which is looking at the best practices, which is looking at how Acts that are being voted today in this House - especially under pretexts – may, in fact, have an adverse effect on the population.

We are taking away this independence of the Law Reform Commission. It was brought some 13 years ago, Madam Speaker. An amendment was brought to the Law Reform Commission in this very own House by the hon. Attorney General. Madam Speaker, look at what was said the last time amendments were brought to this House! In fact, what was the reason for the amendments? It was to bring us in line with the best practice of what the other law commissions were doing with regard to the principle of independence and autonomy having powers, having its own Budget, being able to initiate its own findings, being able to go and seek information to public authorities, Government bodies, that would have to give out these information and, therefore, being in a position to be aware with facts and figures and periodical data, and then come with proposals. When it was brought in 2005, the then hon. Attorney General, Mr Valayden, his first sentence in his opening speech, was –

“One of the challenges faced by Government today is how to develop a meaningful strategy of law reform to ensure that laws on our statute books are not cocooned in a past which is divorced from the current social and economic realities. The law, Mr Speaker Sir, is not an end in itself, it is an instrument of social progress, a means of achieving a just and equitable society and for that to happen it must adapt to the changing needs of society...”

This was when the then hon. Attorney General was coming with this Bill to the House when we, the PMSD, were in Government, and this is what we intended at that time in 2005 for the Law Reform Commission. This is what we had visioned for the Law Reform Commission, and it said further –

“...we cannot help being surprised at the brevity of our law and the inadequacy of its provisions to meet the statutory functions of the Commission as it exists today...”

The structure of the Commission provided by the present Act is minimal, if not, inexistent. There is not one single word on how it operates and its effectiveness, since to depend solely on the goodwill of its Members. Then, with regard to the appointment, he said under Clause 5, the Commission is given such powers as is reasonably necessary to enable it to carry out its functions. It is important for the country that we should be listening to all stakeholders in a structured way with maximum involvement of the community at large, that is, putting people first. So, let Members of the Commission listen without any fear of reprisals, let members of the Commission deliberate on their findings, on their reports without any fear of being taken out because it would not please the Government of the day what was meant. It says: ‘The Commission, Mr Speaker, Sir, is accountable to the Attorney General, but ultimately to the National Assembly. However, in the performance of its statutory function, it does so as an independent body. In order to ensure the independence, it is important that it should be given its own Budget, etc.’

This is what was intended. Madam Speaker, we heard for four years from this Government how the past Government was controlling institutions, all sorts of accusations. But the truth is, Madam Speaker, when you go back to Hansard, you see that was not at all for the Law Reform, at least, the intention. It was the intention to simply create an independent body that was out of the control of the Attorney General and Government for it to be able to make recommendations for the country to progress. So whatever we hear on every sitting of this House, there is never a missed opportunity to take us back in time and to

go and show what the previous Government has done or not done. But the truth is, Madam Speaker, on something as important as the Law Reform Commission, the last Government never dared to touch its independence, on something as important as the Office of DPP, the Government never dared to touch its independence.

*Madam Speaker, with regard to the principle of independence, let me just rappeler au gouvernement, à l'Attorney General que l'indépendance est un principe, premièrement, qui se respecte et que nous ne pouvons pas avoir deux poids, deux mesures. Quand une institution devient gênante, de retirer toutes les garanties d'indépendance et quand une institution, just for the show, which has no real powers, then you give it, on the face of it, at least, some sort of independence in its working.*

Independence, Madam Speaker, is not nominating, for example, in the Electoral Boundaries Commission like it has been done, *les proches du pouvoir*. Independence is not also going and threatening members of the Commission that you will remove them from membership of the Commission if they do not do as you please. This is not independence!

So Madam Speaker, in conclusion, we are being taken truly back in time. *Non seulement les anecdotes que ne manquent pas de rater tous les membres de ce Gouvernement, concernant les gouvernements avant nous.* But, in fact, in the laws that we are legislating, we are being truly taken back in time. Back in a time where there was no principle of independence, back in a time where democracy was not as it is today, back in a time where you could deport people as you wish, back in a time not so long ago when the very same Minister Mentor here was Prime Minister. This is the time we are taken back, a flashback *en arrière* and this is, I think, today what we are bringing to this House and what is being, at least, shown by the Attorney General as his excuse to, in fact, please the Bar Council is very far from what the intention is here. I hope that Government will not go ahead with this provision of Section 8.

Thank you.

**Madam Speaker:** Hon. Callicurn!

(7.35 p.m.)

**The Minister of Labour, Industrial Relations, Employment and Training (Mr S. Callicurn):** Madam Speaker, first and foremost, let me congratulate the hon. Attorney General for the introduction of the Judicial and Legal Provision (No. 2) Bill in this Assembly.

In this Bill, Madam Speaker, appropriate consideration is being given to the relevant provisions of the law which tends to cause injustice and unfairness due to its rigidity. Simultaneously, it aims at bringing flexibility where the current state of affairs so demands. The need for the review of the legal arsenal of the country is a matter of utmost importance and this Government, Madam Speaker, is constantly showing its determination to modernise Mauritius while taking appropriate measures to keep the law updated with the rapid development and the perennial evolution of the society.

Madam Speaker, I do not intend to dwell in all the sections which this Bill purports to amend. I shall be restrictive in my intervention to only five clauses and be brief as far as possible.

First of all, let us remind ourselves of the cardinal principles of a true democracy, that is, obedience of the rule of law, which are –

- (i) nobody is above the law;
- (ii) equality before the law, and
- (iii) nobody should be punished without committing a breach of law.

This piece of legislation is expressly designed to ensure that the rule of law is adhered to. The aim is to cater for the welfare of each and every citizen whilst ensuring that nobody is penalised due to an error that occurs in the application of the law.

Madam Speaker, the administration of justice is quite onerous and it is our duty, as legislators, to lessen the burden of those having recourse to the court in order to obtain justice. In this perspective, it is imperative to ensure that cases before our courts are dealt with correctly and with due expediency. We are aware that considerable time is taken for cases to be disposed of by our courts in the normal course of event. However, the situation is being compounded where there is an error of law. So many times, we have heard the rhetoric: ‘Justice delayed is justice denied’. Similarly, misapplication of the law leads to serious miscarriage of justice. Madam Speaker, once a sentence is passed, it cannot be corrected by the Magistrate as he or she becomes *functus officio*. Hence, the only avenue left for the aggrieved person is appeal to the Supreme Court. Many appeals find its way to the Supreme Court due to the wrong application of the law.

This entails disbursing a huge sum of money should the accused decide to go on appeal, and we have seen in many cases, due to financial constraints, people are debarred from engaging in appeal process even where it is evident that there is reasonable prospect of

successfully obtaining redress on appeal. Therefore, Madam Speaker, in its endeavour to reinforce and consolidate the existing rights of an accused party, this Government purports to introduce a new provision in the District and Intermediate Courts criminal jurisdiction to allow a party who feels aggrieved by an error of law, which has occurred at sentencing stage, to seek redress before the same Court within a statutory delay of seven days.

Madam Speaker, it is important to point out that the above-mentioned avenue does not in any way whatsoever impede on one's right of appeal. On the contrary, his rights will be further enhanced in obtaining redress speedily and without incurring further cost by going to the Supreme Court.

Madam Speaker, I now turn to clause 3, which this Bill purports to amend. The aim of this Government, along with ensuring that no person gets unduly punished because of an error in the application of the law, is also to ensure that serious criminal offences are made known to the general public. Formerly, perverting the course of justice was not a criminal offence in itself. When two or more persons were involved in a criminal act, they were being charged for conspiracy to do a wrongful act, that is, to pervert the course of justice. The offence of perverting the course of justice, as it currently exists under our common law, provides for no express penalty, and the exact limits of the offence are sometimes difficult to establish.

The Government has, therefore, deemed it appropriate to make statutory provision for the said offence. The House will appreciate that the provision is wide enough to cover not only all possible acts and omissions, but also all intentions to pervert the course of justice.

Although this offence has existed under the common law in many Commonwealth jurisdictions, countries like Canada, Australia, Hong Kong, New Zealand and Ireland have deemed it appropriate to make express provision for this offence in their statutes. The aim behind such a move, Madam Speaker, was indeed to bring order to the source of the criminal law by eliminating confusion and uncertainty. This is precisely what this Government wants to do. Having this offence in the statute book will not only reinforce the democratic legacy of criminal law, but it will also help to promote conceptual, consistency in the interpretation and application of the law with regard to the offence of perverting the course of justice.

Madam Speaker, we are all well aware of the huge number of backlog of civil cases before the Supreme Court, more so in cases involving claims for an amount exceeding Rs500,000. The aim of this amendment to the existing regulations is to relieve the workload

of the Supreme Court and reduce inordinate delay in the hearing and disposal of cases, so as to enable our courts render justice expediently.

Furthermore, Madam Speaker, given that District Courts are spread all throughout the island, increasing their jurisdiction to hear cases for claim of an amount of Rs250,000, will highly benefit the parties in as much as they will save in terms of cost and time. Analogously, instead of lodging a case at the Supreme Court for a claim of an amount of up to Rs2 billion, now the Intermediate Court will have jurisdiction over such claim, thus again lowering the legal cost.

Madam Speaker, there is the doubt, with the promulgation of the regulation we are called to amend here, there will be an increase in the workload of the District and Intermediate Courts. Already, the workload in those jurisdictions is quite substantive; hence, it is of paramount importance for the judiciary to be better equipped to accommodate these changes. I am given to understand that the number of Magistrates and auxiliary staffs will be increased in the near future, which is a laudable initiative and which I welcome. Therefore, Madam Speaker, I can only praise the Attorney General, hon. Maneesh Gobin, for bringing forth such an amendment. I have no doubt that the public in general will enormously benefit from same in as much as they will save both in time and money.

Madam Speaker, needless to say that digital technology is the most dynamic technology on the planet. This advent has most certainly brought innumerable positive aspects in the lives of every individual, and this Government will continue to endeavour to keep abreast with the continual evolution in the sector, but like most things, the use of IT comes with its own inconvenience. In this case, such inconvenience can be extremely dangerous and have devastating, irreversible effects. Today, irrespective of age, almost every single person knows about social media, be it Facebook, Instagram, WhatsApp, Snapchat, and others. Other than just linking people from different corners of the world and being an indispensable source of knowledge, the social media also presents a real danger to its users. Weird as it may sound, these platforms have turned consumers into complete dependent.

In a world where information flows as a flash of light, nothing can remain hidden for long, be they politicians, teenagers or participants of '*Qui veut gagner des Millions*'. No one is spared from the shackle of this fast evolving technological tool. A slight mistake or a mere miscalculated move can bring one to regret his life, and all thanks to the rapid spreading of news.



We have recently witnessed this gentleman who was on the platform of ‘Who wants to be a Millionaire?’ He could not answer one question, and viral it went. As a platform of information, Facebook provides users with an opportunity to bully people. *Internauts* can instantly ruin, once online, popularity by dropping nasty comments, worst, sharing means. Let us admit it, we all have laughed to our heart fill when we have come across mimes of known personalities, but what we did not realise, is the impact that these can have on the lives of the persons being targeted. One has to venture carefully in this virtual world, as a wrong step can create havoc in diverse ways. While it is undeniable that social media opens up many possibilities, it also puts us at peril, if tampered with irresponsibly.

We live in a society where virtuality is real, and real is camouflage. Kee-kong has wisely said, and I quote –

“Think twice before speaking but think ten times before posting.”

Posting of videos and personal photos can be misused. Nowadays, cyber criminals are gaining momentum on unprecedented scale. Many people have fallen prey of this evil activity by having their personal information/pictures distorted and circulated online. Accessible or unrestricted profiles can be easily manipulated and the consequences that follow, include –

- suicides;
- low confidence, and
- low self-esteem.

Madam Speaker, although our Constitution guarantees necessary safeguard for freedom of expression and right to peaceful life, we have to be careful that whilst enjoying those rights, we do not impinge on the lives of others. A right balance should be struck between the right of privacy and the right to freedom of expression.

We have to remind ourselves that the Information and Communication Technology Act dates back to 2001, and it is important that, as a responsible Government, to keep pace with the advancement in technology and bring appropriate legislation to properly regulate the use of same.

We, therefore, need to remain alert, and be a step ahead of potential offenders, who use electronic means as a medium for dissemination of information. It will be appreciated that many users of social media fail to exercise any restraint while using same and such

conduct may cause annoyance, humiliation, convenience, distress and anxiety to others. IT being a powerful tool, its use compels users to be responsible. In many countries, the use of social media for the just mentioned purposes has now been criminalised.

It is beyond any dispute that IT is being misused to harass people with devastating effects. Other laws already exist to punish and call to order offenders, but some have learned to slip through, remaining unchecked in the loopholes in the existing legislations. The amendments being brought today clarify and simplify the law and cast the net wide enough to prevent those who think they are too smart to be caught and answer to justice. These amendments are fully warranted to protect everyone and any operation to it is simply unpatriotic and absolutely irresponsible.

The second and equally important amendment to the existing law is the tougher penalties. While sentencing remains the absolute prerogative of the Judiciary, this Government is sending a strong signal to cyber harassers. Of course, each case will be decided on its own merits, but the Police powers are enhanced, as any breach of section 46 of the ICTA will now become an arrestable offence, a measure which is designed to give instant relief to victims of cyber harassers. The Government simply says to them: beware, stop or face the consequences.

Madam Speaker, when the Institute for Judicial and Legal Studies Act was passed in 2011, it had, as one of its objectives, to promote transparency and consistency in the sentencing of offenders, and the award of civil damages by making recommendations to the Chief Justice for the issue of guidelines. It is unfortunate that since its setting up, the Institute has not made any recommendations, none of which I can recall of on sentencing guideline to the Chief Justice. This can be explained due to the fact that the legislator, then, failed to provide for a timeframe for that purpose. That is why, since 2011, we are still waiting for sentencing guidelines, which are of paramount importance for the proper administration of justice as they promote greater consistency in sentencing and ensuring public confidence in the Judiciary while maintaining its independence.

Members of the Judiciary will be better equipped to meet the challenges and consistent in their approach. Sentencing disparity is again the principle of equal justice in the law. Members of the legal profession, present here, in the House, will surely concur with me that, in order to enable justice to prevail in all fairness, there is an urgent need to have proper sentencing guidelines in this country, as it exists in other jurisdictions. The main objective

being to reduce sentencing disparity while ensuring rationality in sentencing. In the UK, for example, there is a Council, commonly known as The Sentencing Council which is mandated to produce or advise on sentencing guidelines and make recommendations. We are very far from the standard that is applicable in the UK, but we have to start somewhere. As a responsible Government, we are of the opinion that the amendment that is being brought at Clause 6 is a step forward in the right direction.

With the coming into operation of Clause 6, IJS must, henceforth, each year make recommendations to the Chief Justice to meet the objectives, as defined in section 4 (d).

Let me reassure this House that the amendment will not, in any way, jeopardise the independence of the Judiciary, which is tantamount to upholding the sacrosanct principle of separation of powers.

To conclude, Madam Speaker, it is indeed undeniable that Law Reform is a continuing process and there is still a lot that needs to be done. This Government is currently addressing the different concerns and needs of its citizen. It is a colossal job; more proposals will be made, but, in my respectful opinion, this Bill has addressed the most urgent amendments of the law.

My colleague, the hon. Attorney General has come up with a number of innovative amendments to make our law more responsive to the needs of our ever evolving society. We can, therefore, look at the future with renewed confidence. Thank you, Madam Speaker.

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

(8.56 p.m.)

**Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes):** Madam Speaker, let me right from the outset make it clear that there has been a *levée de boucliers* against this Bill. Criticisms are not only flowing from the opposition bench, but they are coming from all quarters. And the reasons are simple, because the Government is vindictive, there is no trust and past experiences have shown that this Government can condescend to any level to harm its opponents.

I have in mind, of course, the colourable device which was used to unseat the then Leader of the Opposition. And had it not been for the judiciary, matters would have been worse and it is the very foundation of democracy which would have been at stake. What is a

legal and judicial Bill? It is an opportunity for any Government which is respectable to have the high ground if there is honesty of purpose.

The object is to ensure that the demarcation line between democratic institutions is wide and not blurred. It is unbecoming of the Executive by way of legislation to usurp or to encroach. And I will, Madam Speaker, say what everybody says and I am not going to repeat *ad nauseam*, but I will lay emphasis on the salient points of this Bill. Except for clause 4, there is nothing in this Bill that is worth writing about. And let me make it quite clear that in respect of clause 5 of the amendment to the ICT Act, the Government, through the Attorney General, has chosen to stiffen the offence.

Madam Speaker, there is one thing that you have to understand very clearly and it is a statement of fact because this is the harsh reality. The Internet has no boundaries and where there is no boundary - as my friend, hon. Rutnah, was saying earlier - there is no offence though I do not subscribe to what he is saying. But let me say that when you cast the net, it would not be that wide to catch almost anybody and everybody.

Let me refer to two specific cases which went viral. I have in mind messages that were sent with visual display. I use the words 'visual display' because it was displayed on the net. The electronic tongue that was protruded and which went viral. Now, if I subscribe to the provisions of this legislation and if I had used electronic means to sensitise everybody on this adverse message, you know what the risk would have been and yet the message is obscene, is indecent, is abusive and is almost anything and everything.

I will also remind our friends of the insult that was hurled at a woman journalist by our good friend, hon. Rutnah. Of course, he conveyed his apologies, but the message went viral. I am not going to talk of the harm that it did to the Government, but this is what I want to say. If I had used this to sensitise as many people as possible, what would have been the risk as they say in monopoly, go straight to jail for an offence which is almost innocuous, which is almost unimportant. And yet probably it is my first offence that I have committed. That is why I say this Bill, as it stands, sends cold shivers down the spine of the common person.

I am not a lawyer but when you talk to people, who have the legal acumen, they will tell you that these provisions are anti-constitutional and if challenged in Court, the risk of them being struck down is very high. Earlier, hon. Uteem referred a judgment pronounced by

the Supreme Court of India. Let me refer to a case which was brought before the Kenyan Court, and I read –

“Accordingly, in its view, section 29 of the Kenyan ICT Act is vague and overreaching, is thereby lacking in certainty, and it restricts the right to freedom of expression.”

Its submission was therefore that the section is not reasonable and justified in a society that has proper respect for the rights and freedom of the individual.

I grant you things have changed since the days I joined politics and I recall I paid a courtesy call on the then Prime Minister, Sir Anerood Jugnauth. And what was the advice that was tendered to us, then young politicians: make sure that you have the skin as tough as the skin of a rhino. You know Sir Anerood has a way of saying things and the message was conveyed loud and clear. But today, the former Prime Minister who has dispensed that advice, today, the Government of which he is party to, has decided to come with a legislation which smacks of arbitrariness and the powers which the Attorney General has conferred upon himself are almost unfettered powers. The Attorney General today rules the waves of the judiciary. If I refer to some of the powers that have been vested upon him by way of amendment to the law, let me take the Law Reform Commission. The Attorney General may, at any time, terminate the appointment of a member other than a member referred to in subsection 1 (b), (c) and (e). The question, Madam Speaker, that begs an answer, what is the agenda behind this provision? It has not been brought because the Attorney General *a priori* had consultation with different legal associations. No! The agenda smacks of vendetta because the Attorney General is acting in an arbitrary manner. We know and it is a fact, instructions were given to the Chairman of the Law Reform Commission and we have to find out who gave the instructions. Instructions were given to convene Mr Narsinghen, Head of the Law Faculty and Mr Gilbert Noël, Attorney at law and they were both given the marching orders and this is a statement of fact. This information can be crosschecked and it is coming, as we say, from the horse's mouth. They are not scared to say loud and clear where the instructions came from. So, to come and say that there was consultation *a priori* that the Attorney General wants to respond to the advice which has been tendered to him or to the request made by the Bar Council or the law society or for that matter the Chamber of Notaries, I think these arguments do not stand, but I grant you there was a consultation, a request was made by the representative of the Chamber of Notaries.

Under the circumstances, an Attorney General, who is also Minister of Human Rights and who cares for the rights of all individuals, should have lent his ear and bow to the legitimate request made by those organisations. He could have asked our friends from the State Law Office to formulate the appropriate amendment without undermining the acquired rights of members sitting on the Law Reform Commission.

Earlier, hon. Duval explained lengthily the merits of the Law Reform Commission and the excellent work that has been carried out by sitting members, of course, without undermining the excellent work also done by the Chairman, Mr Ramdewar. Now, they submitted several reports and the Law Reform Commission has not done the bidding of any political party but it has done the bidding of a nation, and this is why we say that this Law Reform Commission has to be seen to be independent and has to act independently on advice tendered by the Attorney General. They need to act and express their minds freely. What Government is trying to do through the Attorney General, it is trying to have a *mainmise* upon the Law Reform Commission to justify villainous Bills which it will introduce to hit at its opponents. I hope that not only ex official members, but the members who are going to be appointed will act independently, although it is unlikely for this to happen because we know and I will come back to instruction given to the Chairman to give marching orders to the two members of the Law Reform Commission whom I have just mentioned. So, how can we act? How can we say without fear or prejudice that the newly appointed members will act independently? This is a statement of fact because this is a Government which acts in an arbitrary manner, which right from day one has embarked upon a political vendetta with the consequences which we know only too well. When we talk of *mainmise*, Madam Speaker, let us remind ourselves of the decision taken by this Government despite anger from members of the public. They came with a Bill which was highly controversial and people reacted. I am not talking only of people belonging to different political parties, I am talking of all institutions which reacted to condemn Government when it circulated the Prosecution Commission Bill.

The same if there has been reaction, I am not going to say violent reaction, but if there has been justifiable reaction against the decision of Government to amend the Law Reform Commission and to speak against other provision, it is precisely because the very foundation of democracy is being undermined.

Madam Speaker, it is a habit of this Government to interfere and if I refer to clause 6, Government is also interfering with the working of the Institute for Legal and Judicial

Studies. Now, I will ask two basis questions. If you want the Institute to meet any deadline with respect to the preparation of sentencing guidelines, you need to give it the means. I ask a simple question as to whether the means have been allocated to the Institute for Legal and Judicial Studies. Earlier, the point has been canvassed that, as a matter of constitutional principle, the Attorney General should not interfere with the responsibilities of the Chief Justice. This is the sole province of the Judiciary.

Madam Speaker, much has been said about Letters of Requests Rules 1985 which are being amended. I think it was hon. Gayan who canvassed the point that there is every merit with respect to the amendment which is being brought to the Legal and Judicial Bill, and that, in fact, we should be party to different Conventions which he cited, the civil and the commercial related matters. But I ask one question: was there any need to rush this Bill through before we have subscribed to those Conventions? Like fools, we rush in probably where angels have fear to tread. What is the necessity? Is there any necessity to come with a Bill before we are party to the relevant Conventions, Madam Speaker?

Later on, the Deputy Prime Minister will introduce the Radiation Safety and Nuclear Security Bill. When you look at the Schedule, eight Conventions have already been signed and ratified. We subscribed to all those Conventions, and it is coming with another belated legislation to make sure that we adhere to the code of safety. So, I cannot understand the rush to introduce amendments to this legislation before we become party to the Conventions.

What do the proposed amendments to the Letters of Request, Clause 12 Section 4 say: (1) (a) and (b): 'Empower the Attorney General to have evidence taken or documents of articles produced and be translated to Mauritius'? I agree that the Office of the Attorney General is the central authority. However, it is the domestic law of a country which prevails and documents will be transmitted subject to specific conditions.

Now, we are party to the Mutual Assistance in Criminal and Related Matters. We could have waited as I said till we become party to the Civil and Commercial Convention before the Attorney General can say loud and clear that he is now the central authority. But central authority or not, he cannot decide on his own free volition. The request has to come from a Judge or from the Master and Registrar. Under the circumstances, with respect to the provisions of this Bill, he has arrogated himself powers beyond his wildest dream. That's why I say, the Attorney-General is ruling the waves of the Judiciary.

I would have thought that he would have learned lessons from his predecessor. The former Attorney General fell flat on his face when he acted like an amateur sleuth travelling to London, to Italy at the taxpayers' expense to collect evidence and his merry-go-round, of course, was a waste of resources. I hope the Attorney General, as the central authority, will delegate responsibilities and leave institutions freely. But they are under the bad habit. They have never understood the meaning of institution, that there should be no encroachment, that institutions should be allowed to function independently, far from the *mainmise* of politicians.

Earlier, my good friend, hon. Duval - and we always say that the child is father of the man *et la vérité sort de la bouche des grands enfants* - what was he saying, Mr Deputy Speaker, Sir? That they had recourse to any means to achieve their objective, irrespective whether the means are foul. And today in Government, they will use any foul mean to achieve their objective; *viré mam*, money politics, arbitrariness,...

*(Interruptions)*

Roches Noires! Look into your own coffers! If the Minister means business, there has been a financial crime committed at the State Bank of Mauritius and I would like to know who gave instruction to the Investment Committee to allocate excess massive loan?

**Madam Speaker:** Hon. Dr. Boolell, I am sorry. Whilst I will request on this side not to make provocations, at the same time, I will request you not to delve into things which are irrelevant to the Bill.

**Dr. Boolell:** What I am asking, I would like to know whether the Attorney General, who has arrogated himself powers beyond his wildest dream, will travel to Kenya to retrieve relevant documents, letters of request. He has arrogated himself the power today to travel to Kenya to seek and retrieve relevant documents, or Dubai and Hong Kong. What is good for the goose should be equally good for the gander. Let me tell you, by amending the provisions of this Bill, you are ushering in a double-edged sword. Be careful, it is a double-edged sword which is being ushered by this Government. You are here today, but you are not going to be here tomorrow. Your days are counted.

*(Interruptions)*

The law, Madam Speaker, may be an ass, but let me tell you one thing, tread cautiously, err on the principle of caution, never try to pluck a hair from my hairy head. You may be scalped. I do not believe in an eye for an eye, but let us, in the name of Justice, of good governance, if we believe in the fundamental principles of democracy, when we introduce a



legislation, let us make sure that the legislation is beneficial to the Nation and not to a single few with bent ideas.

Thank you very much!

**Madam Speaker:** Hon. Rampertab!

(8.21 p.m.)

**Mr R. Rampertab (Second Member for Flacq & Bon Accueil):** Madam Speaker, first and foremost, let me thank and congratulate the Attorney General, hon. Maneesh Gobin, for coming up with the Judicial and Legal Provisions (No. 2) Bill (No. XVI) of 2018 which is being presented at a pivotal moment.

Indeed, the Judiciary is being challenged to the very core by factors such as the ever changing technology, the pressure from Court users to modernise our current judicial, administrative procedures and regulations, and the enhanced scrutiny towards legal professionals.

Madam Speaker, many of the amendments being presented by the Attorney General were long overdue and will give a welcome boost to our judicial administration. However, as always, I will urge both sides of the House to be objective and constructive in debating the proposed amendments.

Madam Speaker, as I mentioned in my opening remarks, it is imperative that our judicial administration is equipped to keep up with the latest technological advances. Hence, I welcome the proposed amendment to introduce the recording through technology or evidence and submissions in our Courts. Unfortunately, our country was lagging behind by almost a decade in terms of using technology to capture the Court proceedings. It is only this Government, Madam Speaker, which has rightly identified this major gap and acted appropriately to ensure that our legislation is amended.

Madam Speaker, Shorthand Writers or Court Officers are not always available to manually record the Court proceedings. However, the limitation of manual recordings are well documented. Hence, they can be time consuming to prepare and validate, or sometimes can be inaccurate causing the congestion of judicial staff and processes.

Madam Speaker, the implication of implementing use of technology to record evidences and submissions within our Courts will also impact the back-ends of our current judicial administration. To start with, there must be a clear plan as to which Courts will be

impacted by the proposed change. For instance, in the UK, only proceedings at the Crown Court, Civil and Family Courts are recorded. Also, Court Officers will have to be properly trained to use any devices installed within the Courts before, during and after the proceedings.

In other jurisdictions, for example, a robust regime of referencing, cataloguing, classification and retrieval of digital recordings has been set up and I expect that the Master and Registrar will uphold equally high standards with the upcoming archives exhibits and record sections of the Supreme Court.

Madam Speaker, another aspect of the initiative to be considered is whether transcripts and recordings of the proceedings will be available to the public, and if so, how? For instance, Madam Speaker, in Northern Ireland, there is a predefined process around the request of a CD of audio recordings, original transcripts. The request will be considered by the Lord Chief Justice and should be backed by the detailed purpose and a fee.

However, Madam Speaker, in the US, the public is free to download and listen to audio recordings of the Supreme Court which are archived as per the latest digital cataloguing and retrieval techniques.

Madam Speaker, another noteworthy amendment being proposed by this piece of legislation is the offence of perverting the course of justice which is being introduced in the Criminal Code. I find the fine of Rs100,000, an imprisonment for a term not exceeding 10 years proportionate to the gravity of the offence. I would also like to briefly comment on the proposed amendment, on error in sentence. The proposal would enable the Court to, within 7 days of sentencing, amend the sentence after considering the submissions from the parties. The correction of a sentence should be dealt with utmost care and be allowed only if a specific set of conditions are met.

However, Madam Speaker, in practice the 7 days proposed might not be sufficient to gather, collate, communicate and produce the submissions, especially if numerous parties are involved. Also, after factoring in the demand schedules of Counsels, Attorneys and Court Officers, it might be more reasonable to propose between 14 and 21 days for both the submissions and appeals, if any.

Madam Speaker, in my previous intervention on the Judicial and Legal Provisions Bill, I stressed how our social media is being used to ill-intentioned individuals to omit views which are endangering the peace and harmony of our nation and which is completely

opposite to our country's core values. Another worrying trend is the misuse of social media, more specifically, through texts, images and videos, to cause harm to individuals. Madam Speaker, indeed, people's life have been destroyed through such reckless acts and the amendment proposed will bring a halt to such practices. Individuals and their families are sometimes scarred for life following such type of incidence.

Madam Speaker, I think that the amendments proposed should go further. Given the increasing and varied cases being reported, the Information and Communication Technologies Act should be further reinforced to ensure that social media or any digital platforms should not be used specifically to defame individual ethnics or national origins or disability. The law should be firm enough to be able to punish extreme views, language or the impact in causing self-harm or even committing suicide.

Madam Speaker, I ask the Attorney General to leave no stone unturned to protect each and every individual of our country against the misuse of digital platforms. I reiterate my suggestion made during my first intervention to strengthen the Cybercrime Unit with enhanced tools and training, so that perpetrators can be successfully tracked down and sentenced.

Madam Speaker, the amendments being proposed to the Mauritius Bar Association Act are, indeed, being presented at the right time given that the Bar Council has recently been in the limelight for different reasons. The number of Barristers in Mauritius has increased steadily over the last decade and undoubtedly, the number of elected members should be more representative. Hence, I welcome the proposal to have seven elected members of the Council. However, the suggestion of having 11 elected members could also be considered to ensure a more proportional representation given the number of Barristers that we have in Mauritius today. Madam Speaker, given the recent turmoil within the Mauritius Bar Association, it can be argued that there are enough reasons to undertake a review of the current governing legalisation. Indeed, what authority should the Mauritius Bar Association have with regard to managing any alleged breach of etiquette?

For instance, should the Mauritius Bar Association have the power to suspend or remove a Barrister's membership? If we look at the UK, Madam Speaker, for example, the Bar Standards Board, which is an independent body responsible for regulating Barristers, the Bar Standards Board has a clear set of guidelines and code of conduct alongside a dedicated and experienced Professional Conduct Committee, which is solely responsible for

investigating complaints and taking action against Barristers who have committed any alleged breaches. The Professional Conduct Department, Madam Speaker, is well structured and made up of three teams, namely –

- the assessment team;
- the investigation and hearing teams, and finally
- the operation support team.

Madam Speaker, I am of the humble opinion that we should inspire ourselves from the Bar Standards Board to ensure that alleged breaches are investigated and assessed in a fair, transparent and independent manner. Hence, we will avoid any unwarranted suspicion of partiality and injustice which can prevail amongst certain fellow colleagues and the legal profession.

Madam Speaker, my final comment on the Bill is on the amendment proposed to the Supreme Court (Jury Lists and Panels) Rules 1992. I welcome the proposal to compile the list of Jurors following a combined exercise by the Electoral Commissioner, the Registrar of the Civil Status and the Commissioner of Police. We should perhaps review the juror eligibility age range to 70 years. We all know that our older generation are both mentally and physically active and alert well beyond their 60s and they should be given an opportunity to exercise their rights as a juror till the age of 70.

Madam Speaker, to conclude, the law will always be asked to change and adapt to demands of the prevailing era. However, without a sound and responsive judicial administration, we cannot envisage that justice will be granted swiftly and effectively to our citizens. I thank my good friend, the hon. Attorney General, again for his relentless efforts in modernising and consolidating the administration of justice in our country. I also thank the hon. Prime Minister and Minister Finance and Economic Development for his support in delivering the new Supreme Court Building in 2019, which will be equipped with the latest technology, e-Courts and e-Law systems and a modern fines collection system.

Madam Speaker, never has a Government achieved so much in such a short time and we have to transform our judicial administration and the legal framework.

Thank you for your attention, Madam Speaker.

**Madam Speaker:** I suspend the sitting for one hour.

*At 8.34 p.m., the sitting was suspended.*

*On resuming at 9.38 p.m. with the Deputy Speaker in the Chair.*

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

(9.37 p.m.)

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

Thank you, Mr Deputy Speaker, Sir. I am happy that I have an opportunity of addressing Parliament today on this particular piece of legislation. I will try to slow down my intervention by speaking at a slower pace whilst I wait for the Attorney General to show up. Because I am of the view that it would be important for me to show respect to him by making him aware of what are the issues that I would like to raise in objection to the piece of legislation that he has brought, and I am not in the habit of saying much or anything at all for that matter behind his back. So, I am just now, Mr Deputy Speaker, Sir, still thinking how I will continue that phrase and wait at the same time for the hon. Attorney General to show up.

It reminds me of a time when there was the Speaker of the House of Commons who noted that the Minister who had presented a Bill was not in attendance, and he was taken to task by the Speaker of the House of Commons by explaining that it would be in the interest of democracy and good etiquette that he should be present. I think I have taken up two minutes of not saying much, but unfortunately, he is still not here. So, allow me to go on, even though I will go on at a slower pace. I just hope that someone could at least tell him to show up.

Now, when I look at this piece of legislation, what it brings to my mind, Mr Deputy Speaker, Sir, is the following: it brings to my mind a Government, when you look at all the issues it is trying to bring in through this Bill, that clearly is seen to be trying to get hold, to take control of various situations, to take total control of various institutions, of various decision making instances and bodies in order that it may have control at very important times for important issues.

And it is only a Government that does not have control anymore that acts in such a desperate manner. Because yes, what I see in this piece of legislation is there is a common denominator there, and the common denominator is desperation. A Government that is no longer in control because it knows for a fact that it is not only whatever it wishes that, for instance, the Law Reform Commission must do; it is not only what it wishes that the Law and Reform Commission members must bow to; it is not always Government's agenda that must be the order of the day. But the Government cannot accept that. The Government, through

this Bill, I see, is a Government that cannot accept independence. It is clearly showing, Mr Deputy Speaker, Sir, that it is allergic to the independence of institutions. It fears the independence of thought of members of institutions. It fears the independence that the Mauritius Bar Association has as an institution. So, what it does, it tries to take control, but not through means that I would qualify as being ethical, because ethical would mean, and I will start by giving an example if we are to talk about the Mauritius Bar Association piece of legislation that is being amended through clause 9 of the Bill.

It is important that all those listening here in this Chamber and outside at least ask themselves why is it that the Attorney General is coming up with this piece of legislation; what, in fact, he is trying to achieve because all the excuses that he has put forward, and yes, I call them excuses, are but lame excuses, extremely lame excuses. The truth of the story is that because there was an incident involving a law officer from the Office of the Solicitor General, because there was an incident where the Mauritius Bar Association called that officer to give explanations concerning an incident, the manner in which the Bar Council Association was seen to have dealt with this matter was not to the liking of the Attorney General, and I am sure was not to the liking of the officers of the Solicitor General's Office and the DPP's Office.

And because of that, today, what are we doing? We are having a piece of legislation where we are creating a situation where we are going to end up with two categories of lawyers, two categories of barristers: one that will be totally governed by the Mauritius Bar Association; one, where in matters of discipline as members of the Bar, the Mauritius Bar Association will be able to act, and another category of lawyers, where the Mauritius Bar Association will not be allowed to act. Now, when I see this piece of legislation, the Mauritius Bar Association Act is being amended and the words that are deleted are the words 'Attorney General' in section 5(i) of the Act.

And what finally it would read if we are to remove is that the Attorney General will not de facto form part of the Mauritius Bar Association, the Bar Council will not consist anymore of the Attorney General de facto, and the five members are increased to seven. But most importantly, it is the other clause, clause 9(b), which is in section 13 of the Act, that is being amended, and it says here –

“For the avoidance of doubt, this section shall, pursuant to section 86 of the Constitution, not apply to a law officer under the Law Officers Act.”

What exactly does that mean finally? It means that if it concerns law officers who are appointed by the Judicial and Legal Services Commission, barristers called to the Bar, there is a Code of Ethics that all barristers have to adhere to; barristers have to adhere to a Code of Ethics for the good running of our profession. But what the Attorney General is doing through this piece of legislation is creating, as I have said, two categories of barristers; one that will be governed by the Code of Ethics. And, if ever there is a violation of that Code of Ethics, the Mauritius Bar Association will be able to take action, and then, eventually, refer it to the Supreme Court, if ever it has to be referred to the Supreme Court, for any decision of the Supreme Court based on a violation of ethics. Then, the other category is, they remain the law officers appointed by the Judicial and Legal Service Commission and will remain members of the Bar Association. But the section of the law in relation to discipline for violation of ethics, for misconduct, that will not be applicable to the law officers. Therefore, it will be, according to them, the Judicial and Legal Service Commission that will be able to take action against them, if ever there has been misconduct.

So, therefore, we end up with two categories of barristers. One, where the Judicial and Legal Service Commission is called upon to take disciplinary action against them, if need be, and if you are not a law officer appointed by the Judicial and Legal Service Commission, but you are a barrister qualified and called to the Bar, you are not a law officer under Section 86 of the Constitution, then, it will be the Mauritius Bar Association that comes into play. Two categories! So, what I have done, is try to understand, maybe, in other jurisdictions, do we have *une instance* that exists, that deals, one, with officers working for the Crown Prosecution Service, officers working for the State, let us say, in United Kingdom, barristers working in the United Kingdom? Are they dealt with differently in matters of discipline, as opposed to barristers who are in private practice? So, I have researched it and come across one very simple scenario, as it happens in the United Kingdom. And the scenario is, you got the Bar Standards Board. The Bar Standards Board is the Board whereby once you have passed the Bar exams, once you have qualified as a barrister, once you have been called to the Bar in one of the four Courts, as a barrister wanting to practice as a barrister in the United Kingdom and Wales, you have to go to the Bar Standards Board in order to obtain a certificate that allows you to practice as a barrister. And, if there is any misconduct on the part of the barrister, if there a violation of the Code of Ethics, once again, it is that one single body that is called into play, the Bar Standards Board.

In the United Kingdom, one does not have two ‘*instances*’ to deal with barristers working for the State, as far as ethics goes, and then, barristers working for the private sector not working for the State, in a different manner. You have only one ‘*instance*’. Why? Because barristers are called to the Bar, barristers whom I have a lot of friends, and if not all of them are good friends and colleagues of mine, working for the Solicitor General’s Office, working for the DPP’s Office and even for the Attorney General’s Office.

We are all barristers; we are all brothers and sisters of one profession. All of us are governed by one simple rule, our Code of Ethics, the discipline that we have to adhere to. And, if there is a violation of any Code of Ethics, we have to be disciplined in the same manner and with the same standard, because a barrister is a barrister, there are no two categories, there is only one category and we have only one appellation, we are barristers. That is a simple equation. There is no need to complicate it. In the United Kingdom, it is not complicated. In France, it is not complicated. In other Commonwealth jurisdictions, it is not complicated. In other Commonwealth jurisdictions, there is only one body that disciplines barristers, and not two! I have searched and perused other documents to try to find out whether in India there are two bodies. The answer is no! So, therefore, why in Mauritius, why this knee jerk reaction of the hon. Attorney General, simply because he refuses to simply put aside the fact that they may have felt, and *je compatis* that the Bar Association wrongly reacted pertaining to one law officer, whom I have a lot of respect and friendship for.

Let us try a comparison for us to understand it. And, if I am to choose another profession – I see hon. Dr. Husnoo present, I am happy. Let us think about doctors working for the public sector, as opposed to doctors working in the private sector. Imagine there is misconduct or negligence on the part of a doctor in the public sector, isn’t it a matter which the Minister can refer to the Medical Council? Yes, it is! But if you are in the private sector, isn’t it, once again, if there is a wrongdoing matter that has to be investigated, and then referred to the Medical Council? Or is there another Council altogether that will look into matters concerning medical doctors working for the private sector, as opposed to the public sector? Why is it that we do not end up with two regulatory institutions for doctors? We should not confuse the fact that the Public Service Commission employs, the Judicial and Legal Service Commission recruits and employs, and then, they will say: “but, no, hon. Shakeel Mohamed is wrong”, and some would say, I am making my show.

*(Interruptions)*



No, no! The show has not started yet. It is about to.

*(Interruptions)*

Of course, I accept. Whatever you say is true!

**The Deputy Speaker:** No crosstalking, please!

**Mr Mohamed:** Whatever you say is true, always. You always say the truth!

*(Interruptions)*

That is called sarcasm! By the way, what I find interesting, and I think those are very important sections that we have to bear in mind with regard to this piece of legislation, and try to be very dispassionate about it. This is what exactly I am trying to do. It is not a show, but being dispassionate about it. I have my views, I am respectful about the views of others, but I may not agree with it, but I have to communicate my views. This is the whole purpose of our presence here today.

Here, when they say they are going to refer to the appointment of Judicial and Legal Officers, the hon. Attorney General obviously is referring to, when he says that in this Bill this section shall not, pursuant to section 86 of the Constitution, apply to a law officer under the Law Officers Act. *Qu'est-ce que cela veut dire?* When I refer now to section 86 (1) of the Constitution, I read –

“The Judicial and Legal Service Commission - which is created under Section 85 of the Constitution - shall have the power to appoint persons to hold and act in offices to which this Section applies, including the power to confirm appointments, to exercise disciplinary control over persons holding or acting in such offices or to remove such persons from office, shall vest in the Judicial and Legal Service Commission.”

This is what the hon. Attorney General is relying upon. Because, here, there is a part of that paragraph that says that the Judicial and Legal Service Commission appoints those very law officers, and it is this very Judicial and Legal Service Commission that has the power to appoint them, that also has the power to exercise disciplinary control over those persons.

So, the hon. Attorney General bases himself upon this particular section of the Constitution, where the word ‘disciplinary’ control is referred to, to say “that is why we can derogate from the Mauritius Bar Association legislation”, we will be disciplined in matters of violation of the Code of Ethics by the Judicial and Legal Service Commission. This is what their legal reasoning is, and I humbly put it that their legal reasoning is, unfortunately,

flawed, and I shall explain why it is so flawed and dangerous. It is very important that we read the Judicial and Legal Service Commission Regulations because it does not stand only in the Constitution as sections 85 and 86, but the Judicial and Legal Service Commission, they have regulations and those regulations are the Government Notice 90 of 1967. When one reads the relevant sections of the Regulations to see what exactly can the Judicial and Legal Services Commission do in terms of discipline, I think it is of relevance reading here, and I shall read that Regulation of the Judicial and Legal Services Commission –

- “17. (1) The penalties which may be imposed on an officer against whom a disciplinary charge has been established are –
- (a) dismissal;
  - (b) reduction in rank;
  - (c) stoppage or deferment of increments;
  - (d) a reprimand;
  - (e) an officer who is absent from Mauritius without permission shall be liable to summary dismissal, and in the event that in the public interest it is found that he has to be made to resign, he is asked to resign and the Attorney General steps in.”

Those are the very clear parameters, Mr Deputy Speaker, Sir, of how the Judicial and Legal Services Commission operates in matters of disciplinary proceedings.

Therefore, the question that I ask is, and we should all ask ourselves: does the Judicial and Legal Services Commission have the power pertaining to section 86 as well as the regulations, the power to discipline any officer appointed under section 86 for violation of a Code of Ethics? Do any of the Regulations that I have referred to, refer, in any way, to the Code of Ethics? And why I say the answer is simply ‘no’, it is because I refer to the case of *Panday v. Judicial and Legal Services Commission*, which is a Privy Council matter. When you look at the judgement of the Privy Council in the case of *Panday*, the Law Lords of the Privy Council referred to section 86 of the Judicial and Legal Services Commission, created under section 86 of the Constitution. They also referred to the regulations of the Judicial and Legal Services Commission, G.N. 90 of 1967, and the ambit of the disciplinary powers of the Judicial and Legal Services Commission is limited to matters of employment.

In other words, it is an employer and the law framers have explained very clearly, those are the ways that those employed who are now law officer's recruited by the Judicial and Legal Services Commission, those are the officers who will now be disciplined in the following manner and part of the disciplinary process would be to dismiss them from their employment, if ever the disciplinary charges are approved. It would be to reduce their rank in the hierarchy of the place of work in terms of their employment. Stoppage of affirmative increments with regard to their job, a reprimand just like a warning, we call it, and those listening on television would understand what I mean, since they get in day-in day-out a warning under industrial laws. But, at no time, does the Judicial and Legal Services Commission have the power to look into anything that goes in relation to the Code of Ethics.

The Code of Ethics, the only Statute that has been recreated with regard to the respect of the Code of Ethics of Barristers is the Mauritius Bar Association, and, at no time, was it in the mind of the framers of our Constitution that this Judicial and Legal Services Commission should also have the power to come and take any disciplinary matter for violation of Code of Ethics, neither do they have any statutory power to even refer a violation of Code of Ethics to the Supreme Court. It is only the Mauritius Bar Association, the Council that can refer a matter after investigation to the Supreme Court and this is provided for by Statute.

Now, if the Attorney General is to tell me that section 86 that he is trying to bring in, in order to create a second category of Barristers, two categories, does also provide for disciplinary action for violation of the Code of Ethics and to be referred to the Supreme Court. Here, he can at least show it to me, because I have looked for it, it is not there. He can try to read it, that is not allowed to do. He can try to interpret it, turn it, twist it to make it go his way, but the truth is the truth. Statutory interpretation is clear, you cannot here ask the Judicial and Legal Services Commission to do something which it has no right to do, because it was never empowered to do so.

In other words, the legislation that he is passing is giving a responsibility to the Judicial and Legal Service Commission and the Commission cannot even do that because to do so, he would have to amend section 86 of the Constitution and he would have to go as far as to amend the rules, the regulations because the regulations will have to also include that, and it does not.

But what is more worrying, and, here, I would like to ask the Attorney General to answer that. He is *de facto* a member of the Mauritius Bar Association. He is *de facto*,

practice dictates, the Vice-Chairman of the Mauritius Bar Association. I have taken it upon myself to consult with the Mauritius Bar Association in order to find out exactly what was their stand pertaining to this particular amendment at a time when the Mauritius Bar Association is taking difficult decisions, but that shows very courageous decisions, in order to try to show that it wants to bring discipline at the forefront of its mission. It wants to bring in unity *dans le corps* of Barristers. It wants to put in the forefront of its mandate the concept of discipline when at a time when it is trying to call for and been calling for through meetings it has had with the hon. Attorney General. They have asked him for big amendments, not only pertaining to piecemeal amendments as the hon. Attorney General is bringing today which go not in the interest of the profession, not in the interest of justice, but in the interest that is very *égoïste*, in my humble view, *très égoïste*, but not thinking of the greater good but only thinking a little, small thinking. And that is the sad part, because at no time did he, as member of the Council, even consult with them pertaining to this amendment, and this is what I have been told.

The Mauritius Bar Association, the Mauritius Bar Council at no time was consulted by the hon. Attorney General. Is this a good practice? You heard the hon. Attorney General, in his opening remarks, state how he would do everything according to law, how he would do everything according to good governance, how he would do everything according to good practice, but doesn't good practice, an etiquette, simply ask that he consults with the members of the Association, an Association that is governed by the Mauritius Law Association, the statute that he is trying to amend, the Mauritius Bar Association. He is trying to amend that statute that governs the Barristers' profession, but he does not consult with the same association members, neither does he consult with the Council members, neither does he consult with the Barristers of the profession and he does it behind their back whilst, at the same time, being a member of the Association himself. Maybe he has got a different concept of the word 'consultation', but in all humility and with this mind that wants to be constructive and not destructive, the least I expected from him is to consult with the members of the Bar at the time when to decide that he is going to amend a statute that creates the Bar Association. But, no, he decides to create two categories of Barristers, removes the power of the Mauritius Bar Association as far as disciplinary matters concerned for Barristers working for the public, appointed under section 86 and does not even consult with the Mauritius Bar Association. Is this good governance?

Mr Deputy Speaker, Sir, I fail to understand what exactly he is trying to get at. I will go again and I would like the hon. Attorney General to be able to bring an answer to this. How can he expect the Judicial and Legal Service Commission to operate in a vacuum? Why is there such a vacuum? It is because the Judicial and Legal Service Commission is not empowered to take any disciplinary action in relation to violation of Code of Ethics. It is empowered, however, to take disciplinary action in relation to misconduct and only go as far as to sanction the employment of the law officer, but not the appurtenance to a profession. Can the Judicial and Legal Service Commission go as far as to report to the Supreme Court? Can they go as far as to summon him and they fail to summon on the Code of Ethics? Nowhere in the regulations is the Code of Ethics mentioned. Nowhere in the regulations is reference to the Supreme Court for violation of Code of Ethics referred to. So, there is a missing link. I always laugh and smile happily because it reminds me of the good old days when hon. Sinatambou talked to me the first time I met him about what a missing link means and those were the good days when I was still a student, and he was a student in London. If he does not remember, I will tell it to him later on and it was a nice joke he shared with us, but the missing link is important. The missing link is important because you cannot ask the Judicial and Legal Service Commission to do something it is not empowered to do.

Now, before I go on to the next issue, I shared this with my friends earlier on whilst we were having dinner and I said to them that there is something that is very frustrating, Mr Deputy Speaker, Sir, and it is the following. I stand before you today sharing my views, the legal analysis that I have put in here and I think it makes interesting debate and that is the whole purpose of us being in this august Assembly, a debate on ideas, reasoning. For us to come here we must have a reason, but when we have, on the other side, a Government that just listens to you *pour la forme* or, at least, pretends to listen *pour la forme*, but never takes into account anything you say because, at the end of the day, they have already made up their mind and we have to give a *semblance* of democracy, go through the Act of making some contribution today and that is never taken into account. It is thrown aside as though it is irrelevant and then you understand that it leads to frustration. Then sometimes, at the beginning of my speech, a few minutes before that I said to myself, most probably it was not worth intervening, but, at least, my friends convinced me that it was important to do so for posterity. Why is it important for posterity? Because it is important for the future generations to see this is the wrong they were doing because not far from today when my Friend, hon. Dr. Boolell, stated that the writing is on the wall, he is right. The Labour Party will not stand by

and see any law abusive in nature stay on the books and we undertake to repeal those laws that are wrong. We will do that when we come to power. That is an undertaking we take. We make it and we solemnly take it.

*(Interruptions)*

That is what you think. When you were with the Labour Party, then your tongue was going the other way.

*(Interruptions)*

But then again I mean, the tongue issue, they have expertise in that.

**The Deputy Speaker:** No crosstalking!

**Mr Mohamed:** Hon. Sinatambou when he was with the Labour Party, my God how he was so critical of the Jugnauths, and now when he is with the Jugnauths, he is so critical of Ramgoolam. My God! He is so good!

*(Interruptions)*

**The Deputy Speaker:** No crosstalking!

**Mr Mohamed:** Yes, he is the missing link. So what he is saying is because I did the same thing, it makes him right. That is a very good defence. You understand why he is turning yellow now.

*(Interruptions)*

**The Deputy Speaker:** Please!

**Mr Mohamed:** Now we understand why he is going yellow. *Appel sa rye jaune!* But anyway, oh God!

*(Interruptions)*

So, this little interlude, Mr Deputy Speaker, Sir, has managed to show us what I said a few seconds ago was true. In other words, it is just a *semblance* of us trying to have a debate on intelligent matters and, the other side, Government, as I said, desperate in order to stay in power, desperate in order to be able to hold on to whatever is there. Desperate! And this shows what? The last days in power of a Government and then the Prime Minister will have a lot of people he would like to blame around him because they sunk him, and one of them is hon. Sinatambou, anyway.

So, as I was saying, I think it is important that the hon. Attorney General explains those issues that we have questions. I am not saying that he is bound to but I am saying that, in the name of democracy I think that it is important that he, at least, gives explanation to those questions. Answers have to be forthcoming. He has to clarify and if ever there is an issue in law, it would be in the interest of our country that he refrains from proceeding with any amendment today and consults with his law officers because it would be embarrassing for Government if this is turned later by the Supreme Court as being a violation of the Constitution. It would be very embarrassing. But then again, it is not in the name of ego or one's ego that we are supposed not to reflect on this particular matter we have to reflect. As I said, you know we are not here inventing the wheel otherwise the United Kingdom would have had two bodies, France would have had two bodies, but Mauritius we are just going for multiple mistakes. But then again, I think we should avoid that.

Now, what also is very symptomatic of this Government's *fin de règne*, I call it. *Fin de règne*, someone just woke up, and it is what? I mean very simple again. Look at Section 17 of the Institute for Judicial and Legal Studies Act. When you look at Section 17 that they are trying to amend, if you will allow me, I am trying to find that piece of legislation. Yes, and what I do not understand here is the following, I mean that particular Bill that the Attorney General is bringing forward talks about Clause 6 and at Section 17, which is Clause 6 (c), changing the Institute for Judicial and Legal Studies Act amending it at Section 17 by deleting the words "Chief Justice" and replacing them by the word "Attorney-General".

In other words, it is important here for us to understand why is the Chief Justice being removed from the equation. What exactly is he being removed from? And I see here that, basically, what the hon. Attorney General has done is simply gone as far as to state in the new Act when it will be commenced. Let's look what it would read like. It would show that now any regulations that are passed will have to be approved by the Attorney General and not the Chief Justice. So my question was: why is it that matters pertaining to sentencing guidelines and award of civil damages; why must it be done by regulations which have to be approved not by the Chief Justice and the reason why the Chief Justice was the one who had to approve it is simply because it showed there was any independence in the matter. It concerns a matter of the Judiciary within the province of the Judiciary and an elected Member of Parliament forms part of the Executive cannot now trespass upon the province of the Judiciary. We must have respect for the Chief Justice and the Judiciary when it comes to this particular part of this particular legislation. So, the question I ask myself is why is it that the Chief Justice will

no longer be the one who is going to approve any regulation, but it has obligatorily now to pass through the Attorney General. What is the legal reasoning? Was there a request on the part of the Judiciary for that? If that is the case, the least that the Attorney General can do, is table a letter to show the Members of this House, on both sides, that this was a request from the Judiciary. The person who is in reference here is the Chief Justice whom we have a lot and we should have a lot of respect for. We should bow to the Judiciary and show respect to the Judiciary because this is a branch of our democracy without which everything else falls. *C'est le dernier rempart* that protects our country against domination by those who live in ivory towers.

So, what I am saying here is very simple, the Attorney General should also be able to show us if the Chief Justice, himself, has asked that he no longer will be the one who should approve those regulations pertaining to sentencing guidelines and award of civil damages. Table the letter! But the Attorney General cannot table this letter. He cannot even tell us when he met the Chief Justice in order to be able to get his consent. If ever there was a request, give us the date when he met with the Chief Justice, in order, to consult him on this particular matter. How long did the consultation last for? What did he discuss at that level of the consultation? What were his views? How did he express those views? And if he gave him his assent, his consent and his approval, at least, tell us when he did it, in what shape he did it and be ready to resign if the Chief Justice comes and says it is otherwise. Because my information is, there is no written document that would show the Chief Justice approving because he did not approve. It is easy to come to this Assembly and say the Chief Justice approved. I consulted! I did that! Oh, my law professor whom I admire, blessed me. Good for you! In no way it takes the profession forward. Does it? Your guru may be your guru, it does not mean it is our guru. My guru is the Constitution of this country and this should be the guru of all of us as Members of this Assembly. However much we may have respect and I have a lot of respect for all members of the profession, including the Attorney General whom I might not agree with, but I respect him. But this does not mean we can do anything and everything in any way we want, but not adhere to the very simple principles that they said they would adhere to, the freedom to know, the freedom of information that this Government is hiding and running away from. They are not coming up with the legislation and if he believes, at least, in the principle of freedom of information, let him tell us when he met the Chief Justice. How many times did he meet the Chief Justice? How many times he discussed



it with the Chief Justice? When did the Chief Justice tell him and in what way did he tell him? If it was not in writing, why was it not in writing? He should tell us.

Before I go to transit into the ICTA legislation, maybe then we will have to talk about the fake news element.

**The Deputy Speaker:** Address the Chair, hon. Mohamed, please!

**Mr Mohamed:** Yes, I am addressing the Chair. I am just looking elsewhere, but addressing you.

**The Deputy Speaker:** You are addressing hon. Dr. Boolell!

**Mr Mohamed:** No, I am just looking at him. He is a nice man. Then, we go to the other element that shows in the Bill - this Government, it is amazing, they want control on everything. Oh, my God, I remember the times that they really beat us to the ground. Do you remember, Mr Deputy Speaker, Sir, when we were in alliance with the Labour Party and the MMM, how they, in Government, made our lives a hell? Do you remember?

*(Interruptions)*

**Mr Mohamed:** You do!

**The Deputy Speaker:** If you remember, I remember also!

**Mr Mohamed:** So, we all remember! Since we are all on the same page; I think it is important because then again, that is reality. You cannot change the fact. That is the truth.

*(Interruptions)*

Are you saying this to the Deputy Speaker or to me? I am on this side, same side!

Now, my point is very simple. They made our lives so hard through the use -as hon. Duval had put it - of the social media. They were so good at it that we ended up, all of us, you will recall, at one point at least, on the same side of the House which was the Opposition. Today, I remember a lot of things. I remember hon. Hurreeram. I remember the declaration I gave against him. The declaration I made at the Police station, Central CID. Those were the old days, in 2015, because in politics one day is a long time. And today, he is a good friend. Once upon a time, we never even spoke to one another, and today, Mr Deputy Speaker, Sir, in spite of what he had said which was wrong against me, for which I gave a declaration, which is a breach of ICTA. Let bygones be bygones.

**The Deputy Speaker:** Yes, we are all good friends, hon. Mohamed!

**Mr Mohamed:** We are all!

*(Interruptions)*

No, we get along with...

We will try to reconcile them on the other side. Yes, we will try.

*(Interruptions)*

I know it is not you. I know it is hon. Jhugroo. What I am trying to get at here is the following. I do not want to see, if we pass this law, whatever he had said against me on a Facebook page and shared, he would be behind bars for 10 years. I may be a political opponent of hon. Hurreeram, some people may want to see him behind bars for 20 years, but I would not want to see him, not even for a millisecond behind the bars because this was a matter of his opinion. I may not agree with it, but to see anyone behind bars because of his opinion. Can you imagine if he was behind the bars, how would he have spoken to me and carried out his duties as Chief Whip so efficiently by speaking to everyone on both sides of the House? Can you imagine from behind bars, even his telephone calls he would not be able to make? Can you imagine? So, what I am trying to get at here, at one point or the other, all of us have been victims of those allegations, insults, falling within the definition as provided for in the law and in the Bill provided for by the hon. Attorney General for the Information and Communication Technologies Act 2001.

As I said, offences in section 46 –

“(ga) uses telecommunication equipment to send, deliver or show a message which is obscene, (...)”

Most probably, hon. Tarolah knew I would come to him. But honestly, it was not even planned. I would not talk to him. He could come back

“(...) indecent, abusive, threatening, (...)”

How many times have we seen and heard all those definitions within an act done by Members maybe on both sides of the House. But then again, the problem, Mr Deputy Speaker, Sir, does not concern only us. Why do I say this is a Government of censorship? A lot of us have been to the United Kingdom. We have been to Hyde Park Corner, and the good days when we would walk in Hyde Park Corner and see anyone could just take a box, stand up there and make a speech. Hon. Rutnah likes telling me that he has been to Hyde Park Corner. Hon. Rutnah tells me that he has spoken his mind there. I wish it could still have been in these

good old days to have met him where he could speak his mind and was then not dictated by anyone else. But what I am trying to get at here is the freedom of expression. Under section 12 of our Constitution, the freedom to speak one's mind. But here, unfortunately, can you imagine it does not only concern us. Very often, when we read a Bill, we say, okay, maybe we want to attack another Member of the Opposition or another colleague politician. Forget about us, let us talk about the youngsters of this country. Let us talk about the people of this country who use social media. Let us talk about all those who share among themselves photographs. For instance, I know and I think the best thing is not to take anyone as an example. Let us take myself. You know, I, myself, have come across beautiful - I call it beautiful - cartoons of myself. I laugh when I saw the one about myself trying to pull the Leader of the Labour Party off his chair as Leader. I remember that another one with a cartoon of hon. Dr. Boolell smiling behind me and say: go on, go on! I enjoy that. Can you imagine how I loved about it? But then again, this is a cartoon that is likely to cause annoyance.

How many times have I not seen a cartoon of the hon. Prime Minister where, God knows for what reason, they call him 'Pinocchio'? I have seen cartoons about him with a long nose. Now, we may laugh about it. Obviously, we must know what he feels like when he sees it or when members of his family feel it, maybe they will feel annoyed. I would totally understand why they would feel annoyed. It depends in what shoes you are standing in. You see, I remember myself - hon. Hurreeram would remember those days. Now, he should be happy to know that Kathi Lynn Austin has ran away and she could not even defend herself and basically I am winning my case. But the thing is, I have seen cartoons of myself holding two guns as if I was an arms trafficker. I had my son coming home and telling me: 'Papa can I have one of these guns?' And he is only five years old. But then again, I do not feel happy about it, because my son does not understand the implications, I could feel annoyed about it and on top of it, it is false. This person, who on his side, feels it is funny or feels it is a joke, does it mean that he has to be arrested, provisionally charged, send behind bars for such a heavy sentence of what, 10 years' imprisonment?

Quel est le message qu'on essaye de passer à la jeunesse de ce pays? A partir du moment où cette loi proposée par ce gouvernement - avec comme Premier Ministre, l'honorable Pravind Jugnauth - l'honorable *Attorney General* vient de l'avant avec une législation qui va faire en sorte, qu'à partir du moment que cela a force de loi, les jeunes de ce pays ne pourront plus se partager les images, même pas concernant les politiciens, même

concernant les amis entre eux ou sur une connaissance, pour rigoler, pour une expression de leurs opinions, pour se servir de leur instinct artistique de créer une image ou un slogan.

Ils ne pourront plus le faire, parce que le gouvernement leur menace avec cette législation pour leur dire: ‘Vous vous servez de WhatsApp, vous vous servez de Twitter, vous vous servez de Facebook, vous vous servez de *any social media for that matter*, if you do that from tomorrow, this would mean that you could find yourself arrested, dragged to the Central CID and handcuffed, provisionally charged and found behind bars, bailed out and finally, sentenced to 10 years because your expression, your opinion, your freedom annoyed certain people. Your liberty that is enshrined in our Constitution under section 12 caused humiliation.’ Then, others would say: ‘But no, it has to be; it is indecent or abusive or threatening.’ Hon. Jhugroo feels threatened by any comment of him having been to Agalega and getting children to throw flowers at his feet.

It does not mean that he was acting like a Master; it does not mean that he held a whip in his hand, but then again, he feels that this is what they are saying. He feels it is not true and he feels that is abusive, it is false, it is misleading and he did not act like he was a Master and that there were the slaves. This is not what his intentions were, but he feels that what they are saying about him in all the attacks on the social media is wrong and hence annoys him. Therefore, the people could be arrested for that.

Can you imagine, Mr Deputy Speaker, Sir, how dangerous and far-reaching this is? Must I not talk about the case of Warren? The Crown versus Warren 2017, where in that particular case, in the United Kingdom, which went on appeal, he was imprisoned, but it was important to talk about the joke. It was, in fact, a joke. It was not the case of Warren, but it was another case. It was in July 2012. It was a High Court Judge. The trial is commonly known as ‘The Twitter Joke Trial’. With regard to that case, the Court quashed a 2010 conviction of a 27 years old man and the £1000 fine for a tweet in which he jokingly threatened to blow up a local airport because of his frustration that it was closed because of bad weather.

The Judges said it was his joke, because it was a bad weather, he just jokingly said: ‘I’ll blow up the airport’. In the judgment, the Judge by quoting Shakespeare, he said - hon. Rutnah likes quoting Shakespeare, maybe I could refer this one to him for future reference, it is a good one –

“They are free to speak not what they ought to say, but what they feel”.

In other words, when you feel something, we are free to say it, we are free to express it. When we feel that someone depicts something, this is our feeling, we cannot now come and curtail their freedom of expression, we are here jeopardising the freedom of expression of a country, of the generations to come, of the future of this country, the creativity of people is being endangered. Is the law sufficiently armed in order to take action for defamation against those who have defamed?

Yes. I have taken action for defamation against those who have defamed me online, on the social media, with the telephone. Every day it happens, it happens at the Central CID, it happens before our Civil Jurisdictions. Why, therefore, do we have to come with something more? There is only one thing. Hon. Gayan says there is nothing sinister. Can you imagine the time when there was a Budget Speech in the august Assembly and hon. Gayan, his whole speech was about one political nominee that he had named, that was eventually fired by another Minister who came after him? Can you imagine how angry he was, that part of his speech was only that where he is attacking the media just because of that political nominee? Do you know how annoyed he was?

Now, concerning all allegations against that political nominee, what would he say? He would say it is false; he would say it is misleading; he would say it is indecent; he would say it is abusive; he would say that they are attacking her so much, it is threatening. He is annoyed or she is annoyed. Can you imagine just because hon. Dr. Husnoo took another direction that he did, he could feel annoyed, he could feel threatened by his colleague and he could even report his colleague and his colleague could find himself behind bars? Thank God, he did not share anything using a telecommunication device about decisions that he took or about his views, about what the leadership of his party took. Thank god he did not.

*(Interruptions)*

You will recall, Mr Deputy Speaker, Sir, when hon. Gayan spoke, I kept quiet and listened. Then, again, we learn at all ages. So, what I wanted to get at, here, is: why is it, therefore, that Government is being so difficult with regard to *la liberté d'expression*? Now, if our legislation did not contain laws and paragraphs in our laws that was enough to take criminal action, to institute legal proceedings of a civil nature, then I would say: 'Okay, we have to *parfaire la loi* because the law does not allow us to take action'. We can even go for injunctions for someone to remove something he has posted on the net.

We can even go before the Judge in Chambers because this is causing immense prejudice to my reputation, remove it because it is a violation of existing law. This, we can do. We can even obtain redress, damages, compensation; we can do that according to our laws. People can be criminally prosecuted for what hon. Gayan fears, and he is right to fear, he is right to condemn. Why, therefore, do we have to try to kill a mosquito with a nuclear bomb? Why do we try to have a solution *qui est démesuré complètement*? Here, because the only objective of this Government is to ensure one year, at least, before election, that no one criticises them. Can you imagine how many documents I have against Ministers on the other side? Can you imagine how many documents and cheques, payments, everything I have against certain people?

*(Interruptions)*

But then again, I decide when I want to bring it out.

**Mr Gayan:** On a point of order, Mr Deputy Speaker, Sir. If the hon. Member is making such allegations and he has the document in his hands, he should put them on the Table. He cannot go on making allegations which are baseless like this. If he has the courage, if he has the guts, he puts them on the Table.

**Mr Mohamed:** I will go on because then again he does not decide my agenda.

*(Interruptions)*

He should be sorry!

*(Interruptions)*

I will not sit down! He has just been drinking away. Maybe he should...

**The Deputy Speaker:** Hon. Members, may I request you to take your seats?

*(Interruptions)*

Hon. Mohamed! Please, hon. Members! Hon. Mohamed, you are reaching the end of your speech. Let us do it in a very democratic way.

*(Interruptions)*

**Mr Mohamed:** As I have said, you know how it hurts. You see, Mr Deputy Speaker Sir, how it annoys and how it hurts, but I decide when I will make it public, I decide how...

*(Interruptions)*

**The Deputy Speaker:** Please!

**Mr Mohamed:** I decide how! They can say whatever they want, but the day it comes out, he is going to cry. I am waiting for them to go on, but then again, dogs may bark, let me go on.

*(Interruptions)*

*Twa to pa vaut nanier, mo pena document lor twa!*

*(Interruptions)*

**The Deputy Speaker:** Please! Resume your speech, hon. Mohamed!

*(Interruptions)*

**Mr Mohamed:** *Allez fone, mo pena document lor li moi!*

**The Deputy Speaker:** Can we have some silence, please?

**Mr Mohamed:** When you look at Article 19 of the Universal Declaration of Human Rights, it says –

“everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

This is exactly the Universal Declaration of Human Rights, Article 19 that this Government is coming to try to destroy, undoubtedly, by using words, trying to show their manhood, like ‘*capon*’. That is all they are good for. But the truth is what?

*(Interruptions)*

But if the hat fits, wear it! And then, when you look at ‘annoyance’, my friend, hon. Duval referred to the definition of the Oxford Dictionary. I looked at the Collins English Dictionary. The feeling of being annoyed, just like hon. Gayan, just now; the act of annoying, just like I am doing to him; a person or a thing that annoys, just me annoying him; annoy to irritate, to displease, just like I am irritating him and displeasing him; to harass with repeated attacks, just like he is doing to me...

*(Interruptions)*

Now, in democratic societies, Mr Deputy Speaker, Sir, media has always been considered as the fourth estate. Media is, in my humble view, Mr Deputy Speaker, Sir, the

essence and backbone of democracy. And whenever I hear hon. Gayan speak and he is lashing out against the Press, lashing out against all social media, everyone - he is the one who can give lessons to everyone -, we have to just keep quiet and listen to him and say 'yes'. I mean, obviously, he is a great man; I have to learn from him. I admit, I do not know much, but I have to learn, I admit that. He is my senior, and I will always learn from him, but not on all issues. On all issues, maybe he should learn from his senior.

It reminds me the Trump Tweet - maybe he is learning from President Trump - at 5.09 p.m. on 11 October 2017. This is what Trump tweets: "Network news has become so partisan, distorted and fake that licenses must be challenged and, if appropriate, revoked. Not fair to public!" I mean, in other words, this is exactly what hon. Gayan said; that there is big news, that people are unfair, that they are being so partisan, distorted and should be reprimanded, and we should amend the law and we should control Facebook. But at no time did they say it in their manifesto.

You will recall when we read their manifesto and when we criticised their manifesto in 2014, Mr Deputy Speaker, Sir. At no time did they say that they would come and curtail *la liberté d'expression*. Hon. Gayan said; hon. Attorney General did not say; he tried to be very factual. But the truth comes out, because it was annoying him. It was annoying at him and he had to come up. And what it was? We have to control Facebook; we have to control social media. This is the whole object. They want to be able to be a government of censorship, but what they are going to do is try to say that this legislation is not to control. They have to try to give this impression of doing something good.

What is it? They are going to try to stop child pornography. Is this the legislation to do it? They are going to try to stop harassment of children on the internet. Is this the legislation to do it? No, this is not the legislation to do it; this is not the proper method of doing it; this is not the main legislation pertaining to those problems of society that need to be addressed not in a haphazard manner, in a piecemeal manner like this Government is. They are hiding behind children victims in order to give themselves a new virginity. This is what they are doing because, in fact, they are spent; they are gone, and will never come back. So, what they do is to try to put, as a *paravent*, the poor children we are trying to help, the poor victims we are trying to help, the poor victims of society we are trying to help, but we will not amend the real legislation. We will just pretend to amend because what they are trying to do here is protect their own interest, as this is all they are concerned about. That's all!



*(Interruptions)*

This is all in his mind - a ticket! This is the be all and end all of his living. Oh my God! That is why his knees are hurting so much.

As I said, the last issue is the issue of giving the chance to the courts to amend a sentence that has been entered wrongly in law, that is, with regard to error in sentence, clause 4, and here, it mentions seven days after sentence. I think it is an interesting piece of amendment. On that particular note, I agree with the hon. Attorney General that something had to be done. If we look at the situation in the United Kingdom, it is called the 56-Day Slip Rule. This 56-Day Slip Rule did not exist at the time when we were reading law there. And basically, what is a Slip Rule? It is where the Crown Court, by virtue of section 155 of the Powers of Criminal Courts (Sentencing) Act 2000 has the power to alter a sentence or other order made by the Crown Court within 56 days on the date on which it was made, where there has been a factual or legal error or in cases where further evidence and information has come to light that is relevant to the sentence or order made. Also, maybe where Court has overlooked statutory provisions, limiting its powers. So, maybe this is the only similar legislation that exist in the United Kingdom. But then, there is the case of *R v Warren* [2017] mistakenly referred to earlier on, Mr Deputy Speaker, Sir, and here, it was basically where the Appeal Court said that the courts have a discretion to act and can only use the Rule in certain circumstances but not all circumstances. You have to act rapidly. But again, my humble suggestion here would be that maybe seven days are not sufficient. Normally, after sentencing, there are 21 days to appeal. I am of the view that at least, within the 21 days, maybe two weeks or even the 21 days as a maximum could be a humble suggestion I would like to make, because very often, with the mechanism of the judiciary and the time that it would maybe take the DPPs Office to alert the views of the learned magistrate, maybe seven days would not be sufficient, and an important issue such as this one could have been missed. And in the interest of justice, on both sides, I think it is important that some more days be given. Seven days is very short indeed, and I humbly suggest that at least this is increased to 21 days, the time that it takes to appeal.

So, in conclusion, let me just say that there is some good in this Bill. I have just referred to it in the last instance. It is a pity that we are going through piecemeal amendments. I am, here, expressing the views, of also, me, a member of the Mauritius Bar Association. The Mauritius Bar Association was never consulted as far as the amendments to the law - the

Mauritius Bar Association never approved this, and it is a pity that the Attorney-General did not even consult with them. I am not saying that he should have consulted with me or any other barrister, but, at least, for the Council, and they would have expressed their views and shared it with him.

Now, I understand, as I have said, and I conclude on that, that I have got a lot of good friends on both sides, meaning private practice as well as law officers who do a very difficult job, who are excellent at what they do, who are properly trained. It is an honour to know them, because they make the wheels of justice turn, and without them it would turn in the right direction. I totally understand that, maybe, they have not been dealt a proper card when it comes to the manner in which the Mauritius Bar Council may have dealt with any complaints pertaining to them or reports, and it should have been done differently, I take that. But that is not reason enough to go as far as to create two categories of barristers, this would not be in the interest of justice. And, in my humble view, would be a violation of our Constitution, because the Judicial and Legal Service Commission does not have that power.

Those are my observations. And, if I have caused offence, I do apologise, that was never my intention. Thank you very much.

**The Deputy Speaker:** Hon. Rutnah, you have the floor!

(10.49 p.m.)

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

Mr Deputy Speaker, Sir, when we listened to the hon. Member from Port Louis Maritime and Port East and all the opposition Members who have, so far, taken the floor today in the House, it would appear to the general public, and there is an impression and a perception created that everything in the country is dark: the atmosphere is gloomy, everything at a complete halt, attack on democracy, attack on the freedom of expression, attack on human rights, attack on values, attack on children. This is the impression!

*(Interruptions)*

**The Deputy Speaker:** Please! Silence!

**Mr Rutnah:** This is the impression that is being distilled today by Members of the opposition, and worst, is this Attorney General coming like a monster attacking the Judiciary and attacking the machinery of justice and attacking the politics of the Judiciary, taking over

powers from the Mauritius Bar Association, taking over powers from the Law Reform Commission. This is the impression that is being distilled from this House by the present opposition quite shamefully.

*(Interruptions)*

**The Deputy Speaker:** Order, please!

**Mr Rutnah:** When I hear the hon. Member for Port Louis Maritime and Port Louis East saying that Government is trying to get hold of control of various institutions, and the common denominator therein, he finds desperation! Desperation! When we are trying to modernise the law, when we are trying to modernise a system that is being clogged, we are being called desperate!

The Mauritius Bar Association Act, for example, enacted in 1957, when only about 20 to 25 lawyers were practising in the city of Port Louis. They want us to be back in 1957, they want us to be back during the Code Napoleon, during *le Code criminel*! In 18<sup>th</sup> century, this is where they want us to be. They do not want to evolve, and this is typical of the Labour Party and the PMSD.

Mr Deputy Speaker, Sir, it is alleged that the Government, through this Bill, cannot accept independence, that this Government is allergic to independence. Can you imagine coming from whom? From a Member of the Labour Party! The very Labour Party which was planning, in 2014, to change the Constitution of this country and thereby trying to establish a despotic rule. This Labour Party is going to tell us that we are allergic to independence?

*(Interruptions)*

I am coming to the MMM. I am proposing to reply to my very good friend, hon. Uteem as well, but I will do it one by one. Today, I am not going to do *ek teer do shikar*, that is, kill two birds with one stone.

Mr Deputy Speaker, Sir, a lot has been said, allegations have been made, doubt has been cast on hon. Members of this side of the House. Why are we called 'honourable'? One of the reasons is that when we stand here, when we address the floor, firstly, we enjoy the privilege that we can say anything here, honestly, from our heart. We speak our heart, our mind for the benefit of our country, for the benefit of our children, for the benefit of our people, for the future of this country. But when we come here under the cloak of privilege, make accusations and allegations that are unfounded and, the same thing, the hon. Member

will not go outside and say it on a '*caisse savon*' or say it, as we say it, in Hyde Park Corner, the way I used to say it against President Bush and against Prime Minister Blair when they declared war with Iraq. Then, why use the cloak of the Legislative Assembly to make allegations? If you have the proof, if you are man enough, go to the equivalent of Hyde Park Corner! We are a democratic country by virtue of Section 1 of the Constitution of this country, which my hon. friend Uteem referred us to earlier on. Go and say it outside, and then we will see! But do not use the cloak of privilege, this cover, this advantage that we are given, by virtue of the position that we occupy, to abuse and to distil information that is false and to make false allegations to denigrate people in the Government.

Mr Deputy Speaker, Sir, I will come to the issue of missing link when I will deal with the Mauritius Bar Association. Now, let me deal with what has been said about the so-called two-tier barristers. Two categories of barristers! Let us see what the hon. Attorney-General is proposing. The hon. Attorney-General has been subject to criticism in relation to Clause 9, Section 6.

“(b) in section 13, by adding the following new subsection –

(6) For the avoidance of doubt, this section shall, pursuant to section 86 of the Constitution, not apply to a law officer under the Law Officers Act.”

It is very simple. Let us look at what section 86 says, and I will read for the benefit of those who are listening to us. Section 86 says –

“(1) Power to appoint persons to hold or act in offices to which this section applies (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Judicial and Legal Service Commission.”

The operative word, here, is to exercise disciplinary control. What does the Mauritius Bar Association do? They exercise disciplinary control on practising Barristers in Mauritius. Now, if you are a Law Officer of the Government, you cannot be at the same time subject to disciplinary control by the JLSC and at the same time with the Mauritius Bar Association.

Now, let us see in this context what is the role of the Attorney General in Mauritius. When we refer here in the House to the Attorney General, we always fail to refer to his full title. He is not just the Attorney General; he is the Attorney General, Minister of Justice and Minister for Human Rights. Now, if he is the Minister for justice, he has to do justice. He

cannot allow a regime from 1957 to continue to operate today in our country where some Barristers will be subject to disciplinary proceedings or disciplinary control by two institutions. Now, who is the JLSC? What is this? We have to look at section 85 which says the Judicial and Legal Service Commission. Now, let me read –

- “(1) There shall be a Judicial and Legal Service Commission which shall consist of the Chief Justice, who shall be Chairman, and the following members –
- (a) the Senior Puisne Judge;
  - (b) the Chairman of the Public Service Commission; and
  - (c) one other member (in this section referred to as “the appointed member”) appointed by the President, acting in accordance with the advice of the Chief Justice.”

Now, JLSA, the Chairman is the Chief Justice. The Chief Justice is appointed by virtue of section 77 (1) of our Constitution, appointed by the President, acting after consultation with the Prime Minister. The Senior Puisne Judge, according to section 77 (2) is appointed by the President acting in accordance with the advice of the Chief Justice.

Now, if a Law Officer of the Government is under the disciplinary control of the Chief Justice and a Puisne Judge and the representative of the Service Commission, and he is going to appear there in case of breach of etiquette and in case of any other conducts which are subject to disciplinary proceedings. So, why do we need them to be subject to two regimes? The Mauritius Bar Association to independent practitioners, they can receive complaints, deal with them and if they do not deal with them, they also refer it to the Supreme Court where the Chief Justice has jurisdiction over the matter. So, eventually, whatever be the regime, ultimately all Barristers in this country are subject to the disciplinary control of the Supreme Court, that is, the Chief Justice.

So, the argument that there is going to be two categories of Barristers following this amendment, does not hold water. Now, the missing link, meaning providing continuity, that is, to gain complete knowledge. The continuity is this, the missing link is this, that we have to modernise, we have to continue to modernise because if we do not, we are going to be a country that will remain stagnant in all spheres of activities. So, this is the missing link. The missing link is substituted by the principle and the determination to modernise.

Much has been said about section 17 of the IJLS. Let us look at what is being proposed! Section 4A Sentencing guidelines and award of civil damages –

“(c) in section 17 –

- (i) in subsection (1), by deleting the words "Chief Justice" and replacing them by the word "Attorney-General”;

Now, in England and Wales, there used to be what we call the Sentencing Guideline Council. The Sentencing Guideline Council, they used to make guidelines. This is precisely a matter on which I literally harassed my friend Ravi Yerrigadoo when he was Attorney General and I must also say I have been literally arguing, virtually every month, with the present Attorney General not only about Sentencing Guidelines Council, about a few other matters relating to human rights, democracy, rule of law and justice.

Mr Deputy Speaker, Sir, you may remember that I was the first one to ask question in this House about the introduction of Sentencing Guidelines Council, and I am glad that the hon. Attorney General has today brought legislation and to make it clear that the IGLS should, as soon as possible, after the enactment of these provisions issue sentencing guidelines. In England and Wales, the Sentencing Council, as it is called now, is an independent, non-departmental public body of the Ministry of Justice and replaced the Sentencing Guidelines Council and the Sentencing Advisory Panel in April 2010.

So, the Attorney General, being Attorney General and Minister for Justice, is doing exactly what the law is in England and Wales. He, being the Minister for Justice, is now going to approve what the IJLS recommends to the Chief Justice. Why there is this principle that the Chief Justice should not approve it. It is not because the Attorney General wants to usurp the powers of the Chief Justice, no. If we look at the Constitution, the amount of responsibilities given by virtue of the Constitution to the Chief Justice, it is extraordinary, it is overworked. The Chief Justice, when you look at the amount of responsibilities given to him by virtue of our Constitution, which has been inherited from the colonial era; it is too much on his plate. If the Chief Justice is going to get involved in actually issuing the sentencing guidelines and approve himself, then he might find himself in an invidious position. If there is an appeal on sentence, he might not be able to hear the appeal on sentence because there will be reference to the sentencing guidelines which he, himself, might have approved. That is why, to maintain the independence and the integrity of the Judiciary, it is very important that it is done by the Body which is not involved in the judicial process and

that is why the Minister of Justice is simply taking over to prove. But, unfortunately, those who are criticising, they don't reap the act further the proposition. If you look at subsection 3 which is to be added –

‘by adding the following new subsection –

- (3) Any regulations made by the Board and approved by the Chief Justice prior to the commencement of this subsection shall, on the commencement of this subsection, be deemed to have been made by the Board and approved by the Attorney-General.’

So, maybe I read it a bit too fast, but the operative words here are –

‘and approved by the Chief Justice prior to the commencement of this subsection shall, on the commencement of this subsection, be deemed to have been made by the Board and approved by the Attorney-General.’

So, what are we looking at eventually? We are looking at, eventually, a system where the Attorney General approves and also, to avoid conflict in some point in time, the Chief Justice also approves. So, where does this concept of usurping powers of the Chief Justice emanate from? It is a figment of their imagination. That is what it is all about desperate to criticise; desperate to be negative, desperate to say *narien pas bon* - like my very good friend, hon. Sinatambou says the syndrome of *narien pas bon*. This is what it is all about. Now, let us look at the criticism firstly laid by hon. Uteem about this principle of freedom of expression, then followed by hon. Duval then followed by hon. Mohamed. Let us, very honestly, what section 12 of the Constitution says, which deals with the right to the freedom of expression –

- ‘(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.’

That is sacrosanct. We have the freedom of expression, you can say whatever you want, within the parameters of the norm. You criticise, and it's good to criticise. We are in a democratic country. We like criticisms; hon. Sinatambou likes criticisms; the Deputy Prime Minister likes criticisms, but criticise properly with substance. You don't do politics, extreme politics. What we have witnessed today in the House is extreme politics to make people out there sounds like we are in North Korea. Hon. Duval refers Mauritius to similar as North Korea; is he living in cloud cuckoo land, please, saying that we are antidemocratic;

that the law that is being passed is anti-constitutional. Now, let us see what subsection 2, says -

*(Interruptions)*

Yes, but if I start dealing with all the suggestions that hon. Gayan is making I am not going to finish this debate by 4 o'clock this morning.

**The Deputy Speaker:** Yes, go back to your speech.

**Mr Rutnah:** Yes. Now, let us see what subsection 2, says –

‘2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision –

(a)(...)

And this is where the people have to listen to; the people who are not in the National Assembly because a lot has been said to give the impression that we are a despotic Government, an antidemocratic Government trying to make Mauritius become this country where the press cannot write anything, where you, your children cannot send text messages, cannot twit, cannot send WhatsApp messages, cannot send text messages.

- ‘(a) in the interests of defence, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting, television, public exhibitions or public entertainments; or
- (c) for the imposition of restrictions upon public officers, except so far as that provision or, as the case may be, the things done under its authority is shown not to be reasonably justifiable in a democratic society.’

Now, I am not going to treat my friend, hon. Dr. Boolell, as *l'aboyeur de service du Parti travailliste*. I am not going to treat him that way. But when you try to attack the integrity of



people, when you systematically do acts that cause such prejudice to an individual in the name of freedom of expression, when you attack families; we, in politics, all that is what we are here in politics, you criticise us, you attack us within the parameters of the law, within the parameters of the principle of democracy, within the parameters of all principles of human rights.

We are here with thick skin and large shoulder to accept it, but when you go and attack our wives, our sisters, our children in the name of freedom of expression and this is what is done systematically against politicians. But today, they are in opposition and many post - the anonymous post that hon. Gayan was referring to, he is right. Man to man, if you are man enough come and face us, disclose your identity! But we know what happens. We know that there are agencies who get paid in order to do dirty jobs because sometimes when you look at articles on whatever newspaper.mu, after reading the articles when you look at the comments, it is the same people. I have tried it myself so many times to comment, all the positive comments never appear. You think we don't know what is happening! You think we don't know who is doing that! You think we don't know who are the moderators! We know it. We know what game they are playing. Sometimes they are playing the game to create unrest in the country which we are not going to allow. Sometimes the trick is dirty, but it is the right game with the wrong people. That is the message to those who are doing it.

I am so sorry to say that most of the Opposition Members who have so far intervened, lawyers, it is as if the first time in their life, in the law related to information and communication technologies, they have come across the word 'annoyance'. The word 'annoyance' has suddenly appeared for the first time in this legislation. Let me say one thing, it is good to do good politics, but it is very bad to do bad politics. This is what people do not like today because people are not fool. People are intelligent now. There was a time when in Piton-Rivière du Rempart, children of labourers were not able to go to Universities or even to Secondary Schools. But now, from every household in Piton - Rivière du Rempart and every part of this country, there is someone who has gone to University. There is someone who has got a good Higher School Certificate, there is someone in every household today who can pick up a piece of paper and read in English and in French. So, people cannot be fooled. The word 'annoyance' in the law did not appear suddenly for the first time because we came into power and because this Government is in power, because we have got this Attorney General. What has changed, Mr Deputy Speaker, Sir? Firstly, if we look at the proposition made by

the Attorney General, we have in section 2 (i) the definition part of message and it reads as follows -

““message” includes any communication whether in the form of speech or other sound, data, text, writings, images, signs, signals or code, or in any other form or combination of forms.”

Now, what is different in this is simply the word ‘writings’ has been added and instead of visual images, the word ‘visual’ has been taken out. There is no big change about the definition of message. And, if we look at what has been said in section 46, paragraph (ga) -

“by deleting the words “or is likely to cause distress or anxiety” and replacing them by the words “which is likely to cause or cause annoyance, humiliation, inconvenience, distress or anxiety to any person”;

And then (h) –

“by repealing subparagraph (ii) and replacing it by the following subparagraph –

(ii) which is likely to cause or causes annoyance, humiliation, inconvenience, distress or anxiety to that person;”

Let us look at what is in the present law, at section 46 (g) –

“Any person who -

(g) knowingly sends, transmits or causes to be transmitted a false or fraudulent message;

(ga) uses telecommunication equipment to send, deliver or show a message which is obscene, indecent, abusive, threatening, false or misleading, or is likely to cause distress or anxiety”

And subsection (h)(ii) - here, you will hear the magic word which the Oppositions have not heard –

“uses, in any manner other than that specified in paragraph (ga), an information and communication service, including telecommunication service -

(ii) for the purpose of causing annoyance, inconvenience or needless anxiety to any person”

Why they did not see this subsection? Is it because they know the contents of this subsection and pretend not to know it so that they can do politics with words and try to make belief that the word 'annoyance' now is going to impair all your rights that you possess as a citizen to your freedom of expression. You will not be able to send twitter, you will not be able to send text messages, you will not be able to send WhatsApp. Oh, no! If you are going to send materials which are obscene, if you are going to send materials which are of a pornographic nature, if you are going to send materials where there is interference with children, if you are going to send materials that are going to attack the integrity of an ordinary citizen of this country who also has human rights, who also has the protection of the Constitution of this country, then you have to suffer the consequences according to the law. And what is the law? The law is if you cause annoyance and anxiety to the ordinary people by your telecommunication device, it is not about politics. It is about protecting our children. It is about protecting all our children who are today children but tomorrow they are going to be the responsible citizens of this country among whom one day, Mr Deputy Speaker, Sir, they will come and debate in this House, as we are debating today, laws that are going to shape the future of these children of tomorrow. This is what we are doing?

But to pretend that it is for the first time that they have heard this word that may scare people, it is wrong politics. It is politics that does not bite outside and this is why today the Opposition are in a desperate, catastrophic situation where they cannot even go outside and hold a public meeting, like it happened last week in Rivière du Rempart. But to be a politician, it demands; I keep saying this all the time. In today's world, where every day we encounter exchanges with people who are intelligent, a nation who is intelligent, you have to do politics with integrity, you have to do politics with some degree of honesty, this is where people will like you. We had lots of criticisms. We heard lots of criticisms from them. But did they suggest anything? Did they suggest any concrete proposal to counter what the Attorney General is proposing today in the House? No! We have a bench of Opposition who simply want to criticise. I anticipate when my good friend, hon. Ganoo, beyond his feet, he will not follow suit because I know, like he did on previous occasion, when the Bill was passed to modernise the law, even though he is in the Opposition, he took a stand. I am sure, I hope and I anticipate that he will not jump on the bandwagon.

*(Interruptions)*

*Pe kas disik lor so latete la.*

Mr Deputy Speaker, Sir, the good thing about the Bill, only just they passed by it, just few comments, it is okay, the correction in the sentences, it is okay. Let me tell you something, I was defending in the Intermediate Court, a guy who was charged with larceny. The Magistrate quite interestingly found my client guilty of abstracting articles, a completely different offence, and his co-defendant, that is my client's co-defendant who confessed about the crime and who then asked excuses in open Court, she found him not guilty. Now, the guy is unemployed, he relies on his father. What do I do? Grave injustice has happened. Do I believe him? Do I tell him I cannot continue to defend you? To go to the Supreme Court, it costs a lot of money, for an appeal you have to have an Attorney, a Solicitor, you have to provide him his fees, a minimum of Rs50,000, then you have to provide fees for Counsel who is going to appeal. So, how my client in the circumstance would have been able to afford Rs100,000 to seek justice to the Supreme Court? And eventually, after two years, when the case came to the Supreme Court, thankfully those at the DPP's Office, when they looked at the grounds of appeal, they did not resist the appeal. They sent the skeleton argument and they did not resist the appeal. So, that man, poor guy, had to wait for two years. Now, the same person, if there is a wrong conviction, counsel from both sides, prosecution and defence can speak, go and see the Magistrate, speak to her and explain the law and try to rectify the mistake within 7 days. Is it not something good for the people who really cannot afford to go to the Supreme Court?

I had another case, Mr Deputy Speaker, Sir, it is good I say it here. I was doing a case in the District of Pamplemousses when the District Court of Pamplemousses was in Pamplemousses. It was a case of rogue and vagabond. Some five kids at that time had a dispute with Police Officers at Piton Police Station. I raised the point with the District Magistrate: 'You know, Piton is in the district of Rivière Du Rempart, I do not think you have jurisdiction. Please, do not try this case. Let us send it to Rivière du Rempart.' He said to me: 'This is my Court, I know the law. This case will be tried here and now.' I said: 'So be it.' The case was tried, they were found guilty. We appealed, again, *pro bono*, we appealed for justice. Again, when the DPP's Office saw the skeleton argument of the defence, of the appellants, they conceded that we were right and the convictions of all five were quashed. So, this is the kind of injustice that we can correct, just within 7 days if a mistake has been made. I can tell you this and I always say this, some time when you go to Court, some time you feel that the Bench is not trying your client, you feel that the Bench is trying Counsel for some reason and that is why some time you get these kinds of judgment, these kinds of verdict.

Then, you get the opportunity now to challenge them within 7 days, but you have to go and explain the law. So, there are lots of good things about this Bill which have not been said.

Now, let me tell you what has not been said so far. About the Minutes of proceedings, all Courts in Mauritius are Courts of records, some time the machine that is supposed to tape the proceedings are not working. Some time you go to Court, there is no recording facilities. Eventually, the Magistrate writes, you cannot properly cross examine or examine a witness because you have to follow the pen, it delays proceedings, it cuts the flow of evidence, injustices done there without realising what kind of grave injustice. Sometime, eventually you find out that the record even has not been properly kept or made and cases have gone to the Supreme Court and appealed.

So now, we have provision for recording. Although we had provisions for recording in our Courts Act, now this provision is being strengthened. I have asked this question in this House in 201, one day I would like to see proceedings in Court, not only recorded on tape or other technological means, I want to see recordings, video recordings as well of proceedings, so that even after five years, we can go and see whether justice was done and justice was seen to be done in that case or not.

So, we have got this new provision to strengthen, to ensure that proceedings are recorded properly by technological means. Mr Deputy Speaker Sir, we have not also heard a lot about the new offence which is being now put on statute relating to perverting the course of justice. In our Common Law, which we inherited from the English Common Law, we have it, but we do not have any guidance about it, what to do, how to sentence, what is the penalty. Now, at least we know that if you pervert the course of justice in the way it has been said in this Bill, you could be liable to Rs100,000 fine plus 10 years imprisonment.

And then, what also has not been said is about the Supreme Court (Jury Lists and Panels) Rules 1992 amended. Mr Deputy Speaker, the principle of trial by Jury means trial by your peers. If a labourer is charged, let us say with the offence of murder in certain circumstance, when he goes the assizes, you will be surprised to note that all the jurors are firstly Civil Servants. These Civil Servants are on the list of jurors - there are about 60,000 in Mauritius at the moment, as I understand it - and amongst the 60,000, every year, there is a pool of jurors that are chosen. So, they are people who are not the peers of a labourer. It was important to actually enlarge this pool of jurors to ensure that there are really people of all

walks of life, and I am glad that, as of now, there will be consideration given to the pools of the Electoral Commission. So, these are things that were not said.

Now, finally this, the criticism about the Law Reform Commission. Again, a lot has been said; that the Attorney General is trying to control, he is a control freak so to say, he is going to interfere. The law has become obsolete, the law does not reflect the reality in today's life. Today, we have got a differently constituted Bar Association or Law Society. Why should we have a representative of that Association on the Law Reform Commission, when it is not the spirit and intendment of that Association to have that person there? I am sure they would want someone who will reflect their ideologies to go and sit at the seat of the Law Reform Committee in order to serve there, to ensure that the work is properly done.

So, all these criticisms from the Opposition, at the end of the day, Mr Deputy Speaker, Sir, is all about *politique démagogie*.; politics that does not reflect the reality in today's society, where the nation is an intelligent nation.

Now I seize this opportunity to thank the Attorney General, Minister of Justice, Human Rights and Institutional Reforms and all his team of lawyers who have contributed towards drafting this Bill to change from the old days, to bring it to the new days, so that with this Bill we start to shape the future of our children in this country.

Thank you very much, Mr Deputy Speaker, Sir.

**The Deputy Speaker:** Hon. Ganoo, you have the floor.

(11.41 p.m.)

**Mr A. Ganoo (First Member for Savanne & Black River):** Mr Deputy Speaker, Sir, at this late hour, I will try not to repeat what has been said before me by other Members on this side of the House. But suffice it to say that I have seen many Judicial and Legal Provisions Bills being introduced before this very House, but rarely have I seen such a Bill subject to so much controversy.

There are evidently many good provisions in the Bill. I think to deny that would be dishonest on my part. The first part of the Bill, if I can say so, as we have already been told, which has been lengthily commented by Members of the Opposition, are positive proposals, good proposals which have been made in this Bill by the Attorney General, and no one can deny that; the amendment to the Courts Act, for example, and the other clauses of this Bill.

The *raison d'être* of a Judicial and Legal Provisions Bill, Mr Deputy Speaker, is undoubtedly the reform of our law. I remember when I was intervening last time on the Judicial and Legal Provisions Bill, which was introduced by the hon. Attorney General some few months ago, I, in fact, ended my speech by saying –

“We can only wish, Mr Deputy Speaker, Sir, for the Judicial and Legal Provisions Bill to come very often before this House, more often than it has done in the recent past, so that our country be provided with an administration of justice that it rightly deserves.”

But nevertheless, as I said, I am very sad for the Attorney General - and I will come to a few comments afterwards - that this Bill has attracted so much criticism - which I will come to later - this time.

As I said, there is no quarrel with the amendment to the Courts Act, the language to be used in the Supreme Court, the Minutes of proceedings, the clauses pertaining to the Minutes of proceedings, to the recording of evidence and submissions.

In fact, there is this question on this particular clause, that is, clause 2 of the Bill, which is amending section 177 of the Courts Act, and I quote –

- “(1) The evidence of witnesses and the submissions of counsel or attorney in any case heard before a Court shall be recorded –
- (a) by tape or other technological means;
  - (b) where no such means is available, by shorthand notes taken down by a shorthand writer of the Judiciary; or
  - (c) (...) by the Judge presiding at the trial (...).”

I recall what was mentioned in the Mackay Report concerning record of proceedings, which I think I have in the past already alluded to in debates in this House, when we have been discussing about the Judiciary.

This is what Lord Mackay said, and I think it would be interesting to remind the House of his comments.

“No one who attends the sitting of the District Court in Mauritius can fail to be impressed with the time it takes to record the proceedings, because the Magistrate requires to record them word for word, often translating from Creole and witnesses.

And, indeed, sometimes those presenting the cases for the prosecution or defence are directed to 'follow the magistrate's pen', which dictates the speed at which the proceedings can progress. We consider this practice to be utterly wasteful of the talents of the magistrates as well as diverting them from the fundamental judicial role into transcribers, as well as wasteful of the time of all those concerned with Court proceedings. We recommend that, as rapidly as possible, a system by recording by tape or otherwise, using modern technology be introduced in all the Courts. We are far from that, Mr Deputy Speaker, Sir.

We see how even so many years after this report has been made public that piece of legislation, a Bill is coming before this House providing that, where no such means is available by shorthand notes taken down by a shorthand writer of the Judiciary or where no means referred to in paragraphs (a) and (b) are available at the trial of a criminal matter in writing by the judge presiding at the trial or any magistrate hearing the case.

I would only wish that the hon. Minister of Justice does the needful to implement what has been suggested by Lord Mackay in the few lines that he just read, Mr Deputy Speaker, Sir. I will go on with what I call the positive parts of this Bill. Clause 4, the Error in sentence has also been commented and I have no disagreement with that proposal. Then come, unfortunately, the different Clauses 5, 6, 7 and 8, which are, in fact, the controversial clauses, Mr Deputy Speaker, Sir.

Quand j'analyse ce qui a été proposé dans les autres alinéas de ce projet de loi, c'est-à-dire, la deuxième partie du projet de loi, il est évident qu'il y a un fil conducteur dans ces différentes clauses du projet de loi.

Il semblerait que les critiques émanant de l'opposition, et des autres commentateurs qui ne sont pas d'accord avec les propositions du projet de loi, ont suggéré qu'il y a une appropriation, un accaparement de la part du ministre de la Justice, des pouvoirs qui n'étaient pas le sien avant les propositions de ce projet de loi. C'est pourquoi ce projet de loi me semble étrangement à un *Dr Jekyll and Mr Hyde*. D'un côté une bonne face, une bonne présentation, des contenus raisonnables et corrects, mais d'autre part des propositions rétrogrades, scélérates même je dirai, qui s'apparente à une volonté de mainmise sur différentes institutions citées dans le projet de loi.

I will come straightaway to the proposals to amend the Law Reform Commission. The Law Reform Commission Act is being amended. The Act of 2005, Mr Deputy Speaker, Sir, is being amended and I will just comment very briefly on the proposals to amend the Law



Reform Commission, but before doing that, I will just try to briefly remind the House that, in fact, the first version of the Law Reform Commission was initiated in 1992, and some 13 years afterwards, another version of the Law Reform Commission was adopted by this very House. In 1992, I introduced the first Law Reform Commission and, in 2005, it was Rama Valayden, the Attorney General at that time, who introduced a more structured piece of legislation, I must say.

In fact, the purpose of introducing a Law Reform Commission was to establish a machinery whose objective was to promote the reform of our laws, and this body had the virtue of providing Government with a specialist advice in the planning and formulation of law reform. But the most important factor is that when the Law Reform Commission was set up on both occasions, the advice which was going to be tendered by the Law Reform Commission, the proposals emanating from this body were to be provided by a body independent of the Executive, independent of Parliament. Because in any legal system, to ensure the efficiency of a law reform process, the system must, first, respond to the needs of an evolving society. That is why the most efficient tool for adjusting the law and updating the legal system is an independent body specialised in law reform. And, in view of our evolving society, the need for the constant reforms of our law, it is only such a body which can address this task.

In fact, in the United Kingdom, the proposal to bring about law reforms date back to the 15<sup>th</sup> century. But all these Law Revision Committees, as they were then called, did not operate properly, did not deliver what were expected from them. It was only in the 1930s that a genuine Law Reform Commission was set up to review in a systematic and global way the judicial system and the legal system in this country. Therefore, the first generation of law reforms in the different countries was insufficient in practice because they were operating under several constraints and one them being the question of their independence. It was only, as I said, in the 1960s, when these bodies were vested with more independence that they started to work in a more efficient and systematic manner. Therefore, what we can see from that brief historical perspective is that genuine Law Reform Commission can only be vital and productive if it can only keep up with new programmes of law, can only update our laws if they operate and if they evolve in complete independence.

Mr Deputy Speaker, Sir, the advantages of the Law Reform Commission should not only be its expertise, its capacity, its permanence, its continuity, but also I emphasise, its

independence. These are the ingredients necessary and imperative to make a Law Reform Commission succeed.

Today, when we look at the amendments that are before this House and when we look at the criticisms that have been made dispassionately, the first question that we have to ask ourselves is: 'Has the Law Reform Commission, in fact, been consulted with regard to the proposals that are being suggested to the House today that are to be found in this Bill?' This is the first point I wish to make, Mr Deputy Speaker, Sir.

Secondly, when we look what, in fact, is taking place when these amendments are proposed, without repeating what has been said before me by the Members of the Opposition, we can see, in fact, that certain members of this Commission are being targeted. There is a provision which has retrospective effect in a way, rendering the membership of certain members who have been in office coming to an end as soon as this law will be promulgated. I am referring to clause 8, subsection (5) -

“Every member appointed under section 7 (1) (d), (e), (f) and (g) who is in office immediately before the commencement of this subsection shall cease to hold such office on the commencement of this subsection.”

Another clause which has provoked controversy also is the fact that the Attorney General may now terminate the appointment of a member unilaterally, *arbitrairement* without giving any reason for his decision to do so because the law as we can see before provided reasons why the Attorney General could terminate the appointment of a certain category of members for bankruptcy, neglect of duty, misbehaviour or physical or mental incapacity. Now, what was the point for the Attorney General to do away with the justification as to be found in the law? What is the justification for removing the reasons for terminating the appointment of this category of members? Unfortunately, I listened to the hon. Attorney General and I did not hear anything coming from him, no explanation as to why has there been such a radical amendment in the law. So, these are the reasons, I suppose, which have provoked the suspicion against the hon. Minister of Justice to the effect that he has hidden motives, that he wanted to do away with certain specific members now in this body which is supposed to be independent. The hon. Attorney General is duty bound to explain to the House and to the country why have the reasons which were in our law, justifying the termination of the membership of certain members, has, as now, been done away with.

Secondly, since this Bill has been circulated, I have read the comments made on this Bill. It has been suggested also that it was due to a disagreement between the Law Reform Commission or certain members of the Law Reform Commission this paper on social media, fake news and harmful digital communication has given rise to the decision of the hon. Minister to get rid of certain members of this Commission. This is what we are being told. Because there was a disagreement; certain members did not want to proceed to enact legislation concerning social media, fake news and harmful digital communication. Is that true? But what I can see for myself when I read the policy paper on the document concerning this fake news, I saw, in fact, in this paper that the Commission had decided not to enact legislation explaining that in other countries where pieces of legislation have been passed to curb fake news, these countries have met with fierce opposition. In fact, some have had to repeal the laws after adopting them like in France, in Malaysia because these laws constitute a threat to the freedom of expression and could be used to coerce voices of opposition or other dissenting voices.

This is what I read in this document. I am using some expression from this document, allowing the public officials to decide if statement is true or not, is to give those forces in power the right to silence opposition and to gag opposing voices. Is that true? The hon. Attorney General certainly has the duty to clear this issue tonight, Mr Deputy Speaker, Sir.

Since I am on this point, I will make a few comments on the amendments concerning the ICTA. Mr Deputy Speaker, Sir, clause 5 of the Bill says –

“The Information and Communication Technologies Act is amended (...).”

I listened very carefully to hon. Rutnah. Unfortunately, he is not present. He said: ‘What is the difference in the two pieces of legislation?’ That is the law as it is now and the one which is being proposed for amendment. What is the difference? Has the Opposition read carefully what is being proposed? He seems to say that there is not much difference in these two pieces of legislation. He seems to say that there is not much difference in these two pieces of legislation, the one which is actually in our Statute Books and the Bill which is before us today. He went through all the different clauses and the sub clauses; but he forgot to mention one thing and I am sure all of us will remember that. What he forgot to tell us was that there is an amendment in section 47(1) where the term of imprisonment is now being amended by deleting the words: imprisonment for a term not exceeding five years and replacing them by the words penal servitude for a term not exceeding 10 years. I am sure this makes a lot of

difference for offences with which we are dealing – to which I will come in a few seconds - that the legislator today, the hon. Minister of Justice has decided to amend the penalty by deleting imprisonment for a term not exceeding five years and replacing it by penal servitude for a term not exceeding ten years. This is one of the big differences, one of the important amendments made to this Information and Communication Technologies Act. But there is more than that, Mr Deputy Speaker. These provisions, in fact, as all provisions in this type of legislation, raise serious concerns on the issue of freedom of expression. True it is, this law was passed when the MMM and MSM Government was in power after year 2001. Mauritius had ratified the Budapest Convention on cybercrime and in passing that legislation, at that time Government intended to address the problem of Internet and computer cybercrimes by setting up a legal framework to protect society against these digital crimes. Indeed, I think, as someone said before me, all of us, our lives have been changed, have been subject to fundamental changes. The world has been subject to fundamental changes due to digital technology. In Mauritius, we have legislated, on different occasions, not only the ICTA but other pieces of legislation also have been adopted by this House to curb this threat and what is important for me also when I look at the proposal made today in this Clause 5 regarding information and regarding the ICTA Act is another amendment which I consider to be important. True it is the word ‘message’ is being amended, we have no quarrel with that. ‘Telecommunication’ has been amended, we have no quarrel with that. As other Members of this House have said, we are now replacing the words ‘distress or anxiety’ by ‘*brasser large*’ as we say in French. Now, we are introducing the concept of annoyance, humiliation, inconvenience, distress or anxiety to any person, *brasser large*, that is, making the net wider, widening the net. But there is also one small amendment which has not escaped my attention and I will come to that. In the present legislation, I am referring to section 46 (h)(ii); in the Bill Clause 5, subsection (b) reads as follows –

‘(b) in section 46 –

(i) (...);

(ii) in paragraph (h), by repealing subparagraph (ii) and replacing it by the following subparagraph(...)

What is paragraph (ii) about? This was referred to by hon. Rutnah. Paragraph (ii) reads as follows, that is, if anybody who -

‘(h) uses, in any manner other than that specified in paragraph (ga), an information and communication service, including telecommunication service, -

- (i) (...); or
- (ii) for the purpose(...)’

I underline the words, these are the operative words.

‘(ii) for the purpose of causing annoyance, inconvenience or needless anxiety to any person;(...)’

These are being replaced by -

‘(ii) which is likely to cause or causes annoyance, humiliation, inconvenience, distress or anxiety to that person;(...)’

We are deleting the words ‘for the purpose of causing’ and we are replacing them by the words ‘which is likely to cause’.

Is this innocent? Deleting ‘for the purpose of causing’ replacing it by ‘which is likely to cause’ - my Friend, hon. Rutnah, is smiling and he has already understood what I mean. ‘Which is likely to cause’ is a strict liability offence, isn’t it? But ‘for the purpose of causing’, the intention must be proved, the *mens rea* must be proved and, in fact, even if the victim whom you are targeting consents under the strict liability offence, he is done, he has committed the offence. So, we are replacing a clause where the Prosecution had to prove the intention of the person sending the message whether he had the intention to cause the annoyance, the inconvenience and we are replacing it by which is likely to cause, that is, inadvertently. The person sending the message might possibly not have the *mens rea*, but he will still be caught under the new provision, by the amendment of these three or four words in the present legislation, and in the proposed Bill. So, again, this is why the amendment proposed is a strict liability offence and what the court will have to decide is simply will decide whether there has been annoyance, humiliation and inconvenience, and so on.

So, Mr Deputy Speaker, Sir, this is why, as I said, when we leave the ICTA, we come now to another institution which is in Clause 6 - Institute for Judicial and Legal Studies Act amended.

I will now come to clause 6. I will come to the part of the clause with which I do not agree. I must say that I endorse what hon. Rutnah said about the sentencing guidelines. In

fact, again, when we were discussing about the Judicial and Legal Provisions Bill a few months ago, I remember that this issue came up and I am looking at the speech I made. I am quoting from Hansard –

“Mr Deputy Speaker, Sir, many of the amendments proposed today, as we have just seen, are related to the issue of sentencing. The issues pertaining to sentencing are scattered in various Statutes, in various Acts. I think there is need to put order in this House. What I mean by that, Mr Deputy Speaker, Sir, is that there are strictly speaking no guidelines with regard to sentencing. Considering this situation, I am asking the question: is not it the time proper now to have a piece of legislation which will address the problem of sentencing or which will set up a framework for sentencing decisions taken by the Court?

In UK, Mr Deputy Speaker, Sir, the Criminal Justice Act 2003 sets out a number of factors that the Court must take into account when passing sentences. The weight to be attached to each of these factors in each case is, of course, a matter for the Judge, for the Magistrate, for the sentencer and true it is, Mr Deputy Speaker, Sir, Parliament specifies the maximum sentence for particular offences. In a way, Parliament indicates its view of the seriousness of the offence, but nevertheless, the point I am making is that we should have perhaps thought about, just as in the UK, coming up with a Sentencing Council and I think this was referred to by my friend, hon. Rutnah, which will better the process of sentencing by providing guidelines, including sentencing guidelines to ensure a sentencing standard in all cases and the sentencer will have to consider these guidelines.”

So, it is a good thing. *Ce que nous propose l'amendement aujourd'hui va dans le droit fil des commentaires* which I have just referred to and to comments also made by hon. Rutnah. Therefore, today, with the adoption of this present piece of legislation, the Board of the IJLS will, six months of the coming into operation of this section, make recommendation to the Chief Justice to give effect to its object under section 4(d) which relates to sentencing. But, Mr Deputy Speaker, Sir, I have not finished on this clause relating to the Institute for Judicial and Legal Studies Act because the hon. Minister again has had the - I will use this word - effrontery, *le toupet* of replacing the Chief Justice by himself.

I am not sure whether this is a good move, but this is an amendment which to me was shocking, Mr Deputy Speaker, Sir. It reflects *cette volonté de mainmise de la part de*

*quelqu'un que je connaissais*, who was so open-minded and I was really surprised when I saw this amendment and some of the amendments I have already commented. The Attorney General, *en effet fait main basse sur une institution qui était indépendante et impénétrable des influences politiques*.

Mr Deputy Speaker, Sir, I would like - nobody has done that tonight - to go through the Institute for Judicial and Legal Studies Act of 2011. Let us see what is this creature; what is this *bebette* as we say in our creole, Institute for Judicial and Legal Studies Act 2011.

“The objects of the Institute shall be to –

- (a) promote proficiency and ensure the maintenance of standards in the Judiciary; We are not talking of law practitioners or even legal officers.
- (b) foster continuing judicial and legal education;
- (c) promote international exchanges and co-operation with other jurisdictions in the field of judicial and legal studies;
- (d) promote transparency and consistency in the sentencing of offenders - which we have just referred to.”

Now, the Board which has been set up under section 7 of this Act consists of section 7(1) which says that there shall be a Board which shall administer and manage the affairs of the Institute, and we know now the Judicial and Legal Studies Board. The Board shall consist of a Chairperson who shall be a person who has held Judicial Office or a Legal Practitioner of not less than 10 years standing. Three representatives of the Judiciary to be appointed by the Chief Justice, the Solicitor-General is in this Board.

*(Interruptions)*

Or his representatives, yes! Or a person who has proven ability and experience in Legal Education, to be appointed by the Chief Justice after consultation with the Attorney General.

*(Interruptions)*

Yes! Okay. But to be appointed by the Chief Justice!

*(Interruptions)*

No, but I have not finished. The Director of the DPP or his representative! This is the Board. The Chairperson is appointed by the Chief Justice after consulting the Attorney General, but

the Chief Justice appoints three of his representatives. The Solicitor-General is present or if he is not present, his representative. It is the same for the DPP and other members.

Now, the Attorney General comes and makes the proposal today in section 70 of this Act which is as follows –

“The Board may with the approval of the Chief Justice make such regulations as it thinks fit for the purposes of this Act”

The Attorney General has thought it wise to oust the Chief Justice, to show the Chief Justice *la porte de sortie* and to replace the Chief Justice by himself again. The Board may with the approval of the Attorney General now make such regulations as it thinks fit for the purposes of this Act. I would only say to the Attorney General: *mais qu'est-ce que vous êtes allé faire dans cette galère?*

*(Interruptions)*

It is with his approval now that regulations can be made, but when we look at section 11 of the Act, it reads as follows –

“Powers of Chief Justice –

The Chief Justice may give such directions of a general character to the Board, not inconsistent with the Act as he considers necessary in the interest of the Judiciary and of the legal profession and the Board shall comply with those directions.”

So, why did you have, in view of this power of the Chief Justice...

*(Interruptions)*

**The Deputy Speaker:** Please, address the Chair, hon. Ganoo!

**Mr Ganoo:** In view of the omnipotence of the Chief Justice, why do you have to go and introduce yourself and ask the Chief Justice in another part of the Bill and tell the Chief Justice to go away and you will replace him, and you will have to approve the regulations, because the Chief Justice has already all these powers under Section 11. It seems to be a contraction I cannot understand; I hope you will enlighten the House in a few minutes.

So, Mr Deputy Speaker, the last question I would like to put to the hon. Minister. I come back to the ICT Act and I am baffled by the *démarche* of the Attorney General. Sometime back, I think it was in the Judicial and Legal Provisions Act or perhaps the *Code Pénal*, we amended some sections of our *Code Pénal* or our Criminal Code to introduce



penalties and to change the definition of certain sections of our law, and reference was made in that amendment, a few month ago about the new technologies. Today also, the ICT Act is being amended. The question is: why are we proceeding by piecemeal legislation? Was it urgent? What was the need of coming with these amendments to the ICT Act when the law was still there? These are not major amendments in terms of definition of offences. *Il y a avait des amendements qui étaient plus pressés peut-être, M. le ministre de la Justice.*

I think somebody mentioned child pornography. For example, there is nothing in our laws today, which prevents somebody from consulting child pornographic sites. We should have instead *prendre le taureau par les cornes*, concerning child pornography. Criminalising, for example, those who stock child pornographic sites, who set up website and to ensure that those who indulge in those types of offences, the harmful digital communication offences, should have been successfully prosecuted. My plea to the hon. Attorney General is that, in fact, in the Judicial and Legal Provisions Bill which he is introducing today, should have contained other more pressing and urgent issues concerning harmful communication. This is why I do not understand why the hon. Attorney General is proceeding by way of a piecemeal legislation.

Having said this, Mr Deputy Speaker, Sir, my conclusion is that when I go through this Bill, in spite of some positive aspects, positive clauses, which have been introduced, unfortunately, this Bill contains some very dangerous provisions and which account for the remarks, the comments made by Members, on this side of the House, and we would only wish that the Attorney General gives more serious thought to these proposals that he is making to this House today in introducing this Bill, and make the necessary amendments in the light of the proposal made by the Opposition.

I am done. Thank you.

**The Deputy Speaker:** Hon. Mrs Selvon, you have the floor!

(00.31 a.m.)

**Mrs D. Selvon (Second Member for GRNW & Port Louis West):** Merci, M. le président.

*M. le président*, October is National Bullying Prevention Month. I would like to quote a Federal Government website StopBullying.gov managed by the US Department of Health and Human Services, I quote –

“(...) cyberbullying crosses the line into unlawful or criminal behaviour.”

Je suis particulièrement d'accord avec la réforme qui permettra de nous débarrasser des vrais, je dis bien, 'vrais criminels' opérant sur les médias sociaux dont Facebook. En fait, pour moi, il y a un aspect tragique où la vie des gens est plus souvent qu'on ne le pense brisée et détruite. Ces médias sociaux permettent l'insulte, les pires jurons, le dénigrement systématique des comportements et commentaires vulgaires. M. le président, la persécution ainsi que la torture morale de personnes innocentes. Il y a un grand nombre de gens, y compris beaucoup de jeunes, qui sont poussés ainsi au désespoir et au suicide ou encore amenés à commettre des crimes passionnels, crapuleux et autres horreurs suivant la pression exercée via des réseaux comme Facebook.

Cela se passe à travers le monde, mais aussi de plus en plus chez nous. Je crois bonne l'idée du gouvernement mauricien d'appliquer nos lois criminelles, notre Code Civil et des lois spécifiquement faites pour mettre fin à tout ce mal que peuvent causer les médias sociaux. On n'éliminera pas les innombrables lâches qui font usage de ces médias sociaux, mais on en chassera les criminels qui sévissent de plus en plus.

*(Interruptions)*

**The Deputy Speaker:** Order, please!

**Mrs Selvon:** Mr Deputy Speaker, Sir, freedom of expression has to be restrained to prevent abuse. Article 3 of the Constitution, I quote –

**“Article 3. Fundamental rights and freedoms of the individual**

It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject(...)”

Mr Deputy Speaker, I quote -

“(...) but subject to respect(...)”

I repeat it -

“(...) subject to respect for the rights and freedoms of others and for the public interest(...)

It sets the right; it sets the limit of freedom of expression, Mr Deputy Speaker.

M. le président, le dernier *mass murder* aux États-Unis, à Pittsburgh, a été commis sous l'influence du *social media* appelé Gab. 11 morts et plusieurs blessés.

Gab is a kind of Facebook; it is a social media which supports hate groups to preach violence and crime. *Et la police américaine enquête sur le rôle important de Gab dans le massacre.*

Je note que l'article 12 vise, je cite –

“empower the Attorney-General to obtain the evidence of a witness in another State, in any proceedings, other than criminal proceedings pending before a Court in Mauritius”

Cet article est intitulé: ‘Letters of Request Rules 1985 amended.

Je tiens à remarquer, ici, que Maurice ne fait pas partie de la Conférence de La Haye de droit international privé. Il suffira que Maurice adhère à cette convention pour que le gouvernement puisse obtenir pour *l'Attorney General* le droit d'intervention, mais des affaires non criminelles.

Deuxièmement, il y a la solution des commissions rogatoires. Je me réfère ici à ce sujet, à Serge Braudo, conseiller honoraire à la Cour d'appel de Versailles, qui écrit dans son ‘Dictionnaire du droit privé’, je cite –

« Dans un procès civil ou commercial, lorsque dans le cadre de la mise en état, le juge estime qu'il est nécessaire d'ordonner une mesure d'instruction qui sera exécutée en dehors du siège de la juridiction saisie de l'affaire, par exemple pour entendre un témoin, ce magistrat qui a une compétence territoriale limitée au ressort de la juridiction auprès de laquelle il a été nommé, envoie à un autre juge ou à une autre autorité située dans le ressort du lieu où le témoin a son domicile ou sa résidence, une délégation qui est appelée "commission rogatoire".

Des commissions rogatoires peuvent être envoyées à un juge étranger, soit en exécution d'une convention internationale, soit en vertu d'un traité de coopération judiciaire, soit en utilisant la voie diplomatique. Des conventions diplomatiques peuvent prévoir qu'un juge français peut transmettre directement sa commission rogatoire à un collègue étranger. »

Finalement, l'Article 12 pourrait être de trop, et il n'a aucun effet dans une juridiction étrangère. Nous avons d'autres moyens d'agir au niveau du droit international privé.

Pour conclure, je remercie la Chambre pour son attention.

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

**Madam Speaker:** Hon. Roopun!

(00.40 a.m)

**The Minister of Arts and Culture (Mr P. Roopun):** Madam Speaker, at this early hour, let me join my voice on the debate on this omnibus Bill, and I will start by congratulating the hon. Attorney General. For the third week at a stretch, he is coming with a Bill, I believe positively influenced by his immediate neighbour who has been awarded the 'Best Minister of Youth'. I must say that today, it was as if the hon. Attorney General was under trial. So much has been said against him, *un procès d'intention* which goes on the verge of imputing improper motives; gratuitous allegations, *on a fait tout un procès*. But I am glad that we heard hon. Ganoo making his point in a very sober manner, raising issues, but at least the tone, and he came and asked for clarification. I am glad also that hon. Mrs Selvon understands the gist of our intention regarding all those issues that we are facing today with ICT, with the social media.

In fact, as stated by hon. Ganoo and a few other Members, there are three main points on which most Members of the Opposition have been harping. I will not dwell long on all of them, but I will try to make a few points very briefly. A lot has been said about amendments being brought to the Letter of Request; the rules allowing evidence from abroad which, as the hon. Attorney General explained, is an extension to the existing rule which was dealing with criminal matters. The simple question that I am going to ask, Madam Speaker, is: is it not in the interest of justice that whenever there is any litigation, all evidence which is available should be put before the court? What are we doing, in fact? We are ensuring that justice is seen to be done. Today, we know how things are; we have no physical difference with ICT, with all those technical possibilities. What is the harm in securing evidence wherever it is found? And what we are going to do with those evidence? Ultimately, they are going to be brought before a Court of Law, subject to scrutiny by the Judiciary, and ensuring that whoever be the parties, he has got the opportunity to present his case or to defend himself with whatever evidence which has been gathered.

And lots of things have been stated; that we are as if usurping the right of the Judiciary. But let me remind the House that whenever we deal between two States, it is not merely the province of the Judiciary but that of the Executive, because we have a lot of

issues. It is more the relationship between the two countries; how they have been collaborating. We know that just in the case of mutual legal assistance in criminal cases, it is an issue which is dealt with from Government-to-Government. OK, at the end of the day, it goes to the Judiciary and the Judiciary is going to take whatever action it is going to take.

But we should not forget that just like collecting information, the signing of conventions and treaties is also within the province of the Executive. And we should know what we want. We wish to develop a system where in a globalised world, we want to be an international financial centre dealing with transnational business, and we are aspiring to become an international centre for arbitration. This is yet another tool that is going to enhance and improve the whole ecosystem for the proper administration of justice, and it is not just a question of replacing the Attorney General, the Chief Justice and so on. You are going to see that under clause 12, there are lots of conditions attached; the parameters under which this request is going to be made. It is just made by the mere fact of asking. Lots of conditions should be satisfied, and these are clearly spelt out here. And eventually, it is going to be subject to the scrutiny of a Court of Law, be it here in Mauritius, if the case is here, or in another foreign country. This is why I do not want that we just focus on petty issues, but that we try to see this issue more globally. We trust that any Attorney-General, whoever be it, is not going to act arbitrarily or unreasonably. My humble view is that, whatever action needs to be taken, it will be subject to judicial review, which means that we should not make gratuitous allegations against something which is going to enhance our judicial system.

We heard also about amendment to the Information and Communication Technologies Act. I must remind hon. Members that we are not debating the Act, but an amendment to the Act. I am glad that we heard it from hon. Ganoo, that we should not just take the amendment piecemeal, but we should have an overview of the Act as a whole and, then, try to grasp what is the purport of the amendment which is being brought.

Insofar as the ICTA is concerned, we have heard violation of the freedom of expression, but we are not amending the Constitution. Whatever safeguards we have under the Constitution remain the same, which means that whatever has been termed unconditional - my friends from the legal profession know that there is also legal redress which is available.

The Supreme Court is still here. Of course, whoever feels that we need to test the constitutionality of the law can go to the proper forum, because we have heard so many times in this House that such and such law terms as being unconstitutional, but we know that,

ultimately, very few are tested before the Supreme Court. What we are doing here, we are not curtailing the right of the common people to make use of this new tool, but we are trying to send a strong signal to the minority who misuse with impunity the ICT tools and believe that they can do anything under a supposed cloak of anonymity. This is why I am a bit saddened that many Members of the Opposition just blow up everything, making as if after the passing of this Act we cannot communicate with friends, we cannot share any information, that we are curtailing any such communication. I must specify that whatever we do with full consent, if we communicate with friends, there is no issue. But whatever is done without our consent, this is where the law is going to be applied and where we are going to legislate to prevent abuses. I will not repeat whatever the hon. Members from this side stated. Hon. Mrs Selvon stated that our rights end when the rights of others start. This is not only in the Constitution, but also in the Civil Code, Articles 16 and 17 - the same idea being propounded. I will just read very shortly –

*« Chacun est tenu d'exercer ses droits et d'exécuter ses devoirs selon les exigences de la bonne foi. »*

Article 17 –

*« Nul ne peut exercer un droit (...) »*

Here, I mean a right.

*« Nul ne peut exercer un droit en vue de nuire à autrui ou de manière à causer un préjudice hors de proportion avec l'avantage qu'il peut en retirer. »*

It is just here a question of balance. You have a right, you have an obligation and your right ends where the rights of others begin.

I will now very briefly, Madam Speaker, come to the third point regarding the Law Reform Commission. I believe that the hon. Attorney-General was very clear. The purpose of the amendment is to put it in line after a request from different institutions, so that any member will not sit on that Commission for a period of five years, when within that institution, members are renewed at a shorter period. This is the purport of this amendment. But yet, a lot has been said about independence, that we are usurping the right of the Judiciary. Hon. Ganoo also mentioned that the idea was to set up a supposedly independent body, and that whatever this body is going to do, would be as if nobody can come and disturb what has been set. Are we, here, dealing with an organ within the Judiciary? Even hon. Adrien Duval tried to compare the Law Reform Commission with other institutions, such as

the Presidency, the Chief Justice, the DPP, the Speaker's Office and stating that we cannot just remove. But there, we are talking about a Constitution which has been established under the Constitution of Mauritius. Here, the Law Reform Commission, again with due respect to the institution, is a body which is merely advisory to the Attorney-General to whom it makes recommendations, though I must agree that the Commission has got some latitude, not independence as such. It can consider any piece of law, make recommendations and those recommendations are essentially designed to the Attorney-General and to nobody else. In 2005, the hon. Attorney General stated, when presenting certain amendments, I quote –

“The Commission is accountable to the Attorney-General and the purpose of this Commission was to ensure a collaboration of all three organs of the State: the Legislature, the Executive and the Judiciary.”

It was not just like an emanation from the Judiciary because we know that whatever recommendations the Law Reform Commission comes with, it is for the Executive eventually to come with a Bill and this is debated here. It is this House which has got the legal authority to pass any legislation. And, be it the Attorney General, be it the Executive, we are not bound by any recommendations from the Law Reform Commission. I take it that it has got some autonomy, but we cannot just compare it with other States as if it is part of the Judiciary.

Madam Speaker, I don't want to repeat whatever other Members have stated, but I must say that today many Members of the Opposition have painted a doom and gloom picture of the situation, when today, itself, as hon. Gayan stated, we had the rating from Mo Ibrahim, which has again confirmed our position in Africa, in terms of rule of law and in terms of democracy.

I am very saddened that by painting such a very dark picture, we are doing a disservice to the institution itself. Comparing Mauritius to North Korea, with due respect to North Korea also, but we know that Mauritius has got a reputation and if our own Members of Parliament are going just to likely state that we are moving towards dictatorship, I believe that it is mostly unpatriotic. You have the right to make your point, debate no problem, but in good faith.

With these few words, Madam Speaker, let me, once again, commend my good friend and give all our support for this Bill.

Thank you.

**Madam Speaker:** Hon. Ramful!

(00.58 a.m.)

**Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien):** Thank you, Madam Speaker. Madam Speaker, a lot has already been said about the Bill and I propose to be very concise, but allow me to make two introductory remarks about the Bill before I come to the different clauses of the Bill.

Madam Speaker, we are being presented with, what we call, the Judicial and Legal Provisions Bill. This Bill does not come to the House very often. But when they are introduced to the House, they are introduced for the purposes of bringing fundamental changes to our law. And as a Barrister, I can say that there are various areas of the law that require fundamental changes. If you would go on the website of the Law Commission, for example, you will see hundreds of papers, hundreds of reports that have been published that require changes to be brought to different areas of the law. Unfortunately, the Attorney General, although he is a good friend of mine but it is a pity that he is not interested with the reports of the Law Commission but instead he is more interested with how to hire and fire the members of that respectable body.

The second introductory remark that I wish to make is that when I look at the various provisions of the Bill, it gives me the impression that the Attorney General has embarked himself in an open war with the different independent institutions that form our judicial system.

I am talking here about institutions such as the Bar Council, such as the IJLS and the Law Reform Commission. Again, it is a pity because as the Members have said that there has not been, according to our information, sufficient consultation with all these different institutions before the Attorney General comes with this Bill.

Now, let me come to the different clauses of the Bill, and I will start with the less controversial ones. Clause 3 of the Bill which seeks to introduce the offence of perverting the course of justice, has been the subject of various judicial pronouncements and interpretations in other jurisdictions, including, Madam Speaker, the United Kingdom. And I am going to refer to the UK legislation because, there, in the UK, there are two types of offences. There is the offence of perverting the course of justice and there is the offence of attempt to pervert the course of justice.

The first one, that is, perverting the course of justice, applies to acts that are committed after the institution of legal proceedings, and the second one, that is, attempt, it



extends to even acts that are committed at the stage of Police enquiries. Now, here, under this present Bill, the words that are used are ‘acts or omissions intending to pervert the course of Justice.’ Now, for the sake of clarity because in the future, maybe the Courts of Law will look at Hansard, especially the intervention of the Attorney General to see what was the intention of the legislators. For the sake of clarity, maybe if the Attorney General could clarify and state whether or not this particular provision is intended to apply to both acts that are committed at the stage of a Police inquiry, as well as acts that are committed once legal proceedings have started.

The other clause relates to this issue about ICTA, clause 5 of the Bill. Now, I do agree that there is a need, Madam Speaker, to protect those persons who have been victims of abuses on social media. However, we have to be careful that we should not introduce laws that would infringe the freedom of expression of other citizens. A lot has been said about Article 12 of our Constitution. Hon. Rutnah has read out the Article and he also laid emphasis on the fact that any law that is being introduced must be reasonably justifiable in a democratic society.

When I look at the law in the UK and I am referring to section 43 of the Telecommunications Act of the UK. It states as follows, and I quote –

“A person who –

- (a) sends, by means of a public telecommunication system, for the purpose of causing annoyance, inconvenience or needless anxiety to another, (...).”

And now this is important –

“(...) a message that he knows to be false or persistently makes use for that purpose of a public telecommunication system, shall commit an offence.”

Now, clearly in the UK, as the law stands, the person sending the message must know that the message is false. Only then he is amenable under the purview of that particular section. When we read the provisions of section 46 of ICTA, let me take an example, subsection (g), for example, it states that –

“a person who knowingly sends, transmits or causes to be transmitted a false or fraudulent message shall commit an offence.”

So, you see again, the element of knowledge is important for a person to be amenable under the provisions of that section. But what is being introduced, unfortunately, Madam Speaker, is that any person who uses telecommunication equipment to send, deliver or show a message which is obscene, indecent, abusive, threatening, false or misleading, which is likely to cause annoyance, humiliation, inconvenience, distress or anxiety shall commit an offence. Now, it would appear that under this particular section, someone sending a message innocently without knowing that that particular message is false or without knowing that this particular message is abusive or misleading shall commit an offence.

*(Interruptions)*

Yes, but without him knowing; without knowledge. So, if someone accidentally sends a message would he be committing an offence? As it appears, he would. This section would apply to him. This is why in the UK, the legislators have expressly provided in the law that knowledge should be an element of the offence. So, there is a problem with what is being proposed. This is why I said and when we refer to the Constitution of Mauritius, Article 12 it is stated very clearly, the law must be reasonably justifiable in a democratic society. This is the point I wanted to make with regards to Clause 5. With regard to Clause 6, whereby it is sought to replace the Chief Justice by the Attorney General when it comes to approval of regulations made by the Board of the Judicial and Legal Studies. Now, I heard the Attorney General justifying this amendment by saying that under the IJCA, provision has already been made that all subsidiary enactments need to be approved by the Attorney General. This is what is stated to justify this amendment, but let us see what the law provides. Section 21 of the IJCA states as follows: ‘where a subsidiary enactment is made by a person (...)’ - and this is important, Madam Speaker – ‘other than the president or a judge, it shall, unless the enactment under which it is made expressly otherwise provides be approved by the Minister before it is published in the Gazette’. So, other than the president or a judge and as the law stands under the Judicial and Legal Studies Act, it is the Chief Justice who approves the regulation.

*(Interruptions)*

But he approves the regulation. But the law says ‘approved by the Attorney General.

**Madam Speaker:** No, not at this late hour, please. When you were intervening, he was listening very carefully and silently.

*(Interruptions)*

**Mr Ramful:** Same thing approved by the Minister under the IJCA. Under the Judicial Legal Studies Act, the Chief Justice approves the regulation. So I don't see the justification. I don't see the motive unfortunately behind this amendment. And it would appear that the Attorney General who is the legal adviser of the Government and who owes executive powers was to confer the regulations that are passed by the Board. When it would appear that this institution is intended to fall within the purview of the Judiciary, especially when one reads section 11 of the Act. Section 11 of the Act provides Madam Speaker that the Chief Justice may give such direction of a general character to the Board not inconsistent with the Act which he considers necessary in the interest of the Judiciary and the legal profession and the Board shall comply with those directions. So, clearly, there is an attempt to blur the dividing line between the Executive and the Judiciary. The doctrine of separation of powers is under threat, Madam Speaker. Clause 8 is even more controversial. Now, Clause 8 which deals with the amendment to the Law Reform Commission. Madam Speaker, when the Law Reform Commission Bill was introduced in 1992, there was unanimity in the House that the independence of the Commission was *sine qua non* to its success. The more independent the operation of the Commission from the Executive and from Parliament, the more successful it would be. I will just quote two paragraphs of the speech of the then Attorney General who was hon. Ganoo, and this is what he stated with regard to the independence of that institution. He stated and I quote: Mr Speaker, Sir, the setting up of a Law Reform Commission will have the merit of providing the Government through the Attorney General with specialist advice in the planning and formulation of law reform and it will be advised provided by a Body independent of the Executive and of Parliament; a Body which is much more than a mere Committee and further on, hon. Peeroo had proposed an amendment to that Bill at that time and this is what hon. Ganoo said in response to that proposition. He said: 'Sir, an independent law reform agency, as we want it, cannot tender legal advice to Government Departments as hon. Peeroo wants it to be. For we all know that under section 69 of our Constitution, the Attorney General is the principal legal adviser to Government and all legal advice is standard. This is why we cannot therefore accept the new Clause 4 as suggested by hon. Peeroo. So, this shows that there was unanimity in the House at the time that this Body should remain independent from the hands of the Executive and even Parliament, Madam Speaker. But today, unfortunately, the actual Attorney General, through the proposed amendments, is proving that the founding fathers of this respectable institution were wrong. He is committed with this amendment to show that he can shake the very foundation of the Law Reform Commission. He is proving that contrary to what we fought he can hire and fire,

at least, some of the members of the Commission at his own will. Earlier on, one of the Members was intervening, and he took the name of Mr Narsinghen who apparently is the Law Tutor at the University of Mauritius and I heard it from hon. Rutnah in a sitting position – *beh sa enn travailliste sa*.

This is the reason why this amendment is being brought, giving immediate effect to the law so that as from the commencement of this Act, the Office of Mr Narsinghen will be vacant. This is the purpose of bringing the Bill.

Now, he is the Attorney General, Madam Speaker, and unfortunately, he is sending a strong warning. He is sending a strong warning to members of that Commission that they are at his beck and call. He is arrogating to himself unprecedented powers that no Attorney General in the history of this country has ever claimed.

With regard to clause 9, again I fail to understand, Madam Speaker, the *démarche* and specially the timing of those amendments. Currently, the Bar Association is embarking on reforms to the present rules especially with regard to the code of conduct that apply to Barristers. They met on 18 October and they came up with draft rules which would empower the Council to exercise more disciplinary control over its members.

I have, Madam Speaker, a copy of that proposed rule that the Bar Council is proposing to introduce. They deal with various issues such as setting up an Ethics Committee, a Law Reform Committee, Young Bar Committee, the Engagement Committee and other *Ad hoc* committees. They are even proposing for the suspension of members pending determination of disciplinary proceedings before the Supreme Court. I am going to table a copy of that draft rule so that it remains in Hansard. At a time when this respectable institution is bringing such major changes to our rules, to the Code of Conduct governing Barristers of the legal profession, what the Attorney General has chosen to do? He has chosen to turn his back from that institution. He proposes to remove his office - and not only him, his officers - from within the purview of the Council as far as discipline is concerned.

I fail to understand - following this amendment, Madam Speaker, those legal officers would remain members of the Association. Because they are Barristers, they have an obligation under the law to stay as members of the Mauritius Bar Association. They will have the right to elect who will sit on the Bar Council of that association.

Apparently, they have the privilege of not paying the fees of that association. There is a Code of Ethics which falls under the purview of that association which governs all

Barristers, including the legal officers, but the Association will not have the power to supervise the Code of Conduct of that category of officers. With this amendment, we are creating two categories of Barristers now, one from the private practice and one from the Attorney General's Office.

Members from the private practice are bound by the Code of Ethics. They can be disciplined by the association and their case can be sent for determination before the Supreme Court, whereas members from the Attorney General's Office would be exempted from all these provisions. So, I fail to see why they are creating two categories of Barristers.

I have heard some members from the Government side saying: 'well, we are dealing with the law which dates back to 1953 and it has to be amended, it has to be changed'. Do you know, Madam Speaker, how many laws in our Statute Books date back to 1953? Why don't they amend those laws? Why pick and choose the Mauritius Bar Association Act? There is no justification. They are coming with lame excuses, Madam Speaker.

Now, I would not be long, Madam Speaker, except I need to just mention one issue which was raised by hon. Rutnah. It is good for the purposes of the record so that there is no confusion. With regard to the provision relating to sentencing which is clause 4, hon. Rutnah gave an example earlier on of a case where someone was wrongly convicted and that person now can, under that particular section, ask for ...

*(Interruptions)*

We have to be clear that this law, that particular section 72 (a)...

*(Interruptions)*

**Mr Rutnah:** On a point of clarification, Madam Speaker. I said that there was a conviction and then a sentencing. So, I read two analogies that the person was of no means and he had to appeal against the conviction and the sentencing. So, if he would not have been convicted, he would not have faced the sentencing. Because he was convicted, he faced the sentencing. But if there was an error in law in the sentencing, we could have gone to the Magistrate, explained and there was no necessity to go to the Supreme Court.

So, now, even if someone has been convicted, but the sentencing as well is wrong, the person because of lack of means, wants to accept the sentencing, he does not need to go to the Supreme Court, he can just rectify it there.

**Madam Speaker:** Hon. Ramful!

**Mr Ramful:** Yes, but let us be clear that this particular section deals only with errors in the sentence, not in the conviction. If someone has been wrongly convicted, he cannot seek remedy under that particular section. He will have to go before the Supreme Court. We have to make this very clear. So, these are what I had to say about the Bill, Madam Speaker. Thank you very much.

**Madam Speaker:** Hon. Gobin!

(1.25 a.m.)

**Mr Gobin:** Madam Speaker, so much has been said, some arguments have been put forward with the proper tone which is consonant with our democratic principles in this House, but I cannot say the same for all the arguments that have been put forward, unfortunately.

I have one question to a few of my learned friends who are in this House, and the question is: to what extent can political agenda take precedence over sound legal arguments? I put this question to some of my learned friends. I said some, not all. To what extent can a political agenda take precedence over sound legal arguments? To what extent can one misquote from a Statute, build a political argument and present it as a legal argument?

Hon. Ramful just quoted from the Information and Communication Technologies Act stating that when a subsidiary legislation is made by the President or a Judge, then it is exempted from the approval of the Minister. When coming to the Judicial and Legal Provisions Bill, he fails to read that it is the Board, which makes the regulation. Do you make a difference between making and approving? I put the question again: to what extent does a political agenda take precedence over a sound legal argument? This is what has been happening since 16.20 yesterday. I said not all, because there were sound legal arguments coming from the Opposition. I will come to that part.

There is so much that has been said about the ICTA, the IJLS, the LRC, the Letters of Request, even the 7 days extension to correct an error in the sentencing has been qualified as being insufficient. I will come even to the 7 days to show what is the level of demagoguery we have reached in this day and age, in this August Assembly, temple of democracy. We are being accused of leading a frontal attack on freedom of expression. So many of the Members of the Opposition have said that this Government is curtailing the freedom of expression. They have the cheek to say that! Some have been doing their usual show. Why is the show becoming a common feature in this House? It is because we, this Government, have put this

live Parliament TV. They have never done so. So now, thanks to our Parliament TV, the show must go on, and we have just to keep watching. It is thanks to this Government that we have private radio stations because it is this party - Sir Anerood Jugnauth was Prime Minister between 2000 and 2003 – yes, there was the other party together. This party, the MSM has put legislation for *la libéralisation des ondes* and private radio stations became a reality in this country. They say we are leading a frontal attack on freedom of expression. They have not understood because they have not read or they have a political agenda, which takes precedence over sound legal argument. When it comes from Members of the Bar, it pains me to listen to such argument, but it is my painful duty to sit here and listen to that.

Fortunately, I have the last word to sum up and I will explain to the population of this country. What are we doing with the Judicial and Legal Provisions Bill? What are we doing with the Information and Communication Technologies Act? First of all, I should explain to the population, such a Bill is not like any other Bill. We are not creating a new authority, we are not creating a new institution, we are clarifying certain legal provisions, we are strengthening some aspects of our Criminal Law, because there so many legislations in this country. Often times, we have to harmonise, strengthen and clarify, and this is what a Judicial and Legal Provisions Bill does.

Earlier this year, there was JLPB, we are having Judicial and Legal Provisions Bill (No. 2) for the same reason. Let us take this ICT issue which has been raised by everybody on the other side to criticise Government. Let me perhaps recall to the population the phenomenon of social media. I want to quote interestingly something I have read from John Cooper, QC, who says, I quote –

“The vast majority of people who use social media are like society. The vast majority are decent, intelligent, inspiring people. The problem comes with a small minority, as in society, who spoil it for everyone else.”

Facebook was founded, Madam Speaker, in 2004 and Twitter in 2006. Today, they have perhaps 5 million tweets per day over 1.5 million messages for the other social media - I forgot the name. This phenomenon has led to a number of new situations where existing offences are being committed on social media in cyberspace, if I may say so. Harassment, annoyance, as if are new terms that we have today brought in the law.

Hon. Utem was right when he stated that the ICTA Act was passed in 2001. I want just to specify that the word ‘annoyance’ was already in that legislation way back in 2001. It

was very good to do that then. What we are doing now - and this is important for the population to understand - we are strengthening the penalty, yes. Hon. Ganoo mentioned it, it is moving from 5 years to 10 years. Government is tough on such crimes. We have said it and we will say it time and time again.

There are some victims who can fend for themselves, who can sue before the Courts, who can apply for injunctions, who can even retain lawyers in the United States to sue Facebook there in that jurisdiction. But there are the vulnerable in this country, the women and children of this country, even the kids going to school who are victims of this new phenomenon. How will they react when they are facing such a situation, whether it is cyber bullying, whether it is harassment by way of messages? Because everyone has a mobile nowadays, even children. How do they react when they are being harassed by someone who is using the anonymity of the Internet, who is even impersonating. Nobody has talked about what we have defined here as 'impersonation'. Nobody has talked about that. Why, because it does not suit their political agenda? How does the vulnerable member of this society here, in Mauritius, react when faced with such a situation? This is what I want to say to the people.

We are protecting the vulnerable by providing tough sanctions. We are achieving meaningful change in your lives dear citizens! And what are they saying? That we should not do that! Hon. Ganoo mentioned that there is no law against child pornography in this country. There is the Child Protection Act to protect against photographs and even pseudo-photographs. Pseudo-photograph is defined in that law, including images. He can go and check.

*(Interruptions)*

Please! No, it is not the time.

**Mr Ganoo:** Well, I would have explained what I said.

**Mr Gobin:** There is sufficient legislation. If, in the unlikely event, we need to revisit even the Child Protection Act, we will do so because we are and we will be always tough on crime. But the legislation caters now...

*(Interruptions)*

No! The hon. Member had his say! They do not understand.

I will have to take some time of the House and quote it. I said earlier on, Madam Speaker, pseudo-photograph is defined under the Child Protection Act. I quote -



“Pseudo-photograph” means an image, whether made by computer graphics or by any other means, which appears to be a photograph;”

I am quoting from the Child Protection Act. A number of arguments have been put forward for this on the question of the ICTA, that there are terms which are not defined. I recall hon. Uteem said - I have taken down notes, and he is quite right when he says so - that defamation is okay, but here, when we talk of annoyance, distress, it is going too far. I put a question. How is the offence of defamation defined in our law? Defamation insofar as I know occurs when someone causes prejudice to the honour, character and reputation of a person. What is prejudice? Has somebody ever defined what prejudice is or do we look up to what the courts have said in the definition of prejudicial to the honour, character and reputation? What is prejudicial? Has this ever been given a definite definition in the Criminal Code? No, Madam Speaker! The same way, as I said earlier, terms like ‘annoyance’ and ‘distress’ were already there in 2001, we have toughened penalty. We have provided for a better definition in the definition of ‘message’ and in the definition of ‘telecommunications’.

Let me come to the IJLS. A number of arguments and a number of hon. Members have said that we are interfering with the functions of the Institution for Judicial and Legal Studies. Why? It is because I have allegedly shown the door to the Chief Justice in section 17 of the Act, where regulations now have to be made with the approval of the Attorney General. The answer lies in the argument of hon. Ramful himself. Regulations, except when they are made by the President or a Judge, have to be approved by the Minister under the provisions of the Interpretation and General Clauses Act. This is why I am bringing this amendment to bring clarity. I want to reassure the House and the population that the regulations will not be made by the Attorney General. The regulations are made by the Board of the IJLS, approved by the Attorney General. It makes a big difference when you read the letter of the law. As rightly stated by hon. Ganoo, the Chairperson of the Board, right now, is appointed by the Chief Justice after consultation with the Attorney General. When quoting from the law, we have to quote the full length of the sentence and not quote half of it and say ‘appointed by the Chief Justice’ and leave the rest; ‘after consultation with the Attorney General’ has as if disappeared from the legislation.

When we talk about the powers of the Chief Justice under the IJLS Act - *on a passé cela sous silence*, Madam Speaker -, it lies in section 11 of that Act - Powers of Chief Justice, I quote -

“The Chief Justice may give such directions of a general character to the Board, not inconsistent with this Act, as he considers necessary in the interest of the Judiciary and of the legal profession, and the Board shall comply with those directions.”

Are we amending this section in any way, even in a full stop or comma? Not at all! We have not touched section 11. We have not touched at all the powers of the Chief Justice to give directions of a general character to the Board. That, they failed to say. But I am being taxed of ‘showing the door’, I quote, to the Chief Justice, when his powers are under section 11.

Here, once again, I address the nation. Time and time again in this House, my colleague, the hon. Minister of Public Infrastructure has been asked several Parliamentary Questions, as if it is Government which passes sentence in the Courts of Law. Why this low sentence of one month in this case where a cyclist was killed in a car accident? As if it is Government’s responsibility to pass sentence on offenders after a trial. So many times, the Rt. hon. Minister Mentor has been required to answer Parliamentary Questions along the same lines. Consistently, we have said that sentencing rests with the courts. We need sentencing guidelines. It is not for Government to make sentencing guidelines. There is an existing institution, the IJLS, which is statutorily bound to make sentencing guidelines, but it has not done so, so far. This is why we are bringing an amendment to put a statutory duty on the IJLS to make recommendations every year to the Chief Justice, not to me, not to Government, under section 4(d), to promote transparency and consistency in the sentencing of offenders. Even here, political agenda has taken precedence over sound legal argument in the amendment to section 4 (d), as if the recommendations were going to be made to the Attorney General. An amalgam was made with the amendment under section 4 (d) and the amendment in section 17 of the regulations.

Let me make it clear, the recommendations are made by the Board of the Institute for the Judicial Legal Studies. Those recommendations concern the sentencing of offenders and the award of civil damages and, thirdly, the recommendations are made to the Chief Justice.

The only amendment we are bringing is that those recommendations will have to be made yearly. Full stop! There is nothing more to it. This will bring, indeed, transparency and consistency in the sentencing of offenders in the long run. This is a starting point; this is being achieved by a technical amendment to the existing law in the functions, in the objects of an existing institution. And, never before, has this House been called upon to do so. Since the existence of the IJLS - I say it again - no guidelines or recommendations have been made.

We hope on this side of the House that it will be so, very soon, and this is why we have given a timeframe of six months from the coming into operation of this new provision for the IJLS to make its first recommendation. There upon, it will become a yearly feature.

On the IJLS itself, the question was put, I think, by hon. Dr. Boolell, whether the institute has enough means to discharge its statutory duties. It is a fair question. I had briefly addressed it in my Speech at Second Reading. IJLS is admittedly a relatively new institution because it was created in 2011. Over the years, it has gathered momentum. I know for a fact, it is fully up and running, it has gathered a momentum, it has now recruited a full-time Director, its own staff, it is collecting sufficient amount of fees from law practitioners, and we are confident that the IJLS will be able to discharge its statutory duties efficiently.

Coming now to the Law Reform Commission, once again, I am being taxed for making a frontal attack as if on a Court of Law, as if the Law Reform Commission has become the Supreme Court of this country. The law is clear. Let me clarify for the benefit of the nation once again. The Law Reform Commission is an advisory body, it is not a decision making body. Second, the Law Reform Commission makes recommendations. To whom? To the Attorney General! The Annual Report of Law Reform Commission is tabled in this House. By whom? By my office! Who stands up to reply to questions on the LRC? I do. At the Committee of Supply when questions are put by the opposition on the budget of the LRC, who stands up to reply? I do. Who appoints the Chairperson? I do.

*(Interruptions)*

I will come to that. The Chairperson was qualified as being a Chairman *de complaisance*. This cannot be allowed to go lightly. All that the Government is doing is to correct an anomaly in four persons who have representative status. They are not appointed in their own name. That should be clear. They are representatives of their respective organisations. One represents the Bar Council, one represents the Mauritius Law Society, one represents the *Chambre des notaires*, and one represents the Vice-Chancellor of the University of Mauritius and he should be a full-time member of the Department of law. That is black on white in our Statute Books. And these persons come from executive committees of their respective organisations or specific departments where elections are being held every year or for, for example, at the University of Mauritius where the headship of the Department of Law is a revolving appointment. How can these persons pretend that they ought to continue to sit in the LRC, where their nominating institution says they ought to be changed? It has been

suggested in this House that we ought to leave it to the nominating institution to ask them to leave. The Attorney General appoints after consultation with the Bar Council. It has been suggested that the Bar Council ought to remove the person. It is the story of the tail wagging the dog. If we were to listen to the Opposition on all the proposals they put forward in this House, we will give all the decision making powers to the opposition, we will appoint all opposition members in positions of responsibility.

*(Interruptions)*

This is what will happen. Once again, they forget that the Interpretation and General Clauses Act already provides that the power to appoint includes the power to revoke. Nobody has read that law, the Interpretation and General Clauses Act which is on our Statute Books since 1974. Selective reading of the law! This is consistency in argument. Selective reading of the law, nobody has read that the power to appoint includes the power to revoke. I repeat what I stated in my speech at Second Reading.

Once this Bill is passed and once it comes into force, I will hold fresh consultations with those four organisations. After consultations with those four organisations, I will appoint members for two years. The Chairman of the LRC was labelled as a Chairman *de complaisance* by a member of the Bar.

*(Interruptions)*

Oh, yes! Perhaps the junior-most member of the Bar! Chairman *de complaisance*! What is interesting with the Bar and the legal world, Madam Speaker, is that this terminology used will be circulated loud and clear in the legal world and that hon. Member will have to account for it. We all know. And the tough time that you will have to account for such expression for Mr Ramdewar, Senior Attorney, not only at the Bar, but I think even members of the bench.

I do not want to say more on the Law Reform Commission. Suffice it for me to say that the reports of the Law Reform Commission have been brought in argument as if we are in disagreement on each and every report which the LRC put forward. Let me make it clear to Members of the House and to the population! We have no qualms when the LRC makes recommendations one way or the other. In fact, all the reports of the LRC, the Annual Report of the LRC, the audited accounts of the LRC are all public documents. When the LRC even prepares a report, it engages in consultation on its own. Nobody gives any direction which way to consult and which institution not to consult. At no time, do I or any other Member of

Government even think of doing that. We have no qualms whatsoever with their reports, but I hasten to add and repeat, it acts in an advisory capacity and it will continue to do so.

We have been taxed, that I want to - in the words of hon. Dr. Boolell - rule the waves and control the Board of the LRC. How can I even think of controlling a Board which is composed of ex-officio members such as the Director of Public Prosecutions, the Solicitor General, the Master and Registrar, under the chairmanship of a highly respected Senior Attorney like Mr Ramdewar, as if it is only those four appointed persons who constitute the Board. The ex-officio members will continue to be members of the LRC and they will continue to do their job in all independence. Once again, we have had to hear such arguments arising out of a political agenda.

On the Letters of Request, I have made it clear, hon. Gayan has explained and hon. Mrs Selvon also has explained that. Times have changed now compared to what it was in 1985 at the time of the Letters of Request rules. International conventions now govern such issues. I do not want to dwell anymore there. I know hon. Members will read after the debates and find out what we are referring to when we say Hague Convention on Private International Law and the list of conventions, more particularly, the one concerning service of documents and the gathering of evidence. I was under attack as if I was going to use the powers under the Letters of Request rules to go to Kenya, to Dubai and to Hong Kong. I do not need the Letters of Request rules to travel to Kenya or to Dubai for that matter. I am already the central authority under the mutual assistance in Criminal and Related Matters Act. All requests for criminal cases come to the central authority and they come through diplomatic channels. I do not have to travel to Dubai where in fact I have never been save for transit.

So, I want to reassure the hon. Member, I am not going to use the Letters of Request rules to travel around the world. If ever there are requests to be made, we do it the proper way and we do it through the diplomatic channel. You have your sources; you already know how we do it.

I just want to mention, in passing, I had a very good start of the day. Well, that was yesterday, on Tuesday morning. I went to the official opening of the International Conference of the African Association of Prosecutors. I was invited by the learned Director of Public Prosecutions. I believe he is known to you and in the course of the official opening...

*(Interruptions)*

Yes, well-known to you! In the course of the opening ceremony, I was called upon by the Learned Director of Public Prosecutions to launch a practical guide for mutual legal assistance and I was very pleased and honoured to launch the practical guide on mutual legal assistance which was being launched by the Office of the Director of Public Prosecutions. And on the way back to Port Louis, I was flicking through that beautiful publication and therein it encourages informal assistance, in mutual legal assistance between States to combat crime, to exchange evidence and it is a paradox that in the same day, I have to hear the argument that why should the Attorney General exchange evidence or cooperate with other States. It is a paradox, it is an irony.

*(Interruptions)*

I, unfortunately, have to come back to a show that we have had to see tonight, to hear about, once again, arguments built on a political agenda. A lot was made about creating two categories of Barristers in this country. Two categories! I heard that perhaps fifty times, that we are creating two categories of Barristers. Sixty times! Why are we creating two categories?

I refer to the debates in the House of 22 November 2005. The Mauritius Law Society Bill was before the House. It was presented for First and Second Reading by the then Attorney General, Mr Valayden, for the creation of the Mauritius Law Society, and when I read from Hansard, I read -

“Mr S. Mohamed (Third Member for Rivière des Anguilles and Souillac):”

and he makes the point at page 86 of Hansard, I quote –

“I would like to draw the attention of the House also to section 4 of the Act which says that every attorney shall be a member of the society. Recently, I welcomed the decision when I went to the Supreme Court and I saw that the members of the State Law Office no longer sit next to the Judge whilst matters are in progress. For instance, on appeal, when I was there recently, they were on the same bench as the members of the Bar and I found this refreshing. Using the same principle – this is the interesting part - I have read through this Bill. I see that exempt members as per the Schedule are State Attorneys, Senior State Attorneys, Principal State Attorneys and other Attorneys working in the public sector. I have heard the Attorney General say that they shall not, therefore, be subject to this Act as far as disciplinary measures are concerned because they are going to be subject to the rules and regulations of the LGSC PSC. In my

opinion, using the same principle. I believe that if any member who is an attorney is a member of the society. I am sure attorneys will agree therefore that they should be treated equally otherwise we will end up with a situation where if an attorney is responsible for some wrong doing within his profession, the law society that will deal with it may be different to the manner in which the LGSC or the PSC or the JLSC deals with it and we are going to have inconsistency.”

That very argument was repeated with the show tonight, the show because we have Parliamentary TV. What was the decision of the Government then in 2005 when the Mauritius Law Society Bill was presented by the then Attorney General, Mr Valayden. The argument was purely and simply rejected although he was then in his own Government. State Attorneys were made exempt under the Mauritius Law Society. Now we hear the same argument and these were the words of the then Attorney General – at page 77 – exempt Member is specified in the Schedule. It concerns Attorneys who are in employment in the Attorney General’s office who are answerable to the Judicial and Legal Service Commission for professional and disciplinary matters. Similarly, those Attorneys who are in employment in the public service and the local authority are exempted from payment of the membership fee as their terms of office are determined by the Public Service Commission and the Local Government Service Commission respectively. It is as if what I am doing now with the Mauritius Bar Association Act is coming before this House for the first time and the then Attorney General states this also in his second reading speech. He says at page 77, my friend hon. Mohamed did raise the issue with me of ‘exempt member’. I reiterate what I said. To what extent, can political agenda take precedence over sound legal argument? This is what we have seen tonight. This sort of argument and coming from the same hon. Member consistently. I grant him that. He is consistent in putting forward such kinds of arguments; consistent in failing to read the letter of the law and I have more to submit to the House and to the nation as to this consistency of failing to read the letter of the law and let the people of this country judge. Argument was put forward that the Judicial and Legal Service Commission has no disciplinary powers over the law officers of my office. This is called selective reading of the law and pretending that the Constitution is his guide when section 86 of the Constitution clearly states that the appointment and discipline over law officers and law officers are listed in a Schedule to the Constitution rest with the JLSC. This, our framers of the Constitution had put very clearly in order to ensure the total independence of the legal advisers of Government. They come here to pretend as if I wake up every day and write with

my own pen all the advice tendered to Government without consultation with law officers of my office. I even heard in argument, and the recording will bear testimony, that he has got good friends in the Solicitor General's Office as well as the Attorney General's Office as if these two are two different offices. They don't make head or tail how is the State Law Office organised. Never have they bothered to even read the Constitution and know what is the meaning of law officers not only in the Law Officers Act, but also the right of audience of law officers, the right of audience of the Attorney General. Where does it come from? I doubt the hon. Member has read and they have the cheek to come here and accuse Government of all sorts of - my words are failing me. The message I want to put across to the nation is: make a difference between those who want to bring positive change and those who want to protect perpetrators; those persons who are abusing of the Internet, those monsters and the difference will become very clear. Once again, the argument was put forward that I was removing the powers of the Chief Justice under the IJLS Act. Confusion was purposely created to confuse between the sentencing guidelines and the regulations under IJLS Act. The hon. Member even went to the extent of giving an undertaking here that he would repeal the legislation if, by some unlikely event, his party comes to power.

*(Interruptions)*

God forbid. But I would like to see and time will tell whether they will repeal Section 86 of the Constitution. Let him go and read what I am referring to when I say Section 86 of the Constitution. Unfortunately, some Members of this House have never understood what is the principle of hierarchy of norms that the Constitution is the supreme law; it is higher than any ordinary law and that when Section 86 in the Constitution says that discipline of the law officers rests with the JLSC it means what it means. The Bar Council can do what it wants – section 86 is and will remain the higher norm. The sooner they understand that, the better.

I have stated in my speech at Second Reading that we are amending the Mauritius Bar Association Act out of abundance of caution to mention Section 86 of the Constitution because we know some read ordinary law without reference to the Constitution. That is why we, unfortunately, have to put this out of abundance of caution. If we even had to hear the argument under the guise of a pseudo praise that the only interesting part was the possibility given to a magistrate to correct an error in sentencing. What started as a praise ended once again in demagoguery – that seven days is short knowing how cases are heard, by the time the DPP is consulted, the Prosecutor is consulted seven days is too short. He makes abstraction of the fact that under the Bail Act as it is now, if the DPP wants to appeal against a decision



of a Magistrate granting bail, the DPP has 7 days to do so, and it works well. Urgent matters are urgent. 7 days is not being put in the law for the first time, it already exists as a very short delay in urgent matters in the Bail Act. It works well in the legal framework of this country and it involves participation of the Office of the Director of Public Prosecutions as it will be here as well.

Finally, on the question of the concern of so many Members of this House, my learned friends, so much concern for the Judiciary, forget that one of the first attacks using the internet and social media – I say one of the first - in this country was on a Senior Puisne Judge, Mr Sik Yuen, as he then was, in 2006. He was scurrilously attacked by two persons, accused of being corrupt and all that and the attack came through a fake website which was domiciled somewhere in the UK if I remember. But it was in 2006, I remember particularly well. What did they do from 2006 until today? Just to complete the story, those two persons were arrested, they were brought to justice before the Intermediate Court here in Mauritius and they were sentenced. What did they do when they were in Government from 2006, when such attack was levelled against no less a person than the number 2 of the Supreme Court of this country? Nothing! Now, when we toughen the law, when we bring clarity in the definition, they find it objectionable, and we are being accused of attacking the Judiciary, freedom of expression and I cannot believe these arguments.

I will end on a question. I would refer to what hon. Uteem has stated earlier when referring to the judgment of the Supreme Court of India on Freedom of Expression. His advice was that since we are *chota Bharat* in this country, we should pay heed to what the Supreme Court of India says. Yes, we all have a lot of respect for what the Supreme Court of India says. Judgments of the Supreme Court of India are often times cited before our Supreme Court and even before the Privy Council. My question to hon. Uteem is: when the time comes, I will put a question whether he will pay heed to the Judgment of the Supreme Court of India in the five-Judge bench case, in the LGBT case, and when he will have to reply, then I will be sitting in this House and listening to him.

Madam Speaker, I think I have done with the arguments raised on the other side. It was a nice try but tough luck. None of the points raised were worthy. The show that was made, I know, had only one purpose. It is to have a free recording for them to sponsor later and send out to people, and then when you switch on your computers, you have something popping up, recommended for you. We know all that. This free recording that they are getting, once again, is thanks to our decision to set up Parliament TV.

I should acknowledge before I end the very sensible argument of hon. Mrs Selvon who has realised the importance and the dangers associated with this new phenomenon of the offences over the internet, over social media and the destruction that it causes in the lives of ordinary citizens of our country. Once again, Madam Speaker, I want to reassure the population that we are bringing consistently, every week changes in our legislations. It will be for the benefit of the people of this country. In the same way we have brought today the Judicial and Legal Provisions Bill which will bring meaningful change.

Before I end, I want to inform you, Madam Speaker, that I have one very simple amendment which I am going to propose at Committee Stage. It is a typing error, just one letter 's' at page 5 of the Bill and I will make it orally.

With these words, Madam Speaker, I once 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 JUDICIAL AND LEGAL PROVISIONS (No. 2) BILL**

**(No. XVI of 2018)**

*Clauses 1 to 4 ordered to stand part of the Bill.*

*Clause 5(Information and Communication Technologies Act amended)*

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

**Mr Gobin:** Madam Chairperson, I have one typing error to correct. It is one letter 's' to be added in clause 5(b)(i), third line to read as follows: 'which is likely to cause or causes annoyance,'.

*Amendment agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

*Clauses 6 to 14 ordered to stand part of the Bill.*

*The title and enacting clause were agreed to.*

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

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

*Third Reading*

*On motion made and seconded, the Judicial and Legal Provisions (No. 2) Bill (No. XVI of 2018) was read the third time and passed.*

**ADJOURNMENT**

**The Deputy Prime Minister:** Madam Speaker, I beg to move that this Assembly do now adjourn to Friday 09 November 2018 at 3.00 p.m.

**Mr Gayan rose and seconded.**

*Question put and agreed to.*

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

Hon. Uteem!

**MATTERS RAISED**

(2.28 a.m.)

**PORT LOUIS SOUTH & PORT LOUIS CENTRAL – LAW & ORDER**

**Mr R. Uteem (First Member for Port Louis South & Port Louis Central):** Thank you, Madam Speaker. Madam Speaker, I would like to raise a matter addressed to the Rt. hon. Minister Mentor, Minister of defence, Minister for Rodrigues and it concerns the deteriorating situation of law and order in my Constituency, Constituency No. 2, Port Louis.

First, in recent days, there has been an abnormal increase in larceny by breaking and the last two events are two shops which have been burgled at night. But more importantly, there is increase in drug consumption and drug-trafficking happening *au vu et au su de tout le monde*, so much so that the neighbours have affixed a poster on the children's playground saying: '*Avec tout le respect, un grand service arrete jette seringe la.*' I have pictures, but I have not taken them myself, which have been sent to me, which show syringes in children's playground.

So, I would urge whoever is going to report the matter to the Rt. hon. Minister Mentor, so that he can talk to the Commissioner of Police and increase patrols. You do not need to have cars. Vallée Pitot is very small. The policemen can do foot patrol; but have

patrols, please, in order to prevent larceny by breaking and in order to control the proliferation of drugs in my Constituency.

Thank you.

**The Deputy Prime Minister:** The Police, I am sure, are doing their job properly. I will pass the message.

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

#### **BOIS MARCHAND CEMETERY - CHINESE SECTION**

**Mr A. Ameer Meea (Second Member for Port Louis Maritime & Port Louis East):** Thank you, Madam Speaker. The matter I am raising tonight is addressed to the hon. Vice-Prime Minister, Minister of Local Government. It is in relation to Bois Marchand Cemetery, the Chinese section.

Ce qui se passe, bien souvent, au cimetière Bois Marchand, c'est que les tombes sont profanées. Par conséquent, il y a beaucoup de vols de pierre, beaucoup de vols de plomb et les caveaux sont pillés. Je me souviens que j'ai déjà adressé ce problème à travers une question parlementaire l'année dernière, mais, malheureusement, rien n'a été fait. Ajoutant à cela, il y a un problème de sécurité concernant les visiteurs qui sont souvent agressés sur ce lieu et aussi il y a le problème de maintenance, un problème d'éclairage, car l'éclairage au cimetière de Bois Marchand n'est pas adéquat.

So, therefore, Madam Speaker, I will urge the hon. Minister, whoever is replacing the Minister of Local Government, to look into the matter and do needful urgently.

Thank you.

**The Minister of Arts and Culture (Mr P. Roopun):** Madam Speaker, I will convey the remarks of the hon. Member to the substantive Minister.

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

#### **ROSE HILL – SEWER PIPE - DAMAGE**

**Mr Osman Mahomed (Third Member for Port Louis South & Port Louis Central):** Thank you, Madam Speaker. I would like to raise an issue concerning the damage of sewer that was made in Rose Hill, for which the hon. Deputy Prime Minister made a statement earlier, but still, I would like to have a few clarifications from him.

The pipe is 600 mm diameter, very big, five metres deep and where it broke thousands of metre cubes of raw sewage water went into the river, that same river that carries water from Bagatelle Dam to Pailles Sewer Treatment Plant. So, to me, that amounts to almost an environmental disaster and also entails a major public health issue.

So, my point tonight is this has been brought to daylight with *communiqués* three days later. So, my question is what has happened in the meantime? Have people in the regions of Beau Bassin, Coromandel, Rose Hill and Port Louis consumed sewer contaminated water in the meanwhile?

**Madam Speaker:** Hon. Osman Mahomed, at Adjournment Time, you do not ask questions. You make a case to the Minister and ask him to consider, but you do not ask questions, please!

**Mr Osman Mahomed:** Madam Speaker, we are receiving a lot of SMS from Port Louis asking clarification on this.

**Madam Speaker:** No. My point is that at Adjournment Time, questions are not asked. You bring something to the attention of the Minister and leave the Minister to act on it, but you do not ask questions.

**Mr Osman Mahomed:** I am raising the concern and also whether, though the same rivers which are contaminated with sewer, have they been flushed and is water safe for consumption going forward. This is the issue that I wanted to raise.

**The Deputy Prime Minister:** It is perhaps a coincidence that on the day that we passed an amendment to the ICT Act, this sort of rumour finds its way to the Assembly, when we know that this fake news calculated to spread panic in the population has been spread just three minutes after I made my statement in the House, where I made it clear and I was myself on site immediately. Well, within hours of the incident happening, the CWA immediately switched off the Municipal tank, closed Pailles Water Treatment Plant to stop contamination. The water was flushed with Bagatelle water in order to stop all contaminations. There is a laboratory of the CWA which is onsite now, as I speak. Every half hour, water is being monitored and tested. I said it in Parliament when I did my statement because the health of the public is at stake. The Minister of Health is on the alert. I am on the alert. Tomorrow, we are going to contact an independent laboratory apart from the Ministry of Health and CWA. I find it despicable that such rumours can now find its way to such honourable persons.

*(Interruptions)*

In order to safeguard the health of the public...

*(Interruptions)*

You stop it! I am going to defend...

*(Interruptions)*

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

*(Interruptions)*

**The Deputy Prime Minister:** I am answering! I find it despicable. You are using the words of the Attorney General, political agenda, on the health of people. I am giving the guarantee that the health of people will be safeguarded, never mind what you say or do!

*(Interruptions)*

**Madam Speaker:** Hon. Armance!

#### **CITÉ BORSTAL - BUS SHELTER**

**Mr P. Armance (First Member for GRNW & Port Louis West):** Thank you, Madam Speaker...

*(Interruptions)*

**Madam Speaker:** Hon. Armance!

**Mr Armance:** Yes, but he is talking at the same time, Madam Speaker. I have to stop him. He has been talking. Now it is my turn.

**Madam Speaker:** Now, it is up to me to regulate what happens in the House. Make your statement!

**Mr Armance:** My issue is addressed to the hon. Minister of Public Infrastructure and Land Transport and relates to bus shelter. I have often come to the House asking for proper bus shelters in my constituency, namely the regions of Pointe aux Sables, Cité Vallijee, Grande Rivière. I am very thankful to him, the ones at Grande Rivière North West and Vallijee have been done. Today, it particularly concerns the one at Cité Borstal, if he can please have a look at it.

*(Interruptions)*

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

*(Interruptions)*

Please!

*(Interruptions)*

Yes, hon. Bodha, please!

**The Minister of Public Infrastructure and Land Transport (Mr N. Bodha):** I will look into the matter. In fact, my colleague also raised the matter. I will do that as well.

**Madam Speaker:** Hon. Fowdar!

#### **PRIMARY SCHOOLS - DHM & HM - APPOINTMENT**

**Mr S. Fowdar (Third Member for Grand' Baie & Poudre d'Or):** Thank you, Madam Speaker. I would like to raise an issue addressed to the hon. Minister of Education and Human Resources, Tertiary Education and Scientific Research regarding the appointment of headmasters at primary school level.

Madam Speaker, in 2003, the PRB proposed that promotion to the grade of DHM and HM would be made on the basis of seniority, whereas the PRB came back in 2008 to change it and recommended that appointment should be made on the basis of selection. In the meantime, there are 100 DHM and HM who are in waiting for appointment and they are stuck. The matter has been sent to the CCM. Meanwhile, the Ministry of Education has advertised for the posts. So, what I am requesting the hon. Minister is to wait for the outcome of the CCM before going ahead with the filling of vacancies and to look into the matter on a compassionate ground.

**The Minister of Public Infrastructure and Land Transport (Mr N. Bodha):** I will pass on the message to my colleague, Madam Speaker.

**Madam Speaker:** Hon. Dayal!

#### **FLACQ - MARKET FAIR – VENTILATION**

**Mr R. Dayal (First Member for Flacq & Bon Accueil):** My request is addressed to hon. Nandcoomar Bodha, and I would like to express my grateful thanks on behalf of all those who operate in the market fair of Flacq.

The issue of ventilation is of concern, as the market fair of Flacq is a pride to this nation. Every Wednesday, I go there and people question me on the state of affairs. I would humbly request hon. Nandcoomar Bodha to take the issue at the level of his Ministry so that

the project is implemented in a timely manner with allocation of funds. All three elected Members of the constituency will approach the hon. Prime Minister for the appropriate funding.

Thank you.

**The Minister of Public Infrastructure and Land Transport (Mr N. Bodha):** Madam Speaker, we will do so together because the technical solution has been found now. We would need the funds. We will go the Ministry of Finance to find them.

Thank you.

**Madam Speaker:** Hon. Ms Sewocksingh!

#### **LA VIGIE, CUREPIPE – ROUNDABOUT - PRONE ACCIDENT AREA**

**Ms M. Sewocksingh (Third Member for Curepipe & Midlands):** Madam Speaker, the matter is addressed to the hon. Minister of Public Infrastructure. I would like to draw the attention of the hon. Minister that there is a highly prone accident area at La Vigie, Curepipe, near SBM Park. Very often, vehicles coming from the south miss the stop at the roundabout and accidents happen. Very often, they bump into the handrails over there. I would humbly request the hon. Minister to please look into the matter as there are at least two schools there where the pupils very often use this part, and if a site visit can be done as soon as possible.

**The Minister of Public Infrastructure and Land Transport (Mr N. Bodha):** Madam Speaker, I will request the TMRSU and the RDA to do a site visit.

**Madam Speaker:** Hon. Barbier!

#### **PLACE D'ARMES - TAXI STAND**

**Mr J. C. Barbier (Fouth Member for GRNW & Port Louis West):** Thank you, Madam Speaker. My concern tonight is about the taxi stand of Place d'Armes. Madam Speaker, as per provision of the Local Government Act, precisely Part IV - Services of local authorities, sub-section 51, Duties of Municipal and District Council, and referring to paragraph O, I quote –

“(...) the provision and maintenance of traffic centres, including bus stations, lorry stands and stands of other public vehicles (...)”

These are under the authority of the local authorities. Unfortunately, in the past, the TRMSU twice altered, changed or modified the Place d'Armes Taxi Stand, even extending on Farquar



Street. In the past, I intervened at the Municipal Council, which then acted upon it and just removed all the things there and painted the road.

Unfortunately, they recently extended it to a parallel road ahead to the north, that is, Sir William Newton Street. So, they fixed a sign there, indicating that it was Place d'Armes Taxi Stand, on Sir William Newton Street and without the authorisation of the Municipal Council. I have checked with the Municipality of Port Louis and the CEO informed me that this decision has never been taken by the Municipal Council. I talked to the hon. Minister himself and I learned that meanwhile it has been removed.

But still it is being used as taxi stand and the Police are booking drivers, taking *contraventions* to those using this place as parking lots. So, I would request the hon. Minister to see to it that it is reinstated back to - public parking - paying parking lots so that it no more causes inconvenience to the road users. Thank you.

**The Minister of Public Infrastructure and Land Transport (Mr N. Bodha):** Madam Speaker, in fact, we are reviewing the whole traffic management and parking slots of Place d'Armes and the vicinity, and I will liaise with the local authority to see that things are being done.

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

#### **PQS - DOCUMENTS & WRITTEN ANSWERS - SUBMISSION**

**Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East):** Thank you, Madam Speaker. My issue concerns the hon. Minister of Health and your good office, namely that there are 13 PQs for which the written replies have not yet been submitted to the Library.

Secondly, there is a PQ, namely B/469 in May last, where the hon. Minister stated himself that the information is being compiled and that he is looking into the matter. Yet, this also has not been submitted to the Library. So, please use your good office so that these replies may be made available.

**Madam Speaker:** Hon. Members, let me just state that following remarks which have been made in the past by hon. Bhagwan on replies which have not been sent to the Library, we had sent a circular letter to all Ministries so that the replies be sent at the earliest. We have done that at least twice, and we will once again send a circular letter to all Ministries so that we get the necessary replies.

**Mr Abbas Mamode:** Thank you.

**Madam Speaker:** Hon. Rughoobur!

**PETIT RAFFRAY - MULTI-PURPOSE COMPLEX - INAUGURATION**

**Mr S. Rughoobur (Second Member for Grand’Baie & Poudre d’Or):** I have a request for the hon. Vice-Prime Minister and Minister of Local Government.

Madam Speaker, it relates to the inauguration of the multi-purpose complex at Petit Raffray, which is scheduled for the 22<sup>nd</sup>. I have been informed that, yesterday, the Rivière du Rempart District Council - full council - approved the inauguration, and I would request the hon. Vice-Prime Minister and Minister of Local Government to look into the matter. I request not to inaugurate this multi-purpose complex simply because there is no fire certificate yet for this building and, secondly, there is an acute shortage of parking space. So, I don’t think that it is safe for them to inaugurate. I am making a humble request to the hon. Vice-Prime Minister and Minister of Local Government to please look into the issue. I am sure that she will look into it.

**The Minister of Arts and Culture (Mr P. Roopun):** Madam Speaker, I will convey the message to the substantive Minister.

*At 2.48 a.m., the Assembly was, on its rising, adjourned to Friday 09 November 2018 at 3.00 p.m.*

**WRITTEN ANSWERS TO QUESTIONS**

**MBC – FREELANCERS – RECRUITMENT**

**(No. B/939) 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 Mauritius Broadcasting Corporation, he will, for the benefit of the House, obtain therefrom, information as to the number of freelancers presently employed thereat, indicating in each case the –

- (a) date of recruitment;
- (b) monthly salary and benefits drawn;
- (c) posting, and
- (d) nationality thereof.

**Reply:** I am informed by the Officer-in-Charge of the Mauritius Broadcasting Corporation that 154 freelancers are presently employed by the Corporation.

I am further informed that, in all radio and television stations worldwide, the services of resource persons are hired on a freelance basis. This practice has been in force at the MBC for decades. As a matter of fact, freelancers who joined the MBC as far back as in the nineteen sixties are still offering their services to the Corporation.

The Officer-in-Charge of the MBC has further pointed out that freelancers who are offering their services to the Corporation on a sessional basis are most often employed elsewhere on a full-time basis. Their services are resorted to by the MBC because of their expertise and they are paid a freelance fee on a sessional basis.

Since November 2017, the MBC has embarked on a trainee scheme for the enlistment of freelancers through a selection exercise followed by interviews. The trainee freelancers are required to undergo a 6-month on the job training, after successful completion of which their services are retained for a further period of 17 months on a freelance basis. There is no commitment, whatsoever, on the part of the MBC to offer these freelancers employment on a permanent basis. As and when vacancies occur, these freelancers can submit their applications for employment provided they possess the qualifications prescribed for the vacant posts.

The information requested by the hon. Member is being compiled and will be placed in the Library.

#### **FOREIGN DEBTS – REPAYMENT**

**(No. B/940) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien)** 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 Bank of Mauritius, he will, for the benefit of the House, obtain therefrom, information as to the –

- (a) average percentage by which the Mauritian Rupee has depreciated *vis à vis* the US Dollar over the past two years, indicating the impact thereof, if any, on the repayment of the foreign loans, and
- (b) total amount of foreign debts contracted by Government as at September 2018 in the respective currencies, indicating the representation thereof as a percentage of our Gross Domestic Product.

**Reply:** I am informed by the Bank of Mauritius that between end October 2016 and 26 October this year, the indicative Rupee selling rate on average has appreciated *vis à vis* the

US Dollar by about 5.1%. This is broadly in line with the average depreciation of the US Dollar against the Euro on international markets during the same period.

As regards the impact thereof on repayment of foreign loans, I would, in the first instance, like to clarify that repayments of foreign loans are made at the exchange rates prevailing on the respective dates of payment and not at an average rate of exchange.

According to an exercise carried out by the Ministry of Finance and Economic Development, it is estimated that the appreciation of the rupee represents savings to Government of about Rs260 m. over the two-year period. Similarly, the appreciation of the rupee represents savings of about Rs105 m. to public enterprises in respect of payment of their foreign loans.

With regard to part (b) of the question, I am laying in the Library of the National Assembly the total amount of foreign debts contracted by Government as at end September 2018 in the respective currencies and also as a percentage of GDP, as requested by the hon. Member.

The House may recall that total foreign debts of Government as at end December 2014 amounted to Rs51.4 billion, which represented 13.1% of GDP. This has been brought down to Rs42.1 billion, representing 8.8% of GDP, partly through prepayment in January 2017 of an amount of USD 120 million, equivalent to about Rs4.2 billion. The reduction in the level of Government foreign debt has also been the result of the deliberate policy of this Government to rely more on domestic sources to finance its borrowing requirements.

#### **RODRIGUES – SMEs ICT PARK – SETTING UP**

**(No. B/942) Mr J. Leopold (Second Member for Rodrigues)** 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 setting up of a SMEs ICT Park for the ICT/BPO activities (Technopole) in Rodrigues, he will state where matters stand, indicating the expected start and completion dates thereof.

**Reply (The Rt. hon. Minister Mentor):** I shall reply to PQ B/942 as it relates to Rodrigues.

In the context of budget consultations, the hon. Prime Minister had discussions with the Members of the Executive Council of the Rodrigues Regional Assembly (RRA) on the setting up of a new Technopark, during his visit to Rodrigues from 23 to 25 February 2018.

This project aims to provide the best modern infrastructure for ICT related businesses including BPO, Call Centres and Information Technology Outsourcing and the best

environment to attract potential investors willing to invest in this sector in Rodrigues. It is expected that the Technopark will house the following activities –

- (i) Business Product Outsourcing;
- (ii) Disaster Recovery;
- (iii) Call Centres;
- (iv) Information and technology Outsourcing, and
- (v) Training.

On 15 March 2018, Landscape Mauritius Ltd fielded a mission to Rodrigues to assist and hold discussions with the RRA on the Technopark Project and a new site at Baladirou was proposed as the initial site of Pointe Venus Hotel was not found appropriate. On 09 May 2018, Landscape Mauritius Ltd submitted a Master Plan on the proposed Technopark at Baladirou at a preliminary cost of Rs250 m. As per the plan, the Technopark would be on a plot of land of around 7 arpents. The first phase of the project will start with the construction of one iconic G+3 building of around 5,200 m<sup>2</sup> comprising hi-tech facilities.

The hon. Prime Minister, in his 2018/2019 Budget Speech, announced that a Technology Park will be constructed in Rodrigues to promote entrepreneurship and employment in the field of ICT.

I am informed by the Rodrigues Regional Assembly that a Request for Proposal was launched on 10 August 2018 to enlist the services of a consultancy firm to carry out a feasibility study, including preliminary design of the infrastructural works. However, on the closing date of 18 September 2018, no bid was received.

The Ministry of Finance and Economic Development is having discussions with the Development Bank of Mauritius (DBM) and RRA to devise a proper financing model.

The Development Bank of Mauritius is finalising the financial aspects, including the rental rates and mechanisms for the eventual implementation and management of the Technopark. The Economic Development Board will, subsequently, undertake promotion and marketing campaigns so as to attract potential investors. Moreover, a package of incentives to kick-start the project would be proposed to such investors.

The RRA is aiming at initiating construction works before the end of Financial Year 2018/2019. The works are expected to be completed within 24 months.

**HORSE RACE – 26 MAY 2018 - WINNING HORSE – ILLICIT  
SUBSTANCE**

**(No. B/943) Mr G. Lepoigneur (Fifth 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 allegation of doping of horses levelled against a horse groom, one Mr L. L., he will, for the benefit of the House, obtain information as to if an inquiry has been carried out thereinto and, if so, indicate the outcome thereof.

**Reply:** I am informed that, in accordance with established practice, blood and urine samples of winning horses of races are tested by the accredited laboratory. Accordingly, on 01 June 2018, the accredited laboratory notified the presence of an illicit substance in the sample of a winning horse. On the same day, the Mauritius Turf Club (MTC) and the Gambling Regulatory Authority (GRA) verified the identity of the sample proven to contain illicit substance to be that of the winning horse of race No.2 of the 9<sup>th</sup> race meeting held on 26 May 2018. On 01 June 2018, the GRA referred the matter to the Police, which after enquiry, on the same day, arrested one Mr L.L who was the groom responsible for looking after the horse that won the race.

On 02 June 2018, Mr L.L admitted having, on 21 May 2018, injected the winning horse of race No. 2 of the 9<sup>th</sup> race meeting held on 26 May 2018 with an illicit substance. He was, thereafter, provisionally charged for cheating.

On 02 June 2018, Mr L.L appeared before the Bail and Remand Court and was remanded to Police cell. On 12 June 2018, Mr L.L was released on bail by the District Magistrate of Port Louis.

In this particular case, four additional persons, who were involved therein, were arrested and thereafter, released on bail during the period 02 to 11 June 2018.

The inquiry is proceeding.

I am also informed that, in June 2018, the MTC itself opened an inquiry to investigate into the matter. On 16 October 2018, Mr L.L was questioned by the racing stewards of the MTC.

Having admitted to have injected an illicit substance to the winning horse of race No. 2 of the 9<sup>th</sup> race meeting held on 26 May 2018, Mr L.L was charged under MTC Rule 209 (s) (ii) for administering to the horse a prohibited or illicit substance. Mr L.L was warned off indefinitely by the MTC for all horse races and shall have no access to any stable, racecourse, training centre at Floreal and any other places which are under the control of the MTC.

### **FOREIGN NATIONALS – MAURITIAN PASSPORTS**

(No. B/944) **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 foreign nationals, he will, for the benefit of the House, obtain from the Passport and Immigration Office, information as to the number of Mauritian passports issued thereto since April 2016 to date.

**Reply:** Section 3 of the Passports Act provides for the Passport Officer to issue a passport to any citizen of Mauritius who satisfies the conditions as prescribed.

I am informed by the Passport and Immigration Officer that no Mauritian passport has been issued to foreign nationals since April 2016 to date.

### **CAMP DIABLE POLICE STATION – CONSTRUCTION**

(No. B/969) **Mr B. Jahangeer (Third Member for Rivière des Anguilles & Souillac)** asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, in regard to the Project for the Construction of the Camp Diable Police Station, he will, for the benefit of the House, obtain from the Commissioner of Police, information as to where matters stand.

**Reply:** I am informed by the Commissioner of Police that the project for the construction of the Camp Diable Police Station started on 30 June 2017. It was expected to be completed by 27 March 2018.

However, considerable delay was noted in the construction works. Several meetings were held with the contractor to redress the situation. The contractor finally agreed to put additional manpower to accelerate the construction works and to complete the project by the end of November 2018.

As at date, 95% of the project has been completed and it is expected that the building would be handed over to the Police Department by 10 November 2018.

### **MINISTRY OF HEALTH AND QUALITY OF LIFE – MEDICAL SUPERINTENDENTS, SPECIALISTS/SENIOR SPECIALISTS – APPOINTMENT**

(No. B/970) **Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East)** asked the Minister of Health and Quality of Life whether, in regard to the posts of medical superintendents, specialists/senior specialists, specialists known as Consultants and Consultants-in-charge, he will –

- (a) table a list thereof, indicating in each case the –
  - (i) specialty field thereof;
  - (ii) qualifications held, including sub-specialty and the name of university attended, and
  - (iii) date of appointment in the respective post, and
- (b) state the number of vacancies in respect thereof, indicating in each case the –
  - (i) speciality field;
  - (ii) date vacancy occurred, and
  - (iii) expected date of filling thereof.

**Reply:** I wish to inform the House that the detailed information is being compiled and will be tabled as soon as possible.

#### ***POLICE DE L'ENVIRONNEMENT - CONTRAVENTIONS***

**(No. B/971) Mr S. Abbas Mamode (Fourth Member for Port Louis Maritime & Port Louis East)** asked the Minister of Social Security, National Solidarity, and Environment and Sustainable Development whether, in regard to the *Police de l'Environnement*, he will give a list of the location of the offices thereof since the past two years, indicating in each case the number of –

- (a) vehicles attached thereat and Police Officers posted thereto and
- (b) contraventions booked over the past two years, indicating the number of convictions secured for breach of the Environment Protection Act, indicating the offences to which same relate.

**Reply:** The *Police de l'Environnement* operates from six different locations and is serviced by 35 Police Officers of different ranks.

The main office, headed by an Officer-in-Charge of the rank of an Inspector of Police, is located at Ken Lee Tower near Line Barracks in Port Louis, with a strength of 14 Police Officers.

Five regional offices are located as follows –

- 1) Pamplemousses/Rivière du Rempart region, operates from Trou aux Biches Police Station with four Police Officers;
- 2) Moka/Flacq region, operates from Flacq Police Station with five Police Officers;



- 3) Grand Port/Savanne region, operates from Rose Belle District Headquarters with four Police Officers;
- 4) Upper Plaine Wilhems region, operates from ex-Curepipe Police Station with four Police Officers, and
- 5) Black River/Lower Plaine Wilhems region, operates from Rose Hill District Headquarters with four Police Officers.

With regard to part (a) of the question, there are two vehicles attached to the *Police de L'Environnement* at Ken Lee Tower and one vehicle at each of the five regional offices.

With regard to part (b) of the question, 3,854 contraventions have been booked in 2016 and 4,304 contraventions have been booked in 2017 for different offences, including breaches of the Environment Protection Act.

Concerning the number of convictions secured for the past two years, out of the 8,158 abovementioned contraventions, 1,846 offenders have been convicted, 1,858 cases are awaiting a court decision while the enquiry is still in progress in the remaining 4,454 cases.

#### **DECAEN PROJECT – COMPULSORY ACQUISITION**

**(No. B/972) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière)** asked the Minister of Public Infrastructure and Land Transport whether, in regard to the Decaen Project, he will state the number of properties acquired in the wake of the implementation thereof, indicating the –

- (a) names of the owners thereof;
- (b) date of acquisition thereof, and
- (c) amount paid therefor.

**Reply (Minister of Housing and Lands):** I am informed that following the request from the Ministry of Public Infrastructure and Land Transport on 20 October 2016 and 17 April 2017, Government has compulsorily acquired 10 portions of land on 20 & 21 September 2017, 07 December 2017 and 09 February 2018 respectively, for the construction of a Grade Separated Junction along Port Louis- Plaisance Dual Carriageway (M1) at Decaen Street.

Land acquired is of an aggregate extent of 3317.98m<sup>2</sup> and consists of 10 portions which have thereafter been vested in the Ministry of Public Infrastructure and Land Transport on 08 November 2017 and 02 March 2018 respectively.

Following assessment carried out by the Valuation Department, offers of compensation were made to the former owners and tenants, where applicable except for

portion number 10 which belongs to the Sugar Industry Pension Fund Board and which is still being processed.

There are many cases where Government has already obtained title for land acquired compulsorily but no payment has been effected yet as the former owners are not agreeable to the quantum proposed by the Valuation Office.

A decision has been taken at the level of my Ministry that henceforth whenever an offer is made to the owner, the latter will also be informed that he has the possibility of having an interim payment while the case is referred to the Board of Assessment for a final determination.

With regard to the question, I am tabling the required information.

### **MAHEBOURG - VILLAGE TOURISTIQUE PROJECT**

**(No. B/973) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien)** asked the Minister of Tourism whether, in regard to the decision to transform Mahebourg into a tourist village, he will state where matters stand.

**Reply:** As announced at Para. 96 of the Budget Speech 2018/19, Government's vision is to transform Mahebourg into a "Village Touristique" by fully capitalising on its historical potential. The measure is being implemented jointly by my Ministry and the Ministry of Arts and Culture.

The village of Mahebourg was identified for this pilot project given its rich historical and cultural heritage - the National Heritage Fund has identified some 20 historical sites/buildings thereat, out of which eight are already listed as National Heritage Sites.

In this connection, a consultative meeting was held on 13 July last at the Emmanuel Anquetil State Secondary School in Mahebourg with all stakeholders of the tourism industry as well as the general public of the region. It is the wish of Government that the inhabitants feel a sense of ownership and belonging to the project. Some 200 participants attended the meeting, including AHRIM and the Rotary Club of Mahebourg as well as other NGOs.

The AHRIM and the Rotary Club of Mahebourg expressed interest to engage with the Government for the successful implementation of the project. The Rotary Club of Mahebourg informed that it has initiated projects for the development of canoeing and kayaking under the Cavendish Bridge as well as the installation of benches, kiosks and food outlets. Existing features of Mahebourg would be revisited with new facilities for cultural shows. Selected streets would be made solely pedestrian during certain hours to encourage street art, musical performances and sale of handicrafts.

As regards the National Heritage Sites, the renovation of Pointe Canon and the Naval Museum by the Ministry of Arts and Culture is underway.

In parallel, a Clean Up campaign was organised by my Ministry on Sunday 16 September 2018 at Rivière La Chaux with the participation of some Members of the National Assembly, Grand Port District Councillors, Village Councillors, the Special Mobile Force, the National Coast Guard, and the *Forces Vives* of Mahebourg. The Tourism Authority is also conducting renovation works at the Cavendish Bridge, including –

- repainting of the handrails and upper bridge which is expected to be completed by end of October 2018;
- replacement of wooden planks on the walking pathways of the bridge, and
- provision of additional lighting on the bridge and in the adjoining garden in collaboration with the Grand Port District Council.

The Tourism Strategic Plan for 2018-2021 which has been approved by Government in August last, also comprises projects that will contribute in developing Mahebourg into a tourist village and promoting the development of eco-tourism. Those projects that would be completed by 30 June 2019, are –

- a) Embellishment of motorway and roundabouts leading to Mahebourg
- b) Regular cleaning along the banks of Rivière La Chaux.
- c) Embellishment of area around monument at Pointe des Régates.
- d) Installation of CCTV camera for safety and security.
- e) Implementation of parking spaces.
- f) Installation of seven information panels at historical sites in English, French and Mandarin at the following historical sites:
  - Mahebourg Railway Station;
  - Mahebourg Market Fair;
  - The Abreuvoir;
  - Biscuiterie Rault;
  - National History Museum;
  - The Lavoir, and
  - Mahebourg District Court.
- g) Maintenance and upgrading of Tourism Signage in Mahebourg.
- h) Development of a map of Mahebourg for display at strategic locations in the village.
- i) Installation of additional free Wi-Fi hotspots around the village.

Furthermore, on 22 October 2018, the Economic Development Board has launched a Request for Expression of Interest for the Development of the Mahebourg Waterfront into a mixed-use commercial waterfront project. The closing date for submissions is 15 December 2018.

The Mahebourg Village Touristique Project, which aims at diversifying our tourism product portfolio, will be implemented jointly with private sector and the *Forces Vives*. The collaboration of AHRIM is also being enlisted. Members of the public have been invited to submit further proposals to the Ministry, and innovative tourism related projects received are also being given consideration.

### **RADIO & TELEVISION LICENCES (PRIVATE) - APPLICATIONS**

**(No. B/974) Mr R. Bhagwan (First Member for Beau Bassin & Petite Rivière)** asked the Minister of Technology, Communication and Innovation whether, in regard to private radio and television licences, he will, for the benefit of the House, obtain from the Information and Communication Technologies Authority, information as to if it is in presence of applications for the issue thereof and, if so –

- (a) give the list of the applicants and respective date of application, and
- (b) when same will be issued.

**Reply:** I am informed that the Independent Broadcasting Authority (IBA) has invited applications for the grant of Private Commercial Free to Air FM Radio Broadcasting licences on 15 February 2018 with closing date for submission of applications as being 15.00 hrs, 16 March 2018. Seventeen (17) applications have been received and I am laying in the Library of the National Assembly a list thereof.

In line with sections 19(4) and 19(5) of the IBA Act, the IBA published the list of applications received in two dailies, namely *L'Express* and *Le Defi*, for three consecutive days, that is, on 10, 11, and 12 October 2018 and in the Government Gazette on 11 October 2018, inviting the general public to consult the documents in relation to the applications received and to submit objections if any. The period for consultation of documents is from 10 October 2018 to 01 November 2018 and the date limit for the submission of objections is the 01 November 2018.

With regard to part (b) of the question, the statutory delay to grant or to refuse a licence is provided by section 21(1) and 21(2) of the IBA Act. Accordingly, the IBA shall, not later than three months after 01 November 2018, inform the applicants and the objector, if any, of its decision to grant or refuse a Private Commercial Free to Air FM Radio Broadcasting licence.

Concerning television licences, since no communiqué has been issued by IBA for the grant of such licences, no application therefor has been received.

### **IRRIGATION AUTHORITY - COMMITTEE OF INQUIRY - REPORT**

**(No. B/975) Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes)** asked the Minister of Agro-Industry and Food Security whether, in regard to the Irrigation Authority, he will state if the Committee of Inquiry set up to look into the alleged malpractices and mismanagement thereat has now submitted its Report and, if so, give details thereof, indicating –

- (a) when a General Manager will be appointed thereat, and
- (b) if the restructuring or merger thereof with any other parastatal body is being envisaged.

**Reply:** As the House is aware, a Committee of Inquiry has been set up to inquire into various alleged malpractices and mismanagement at the Irrigation Authority.

The Committee of Inquiry started its work as from 12 February 2018 and I am informed that, as at date, the Committee has heard all the deponents and it is now in the process of hearing Management, after which the Report will be finalised.

A team of officers from my Ministry has been designated to oversee the day-to-day operations at the Irrigation Authority.

The appointment of General Manager and restructuring or merging of IA will be considered in due course.

### **SCHOOL HOLIDAYS - ACTIVITIES/EVENTS**

**(No. B/976) Mr K. Tarolah Third Member for Montagne Blanche & GRSE)** asked the Minister of Youth and Sports whether, in regard to the forthcoming school holidays, he will state if his Ministry is considering the holding of sports activities/events for the school children and, if so, give details thereof.

*(Withdrawn)*

### **BEL AIR RIVIÈRE SÈCHE - ABSORPTION DRAIN WORKS PROJECT - IMPLEMENTATION**

**(No. B/977) Mr K. Tarolah (Third Member for Montagne Blanche & GRSE)** asked the Minister of Public Infrastructure and Land Transport whether, in regard to the Absorption Drain Works Project at La Lucie Roy, Bel Air Rivière Sèche, he will, for the

benefit of the House, obtain from the Road Development Authority, information as to where matters stand, as to the implementation thereof, indicating the –

- (a) percentage of completed works, and
- (b) name of the contractor therefor.

*(Withdrawn)*

#### **FLACQ DISTRICT COUNCIL HEADQUARTERS - CONSTRUCTION**

**(No. B/978) Mr K. Tarolah (Third Member for Montagne Blanche & GRSE)** 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 construction of the Flacq District Council Headquarters, she will state where matters stand.

*(Withdrawn)*

#### **BEL AIR – SOCIAL WELFARE CENTRE**

**(No. B/979) Mr K. Tarolah (Third Member for Montagne Blanche & GRSE)** 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 Social Welfare Centre of Bel Air, she will state if consideration will be given for the construction of a new complex in replacement of the existing old one.

*(Withdrawn)*

#### **COTE D'OR MULTISPORTS COMPLEX - CONSTRUCTION**

**(No. B/980) Mr G. Lepoigneur (Fifth Member for Beau Bassin & Petite Rivière)** asked the Minister of Youth and Sports whether, in regard to the Cote d'Or Multisports Complex, he will state where matters stand as to the construction thereof, indicating the competitions which will be held thereat for the *Jeux des Iles de l'Océan Indien*.

**Reply:** As I had stated in a PNQ earlier this year, it was in November 2015 that Mauritius was entrusted the responsibility of hosting the 10<sup>th</sup> edition of the Indian Ocean Islands Games (IOIG).

Conscious of the challenges and time constraints, Government decided to work on two fronts: in addition to the upgrading and renovation of existing sites, it was felt that Mauritius should have a state-of-the-art sports complex, in line with its ambition to develop a sports hub in Mauritius and play a leading role in sports development in the region.

Accordingly, in order to fast-track the construction of that state-of-the-art sports complex, Government decided to create the Mauritius Multisports Infrastructure Limited – a company limited by shares as a Special Purpose Vehicle (SPV), and entrusted it with the whole responsibility for the project.

I am informed by MMIL that they are satisfied with the pace and progress of works. I can inform the House that I myself carried out a site visit over there last week.

Moreover, we expect the works to accelerate in the coming weeks.

As regards the second part of the question, I wish to inform the House that the *Comité d'Organisation des 10èmes Jeux des Iles de l'Océan Indien* (COJI) intends to hold some events at Cote d'Or for the 2019 IOIG. However, a final decision will be taken by end of this year.

#### **MAURITIUS JUDO FEDERATION – SPECIAL CARETAKER COMMITTEE**

**(No. B/981) Mr G. Lepoigneur (Fifth Member for Beau Bassin & Petite Rivière)** asked the Minister of Youth and Sports whether, in regard to the caretaker committee of the Mauritius Judo Federation, he will, for the benefit of the House, obtain therefrom, information as to the amount of money disbursed since January 2017 to date, in terms of –

- (a) overseas missions, indicating the cost incurred in terms of air fares and per diem allowances, and
- (b) fees paid for forensic audit.

**Reply:** I propose to give a combined reply to PQ B/981 and B/982.

No overseas missions have been undertaken by the Special Caretaker Committee of the Mauritius Judo Federation from January 2017 to date.

The forensic audit was conducted by Nexia Baker and Areson. The contract amount was Rs425,500 and was paid by the Mauritius Olympic Committee and my Ministry.

As regards the number of new clubs registered with the Mauritius Judo Federation from January 2017 to date, there are only 16 new clubs which have been registered with the Federation. Insofar as the list of office bearers of each club, I would advise the hon. Member to consult the list at the Registrar of Associations.

### **MAURITIUS JUDO FEDERATION - CLUBS**

**(No. B/982) Mr G. Lepoigneur (Fifth Member for Beau Bassin & Petite Rivière)** asked the Minister of Youth and Sports whether, in regard to the Mauritius Judo Federation, he will, for the benefit of the House, obtain therefrom, information as to the number of new clubs that have been registered therewith since January 2017 to date and table the list of the office bearers of each new club.

*(Vide reply to PQ B/981)*

### **PUBLIC SECTOR – RECRUITMENT - DELEGATED POWERS**

**(No. B/983) Mr A. Ganoo (First Member for Savanne & Black River)** asked the Minister of Labour, Industrial Relations, Employment and Training whether, in regard to the officers recruited in the public sector through delegated powers over the past year, he will state the number thereof –

- (a) who were employed thereunder and who have been registered with his Ministry in 2016, 2017 and 2018 respectively, and
- (b) presently registered at the unemployment office since the past -
  - (i) 10 years;
  - (ii) 5 years, and
  - (ii) 20 years.



**Reply:** According to records, 1,214 jobseekers were recruited in the public sector, through delegated powers, for the financial year 2017-2018. Out of this number, 87 had registered with my Ministry in 2016, 48 in 2017 and one registered in 2018.

Regarding part (b) of the question, it is to be noted that jobseekers, after registering themselves, are requested to maintain regular registration for update of their application thrice yearly. Otherwise, they are automatically deregistered by the Labour Market Information System. Hence, the numbers below reflect those persons who are presently registered with the Employment Service and who have maintained regular registration for the past years -

- (i) 603 persons since the past 10 years;
- (ii) 412 persons since the past 15 years, and
- (iii) 68 persons since the past 20 years.

#### **HOMICIDES - SENTENCES**

**(No. B/984) Mrs D. Selvon (Second Member for GRNW & Port Louis West)** asked the Rt. hon. Minister Mentor, Minister of Defence, Minister for Rodrigues whether, following the recent violent and atrocious murders, he will state if consideration will be given for the advisability of –

- (a) making provision for harsher and more severe sentences that should be mandatorily imposed for specific types of homicides, particularly, against babies and other very young children, and
- (b) introducing incompressible full life sentences for perpetrators of domestic violence resulting in homicide?

**Reply:** I am informed that under Sections 222 and 223 of the Criminal Code, the penalties for murder and manslaughter respectively are as follows -

Section 222 provides that -

- “(1) Any person who is convicted of -
  - (a) murder or murder of a newly born child, shall be sentenced to penal servitude for life or, where the Court is satisfied that

substantial and compelling circumstances exist which justify the imposition of a lesser sentence and has entered those circumstances on the record of the proceedings, for a term not exceeding 60 years;

- (b) attempt at murder or attempt at murder of a newly born child, shall be liable to penal servitude for life or, where the Court is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence and has entered those circumstances on the record of the proceedings, for a term not exceeding 60 years.
- (2) Any woman guilty of infanticide shall be liable to penal servitude for a term not exceeding 35 years.
- (3) Any woman guilty of attempt at infanticide shall be liable to penal servitude.”

Section 223 provides that -

- “(1) Any person guilty of manslaughter preceding, accompanying or following another crime shall be liable to penal servitude for life or, where the Court is satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence and has entered those circumstances on the record of the proceedings, for a term not exceeding 60 years.
- (2) Any person who attempts to commit manslaughter in the cases mentioned in this section shall be liable to penal servitude.
- (3) In every other case, a person guilty of manslaughter shall be liable to penal servitude for a term not exceeding 45 years.”

It can be seen that the sentence of penal servitude for life is already the maximum sentence that may be imposed by a Court of Law on a charge of murder that is where there is premeditation, infanticide and manslaughter where there is intention to kill but no premeditation.

A harsher maximum sentence can only be the death penalty but this possibility does not exist since the passing of the Abolition of Death Penalty Act in 1995, in Mauritius. Moreover, there is unequivocal consensus among the various human rights movements across the world that death penalty is a major violation of human rights.

Sentencing is a matter for the Courts to decide ultimately and therefore, it is for the Court to assess the gravity of an offence and impose an appropriate sentence. The Court has, in fact, imposed heavy penalties for manslaughter, for example, in 2017 and 2018 the Court has imposed sentences ranging from 23 years to 33 years on average in cases of manslaughter.

It is to be noted that homicides perpetrated against babies are treated as murder with the highest sentence being life sentence. If circumstances exist to justify the imposition of a lesser sentence, the maximum that can be imposed is 60 years.

As regards part (b) of the question, I am informed that there is no such thing as an incompressible life sentence. The introduction of life sentences for perpetrators of domestic violence resulting in homicide is unnecessary, as life sentence is the maximum one which already applies to murder and manslaughter cases.

#### **ST GEORGE CEMETERY - INFRASTRUCTURAL WORKS**

**(No. B/985) Mr J. Barbier (Fourth Member for Grand River North West & 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 St George Cemetery at Richelieu, she will state –

- (a) the number of tombs that will be affected by the infrastructural works ongoing thereat, giving details thereof, and
- (b) if all the stakeholders were informed accordingly and, if not, why not.

*(Withdrawn)*

#### **TERASSON & POINTE AUX SABLES – SEWERAGE NETWORK PROJECT - IMPLEMENTATION**

**(No. B/986) Mr J. Barbier (Fourth Member for GRNW & Port Louis West)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the sewerage network project in Terasson and Pointe aux Sables, he will, for the benefit of the

House, obtain from Wastewater Management Authority, information as to where matters stand as to the implementation thereof.

*(Withdrawn)*

#### **PLACE D'ARMES – TAXI STAND**

**(No. B/987) Mr J. C. Barbier (Fourth 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 Taxi Stand at Place d'Armes, she will, for the benefit of the House, obtain from the Municipal Council of Port Louis, information as to if an illegal extension thereof on the Sir William Newton Street has been carried out, indicating if consideration will be given for the immediate removal thereof.

*(Withdrawn)*

#### **MAURITIUS SOCIETY OF AUTHORS – DIRECTOR – SUSPENSION**

**(No. B/988) Mr J. C. Barbier (Fourth Member for GRNW & Port Louis West)** asked the Minister of Arts and Culture whether, in regard to the Director of the Mauritius Society of Authors (MASA), he will, for the benefit of the House, obtain from the MASA, information as to –

- (a) the financial benefits that have accrued thereto and other expenditure incurred in relation thereto since the suspension thereof, and
- (b) where matters stand as to the inquiry being carried out in relation thereto.

*(Withdrawn)*

#### **FINANCIAL SERVICES COMMISSION – CHIEF EXECUTIVE OFFICER – APPOINTMENT**

**(No. B/989) Mr D. Ramful (Third Member for Mahebourg & Plaine Magnien)** asked the Minister of Financial Services and Good Governance whether, in regard to the Chief Executive Officer of the Financial Services Commission, he will, for the benefit of the House, obtain from the Commission, information as to the terms and conditions of appointment thereof, indicating the total monthly pay packet and a detailed breakdown of the overseas missions undertaken by him since his appointment to date, including, the purpose and costs thereof.

*(Withdrawn)*

### **VEHICLES (RECONDITIONED) – IMPORTATION**

**(No. B/990) Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes)** asked the Minister of Industry, Commerce and Consumer Protection whether, in regard to the severely accident reconditioned vehicles imported from overseas, he will state –

- (a) the number of buyers thereof who have suffered prejudices following the acquisition thereof, since January 2015 to date, indicating the number of cases referred to the Police for investigation;
- (b) if consideration will be given for his Ministry to impress upon auction companies to post their auction sheet online to avoid forgery, and
- (c) if deposit bank guarantees of offending showroom owners would be used to compensate the victims thereof.

**Reply:** I wish to inform the House that, according to records available at my Ministry, there has been no case of severely accident reconditioned vehicles imported from overseas and hence no such case has been referred to the Police.

Regarding part (b) of the question, auction companies in Japan generally issue their auction sheets in Japanese. With the introduction of the new Consumer Protection (Control of Imports) Regulations 2017 in force since August 2017/January 2018, the pre-shipment inspection bodies have to obtain a certified translated copy of the auction sheet in English from an organisation approved by the Ministry of Economy, Trade and Industry of Japan.

Regarding part (c) of the question, as at date there has been no case where the bank guarantee submitted by showroom owners has been used. If the need so arises in the future, the bank guarantee will be used to compensate the victims.

### **CEB (GREEN ENERGY) CO. LTD – LOAN**

**(No. B/991) Mr A. Ganoo (First Member for Savanne & Black River)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the CEB Green Energy Co. Ltd., he will, for the benefit of the House, obtain therefrom, information as to –

- (a) the funds allocated thereto by the CEB, and
- (b) if it is domiciled within the premises of the CEB.

**Reply:** With regard to part (a) of the question, I am informed by the Central Electricity Board that it has provided to its subsidiary, CEB (Green Energy) Co. Ltd, an advance of Rs37,339,623.00 to be subsequently converted into loan.

The loan will be repayable over a period of 15 years, as from the fourth year. It is interest free.

From this sum, an amount of Rs26,982,825 has been earmarked for three projects, namely the 2 MW solar farm at Henrietta (Phase 1), the 100 solar kits for the Home Solar project and 1000 solar kits for SME's. The remaining is earmarked for administrative expenses. These amounts span over a period starting 30 June 2017 and ending 30 September 2018.

As regards part (b) of the question, the principal office of CEB (Green Energy) Co. Ltd is within the premises of the CEB. It will be relocated as soon as suitable accommodation is identified.

#### **CEB (FIBRENET) CO. LTD – LOAN**

**(No. B/992) Mr A. Ganoo (First Member for Savanne & Black River)** asked the Deputy Prime Minister, Minister of Energy and Public Utilities whether, in regard to the CEB Fibre Net, he will, for the benefit of the House, obtain therefrom, information as to –

- (a) the funds allocated thereto by the CEB, and
- (b) if it is domiciled within the premises of the CEB.

**Reply:** With regard to part (a) of the question, I am informed by the Central Electricity Board that it has provided to its subsidiary, CEB (Fibernet) Co. Ltd, an advance of Rs230 m. The advance will be converted into a loan repayable over fifteen years as from the fourth year with interest based on Repo Rate (currently at 3.5%).

From this amount, a sum of Rs191,446,026 has been earmarked for projects, namely backbone Optical Ground Wire Network and contribution to METISS for international connectivity. A sum of Rs18,994,047 is earmarked for administrative expenses. These amounts span over a period starting 30 June 2017 and ending 30 September 2018.

As regards part (b) of the question, the principal office of CEB (Fibernet) Co Ltd is within the premises of the CEB, Ebene. It will be relocated as soon as suitable office space is identified.

#### **VILLAGE COUNCIL ELECTIONS - HOLDING**

**(No. B/994) 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 Village Council Elections, she will state when same will be held.

**Reply:** I wish to inform the House that Section 12(1) of the Local Government Act 2011 as subsequently amended by Act No. 3 of 2015, provides for Village Council Elections to be held in 2012 and thereafter every 6 years or in such other year, and at such date, as the President shall, on the advice of the Prime Minister appoint. The last village council elections were held on 02 December 2012. As such, the prerogative for the holding of the Village Council Elections lies with the Prime Minister.

### **FISHERMEN COOPERATIVE SOCIETIES - SEMI-INDUSTRIAL FISHING BOATS - GRANT**

(No. B/995) Mr P. Armance (First Member for GRNW & Port Louis West) asked the Minister of Ocean Economy, Marine Resources, Fisheries and Shipping whether, in regard to the proposed Grant Scheme for the purchase of semi-industrial fishing boats, he will state the number of applications therefor received at his Ministry since the implementation thereof to date, giving a list of the beneficiaries thereof, including the quantum of funds disbursed in each case.

**Reply:** I wish to inform the House that the said Grant Scheme is provided to the Fishermen Cooperative Societies for the acquisition of Semi-Industrial Fishing Boats fitted with inboard engine and all navigation, communication, safety and fishing equipment.

Financial assistance is provided in the form of a grant of 50% of the cost of the Semi-Industrial Fishing Boats up to a maximum amount of Rs4 m. per fishermen cooperative society.

Since the implementation of the grant scheme, 11 applications have been received to date of which only five met the eligibility criteria to qualify for the grant. However, the application for the fifth promoter was subsequently turned down as he changed the originally approved project.

The number of beneficiaries and funds disbursed as grant to each beneficiary are as follows –

SN	Beneficiary	Grant amount (million Rs.)	Boat constructor	Remarks
1	Mardrin Offshore Fishermen Cooperative Society Limited	4	Japan	Boat registered on 07 Feb 2018 and already effected two fishing trips.

2	Yeye Offshore Fishermen Cooperative Society Limited	4	Sri Lanka	Promoter in Sri Lanka at present and is expected to bring the boat to Port Louis shortly.
3	New Vision Offshore Fishermen Cooperative Society Limited	3.775	India	Due to constraint in the construction of the boat in Sri Lanka, the promoter shifted to India to look for another boat builder. The Letter of Intent has been extended.
4	Collette Blanche Offshore Fishermen Cooperative Society Limited	4	Sri Lanka	Boat is under construction in Sri Lanka and will be delivered at Port Louis in February 2019.
5	Babul Offshore Fishing Cooperative Society Ltd	NA	Mauritius	The application was turned down as the promoter changed the originally approved project.
<b>TOTAL</b>		<b>15.775</b>		

As at date, a total of Rs15.775 m. has been credited to MauBank Ltd to finance the construction of boats in favour of the four promoters.

### **FISHING INDUSTRY - ELECTRONIC CATCH REPORTING SYSTEM**

**(No. B/996) Mr P. Armance (First Member for GRNW & Port Louis West)** asked the Minister of Ocean Economy, Marine Resources, Fisheries and Shipping whether, in regard to the implementation of the new Electronic Catch Reporting System, he will state where matters stand.

**Reply:** In January 2018, bids were invited from service providers, through the Restricted Bidding Method for the Supply, Installation, Testing and Commissioning of an Electronic Reporting System. The potential bidders were –

- (i) Globavista Limited;
- (ii) Satellite Air Time, and
- (iii) Collecte Localisation Satellites.



The closing date for submission of bids was initially on 19 February 2018, which was extended up to 05 March 2018 due to queries set by bidders. Subsequently, only one bidder submitted his proposal, namely the Collecte Localisation Satellites (CLS).

A Bid Evaluation Committee (BEC) was set up to evaluate the bids. The BEC noted that the CLS complied with all mandatory requirements and was retained for the technical evaluation. The BEC noted that the CLS met all the technical requirements as well. Then the bid was recommended for financial evaluation.

The BEC found that the bid price of approximately Rs11 m. was 36% higher than the estimated cost of Rs8 m. It was, therefore, recommended that –

- (i) the bidding exercise be relaunched;
- (ii) the user department be requested to submit updated specifications if applicable, and
- (iii) arrangements be made for additional funds that would be required to procure this service.

The sum of Rs11.5 m. has now been earmarked for the next tendering exercise. The bid has been relaunched on 01 October 2018 and the closing is on 05 November 2018.

### **NINE YEAR CONTINUOUS BASIC EDUCATION PROGRAMME - GRADE 7 – ACADEMIC YEAR 2018**

**(No. B/997) Mr V. Baloomoody (Third Member for GRNW & Port Louis West)** asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the extended stream of Grade 7 within the Nine Year Continuous Basic Education Programme, she will state the number of students concerned therewith in academic year 2018, indicating if –

- (a) the teachers who are called to deal with these students have been appropriately trained therefor and
- (b) after completion of the academic year these students have satisfied the minimum requirement to join Grade 7?

*(Withdrawn)*

### **EMPLOYMENT RELATIONS ACT & EMPLOYMENT RIGHTS ACT - AMENDMENTS**

**(No. B/998) Mr V. Baloomoody (Third Member for GRNW & Port Louis West)** asked the Minister of Labour, Industrial Relations, Employment and Training whether, in regard to the Ministerial Committee set up to consider proposed amendments to be brought to the Employment Relations Act and the Employment Rights Act, he will state the date of the last meeting thereof, indicating the expected date of introduction of the proposed amendments in the House

*(Withdrawn)*

### **PETS - QUARANTINE**

**(No. B/999) Dr. A. Boolell (Second Member for Belle Rose & Quatre Bornes)** asked the Minister of Agro-Industry and Food Security whether, in regard to pets, he will state if consideration will be given for a review of the criteria for the quarantine thereof.

**Reply:** I have been informed that in regard to pets the criteria for the quarantine are based on the World Organisation for Animal Health (OIE) International norms, whereby entry of specific diseases, especially of zoonotic importance is safeguarded against.

As such, a review of the criteria is not on the agenda for the time being.

### **SSR INTERNATIONAL AIRPORT – TERMINAL - FOOD & BEVERAGES OUTLETS**

**(No. A/17) 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 Airport Terminal Operations Ltd./ Airports of Mauritius Ltd., he will, for the benefit of the House, obtain therefrom, information as to, since January 2015 to date, the names and designation of the companies/individuals which/who operate food and beverage counters at the arrival, departure and the departure hall after immigration counters, indicating in the case of the companies the –

- (a) names of the shareholders thereof;
- (b) space allocated thereto, and
- (c) total amount of rent payable and in arrears.

**Reply:** The requested information in respect of the operation of food and beverages counters at the arrival, departure and the departure hall after immigration counters since January 2015 to date is as indicated in the table below -

<b>Operation of Food and Beverages Outlets in the Terminal at the SSR International Airport</b>				
<b>Location</b>	<b>Name and Designation of Companies/ Individuals</b>	<b>Shareholders</b>	<b>Space Allocated (m<sup>2</sup>)</b>	<b>Total amount of rent payable (concession fee) and arrears (Rs)</b>
Arrival Hall	Healthy Meals Ltd	1. Mr A. Moussa Rawat  2. Mr H. Moussa Rawat	▪ 62.5	▪ Minimum Guarantee Fee of Rs60,000 monthly; or ▪ 15% of turnover, whichever is higher. Arrears: Nil
Departure Hall	Airway Coffee Ltd (Outlet 1)	Mrs Nandanee Soornack	▪ 355.24	▪ Minimum Guarantee Fee of Rs3,130,000 monthly for 3 outlets; or ▪ 28% of turnover, whichever is higher.  ▪ Ceased operation in January 2017.  Arrears: Rs94,993,065.70
	Posseidon Ltee	Lux Island Resorts Ltd	▪ 91	▪ Minimum Guarantee Fee of Rs115,000 monthly in year 1 up to Rs150,000 monthly in year 4;

				<p>or</p> <ul style="list-style-type: none"> <li>▪ 15% of turnover, whichever is higher.</li> </ul> <p>Arrears: Nil</p>
	Tropical Times Ltd	<ol style="list-style-type: none"> <li>1. Mr T. Purmessur</li> <li>2. Mr N. Manic</li> </ol>	<ul style="list-style-type: none"> <li>▪ 91</li> </ul>	<ul style="list-style-type: none"> <li>▪ Minimum Guarantee Fee of Rs90,000 monthly;</li> <li>or</li> <li>▪ 16% of turnover, whichever is higher.</li> </ul> <p>Arrears: Nil</p>
Departure Hall after Immigration	Airway Coffee Ltd (Outlet 2 & 3)	Mrs Nandanee Soornack	<ul style="list-style-type: none"> <li>▪ 710</li> <li>▪ 30 (Domestic Departure)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Included in the Airway Coffee Ltd (Outlet 1) concession fee above.</li> <li>▪ Ceased operation in September 2016.</li> </ul>
	Corpxcel Ltd	Diamoda Foods Co Ltd	<ul style="list-style-type: none"> <li>▪ 150</li> </ul>	<ul style="list-style-type: none"> <li>▪ Minimum Guarantee Fee of Rs400,000 monthly for the 1<sup>st</sup> year and to increase up to Rs600,000 monthly in year 5;</li> <li>or</li> <li>▪ 20% of turnover Year 1 to 24% of turnover Year 5, whichever is higher.</li> </ul> <p>Arrears: Nil</p>
	Green Better (Mtius) Ltd	<ol style="list-style-type: none"> <li>1. Michael Wong Kong Luong</li> <li>2. Standard Solar Engineering</li> </ol>	<ul style="list-style-type: none"> <li>▪ 110</li> </ul>	<ul style="list-style-type: none"> <li>▪ Minimum Guarantee Fee of Rs275,000 monthly in year 1 and up to Rs440,062 monthly in year 5;</li> <li>or</li> </ul>

		System Ltd		<ul style="list-style-type: none"> <li>▪ 18% of turnover year 1 to 22% of turnover in year 5.</li> </ul> <p style="text-align: right;">Arrears: Nil</p>
	Posseidon Ltee (Contingency Outlet)	Lux Island Resorts Ltd	<ul style="list-style-type: none"> <li>▪ 169</li> </ul>	<ul style="list-style-type: none"> <li>▪ 15% of turnover</li> <li>▪ Ceased operation in September 2017.</li> </ul> <p style="text-align: right;">Arrears: Nil</p>
	Tropical Times Ltd (3 Contingency Outlets)	<ol style="list-style-type: none"> <li>1. Mr T. Purmessur</li> <li>2. Mr N. Manic</li> </ol>	<ul style="list-style-type: none"> <li>▪ 110</li> <li>▪ 16</li> <li>▪ 28</li> </ul>	<ul style="list-style-type: none"> <li>▪ 16% of turnover</li> <li>▪ Will cease operation in November 2018</li> </ul> <p style="text-align: right;">Arrears: Nil</p>
	Healthy Meals Ltd (Contingency Outlet)	<ol style="list-style-type: none"> <li>1. Mr A. Moussa Rawat</li> <li>2. Mr H. Moussa Rawat</li> </ol>	<ul style="list-style-type: none"> <li>▪ 24</li> </ul>	<ul style="list-style-type: none"> <li>▪ 15% of turnover</li> <li>▪ Had to cease operation on 19 September 2018</li> <li>▪ Case in court - dispute</li> </ul> <p style="text-align: right;">Arrears: Nil</p>

**MEMBERS OF PARLIAMENT (FORMER) - MR N. V. M. & MR C. L -  
OVERSEAS MISSIONS**

(No. A/18) Mr J. Leopold (Second Member for Rodrigues) asked the Prime Minister, Minister of Home Affairs, External Communications and National Development Unit, Minister of Finance and Economic Development whether, in regard to Mr N. V. M. and Mr C. L., former Members of Parliament, he will state the overseas missions effected by them since 2010 to December 2014, indicating in each case the –

- (a) countries visited, and
- (b) cost incurred in terms of airfares and *per diem* allowances.

**Reply:** Information regarding overseas missions undertaken by Mr N. V. M. and Mr C. L., former Members of Parliament for period 2010 to December 2014, as requested by the hon. Member, is being laid in the Library of the National Assembly.

**MAURITIAN ARTISTS - INTERNATIONAL TRAVEL GRANT SCHEME -  
BENEFICIARIES**

(No. A/19) Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière) asked the Minister of Arts and Culture whether, in regard to the International Travel Grant Scheme for overseas participation of Mauritian Artists, he will give a list of the beneficiaries thereunder, since January 2017 to date, indicating in each case the purposes therefor and quantum allocated thereto.

**Reply:** The list of beneficiaries under the International Travel Grant, purpose and quantum of grant allocated in each case are submitted as hereunder –

Sn	Period	Beneficiaries	Purpose	Quantum allocated (Rs)
1	31 January to 06 February 2017	Hosanee Shabir Abdel Dilshaan	Participation in 12 <sup>th</sup> International Visual Arts Workshop and Exhibition Bangkok, Thailand	25,315
2	29 June to 02 July 2017	1. Cateaux Jacques Richard Elvis (applicant)  2. Brooklyn Morowa 3. Emily Wong Yuen 4. Juliette Fayolle 5. Cheelvan Cunniapen 6. Olivier Perrault 7. Mathieu Cateaux 8. Lucas Julie	Participation in World Inline Figevre Skating Association (WIFSA) Festival, France	200,000

3	22 to 29 July 2017	<p>1. Saramandif Georgy Hensley (Steel Grooving Band)</p> <p>2. La Douceur Jean Clement Leeroy</p> <p>3. Leckraj Dassaye</p> <p>4. Venkadu Emmanuel Stephan</p> <p>5. Speville Jean Ashley</p> <p>6. Martin Andy Jean Dylan</p>	Participation in 20 <sup>th</sup> International Folklore Festival, Velico Tarnovo, Bulgaria	200,000
4	05 to 06 August 2017	Krishan Dosieah	Jadu Utsav International Magic Festival - The Indian Brotherhood of magician (regd) - Karampura, New Delhi Magic Festival, India	30,100
5	13 February to 02 March 2018	Dhaby Joshila	Participation in Street Studies Urban Arts Festival, Ringsted, Denmark	34,653
6	02 to 04 March 2018	<p>1. Olsen Philippe Nils Paul</p> <p>2. Jean Michel Ringadoo</p> <p>3. Veronique Zuel Bungaroo</p> <p>4. DJ Deann Nookadu</p> <p>5. Dariana Aumeerally</p> <p>6. Melanie Amboule</p>	Participation in Classical Music association of Ghana Music Festival, Ghana	200,000
7	12 to 15 April 2018	<p>1. Wiillequet Jeann Luc (applicant)</p> <p>2. Annick Clarisse</p>	Participation in Ubuntu Festival, South Africa	145,684

		3. Dominique Clarisse 4. Veronique Clarisse		
8	25 to 27 May 2018	1. Nayna Jean Hans (applicant) 2. Maurer Julian Evans 3. Desvaux Laval Patrick 4. Reine de Carthage Roberto 5. Payet Emeric Sacha Yann 6. Auckbarallee Sheik Jaull	Participation in 5 <sup>th</sup> Edition of Libertalia Music Festival - Nosy be, Madagascar	144,936
9	14 to 22 August 2018	L'Eveille E.F Kristen	Participation in Summer Dance Forever 2018 Amsterdam, Netherlands	48,989
10	31 August to 05 September 2018	Chooramun Dev Anand	Participation in 18th Asian Art Biennale Bangladesh	35,194
11	06 to 21 September 2018	1. Peroomarll Marday (applicant) 2. Aryadassy Canadasaby 3. Rasika Priya Mooneapillay	Participation in Veena Mahotsavam, India	45,600

### SCHOOLS - INDISCIPLINE & VIOLENCE

(No. A/20) Mr F. Quirin (Fourth Member for Beau Bassin & Petite Rivière) asked the Minister of Education and Human Resources, Tertiary Education and Scientific Research whether, in regard to the recurrent acts of violence in secondary schools in which students and teachers are involved, she will state the number of cases thereof reported to her Ministry since January 2016 to date, indicating the actions taken in relation thereto in each case.

**Reply:** I have been informed that some 17 cases of violence involving students and teachers of some 178 State and Private Secondary schools, across the four educational zones, have been reported since January 2016 to date.



At the outset, I wish to point out that indiscipline and violence in schools is a matter of concern worldwide. The potential causes of such behaviour are diverse and range from out-of-school dynamics, school leadership and culture to parental responsibility.

The security of our students and school personnel within the school premises has been at the heart of our concern. The Ministry is committed to providing a safe and conducive environment for teaching and learning to take place in the best conditions. We have put in place a structured mechanism and protocol at the level of schools for reporting and dealing with acts of indiscipline and violence and for follow-up and monitoring.

A Student Behaviour Policy has thus been elaborated after consultation with stakeholders, for guidance of schools on how to, *inter alia*, handle and follow up on cases of aggressive behaviour and to reinforce the authority of schools in acting against indiscipline, with a view to promoting high behaviour standards among students.

Furthermore, our Educators have been exposed to standards of ethical behaviour and to be role models for their students. In addition, the Ministry has taken a series of actions, at different levels, to deal with undisciplined behaviour and to reinforce security in schools, namely –

- Institutional Networking and collaborative partnership with several stakeholders such as Police, CDU, Brigade pour la Protection des Mineurs, Life Plus, etc.
- Setting up of Student Care and Counselling Desk in State Secondary Schools to provide necessary support to students facing emotional and other psychological problems with a view to promoting positive behaviours through listening and supporting students and the training of Educators involved in providing these services.
- A strong focus on value-based education and life skills in the school curriculum.
- Helping pupils better manage their emotions through the implementation of the social and emotional well-being programme.
- Reinforcing the National Education and Counselling Unit through the recruitment of additional Educational Psychologists and Educational Social Workers at the level of the Ministry and PSEA.
- Provision of a Discipline Master in schools to further strengthen the security, control and discipline within and in the vicinity of the school is being envisaged.

- Setting up of pastoral care committees to support students with negative behaviour.
- Disciplinary committees to look into actions to be taken against students involved in cases of indiscipline and violence.
- Sensitisation of students by the NECS staff.
- Installation of CCTV cameras in most secondary schools.
- Posting of daytime security guards in risk-prone schools.
- Regular police patrolling and vigilance around the risk-prone schools, and
- Provision of a gatekeeper to control access to the school compounds.

This issue must be tackled with the involvement and sensitisation of all stakeholders, including parents, PTAs, student bodies and the school community.